LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

Linda M. Smrkovsky Chair Barbara L. Reedy Member John S. Sweetser Member

Thursday, March 10, 2022
10:00 a.m.
Agenda
Regular Meeting
Luna County Courthouse

Meeting ID: meet.google.com/wcm-iczv-vnr To dial in: 414-909-4972 PIN: 939 182 389#

- 1. <u>Call to Order:</u> Chair Linda Smrkovsky to commence meeting (At this time, please silence your cell phones and any other electronic devices) Pledge of Allegiance, State Pledge.
- 2. Roll Call:
- 3. Approval of Agenda:
- 4. Minutes:
 - a. Regular meeting- February 10, 2022
 - b. Work Session-February 24, 2022

MOTION AND VOTE

5. Service Awards/ Retirement:

•	Manny Armendariz	Planning Dept.	15 Years
•	Luis Malina	LCSO	15 Years
•	Francisco Duran	Road Dept	20 Years
•	Estella Ortiz	LCSO	30 Years
•	Jimmy Garcia	LCSO	Retirement

6. Presentations:

- Luna County's 2020-2021 Fiscal Audit by Robert Gonzales
- Luna County Veterans Assistance Center by Alvina Meyers
- Strengthening Families Program for Luna and Hidalgo Counties by Desa Malina, JJCS

13. Call for Ordinance:

 Resolution 22-20: Call to Adopt Ordinance 111; Addressing the Naming of County Owned Property

MOTION AND ROLL CALL VOTE

14. Consent Agenda:

- a. Accounts Payable: \$1,842,292.18
- b. Payroll: \$1,141,563.10
- c. Oath of Office for Britney Valdez; Deputy Sheriff

MOTION AND ROLL CALL VOTE

15. New Business:

a. Resolution 22-21: Budget Increases

MOTION AND ROLL CALL VOTE

b. Resolution 22-22: Budget Transfers

MOTION AND ROLL CALL VOTE

c. Resolution 22-23: Acceptance and Approval of Luna County's Fiscal Audit 2020-2021

MOTION AND ROLL CALL VOTE

d. Luna County 2022 Annual Certified Maintained Mileage Report

MOTION AND ROLL CALL VOTE

e. Resolution 22-24: Luna County's Predator Control Program

MOTION AND ROLL CALL VOTE

f. Proclamation 22-02: Proclaiming April as Child Abuse Awareness Month

MOTION AND VOTE

g. Proclamation 22-03: Proclaiming April as Fair Housing Month

MOTION AND VOTE

16. Executive Session:

Executive Session pursuant to Section 10-15-1H(7) relating to threatened and pending litigation and subject to the attorney client privilege (Opioid class action; Ruiz; Schmal; Hollister; Thomas; Aguirre; Punchall; Valencia; Rodriguez; Purvis; and Mendoza-Munoz); pursuant to Section 10-15H(5) for discussion of preliminary strategy to collective bargaining negotiations; and pursuant to Section 10-15-1H(2) limited personnel matters regarding the County Manager's contract.

MOTION AND ROLL CALL VOTE

17. Executive Session Action/ No Action Taken: MOTION AND ROLL CALL VOTE

MINUTES REGULAR MEETING LUNA COUNTY BOARD OF COUNTY COMMISSIONERS Thursday, February 10, 2022

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, February 10, 2022, in the Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board. Due to the Covid-19 Pandemic and the Governor's Orders regarding social distancing, the commission meeting was also conducted via teleconference and webcasting.

The following staff and elected officials were present: County Manager Chris Brice, Assistant to the County Manager Yossie Nieblas, Executive Assistant Lupita Hernandez, Administrative Assistant Priscilla Nevarez-Dominguez, IT Technician Joseph Apodaca, Clerk Berenda McWright, Chief Deputy Clerk Leslie Nabours, Deputy Clerk Pilar Salcido, Treasurer Kristie Hobbs, Sheriff Kelley Gannaway, Captain Michael Brown, Director Lee Cook, Deputy Director Pablo Montoya, Road Department Director David Bailey, Safety Program Coordinator Joann Moorman, Program Manager Edith Vazquez, Community Development Liaison Mary Mackey, County Attorney Charles Kretek, Community Development Director Premal Patel, and Budget & Procurement Director Joanne Hethcox. Other directors and elected officials were present virtually.

CALL TO ORDER: Chair Smrkovsky called the meeting to order at 10:00 a.m., and led the Pledge of Allegiance and the salute to the flag of New Mexico.

ROLL CALL: Deputy Clerk Pilar Salcido called roll. The following members of the Board constituting a quorum were present:

Barbara L. Reedy, District 1 Linda M. Smrkovsky, District 2 John S. Sweetser, Chair District 3

APPROVAL OF AGENDA: Chair Smrkovsky entertained a motion to approve the agenda. Commissioner Sweetser moved to approve the agenda as submitted. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.

MINUTES: Upon a motion made by Commissioner Reedy and a second by Commissioner Sweetser the Minutes for the Work Session of January 5, 2022, Regular Meeting of January 13, 2022, Special Meeting of January 24, 2022, and the Work Session of January 24, 2022, was unanimously approved.

SERVICE AWARDS: County Commissioners presented to County Manager Chris Brice his five years of service award. County Manager presented to Joanne C. Hethcox her 20 years of service award. Corporal Thomas Eby was not present to be recognized and to receive his retirement plaque.

SPECIAL RECOGNITION AWARD: Sheriff Gannaway presented to Detective Valerie Tyler an award in recognition of Deputy of the Year.

ELECTED OFFICIALS REPORTS: County Clerk Berenda McWright reported they processed 17 inperson voter registrations, 1 through the mail, and 90 online and removed 45. There is a total of 12,668 active voters, 5,198 are Democrats, 4,226 are Republicans, 109 are Libertarians, and 3,135 decline to state. They have recorded 439 documents and have 5 new businesses registered and have a total of 240 registered businesses in Luna County. A total of 5 marriage licenses were issued and 3 filed. A total of 11 probates opened, with 2 closed and 12 were updated. The Lodgers Tax collected was \$264.38 in December and the year-to-date total was \$4,551.22. There were four commission meetings recorded and minutes prepared. One regular meeting, two work sessions, and one special meeting. A total of 21 records requests were processed via e-mail. Many calls were received due to the records not being available online. Ms. McWright stated they continue to deal with upset customers due to the website being down and they continue to wait on two new laptops and new cell phones. Ms. McWright and Ms. Neighbors attended the Legislature last week to follow the controversy on bills concerning elections. Senate Bill 8 received a hearing in Senate Judicial Committee yesterday afternoon in which a substitute bill was discussed. For that bill, the requirement for the SOS to provide a list of eligible but unregistered persons was removed. Statewide elections as a state holiday was removed, backend automatic voter registration was removed, and automatic address updated from MVD of already registered individuals is still included. Secured containers language is now different, every county is required to have a minimum of two. Items in the bill that remain unchanged are felons re-registering in person after release from incarceration, voluntarily permanent absentee voter list, 17-year-olds voting in elections if they will be 18 by the next General Election, Native American Voter Rights Act, electronic nominating petition signature application, school holiday for the General Election and the Regular Local Election, and using excess extraction taxes to maintain \$20 million in the State Election Fund. This bill is expected to be heard in the Senate Finance Committee sometime this week.

County Clerk reported for Probate Judge Diana May-Diaz. Ms. Diaz wishes she could report but the love birds are calling, she has two weddings scheduled for this morning. Bill 99 makes it a 4th-degree felony to threaten a judge and fortunately Probate Judges are included in this bill. Also, it will be a misdemeanor to maliciously share the personal data of judges or their families. Due to the lack of time Senate, Bill 179 will not be hard in this short session. This was the bill that would allow judges from different counties to cover for judges in a neighboring county who are absent for an extended period.

Treasurer Kristie Hobbs reported their office took in 4,696 payments. They did 39 tax releases, 653 credit card payments, and for January, they collected for 2021 tax year \$9,961,744.97. Starting next month they will be getting ready for the delinquent notices. They will be using a different company than they have used in the past so they will look different than what we are used to.

Sheriff Kelly Gannaway gave the monthly activity reports for January. There were no homicides or rapes to report. Assaults are down, burglaries are up, and larcenies are down. Vehicle theft is way up, we had no arson and no robberies. Overall totals for criminals are up. Non-Criminal paper service is down, accidents are up, DWI's one for the month, overall totals for non-criminal are down but the grand totals for both are up. Sheriff Gannaway stated they hired Brittany Valdez as the School

Resource Officer, she brings a lot of experience coming over from the Deming Police Department. They also just hired four new deputies, one certified and three non-certified. They will start sometime in March. Deputy Moreno and Deputy Nunez are at the academy, hopefully, they will be back by April. New units have been received, they are being outfitted this month, hopefully, and sometime soon, they will have those vehicles as well. Sheriff Gannaway wished Captain Mike Brown a happy birthday as today is his birthday.

Chair Smrkovsky reported that the NM Legislature is meeting right now and she will be going over the bills similar to what Berenda did at the next meeting.

COUNTY MANAGER'S REPORT: County Manager Chris Brice stated that laptops electronics, in general, have been a battle to get throughout the country and probably throughout the world. Mr. Brice stated they ordered 48 laptops that have not come in so that they can get everyone up to speed and get more people off the desktop type of computers and give them the ability to work remotely if we have to go back to that. IT is doing everything in its power to get the electronics here. It is just the way of the world right now. The website issue was initiated from the Clerk's office and the Secretary of State's office which did not certify Triadic as being appropriate to host that website because of their security concerns. They all sat and had a meeting and agreed and spent \$9,000 through the manager's office to be able to put it up on the cloud with the appropriate security to allow people to use the county's website to pay bills and things like that. The website issue should be resolved in the next few weeks.

- Dispatch: Dispatch had a total of 6,567/911 calls and 234 warrants issued.
- LCDC: They had a large increase in Covid positives but their numbers are going down rapidly thanks to the work the staff is doing. They did a really good job coordinating with the courts and the local law enforcement to keep the petty misdemeanors out of the detention centers to cause problems with Covid. A total of 416 people were booked and 130 were released. The average daily population was 381 with 332 Marshalls.
- Road Department: A total of 1,900 tires were received and 252 total miles bladed. They did get the Colonias extension request approved to do Scotch Pine Road in addition to all the other roads that they have requested to do. They will be starting on that very soon. They now have four-way stops at Solana Road and 8th. They also have additional signage with flashing lights. That was an intersection of concern with a lot of wrecks. hopefully, the additional signage will slow some people down and stop some of the accidents in that area. Next week on the 16th the department will be going out to the Cooks Peak area as BLM is doing a lot of work on some of the dams. The county will be working with them on diverting some of that water.
- Budget and Procurement: GRT continues to be a bit higher than expected, hopefully, it will
 become a new normal about \$1 million over what our year to year was previous to Covid.
 Some of it could be the taxes received for online purchases that were never captured before.
 The budget will be discussed until it is completed in July.
- Human Resources: They hired a Planning Administration Assistant, two CDL drivers, four Sheriff's Deputies, a School Resource Officer, an Assessor-County Services Specialist, a Procurement Specialist, and two Detention Officers. They also off-boarded nine individuals.

- The current available positions are Detention Officer, Starmax part-time cook, part-time Advocate for the Healing House, part-time Domestic Violence Offender Treatment & Intervention Facilitator, Starmax Bartender, Starmax Food & Beverage Manager, LCDC Maintenance Worker.
- Starmax: Continues work on various issues including suppression and air-conditioning, and waiting on a purchase order for theatre refurbishment. Of the six theatres, two will probably never open again. The projectors block the emergency exits that go out the north side and down the steps. Apparently, for 20 years no one knew that until now. One of the theatres could become a laser tag area or the kid's game area and then they can put pool tables out in the front area. They are looking at all possible ideas.
- Planning: They continue to work on the Land Use Ordinance. That is a hot topic throughout the state. He gets constant e-mails from other managers wanting to see different land use ordinances because everyone is going through that right now with solar and green energy and trying how to manage that.
- Emergency Management: Emergency Manager Phillip Rodriguez continues to monitor the spread of Covid-19. The spread is at 27.45% which is up from 10.95%. Currently have 96.3% of the population with at least one Covid shot and 83.1% are fully vaccinated. Vaccinations are still being offered throughout the week at various locations. There are no changes to Title 42.
- Safety: Joann Moorman has been doing a good job with the panic alarms and trying to figure out how to get them up to date.
- Luna County Fire: They stationed a bunch of the firefighters at the sub-station by the airport to assist the Deming Fire Department. They had a lot of volunteer firefighters help out. They had ten calls and one search of a person.
- Community Health and Well Being: There were three DWI arrests and they are tracking 83 misdemeanor DWI offenders. They have 12 offenders in the out-patient treatment. The Healing House currently has 14 clients sheltered, 23 BIP participants, and five orders of protection. The Health Council is collaborating with the emergency management on vaccination clinics and making sure those are routine. They have distributed at-home Covid tests to the community. Casa is serving 34 kids in Luna, Hidalgo, and Grant Counties. PAT is serving 162 clients in Luna and Hidalgo Counties. They have donated and distributed five car seats and have performed 324 home visits. JJIC has six families enrolled in Strengthening Families, Girls Circle had 26 participants, Boys Council had 14 participants, and Adult Drug Court had 15 participants.
- IT had a total of 1040 work orders completed. There have been 1,151 plus attacks on our networks. Judy and he sat through a presentation with a company called WIZER which NM Counties has contracted. It is free to the county.
- Maintenance/Projects: A total of 210 tons of dirt was brought in to level out areas throughout Courthouse Park. The plan is to re-seed and fertilize the grass area. The Maintenance Department is working with the Road Department to demolish the property at Spanish Stirrup and Rockhound and planning to renew the barn for storage. They have corrected multiple fire safety issues at Starmax. The HVAC system is being worked on for the entire courthouse building.

• Economic and Development: Christie Ann Harvey is working on getting a market survey for the apartment complex near Starmax. There is a tremendous need for housing in Luna County. Ms. Harvey is also working very closely with Columbus and the port of entry and tourism in that area. She is hoping to start phase one in the next couple of months on the berm project. There is about a 99% chance of that funding going through. That funding will be for phase 1 through phase 3 which will divert all of the stormwater in that area. Many companies are very interested in the Columbus area if the flood plain could be corrected. Chair Smrkovsky stated that Mr. Brice has worked diligently and very hard on getting this project to move forward. If he had not made those extra efforts she does not believe the money would have been provided.

INDIGENT CLAIMS REPORT: Upon a motion by Commissioner Reedy and a second by Commissioner Smrkovsky, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened.

Budget and Procurement Director Joanne Hethcox reported four claims for January for a total of \$21,248.76. Commissioner Sweetser motioned to approve the Indigent Claims Report as presented. Commissioner Reedy seconded the motion which carried unanimously.

Commissioner Sweetser motioned to recess as a Claims Board and reconvene as a County Commission. Commissioner Reedy seconded the motion which carried unanimously.

COMMUNITY SUPPORT REPORT: Deming Luna County Mainstreet Executive Director Chelsea Evans and Deming-Luna County Chamber of Commerce Executive Director Debbie Troyer reported on upcoming events.

PUBLIC COMMENT: Chair Smrkovsky opened the floor to public comment. Several members of the public went before the board.

CALL FOR ORDINANCE:

- **a.** Resolution 22-11: Call to Adopt Ordinance 109: Authorizing Issuance of its GRT Revenue Bonds Series 2022A Taxable and Series 2022B for the Judicial-Correctional or County Correctional Facility.
- **b.** Resolution 22-12: Call to adopt Ordinance 110: Authorizing Issuance of its Taxable Refunding Capital Outlay GRT Revenue Bonds for Refunding, Refinancing, and Defeasing a portion or all of its Outstanding Taxable Capital Outlay GRT (Starmax)

CONSENT AGENDA: Upon a motion from Commissioner Sweetser, and a second by Commissioner Reedy the Consent Agenda was approved as submitted following a roll call vote.

- **a.** Accounts Payable: \$1,217,829.65
- **b.** Payroll: \$1,165,787.05
- c Resolution 22-13: Approval to participate in the Local DWI Grant and Distribution Program
- **d.** Memorandum of Understanding between Luna County DWI and New Mexico Department of Finance and Administration/Local Government Division/Driving while Intoxicated Program

e. Statement of Assurances Local DWI Grant and Distribution Program

NEW BUSINESS:

- a. **Resolution 22-14: Budget Increase:** Commissioner Sweetser motioned to approve Resolution 22-14: Budget Increase. The motion was seconded by Commissioner Reedy and was approved unanimously following a roll call vote.
- b. **Resolution 22-15 Budget Transfers:** Ms. Hethcox explained there are three transfers this month. Commissioner Reedy motioned to approve Resolution 22-15: Budget Transfers: The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- c. Resolution 22-16: Authorizing Filing an Application for Financial Assistance to New Mexico Colonias Infrastructure Board (Rockhound Road and McCan Roadway Project): Commissioner Reedy motioned to approve Resolution 22-16: Authorizing filing an application for Financial Assistance to New Mexico Colonias Infrastructure Board (Rockhound Road and McCan Roadway Project). The motion was seconded by Commissioner Sweetser and was approved unanimously following a roll call vote.
- d. Resolution 22-17: Authorizing Filing an Application for Financial Assistance to New Mexico Colonias Infrastructure Board (Rockhound Colonia Majestic View): Commissioner Reedy motioned to approve Resolution 22-17: Authorizing Filing an Application for Financial Assistance to New Mexico Colonias Infrastructure Board (Rockhound Colonia-Majestic View). The motion was seconded by Commissioner Sweetser and was approved unanimously following a roll call vote.
- e. Resolution 22-18: Authorizing Filing an Application for Financial Assistance to the New Mexico Finance Authority (Judicial-Correctional Complex): Commissioner Reedy motioned to approve Resolution 22-18: Authorizing Filing an Application for Financial Assistance to the New Mexico Finance Authority (Judicial-Correctional Complex). The motion was seconded by Commissioner Sweetser and was approved unanimously following a roll call vote.
- f. Resolution 22-19: Authorizing Filing an Application for Financial Assistance to the New Mexico Finance Authority (Starmax): Commissioner Reedy motioned to approve Resolution 22-19: Authorizing Filing an Application for Financial Assistance to the New Mexico Finance Authority (Starmax). The motion was seconded by Commissioner Sweetser and was approved unanimously following a roll call vote.
- g. Proclamation 22-01: Proclaiming February as National Teen Dating Violence Awareness and Prevention Month: Commissioner Reedy motion to approve Proclamation 22-01: Proclaiming February as National Teen Dating Violence Awareness and Prevention Month. The motion was seconded by Commissioner Sweetser and was approved unanimously following a roll call vote.

Executive Session is pursuant to Section 10-15-1H (2) NMSA 1978-Limited Personnel Matters. Commissioner Sweetser motioned to go into Executive Session pursuant to Section 10-15-1H (2)

NMSA 1978 for the purpose to discuss limited personnel matters. The motion was seconded by Commissioner Smrkovsky and carried unanimously following a roll call vote.

The Commissioners went into Executive Session at 11:05 a.m. and returned from Executive Session at 12:12 p.m.

Commissioner Reedy moved to return from Executive Session pursuant to Section 10-15-1H(2) NMSA 1978-where no other matters were discussed other than limited personnel matters and no action was taken. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

UPCOMING MEETINGS: Chair Smrkovsky announced the following upcoming meetings:

Work Session: February 24, 2022 @ 10:00 a.m. Teen Dating Violence Awareness Events February 21-25, 2022 Regular Commission Meeting—March 10, 2022 @ 10 a.m.

ADJOURN: The meeting was adjourned by Chair Smrkovsky at 12:36 p.m.

ATTEST:	LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
BERENDA MCWRIGHT, LUNA COUNTY CLERK	BARBARA L. REEDY, DISTRICT 1
APPROVED:	CHAIR, LINDA M. SMRKOVSKY, DISTRICT 2
	JOHN S. SWEETSER, DISTRICT 3

MINUTES WORK SESSION LUNA COUNTY BOARD OF COUNTY COMMISSIONERS MONDAY, FEBRUARY 24, 2022

BE IT REMEMBERED that the Luna County Board of County Commissioners met at 10:00 a.m. on Monday, February 24, 2022 in Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting a Work Session.

CALL TO ORDER: Chair Smrkovsky called the meeting to order at 10:00 a.m. and led the Pledge of Allegiance and the salute to the flag of New Mexico.

ROLL CALL: Deputy Clerk Pilar Salcido called roll. The following Commissioners constituting a quorum were present:

Barbara L. Reedy, District 1 Linda M. Smrkovsky-Chair, District 2 John S. Sweetser, District 3

DISCUSSION ITEM:

a. Ordinance 23: Luna County Personnel: Luna County Personnel was discussed in detail. More work sessions will be scheduled to discuss further. (*Note: Items were presented for discussion only and no action was taken.)

PUBLIC COMMENT: Chair Smrkovsky opened the floor to public comment. No public comment was forthcoming.

ADJOURN: Chair Smrkovsky adjourned the meeting at 11:38 a.m.

	COUNTY COMMISSIONERS
Berenda McWright, Luna County Clerk	Barbara L. Reedy, District 1
Approved:	Chair, Linda M. Smrkovsky, District 2
	John S. Sweetser, District 3

Luna and Hidalgo Counties



Program Information

- SFP is a 2 ½ hour per week program that targets alcohol and substance abuse families where the core components are Children's Life Skills, Parenting Life Skills and Family Life Skills.
- Children's Life Skills Include: Social and Life Skills; Effective Communication; Problem Solving Skills and Coping Skills
- Parent's Life Skills Include: Effective Discipline, Communication Skills and Social Rewards for Good Behavior
- Family Life Skills Include: Family Meetings, Problem Solving, Planning and Therapeutic Child Play
- Objective of the Program: Strengthen Parenting Skills, Improve Child's Behavior, Improve Social Skills, Enhance Family Functioning and Reduce Depression and Aggression.

Expected Outcomes

<u>Parent/Family:</u> Reduced symptoms of depression, Improved family relations, Increased parent involvement, Increased parental supervision and monitoring, Increased parenting skills and confidence, Reduction in alcohol and substance abuse, Increased positive parenting including use of social rewards, Improved communication and resiliency.

<u>Child:</u> Reduced symptoms of depression and aggression, Improved social skills, Improved school performance, Increase in pro-social behavior.

Strengthening Families Program

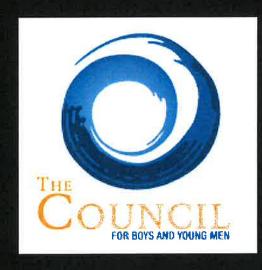
Challenges:

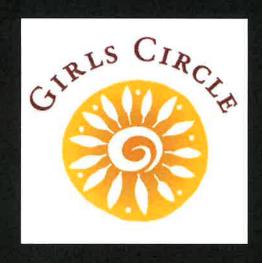
- •difficulty contacting parents during the day hours due to employment or other activities for retention calls.
- •challenges with the referral source to provide updated contact information.
- •incentives for families who attend group to assist with consistency and participation.
- •difficulty keeping the families engaged when groups became virtual due to COVID-19.
- •Struggled with referrals and recruitment due to Covid-19

Successes:

- •client develops a sense of community ownership through community involvement/volunteer hours.
- •getting more production out of each family due to the increase in family relationships.
- •the community benefits from clients participating in the program and strengthening the family dynamic.
- •sufficient amounts of communication and activity tools have been provided for families participating.

Gender Specific Program





Program Information

Boys Council:

- •A strengths-based group approach to promote boys' and young men's safe and healthy passage through pre-teen and adolescent years
- •The Council meets a core developmental need in boys for strong, positive relationships.
- •In this structured environment, boys and young men gain the vital opportunity to address masculine definitions and behaviors and build their capacities to find their innate value and create good lives

Girls Circle:

- A structured support group for girls that integrates relational theory, resiliency practices, and skills training in a specific format designed to increase positive connection, personal and collective strengths, and competence in girls.
- It aims to counteract social and interpersonal forces that impede girls' growth and development by promoting an emotionally safe setting and structure within which girls can develop caring relationships and use authentic voices.

Gender Specific Program

Challenges:

- •Difficulty contacting parents during the day hours due to employment or other activities for retention/participation calls.
- •Updated and correct contact information on referral form from referring agencies.
- •No incentives for youth who attend group to assist with consistency and participation for completion of program
- •No participation or buy in from local agencies as referral sources.
- •Difficulty getting the youth to stay engaged since the groups were virtual due to COVID-19

Successess:

- •Clients develops a sense of community ownership through community involvement and volunteer hours with local agencies issuing food boxes.
- •Clients state they have a new trusted adult they can talk to as well as made new friends.
- •Clients stated they all learned new ways to manage their emotions (sadness,depression,anxiety) like journaling, breathing exercises and exercising.



Juvenile Justice Continuum of Services Programs (JJCS)

Luna County Surveillance

Program Staff:

Surveillance Officers: Two part-time employees (19 hours a week each). Perform surveillance and case management duties, conduct home visits to make sure clients are home and/or after curfew, ensure program compliance, liaison between community agencies for in person and online community service learning projects, assist community agencies issue food boxes, park clean up and assistance with the community food pantry.



Surveillance/Community Service

Successes:

- ongoing client interaction increases clients self value.
- provides mentorship opportunity in a comfortable environment.
- · advocate for clients' needs and well-being.
- build a stronger support system for the client to become self advocate.
- random client calls to ensure that every client is monitored.

Total Youth Served:

- 2,479 Successful Contacts
- 1,862 Attempted Contacts
- 867 Community Service hours completed

Community Service

Program Staff:

- Chief JPO and JPO Supervisor provide oversight of the program.
- Surveillance officers organize and over see community service operations.
- Formal and informal clients participate. Clients contribute to the community by picking up trash and cutting weeds at a variety of locations in the community and volunteering at the following events/agencies: Play Sharity Children's Musuem, St.Ann's clothing bank, First Baptist Church community commodities, WNMU job fair, Toss No Mas Luna County clean-up, Dia De Los Muertos event, Coats for Kids event, Shop with A Cop, CHANCES, SWAG, National Guard Armory, ICAN Nutrition Program, SWCHI focus groups, DWI and Luna County Extension Office.
- During COVID 19; the community service, JPO and JJCS coordinator staff ensured all of our clients and their families received food boxes, dairy boxes, and any personal hygiene supplies. Clients would also participate in the issuance of community commodities, food boxes and dairy boxes at local agencies. From July 2020 June 2021 there was a total of 55,000 food boxes issued for a total of 1.7M pounds of food to families in Luna and Hidalgo County.

Community Service

Challenges:

- difficulty getting kids to show up due to the client being employed, school, transportation or other activities.
- clients have been sent home due to conduct issues which results in not getting credit for community service.
- when a client needs one to one attention it becomes difficult for the supervisor to provide accurate supervision on the rest of the group.
- clients have arrived late due to parents not being able to find the location.
- getting parents involved in community service activities with their children.
- Difficulty with some of the clients and/or families having access to the internet or smartphone for the zoom meetings or trainings.

Successes:

- •client develops a sense of community ownership.
- •the community remains clean at no cost to the local government.
- •getting more production out of each client due to the staff participating in the activities.
- •the community benefits from clients participating in the events.
- •local agencies and or businesses have had continuous requests for community service volunteers from the agency.
- •a sufficient amount of tools have been provided for kids participating.



Community Service

















Luna County Project Outreach

- Provided families in the community with the support of FREE backpacks, school supplies, hand sanitizer, hand wash and hygiene products. Luna County partnered with local agencies JJCS, Colores United, Play Sharity Children's Museum, City of Deming, Hispanics in Philanthropy, CYFD JPO/CPS and All Together NM.
- Each backpack contained 2 notebooks, 1 binder, 1 pair of scissors, 1 bottle of glue, 2 glue sticks, 1 box of pencils, 1 pair of scissors, 1 ruler, 1 box of crayons, 1 box of colored pencils, 1 box of markers, 1 hand sanitizer, 1 hand wash and a Ziploc bag of hygiene products.









Project Outreach





- August 2020 Issued 700 backpacks to youth in Columbus, NM and the Port of Entry to Palomas, Mexico as well as 1,300 backpacks to youth in Deming.
- Assistance for issuance was from the local Juvenile Justice Continuum of Services board members in Luna County and the partnering agencies. Backpacks were issued over a period of 6 days.





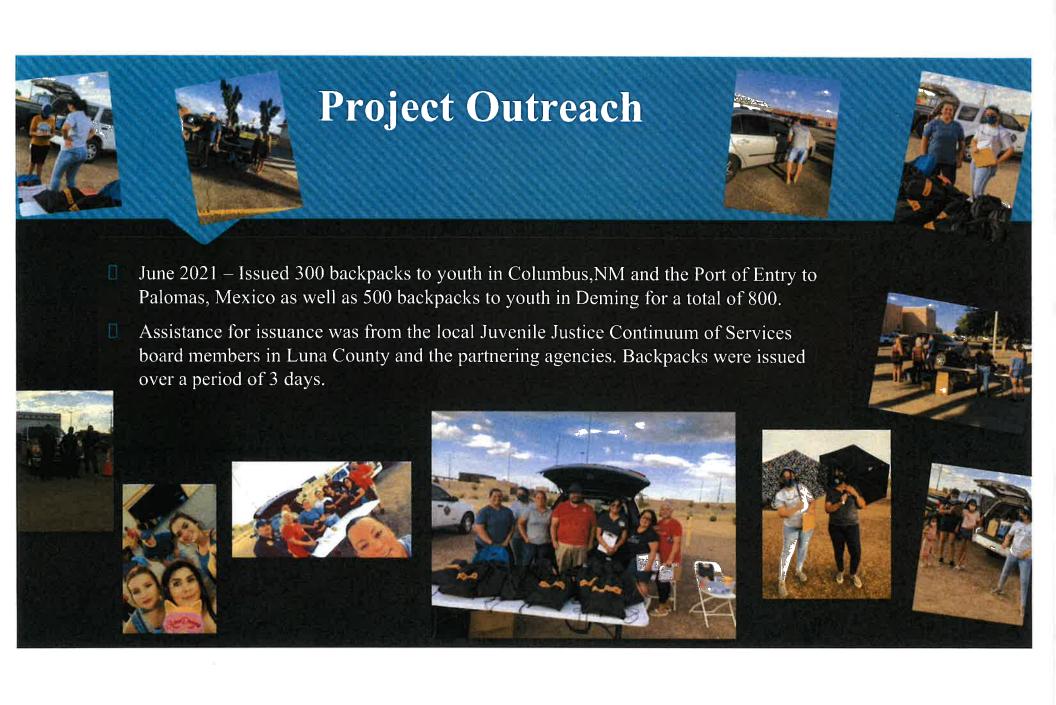












Deming Youth Soccer League

- 150 fully funded scholarships awarded to youth throughout the entire year between 2 seasons (Fall and Spring, however; due to COVID-19 the Spring season did not happen so the DYSL purchased new equipment with the funding they received).
- Total of 300-350 on average registered player for each season for a total of 600-700 youth for the entire year.
- Each season plays an average of 7-9 games for the regular season and then 2-4 games during the tournaments.
- Each team averages a total of 12-15 players per team.
- U6, U8, U10, U12 and U14 are the age divisions









	Indigent Hos	pit	al Clain	ns Office				
	Chris A. Brid							
			ng March 10, 2					
Month	Number		mount	Number	Denied			
January		4	\$21,248.76	0	\$0.00			
Feburary		1	\$90.00					
March								
April								
May								
June								
July								
August								
September								
October								
November								
December								
Total		5	\$21,338.76	0	\$0.00			
This Month's Total Mimbres Memorial Hospital This Month's Total Gila Regional Medical Center								
This Month's Total	\$0.00							
This Month's Total	\$0.00							
This Month's Total	\$0.00							
This Month's Total	\$0.00 \$90.00							
Total								
Year to Date Total	\$21,338.76							
Year to Date Total								
Year to Date Total								
Year to Date Total	All	Othe	r Services					
Total					\$21,338.76			
	is Month - Not including SNo				\$281,698.53			
Care of Prisoners Year	\$275,598.73							
	ar to Date Inmate Prescription	ns/O7	TC Meds		\$14,012.88			
Care of Prisoners Ye					\$0.00			
	Prisoners Year to Date				\$289,611.61			
Monies Received - F					\$85,975.30			
	as of February 28, 2022				\$1,851,777.51			
Encumbrances as of l	February 28, 2022				\$330,659.05			
			Date	Amount	Amount			
				Approved	Denied			
	Signatures		3/10/2022	\$90.00	7 4			
Barbara L. Reedy	100							
Linda M. Smrkovsky								
John S. Sweetser								

			I	HC Board Mee	ting					
			March 10, 2022							
Case Number	MMH	MMC	Gila Regional	MVRMC	Deming EMS	Elite Medical	Other Services		Comments	Denied Claim
8061	\$90.00									
										1 7 6 6
	\$90.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	L L	\$0.00
	\$90.00									

LUNA COUNTY, NEW MEXICO ORDINANCE NO. 109

AN ORDINANCE AUTHORIZING ISSUANCE OF UP TO \$8,500,000 (EIGHT AND A HALF MILLION DOLLARS) OF ITS JUDICIAL-CORRECTIONAL COMPLEX GROSS RECEIPTS TAX REVENUE REFUNDING BONDS, SERIES 2022A - TAXABLE AND ITS JUDICIAL COMPLEX GROSS RECEIPTS TAX REVENUE BONDS, 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, CONSTRUCTING, PURCHASING, FURNISHING. MAINTAINING. 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 OR 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.

Capitalized terms used in the following preambles have the same meaning as set forth in Section 1 of this Ordinance unless the context requires otherwise.

WHEREAS, Luna County, New Mexico (the "County") is a legally and regularly created, established, organized and existing county under the general laws of the State of New Mexico; and

WHEREAS, pursuant to Sections 7-20F-1 through 7-20F-6, NMSA 1978, as amended and supplemented, 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, pursuant to the statutory provisions cited in the preceding preamble, the County on December 29, 2006 adopted Ordinance No. 60 which imposes a County correctional facility gross receipts tax of 1/8th of 1% of the gross receipts of persons engaging in business within the entire County (no petition for a referendum on such Ordinance No. 60 having been filed within the time required by law and such Ordinance No. 60 having been delivered to the New Mexico Taxation and Revenue Department pursuant to law), and such 1/8th of 1% correctional facility gross receipts tax became effective on July 1, 2007 (the "Tax Ordinance"); and the County authorized the first one-eight increment of county gross receipts tax, imposed on any person engaging in business in the County for the privilege of engaging in business in the County and distributed monthly from the Revenue Division of the New Mexico Taxation and Revenue Department to the County (the "Pledged Revenues"); and

WHEREAS, pursuant to County Ordinance No. 67 and Resolution No. 07-46 adopted on September 13, 2007, the County issued its Correctional Facility Gross Receipts Tax Revenue Bonds, Series 2007A in the original aggregate principal amount of \$4,515,000 (the "Series 2007A Bonds"), which are payable from and secured by an irrevocable and first lien (but not an exclusively first lien) on the Pledged Revenues; and

WHEREAS, pursuant to the redemption provisions contained therein, the Series 2017 Bonds maturing on and after July 1, 2025 (the "Refunded Bonds") are subject to redemption at the option of the County on or after July 1, 2024, without penalty or optional redemption premium; and

WHEREAS, pursuant to Sections 7-20F-11 through 7-20F-12, NMSA 1978, as amended and supplemented, the County is authorized to issue refunding revenue bonds for the purpose of refinancing, defeasing, paying and discharging all or any part of such outstanding revenue bonds of any one or more or all outstanding issues; and

WHEREAS, the County has determined to refund, refinance, defease, pay and discharge the Refunded Bonds from the proceeds of the Bonds authorized by this Ordinance; and

WHEREAS, pursuant to Sections 7-20F-11 through 7-20F-12, NMSA 1978, as amended and supplemented, the County is authorized to issue revenue bonds 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 (the "Project"); and

WHEREAS, the County has determined hereby determines that there is a need for the Project as herein defined, and that the bonds shall be issued for the Project; and

WHEREAS, other than the Bonds, the Pledged Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding and unpaid; and

WHEREAS, the Board hereby determines that the issuance of the Luna County Judicial-Correctional Complex Gross Receipt Tax Revenue Refunding Bonds, Series 2022A to pay the cost of paying and refunding the Series 2017 Bonds (the "Refunding Project"), will reduce debt service costs for the County, and the Luna County Judicial-Correctional Complex Gross Receipt Tax Revenue Bonds, Series 2022B will pay the cost of issuance for the Project (collectively the "Bonds" or the "2022 Bonds") and consequently will provide for the public health, peace and safety of the County and its residents; and

WHEREAS, the Bonds shall be issued pursuant to Sections 4-62-7 through 4-62-10, NMSA 1978, and with a first (but not an exclusive first) lien on the Pledged Revenues; and

WHEREAS, Section 4-62-6(C) NMSA 1978, provides:

"C. Any law that authorized the pledge of any or all of the pledged revenues to the payment of any revenue bonds issued pursuant to Chapter 4, Article 62 NMSA 1978 or that affects the pledged revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise modified in such a manner as to impair any outstanding revenue bonds, unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor." and

WHEREAS, the County has determined to pay all principal of and interest on all outstanding Series 2017 Bonds (the "Refunded Bonds") from the proceeds of the Bonds herein authorized and from other legally available sources and the Refunded Bonds are being refunded to facilitate the restructuring of the outstanding debt of the County in order to achieve a reduction in annual debt service requirements; and

WHEREAS, the County will issue the Bonds only after receipt of the required approval of the Bonds by the Department of Finance and Administration of the State of New Mexico; and

WHEREAS, there has been on deposit with the County Clerk and presented to the Board:

- (A) the proposed form of the Escrow Agreement;
- (B) the proposed form of Continuing Disclosure Undertaking; and

WHEREAS, the Board has determined that it is in the best interest of the County to accept the offer of the Purchaser to purchase the Bonds and to enter into the Related Documents.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY:

Section 1. <u>Definitions</u>. The terms in this section are defined for all purposes of this ordinance and of any ordinance amendatory hereof or supplemental hereto, or relating hereto, and of any instrument or document appertaining hereto, except where the context by clear implication herein otherwise requires, shall have the following meanings:

"Act" means the general laws of the State, including Sections 4-62-1 through 4-62-10 and Sections 7-20F-1 through 7-20F-12, NMSA 1978, as amended, and enactments of the Board relating to the issuance of the Bonds, including this Ordinance and the Tax Ordinance.

"Authorized Officer" means the following officers of the County: Chair of the Board, County Manager, County Treasurer or other officer of the County when designated by a certificate signed by the Chair of the Board of the County from time to time, a certified copy of which shall be delivered to the Paying Agent and the Registrar.

"Board" means the Board of County Commissioners of Luna County or any future successor governing body of Luna County.

"Bonds" or "2022 Bonds" means the "Luna County Judicial-Correctional Complex Gross Receipts Tax Refunding Revenue Bonds, Series 2022A and the Luna County Judicial-Correctional Complex Gross Receipts Tax Revenue Bonds, Series 2022B" which are authorized by this Ordinance.

"Bond Counsel" means an attorney or firm of attorneys nationally recognized for expertise in the area of municipal bonds and the exemption of interest on municipal bonds from federal income taxation.

"2022A Bond Fund" or "2022A Bond Service Fund" means the "Luna County Judicial-Correctional Complex Gross Receipts Tax Refunding Revenue Bonds, Series 2022, Bond Service Fund," established in Section 19A hereof.

"2022B Bond Fund" or "2022B Bond Service Fund" means the "Luna County Judicial-Correctional Complex Gross Receipts Tax Revenue Bonds, Series 2022, Bond Service Fund," established in Section 19A hereof.

"Business Day" means any day other than (i) a Saturday or Sunday, (ii) any day on which the following offices are authorized or required to remain closed: offices of the County and of banks located in the cities in which the principal offices of the Paying Agent, Registrar, Qualified Counterparty, and Escrow Bank are located or (iii) a day on which the New York Stock Exchange is closed.

"Chair" means the Chair of the Board of the Luna County Commissioners.

"Continuing Disclosure Undertaking" means the continuing disclosure undertaking with respect to the Bonds to be executed on the day of issuance and delivery of the Bonds to the Purchaser.

"County" means the County of Luna in the State of New Mexico.

"County Judicial-Correctional Complex Gross Receipts Tax Act" means Sections 7-20F-1 through 7-20F-12 NMSA 1978, as amended.

"Costs of Issuance" means all costs relating to issuance of the Bonds, including, without limitation, costs of advertising and publication, costs of preparing the Bonds, fees and expenses of the financial advisor, bond counsel, the Paying Agent, the Escrow Bank, rating fees and other reasonable and necessary fees and costs, including applicable gross receipts taxes, related to the issuance of the Bonds.

"Debt Service Requirements" for any period means the sum of: (i) the amount required to pay the interest, or to make reimbursements for payments of interest, becoming due on the applicable Obligations during such period; plus (ii) the amount required to pay the principal or accreted value, or to make reimbursements for the payment of principal or accreted value, becoming due on the applicable Obligations during that period, whether at maturity, an accretion term date or upon mandatory sinking fund redemption dates.

- (a) No payments required on the applicable Obligations shall be included in any computation of Debt Service Requirements for any computation period prior to the maturity or otherwise certain due dates thereof which may occur because of the exercise of an option by the County, or which may otherwise become due by reason of any other circumstance or contingency, including acceleration, which constitute other than regularly scheduled payments of principal, interest or other regularly scheduled payments on the applicable Obligations.
- (b) In any computation of Debt Service Requirements relating to the issuance of additional Parity Obligations:
- (1) There shall be deducted from that computation (i) amounts on deposit in an escrow account related to an issue of Cross-over Refunding Bonds and (ii) proceeds of a series of Obligations deposited to the credit of an account for the payment of capitalized interest on Obligations included as part of the computation during the applicable period.

"Depository" means The Depository Trust Company, New York, New York, or such other securities depository as may be designated by an officer of the County.

"Escrow Fund" means the special and separate fund designated as the "Luna County Judicial-Correctional Complex Gross Receipts Tax Revenue Refunding Bonds, Series 2022, Escrow Fund" created by Section 17 of this Ordinance and by the Escrow Agreement and required to be accumulated and maintained by the Escrow Bank pursuant to the Escrow Agreement.

"Escrow Bank" means BOKF, NA, DBA Bank of Albuquerque, or another commercial bank as designated by the Delegatee.

"Escrow Agreement" means the contract designated as the "Luna County Judicial-Correctional Complex Gross Receipts Tax Refunding Revenue Bonds, Series 2022, Escrow Agreement" between the County and the Escrow Bank, providing for the deposit of the Refunded Bond Requirements in the Escrow Fund on the date of delivery of the Bonds, which contract is herein authorized to be executed by the appropriate officers of the County.

"Federal Securities" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Fiscal Year" for the purposes of this ordinance means the twelve months commencing on the first day of July of any calendar year and ending on the last day of June of the next calendar year; but it may mean any other 12-month period which the County hereafter may establish.

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or certificates or receipts established by the United States Government or its agencies or instrumentalities representing direct ownership of future interests or principal payments on direct obligations of, or obligations fully guaranteed by, the United States of America or any of its agencies or instrumentalities the obligations of which are backed by the full faith and credit of the United States.

"Historic Test Period" means any twelve consecutive calendar months designated by an Authorized Officer from time to time out of the eighteen-calendar months next preceding the date of adoption of the County ordinance authorizing the issuance of Parity Obligations without regard to any resolution or ordinance supplementing or amending the authorizing ordinance.

"Independent Accountant" means (A) an accountant employed by the State of New Mexico and under supervision of the State Auditor of the State of New Mexico, or (B) any registered or certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State of New Mexico, appointed and paid by the County, who (1) is, in fact, independent and not under the domination of the County, (2) does not have any substantial interest, direct or indirect, with the County, and (3) is not connected with the County as an officer or employee of the County, but who may be regularly retained to make annual or similar audits of the books or records of the County.

"Insured Bank" means any federally or state-chartered savings and loan association or federally or state-chartered commercial bank, the deposits of which are insured by the Federal Deposit Insurance Corporation and which has, or is the lead bank of a parent holding company which has (i) unsecured, uninsured and unguaranteed obligations which are rated AA or better by Fitch and S&P or (ii) combined capital, surplus and undivided profits of not less than \$10,000,000.

"Obligations" means bonds, notes or any other instrument which evidences a borrowing or other obligation of the County, secured by Pledged Revenues, issued or incurred for any purpose permitted by the Act, as amended from time to time.

"Parity Obligations" means the Bonds and any Obligations hereafter issued or incurred payable from the Pledged Revenues and issued with a lien on the Pledged Revenues on parity with the lien thereon of the Bonds.

"Paying Agent" means County Treasurer, as agent for the County for the payment of the Bonds, the interest thereon, and any successor.

"Permitted Investments" means any of the following which at the time of such investment are legal investments for the County pursuant to adopted County investment policies and the laws of the State:

(a) Government Obligations;

- (b) Obligations of, or obligations guaranteed as to principal and interest by any agency or instrumentality of the United States which are backed by the full faith and credit of the United States, including, but not limited to: General Services Administration-- participation certificates; Government National Mortgage Association (GNMA)--GNMA guaranteed mortgage-backed securities and GNMA guaranteed participation certificates; U.S. Department of Housing & Urban Development--local authority bonds; and U.S. Export-Import Bank--all fully guaranteed obligations;
- (c) Obligations of the following government-sponsored agencies: Federal Home Loan Mortgage Corporation--participation certificates and senior debt obligations; Farm Credit System (formerly: Federal Land Banks and Banks for Cooperatives)—consolidated system-wide bonds and notes; Federal Home Loan Banks--consolidated debt obligations; Federal National Mortgage Association--senior debt obligations and mortgage-backed securities (excluding stripped mortgage securities which are valued greater than par on the portion of unpaid principal); Student Loan Marketing Association--senior debt obligations (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date) and letter of credit backed issues; Financing Corporation--debt obligations; and Resolution Funding Corporation--debt obligations;
- (d) Commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, "P-1" by Moody's and "A-1" or better by S&P;
- (e) Bank time deposits evidenced by certificates of deposit and bankers acceptances issued by an Insured Bank, provided that such time deposits and bankers' acceptances (1) do not exceed at any one time in the aggregate five percent (5%) of the combined total of the capital, surplus and undivided profits of such Insured Bank, or (2) are secured by obligations described in paragraphs (a), (b), (c) and (h) of this definition which obligations at all times have a market value (exclusive of accrued interest) at least equal to 102% of such time deposits so secured;
- (f) Obligations, other than specified private activity bonds (as defined in Section 57(a)(5)(C) of the Code), the interest on which is excluded from gross income of the recipient for federal income tax purposes and any other instrument which does not constitute "investment property" under Section 148 of the Internal Revenue Code (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date), as amended from time to time, which is rated in the highest major Rating Category by S&P and Fitch (if such rating agency is then rating the Bonds);
- (g) Money market instruments and other securities of commercial banks, broker-dealers or recognized financial institutions, which securities or instruments are rated in the highest Rating Category by S&P and Fitch, (if such rating agency is then rating the Bonds), or which securities are guaranteed by a person or entity whose long-term debt obligations

are rated in the highest Rating Category by S&P and Fitch (if such rating agency is then rating the Bonds) including, without limitation, securities of, or other interests in, any open- end or closed-end management type investment company or investment trust registered under the provisions or 15 U.S.C. Sections 50(a)-1 et. seq., which invest only in, or whose securities are secured only by, obligations of the type set forth in paragraphs (a), (b), (c) and (h) of this definition;

- (h) Stripped Securities: (1) U.S. Treasury STRIPS and (2) REFCORP STRIPS (stripped by Federal Reserve Bank of New York);
- (i) Repurchase agreements involving the purchase and sale of, and guaranteed investment contracts, the par value of which is collateralized by a perfected first pledge of, or security interest in, or the payments of which are unconditionally guaranteed by, securities described in parts (a), (b), (c) and (h) of this definition, which collateral is held by the County, or for the benefit of the County, by a party other than the provider of the guaranteed investment contract or repurchase agreement, with a collateralized value of at least 102% of the par value of such repurchase agreement or guaranteed investment contract or 102% of the market value thereof, valued at intervals of no less than monthly and which collateral is not subject to any other pledge or security interest; and
- (j) Such other investments as may be hereafter authorized as legal investments for the County by the legislature of the State under Section 6-10-10, NMSA 1978, or a similar statutory provision applicable to the County, provided that such investment is rated, at the time of purchase, "A" or better by Fitch and "A" or better by S&P (if such rating agency is then rating the Bonds).

"Pledged Judicial-Correctional Complex Gross Receipts Tax Revenues" or "Pledged Revenues" means the amounts of money derived from all of the revenues attributable to the first one-eighth of one percent increment of the County gross receipts tax transferred to the County pursuant to Section 7-1-6.13 NMSA 1978 which County gross receipts taxes are imposed on all persons engaging in business in the County pursuant to the County's Ordinance No. 60 adopted December 29, 2006, which County Gross Receipts Tax is imposed on persons engaging in business in the County pursuant to Section 7-20F-1 through 7-20F-6 NMSA 1978, and which revenues are remitted to the County monthly by the New Mexico Department of Taxation and Revenue pursuant to Section 7-1-6.13 NMSA 1978, and which remittances currently equal one-eighth of one percent (0.125%) of the taxable gross receipts reported by persons engaging in business in the County; and which include the distribution to the County made pursuant to Section 7-1-6.47 NMSA 1978, which amounts are collected and, after any deductions for administrative costs and any disbursements for tax credits, refunds and the payment of interest applicable to such gross receipts tax and subject to any increase or decrease pursuant to Section 7-1-6.15 NMSA 1978, are distributed monthly (together with the balance of the County's gross receipt tax) by the Revenue Division of the Taxation and Revenue Department of the State of New Mexico to the County pursuant to Section 7-1-6.13 NMSA 1978.

"Purchaser" means, as set forth in the Sale Certificate, the original purchaser or purchasers of the Bonds or, alternatively, the financial institution serving as lender under the Loan Agreement. "Rating Category" means a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

"Rebate Fund" means "Luna County Judicial-Correctional Complex Gross Receipts Tax Refunding Revenue Bonds, Series 2022, Bond Rebate Fund" created in Section 19F of this ordinance.

"Refunded Bond Requirements" means the principal of and the interest on (i.e., all debt service requirements for) the Refunded Bonds to and including their first optional prior redemption date.

"Refunded Bonds" means all of the outstanding County of Luna, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2017.

"Refunding Project" means refunding, refinancing, discharging and paying the Refunded Bonds, including but not necessarily limited to the payment of administrative and incidental costs pertaining to the Bonds, the payment of Costs of Issuance and the payment and discharge of the Refunded Bonds.

"Registrar" means County Treasurer, as registrar and transfer agent for the Bonds, and any successor.

"Regular Record Date" means the 15th day of the calendar month (whether or not a business day) preceding each regularly scheduled interest payment date on the Bonds.

"Related Documents" means the Escrow Agreement, the Continuing Disclosure Undertaking and any other document or agreement containing an obligation of the County as may be required in connection with the issuance of the Bonds.

"Series Date" means the date of issuance and delivery of the Bonds to the Purchaser.

"Special Record Date" means a special date fixed to determine the names and addresses of registered owners of the Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest thereon, all as further provided in Section 5B hereof.

"Subordinate Obligations" any other Obligations hereafter issued or incurred payable from the Pledged Revenues and issued with a lien on the Pledged Revenues junior and inferior to the lien thereon of the Bonds.

"Tax Compliance Certificate" means the Tax Compliance Certificate delivered by the County at the time of issuance of the Bonds, as the same may be supplemented in accordance with its terms.

Section 2. Ratification. All action heretofore taken (not inconsistent with the express

provisions of this ordinance) by the Governing Body and officers of the County directed toward the Refunding Project, and toward the authorization, sale and issuance of the Bonds to the Purchaser herein authorized be, and the same hereby is ratified, approved and confirmed.

Section 3. <u>Authorization of Refunding Project</u>. The Refunding Project is hereby authorized at a total cost not to exceed the proceeds of the Bonds, excluding any such cost defrayed or to be defrayed by any source other than proceeds of the Bonds and the necessity thereof is hereby so declared.

Section 4. Authorization of Bonds.

- A. Series 2022A Bonds. For the purpose of protecting the public health, conserving the property and advancing the general welfare of the citizens of the County, and for the purpose of defraying the cost of the Refunding Project, it is hereby declared that the interest and necessity of the County and the inhabitants of the County require the issuance by the County of its fully registered (i.e., registered as to payment of both principal and interest) revenue bonds without coupons to be designated "Luna County Judicial-Correctional Complex Gross Receipt Revenue Refunding Bonds, Series 2022A," in an aggregate principal amount not to exceed Four Million Five Hundred Thousand Dollars (\$4,500,000). The Bonds shall be payable and collectible, both as to principal and interest, solely from the Pledged Revenues. The Bonds shall be sold by a private sale to the Purchaser at the price established which is hereby ratified and approved.
- B. Series 2022B Bonds. For the purpose of protecting the public health, conserving the property and advancing the general welfare of the citizens of the County, and for the purpose of defraying the cost of the Project, it is hereby declared that the interest and necessity of the County and the inhabitants of the County require the issuance by the County of its fully registered (i.e., registered as to payment of both principal and interest) revenue bonds without coupons to be designated "Luna County Judicial-Correctional Complex Gross Receipt Revenue Bonds, Series 2022B," in an aggregate principal amount not to exceed Four Million Dollars (\$4,000,000). The Bonds shall be payable and collectible, both as to principal and interest, solely from the Pledged Revenues. The Bonds shall be sold by a private sale to the Purchaser at the price established which is hereby ratified and approved.

Section 5. Bonds Details.

A. Basic Details. The 2022A Bonds shall be issued in the aggregate principal amount not to exceed \$4,500,000 for the Refunding Project. The 2022B Bonds shall be issued in the aggregate principal amount not to exceed \$4,000,000 for the Project. The Bonds shall be dated the date of their issuance and delivery to the Purchaser (herein "Series Date"), and are issuable in the denomination of \$5,000 each or any integral multiple thereof (provided that no Bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual Bond will be issued for more than one maturity).

The net effective interest rate on the 2022A Bonds is less than the statutory maximum rate of twelve percent (12%) per annum. The net effective interest rate on the 2022B Bonds is less than the statutory maximum rate of twelve percent (12%) per annum.

- Payment-Regular Record Date. The principal of any Bond shall be payable B. to the registered owner thereof as shown on the registration books kept by the Registrar which is hereby appointed as registrar (and transfer agent) for the Bonds, upon maturity or prior redemption thereof and upon presentation and surrender at the Paying Agent which also is hereby appointed as the paying agent for the Bonds. If any Bond shall not be paid upon such presentation and surrender at or after maturity or on a designated prior redemption date on which the County may have exercised its right to prior redeem any Bond pursuant to Section 6 hereof, it shall continue to draw interest at the rate borne by the Bond until the principal thereof is paid in full. Payment of interest on any Bond shall be made to the registered owner of the Bond as of the Regular Record Date by check or draft mailed by the Paying Agent, on or before each interest payment date (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to the registered owner thereof on the Regular Record Date at his address as it last appears on the registration books kept by the Registrar on the Regular Record Date (or by such other arrangements as may be mutually agreed to by the Paying Agent and any registered owner on such Regular Record Date). All such payments shall be made in lawful money of the United States of America. The person in whose name any Bond is registered at the close of business on any Regular Record Date with respect to any interest payment date shall be entitled to receive the interest payable thereon on such interest payment date notwithstanding any transfer or exchange thereof subsequent to such Regular Record Date and prior to such interest payment date; but any such interest not so timely paid or duly provided for shall cease to be payable as provided above and shall be payable to the person in whose name any Bond is registered at the close of business on a Special Record Date fixed by the Registrar for the payment of any such defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for defaulted interest, and notice of any such Special Record Date shall be given not less than ten days prior thereto in the manner required by the Depository or by first-class mail, to the registered owners of the Bonds as of a date selected by the Registrar, stating the Special Record Date and the date fixed for the payment of such defaulted interest.
- Book-Entry. The Bonds may be issued or registered, in whole or in part, in book-entry form from time to time with no physical distribution of bond certificates made to the public, with a Depository acting as securities depository for the Bonds. A single certificate for each maturity date of the Bonds issued in book-entry form will be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in authorized denominations, with transfer of ownership effected on the books of the Depository and its participants ("Participants"). As a condition to delivery of the Bonds in book-entry form, the Purchaser will, immediately after acceptance of delivery thereof, deposit, or cause to be deposited, the Bond certificates with the Depository, registered in the name of the Depository or its nominee. Principal and interest will be paid to the Depository or its nominee as the registered owner of the Bonds. The transfer of principal and interest payments to Participants will be the responsibility of the Depository; the transfer of principal and interest payments to the beneficial owners of the Bonds (the "Beneficial Owners") will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the "Indirect Participants"). The County will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.
- If (i) the Bonds are not eligible for the services of the Depository, (ii) the Depository determines to discontinue providing its services with respect to the Bonds or (iii) the County determines that a continuation of the system of book-entry transfers through the Depository ceases

to be beneficial to the County or the Beneficial Owners, the County will either identify another Depository or certificates for the Bonds will be delivered to the Beneficial Owners or their nominees, and the Beneficial Owners or their nominees, upon authentication of Bonds and registration of those Bonds in the Beneficial Owners' or nominees' names, will become the owners of the Bonds for all purposes. In that event, the County shall mail an appropriate notice to the Depository for notification to Participants, Indirect Participants and Beneficial Owners of the substitute Depository or the issuance of bond certificates to Beneficial Owners or their nominees, as applicable.

Authorized Officers of the County are authorized to sign agreements with Depositories relating to the matters set forth in this Section.

Notwithstanding any other provision of this ordinance, so long as all of the Bonds are registered in the name of the Depository or its nominee, all payments of principal and interest on the Bonds, and all notices with respect to the Bonds, shall be made and given by the Paying Agent, Registrar or the County to the Depository as provided in this ordinance and by the Depository to its Participants or Indirect Participants and notices to the Beneficial Owners of the Bonds in the manner provided in an agreement or letter of the County to the Depository.

Section 6. Prior Redemption.

- A. Redemption, Date and Price. The Bonds maturing on and after July 1, 2025 shall be subject to redemption prior to maturity at the County's option in one or more units of principal of \$5,000 on and after July 1, 2024, in whole or in part at any time, in such order of maturities as the County may determine (and by lot if less than all of the Bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair) at a redemption price equal to the principal amount of the Bonds or portions thereof to be redeemed plus accrued interest, if any, to the date fixed for redemption.
- A. <u>Notice to Registrar</u>. The Registrar shall not be required to give notice of any optional redemption unless the Registrar has received written instructions from the County in regard thereto, at least 45 days prior to such redemption date unless waived by the Registrar.
- Notice of Redemption. Notice of redemption shall be given by the Registrar by sending a copy of such notice by first-class, postage prepaid mail at least thirty (30) days prior to the redemption date to the registered owner of each Bond, or portion thereof, to be redeemed at the address shown as of the close of business of the Registrar on the fifth day prior to the mailing of notice on the registration books kept by the Registrar. Neither the County's failure to give such notice nor the Registrar's failure to give such notice to the registered owner of any Bond, or any defect therein, shall affect the validity of the proceedings for the redemption of any Bonds for which proper notice was given. Notices of redemption shall specify the maturity dates and the number or numbers of the Bonds to be redeemed (if less than all are to be redeemed) and if less than the full amount of any Bond is to be redeemed, the amount of such Bonds to be redeemed, the date fixed for redemption, and that on such redemption date there will become and be due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount to be redeemed plus accrued interest to the redemption date and that from and after such date interest will cease to accrue on such amount. Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable on the redemption date

so designated and if an amount of money sufficient to redeem all Bonds called for redemption shall on the redemption date be on deposit with the Paying Agent, the Bonds to be redeemed shall be deemed not outstanding and shall cease to bear interest from and after such redemption date. Upon presentation of the Bonds to be redeemed at the office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption with funds deposited with the Paying Agent by the County.

- c. Conditional Notice. If money or securities sufficient to pay the optional redemption price of the Bonds to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to paragraph B of this Section, such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent by 2:00 p.m. on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the optional redemption price is on deposit with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Bonds to be redeemed shall be selected in a manner deemed reasonable and fair by the County and the Paying Agent shall give notice, in the manner in which the original notice of optional redemption was given, that such money was not received. In that event, the Paying Agent, shall promptly return to the owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been redeemed.
- Section 7. <u>Negotiability</u>. Subject to the provisions specifically made or necessarily implied herein, the Bonds shall be fully negotiable, and shall have all the qualities of negotiable paper, and the registered owner or owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code.

Section 8. <u>Execution</u>.

- A. Filing Manual Signatures. Prior to the execution and authentication of any Bond pursuant to Sections 6-9-1 through 6-9-6, NMSA 1978, the Chair and County Clerk shall each forthwith file with the Secretary of State of New Mexico, his or her manual signature certified by him or her under oath; provided, that such filing shall not be necessary for any officer where any previous such filing may have legal application to the Bonds.
- B. Method of Execution. Each Bond of the issue shall be signed and executed by the facsimile or manual signature of the Chair of the Board under facsimile or manual imprint of the seal of the County, which shall be printed, stamped, engraved or otherwise placed thereon; each Bond shall be executed and attested with the facsimile or manual signature of the County Clerk; and each Bond shall be authenticated by the manual signature by an Authorized Officer of the Registrar as hereafter provided. The Bonds bearing the facsimile or manual signature of the officers in office at the time of the authorization thereof shall be the valid and binding obligations of the County (subject to the requirement of authentication by the Registrar as hereinafter provided) notwithstanding that before the delivery thereof and payment therefor, or before the issuance thereof upon transfer or exchange, any or all of the persons whose facsimile signatures appear thereon shall have ceased to fill their respective offices. The Chair of the Board and County Clerk shall, by the execution of a signature certificate pertaining to the Bonds, adopt as and for their respective signatures the facsimiles thereof appearing on the Bonds; and, at the time of the

execution of the signature certificate, the Chair of the Board and County Clerk may each adopt as and for his or her facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon any of the Bonds.

- C. Certificate of Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication, substantially in the form hereinafter provided, has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been duly executed by it if manually signed by an Authorized Officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued under this ordinance.
- Section 9. <u>Provisions Relating to Registration, Transfer, Replacement and Cancellation of and Registration Records for the Bonds.</u>
- A. Registration Books -- Transfer and Exchange -- Authentication. Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer of any Bonds at the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at the Registrar for an equal aggregate principal amount of Bonds of the same maturity of other authorized denominations. The Registrar shall authenticate and deliver a Bond or Bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds as provided in this ordinance shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.
- B. Payment Registered Owners. The person in whose name any Bond is registered on the registration books kept by the Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes except as may otherwise be provided with respect to payment of defaulted interest as provided in Section 5B of this ordinance; and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided in this ordinance. All such payments shall be valid and effectual to discharge the liability upon the Bond to the extent of the sum or sums so paid.
- C. Replacement Bonds. If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it may reasonably require, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same subseries and maturity, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.
- D. Delivery of Bond Certificates to Registrar. The officers of the County are authorized to deliver to the Registrar fully executed but unauthenticated Bonds in such quantities

as may be convenient to be held in custody by the Registrar pending use as provided in this ordinance.

E. Cancellation of Bonds. Whenever any Bond shall be surrendered to the Paying Agent upon payment of the Bond, or to the Registrar for transfer, exchange or replacement as provided in this ordinance, the Bond shall be promptly canceled by the Paying Agent or Registrar, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or Registrar to the County.

Section 10. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed under this ordinance shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the County shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties under this ordinance, the County may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having a shareholders equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than \$20,000,000. It shall not be required that the same institution serve as both Registrar and Paying Agent hereunder, but the County shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

Section 11. Special Limited Obligations. The Bonds and all payments of principal and interest thereon, (whether at maturity or on a redemption date) and the obligations of the County for all other payments, fees, costs, interest and expenses of the County under this ordinance and under the Related Documents shall be special limited obligations of the County. The principal of and interest on the Bonds and all obligations of the County under the Related Documents shall be payable solely from the Pledged Revenues, which revenues are hereby pledged.

Owners of the Bonds and other parties to the Related Documents, including a Qualified Counterparty, may not look to any general or other fund of the County for the payment of the principal of or interest on, or the fees, costs and expenses relating to, such obligations, except the designated special funds pledged therefor. Neither the Bonds nor the obligations of the County under the Related Documents shall constitute an indebtedness of the County within the meaning of any constitutional, charter or statutory prohibition or limitation, nor shall they be considered or held to be general obligations of the County, and the Bonds, and any Related Document shall recite that they are payable and collectable solely out of the Pledged Revenues, and from the other sources stated in this Section, and that the Owners of the Bonds, any other party or a Qualified Counterparty may not look to any general or other municipal fund for the payment of the principal or interest, as applicable, on the Bonds or for the payment of any amounts owed under the Related Documents.

Nothing herein shall prevent or prohibit the County from applying other funds of the County legally available therefor to the payment or redemption of the Bonds or to the payment of any amounts owed under a Related Document, in its sole discretion.

Section 12. Period of Project's Usefulness.

A. 2022A Bonds. It is hereby determined and recited that the period of remaining usefulness of the projects acquired with the proceeds of the Refunded Bonds is not less than the final maturity date of the Bonds.

- B. 2022B Bonds. It is hereby determined and recited that the period of usefulness of the projects acquired with the proceeds of the 2022B Bonds is not less than the final maturity date of the Bonds.
- Section 13. <u>Delivery of Bonds and Initial Registration</u>. When the Bonds have been duly executed, authenticated, registered and sold, the County Manager shall deliver them to the Purchaser on receipt of the agreed purchase price. The Registrar shall initially register the Bonds in the name of the Depository.

Section 14. Approval and Execution of Documents and Delegated Authority.

- A. Approval of Documents; Ratification. The forms of the Continuing Disclosure Undertaking and the Escrow Agreement as filed with the County Clerk are hereby approved.
- B. Delegated Authority and Execution of Documents. The officers, agents and employees of the County are authorized, empowered and directed to take all action required by this ordinance, and all such other action as may be necessary or appropriate to effectuate the provisions of this ordinance, the Related Documents and any other documents as may be necessary or appropriate to carry out and comply with the provisions of this ordinance.

The Chair of the Board is authorized and directed to execute and the County Clerk is authorized and directed to affix the seal of the County to and attest where applicable, the Escrow Agreement and the Continuing Disclosure Undertaking in substantially the form as hereby approved or with such changes therein as are not inconsistent with this ordinance and as shall be approved by the Chair of the Board, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions thereof from the form presented to the Governing Body. The Chair of the Board is further authorized and directed to execute and the County Clerk is authorized and directed to affix the seal of the County to and attest where applicable, a Tax Compliance Certificate in such form as shall be approved by the Chair of the Board, his execution thereof to constitute conclusive evidence of his approval. From and after adoption of this ordinance and the execution and delivery of the Tax Compliance Certificate, the Escrow Agreement and the Continuing Disclosure Undertaking, the officers, agents and employees of the County are hereby authorized, empowered and directed to do all such acts and to execute all such documents as may be necessary to carry out and comply with the provisions of the Tax Compliance Certificate, the Escrow Agreement and the Continuing Disclosure Undertaking as executed.

The Chair of the Board, County Clerk, County Manager, any other officer or employee of the County and the Purchaser are authorized and directed to distribute the documents related to the sale of the Bonds. The use and distribution of the bond documents by the Purchaser in connection with the sale of the Bonds to the public is hereby authorized, approved and acknowledged.

Section 15. <u>Use of Bond Proceeds</u>; <u>Purchaser Not Responsible</u>. Except as herein otherwise specifically provided in this ordinance, the proceeds from the sale of the Bonds shall be used and paid solely for the valid costs of the Refunding Project, and paying Costs of Issuance.

- A. Escrow Fund Deposit. An amount of proceeds received from the sale of the Bonds shall be deposited in the "Luna County Judicial-Correctional Complex Gross Receipts Tax Refunding Revenue Bonds, Series 2022A, Escrow Fund" which is hereby created. Such amount shall be sufficient to pay the Refunded Bond Requirements in accordance with the terms of the Escrow Agreement and Section 17 of this Ordinance.
- B. Payment of Costs of Issuance. An amount of proceeds received from the sale of the Bonds shall be used to pay Costs of Issuance, and to the extent not needed to pay Costs of Issuance, shall be deposited in the Bond Fund.
- C. Purchaser Not Responsible. The validity of the Bonds is not dependent on nor affected by the validity or regularity of any proceedings related to the completion of the Refunding Project as defined in this ordinance. The Purchaser of the Bonds, and any subsequent owner of any Bonds, shall in no manner be responsible for the application or disposal by the County or by any officer or any employee or other agent of the County of the moneys derived from the sale of the Bonds or of any other moneys designated in this ordinance.

Section 16. Escrow Fund.

- A. Maintenance of Escrow Fund. The Escrow Fund shall be maintained on behalf of the County by and in the Escrow Bank in an amount at the time of the deposit and all times subsequently at least sufficient, together with the known minimum yield to be derived from the investment of the deposits therein or any part thereof in secured deposits or Federal Securities to pay the Refunded Bond Requirements, both accrued and not accrued, as the same become due, all as provided in the Escrow Agreement.
- B. Use of Escrow Fund. Moneys shall be withdrawn by the Escrow Bank from the Escrow Fund in sufficient amounts and at times to permit the payment without default of the Refunded Bond Requirements as provided in the Escrow Agreement. Any moneys remaining in the Escrow Fund after provision shall have been made for payment in full of the Refunded Bond Requirements shall be deposited in the Bond Fund.
- C. Insufficiency of Escrow Fund. If for any reason the amount in the Escrow Fund shall be insufficient for the purpose of paragraphs A and B above, the County shall forthwith deposit in the Escrow Fund from the first legally available Pledged Revenues such additional moneys as shall be necessary to permit the payment in full of the Refunded Bond Requirements.
- Section 17. <u>Continuance of Pledged Gross Receipts Tax Funds</u>. The County hereby continues the following special and separate trust fund:
- A. 2022A Judicial-Correctional Complex Gross Receipts Tax Revenue Fund. The "County of Luna, New Mexico Judicial-Correctional Complex Gross Receipts Tax Revenue Account of the General Fund of the County," to be maintained by the County and deposited in an Insured Bank, into which the County shall deposit the Judicial-Correctional Complex Gross Receipts Tax Revenues.

- B. 2022B Judicial-Correctional Complex Gross Receipts Tax Revenue Fund. The "County of Luna, New Mexico Judicial-Correctional Complex Gross Receipts Tax Revenue Account of the General Fund of the County," to be maintained by the County and deposited in an Insured Bank, into which the County shall deposit the Judicial-Correctional Complex Gross Receipts Tax Revenues.
- Section 18. <u>Administration of Pledged Judicial-Correctional Complex Gross Receipts Tax Revenue Funds</u>. So long as any of the Bonds shall be outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Pledged Judicial-Correctional Complex Gross Receipts Tax Revenues:
- A. 2022A Bond Service Fund Payments. First, as a first charge on the Pledged Judicial-Correctional Complex Gross Receipts Tax Revenues and on a parity with other outstanding Parity Obligations, the following amounts shall be withdrawn from the Judicial-Correctional Complex Gross Receipts Tax Revenue Fund, and shall be concurrently credited to the "Luna County Judicial-Correctional Complex Gross Receipts Tax Refunding Revenue Bonds, Series 2022A, Bond Service Fund" (herein the "2022A Bond Fund") hereby created and to be maintained by the County:
- (1) Interest Payments. Monthly, commencing on the first day of the first month following the delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds then outstanding and monthly thereafter commencing on each interest payment date, one-sixth (1/6th) of the amount necessary to pay the next maturing installment of interest on the outstanding Bonds, and
- (2) Principal Payments. Monthly, commencing on the first day of the first month following delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of principal on the Bonds then outstanding and monthly thereafter commencing on the first day of the twelfth month preceding each principal payment date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment of principal on the Bonds.

If prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in subparagraphs (1) and (2) (whichever is applicable) of this paragraph, may be appropriately reduced and the required monthly amounts again shall be so credited to such account commencing on such interest payment date or principal payment date (whichever is applicable).

B. 2022B Bond Service Fund Payments. First, as a first charge on the Pledged Judicial-Correctional Complex Gross Receipts Tax Revenues and on a parity with other outstanding Parity Obligations, the following amounts shall be withdrawn from the Judicial-Correctional Complex Gross Receipts Tax Revenue Fund, and shall be concurrently credited to the "Luna County Judicial-Correctional Complex Gross Receipts Tax Refunding Revenue Bonds, Series 2022B, Bond Service Fund" (herein the "2022B Bond Fund") hereby created and to be maintained by the County:

- (1) Interest Payments. Monthly, commencing on the first day of the first month following the delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds then outstanding and monthly thereafter commencing on each interest payment date, one-sixth (l/6th) of the amount necessary to pay the next maturing installment of interest on the outstanding Bonds, and
- (2) Principal Payments. Monthly, commencing on the first day of the first month following delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of principal on the Bonds then outstanding and monthly thereafter commencing on the first day of the twelfth month preceding each principal payment date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment of principal on the Bonds.

If prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in subparagraphs (1) and (2) (whichever is applicable) of this paragraph, may be appropriately reduced and the required monthly amounts again shall be so credited to such account commencing on such interest payment date or principal payment date (whichever is applicable).

- B. Debt Service Reserve Fund. No debt service reserve fund will be created or required for the Bonds.
- C. Termination Upon Deposits to Maturity. No payment need be made into the Bond Fund if the amount in such fund totals a sum at least equal to the entire amount of the Bonds then outstanding, both as to principal and interest to their respective maturities, and both accrued and not accrued, in which case, moneys in the Bond Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue and any moneys in excess thereof in the Bond Fund and any other moneys derived from the Pledged Revenues may be used in any lawful manner determined by the County.
- 2022A Rebate Fund. There is hereby created a separate account to be known as the "Luna County Judicial-Correctional Complex Gross Receipt Revenue Refunding Bonds, Series 2022A, Bond Rebate Fund" (the "2022A Rebate Fund"), to be held by the County. All of the amounts on deposit in the accounts created and established by this ordinance and all amounts pledged to the payment of debt service for the Bonds shall be invested in compliance with the requirements of Section 25J of this ordinance. There shall be transferred into the Rebate Fund from the Pledged Gross Receipts Tax Revenue Funds, such amounts as are required to be deposited therein to meet the County's obligations under the covenant contained in Section 25J of this ordinance, in accordance with Section 148(f) of the Internal Revenue Code of 1986, as amended (the "Tax Code"). Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this ordinance to the extent such amounts are required to be paid to the United States Treasury. The County hereby finds and determines that payment to the United States in an amount equal to interest and other gain from the investment of moneys accumulated in the Bond Fund and any other account into which Pledged Revenues are transferred, to the extent such interest or other gain is subject to the rebate requirements of Section 148(f) of the Tax Code, shall be subject to a lien thereon in favor of the United States Treasury and pledged to the United States Treasury for the

benefit of the owners of the Bonds from time to time. From time to time, if the County determines that there is on deposit in the Rebate Fund more money than is needed to satisfy the rebate obligation, then such excess shall be transferred and credited to the Bond Fund and used to pay Debt Service Requirements.

- E. Payment of Expenses and Certain Obligations which are not Parity Obligations. After and subject to the payments required, and provisions contained in, any of the preceding paragraphs of this Section, any remaining Pledged Gross Receipts Tax Revenues shall be used, to the extent necessary, for payment of: (i) any other amounts, expenses, fees and interest owed by the County relating to the issuance, delivery, servicing, payment, redemption and refunding of Parity Obligations and (ii) other Obligations relating to Parity Obligations owed by the County pursuant to the Related Documents, which are not payable pursuant to any other prior paragraph of this Section.
- G. Subordinate Obligations. After and subject to the payments required by, and provisions contained in, the preceding paragraphs of this Section, any remaining Pledged Gross Receipts Tax Revenues shall be used, as necessary, by the County for the payment of the principal of, and interest on, all Obligations with a lien on the Pledged Revenues which is subordinate and junior to the lien of the Parity Obligations on Pledged Revenues.
- I. Use of Surplus Revenues. After making the payments required to be made by Paragraphs A to G of this Section, the remaining Pledged Gross Receipts Tax Revenues, if any, may be applied to any other lawful purposes.
- Section 19. <u>General Administration of Funds</u>. The funds and accounts designated in Sections 16 through 19 of this ordinance shall be administered as follows:
- A. Investment of Money. Any moneys in any fund designated in Sections 16 through 19 may be invested in any Permitted Investments. The obligations so purchased as an investment of moneys in a fund shall be deemed at all times to be part of the fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund, and any loss resulting from each investment shall be charged to the fund. The County Manager shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.
- B. Deposits of Funds. Except for direct investments in Permitted Investments allowed by Paragraph A of this Section 20, the moneys and investments comprising each of the funds and accounts hereinabove designated in Sections 16 through 19 of this ordinance shall be maintained and kept separate from all other funds and accounts in an Insured Bank or Insured Banks. The amounts prescribed shall be paid to the appropriate funds as specified in Sections 16 through 19. Each payment shall be made into the proper bank account and credited to the proper fund not later than the last day designated; provided that when the designated date is a Sunday or a legal holiday, then such payment shall be made on the next preceding secular day. Nothing in this ordinance shall prevent the establishment of one such bank account or more (or consolidation with any existing bank account), for all of the funds and accounts in Sections 16 to 19, both inclusive, of this ordinance.

Section 20. <u>Lien on Pledged Revenues</u>. The Pledged Judicial-Correctional Complex Gross Receipts Tax Revenues and the amounts and securities on deposit in the Bond Fund, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the County grants a security interest therein, for the payment of the principal of and interest on the Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this ordinance. The Bonds constitute an irrevocable first lien (but not an exclusive first lien) on the Pledged Revenues on parity with the lien thereon of Parity Obligations.

Section 21. Additional Bonds and Other Obligations.

- A. Limitations Upon Issuance of Parity Obligations. Nothing in this ordinance contained shall be construed in such a manner as to prevent the issuance by the County of additional bonds or other obligations payable from the Pledged Revenues and constituting a lien upon the Pledged Revenues on a parity with, but not prior nor superior to, the lien of the Bonds, nor to prevent the issuance of bonds or other obligations refunding all or a part of the Bonds, provided, however, that before any such additional Parity Bonds are authorized or actually issued (but excluding any Parity Bonds which refund outstanding Parity Bonds as permitted by Sections 22B and 22C hereof):
- (1) The County shall be current in all of the accumulations required to be made into the 2022A Bond Account and 2022B Bond Account as applicable; and
- (2) The Pledged Revenues received by the County for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Bonds shall have been sufficient to pay an amount representing at least one hundred and fifty percent (150%) of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then outstanding 2022 Bonds, all other then outstanding Parity Bonds and the Parity Bonds proposed to be issued (excluding accumulation of any reserves therefor).

For purposes of the tests set forth in paragraph (2) above, if on the date of issuance of any such Parity Bonds the full amount of a reserve fund requirement or minimum reserve for the Parity of such Parity Bonds, the amount of such reserve fund requirement or minimum reserve so funded shall be deducted from the principal and interest coming due in the final Fiscal Year for the proposed additional Parity Bonds.

- B. Certificate or Opinion of Earnings. A written certification or opinion by an Independent Accountant that the Pledged Revenues for such preceding Fiscal Year are sufficient to pay said amounts shall be conclusively presumed to be accurate in determining the right of the County to authorize, issue, sell and deliver said additional Parity Bonds.
- C. Superior Obligations Prohibited. Nothing in this ordinance contained shall be construed so as to permit the County to issue bonds payable from the Pledged Revenues having a lien thereon prior and superior to the Bonds.
- Section 22. <u>Refunding Bonds</u>. The provisions of Section 22 hereof are subject to the following exceptions:

- A. Privilege of Issuing Refunding Obligations. If at any time after the Bonds shall have been issued and remain outstanding, the County shall find it desirable to refund any outstanding Bonds or other outstanding obligations payable from the Pledged Revenues, said Bonds or other obligations, or any part thereof, may be refunded (but only with the consent of the registered owner or owners thereof, unless the Bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the County's option).
- B. Limitations Upon Issuance of Parity Refunding Obligations. Subject to the provisions of subsection C of this Section, no refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with the Bonds, unless:
- (1) The lien on the Pledged Revenues of the outstanding obligations so refunded is on a parity with the lien thereon of the Bonds; or
- (2) The refunding bonds or other refunding obligations are issued in compliance with subsection A of Section 22 hereof.
- Section 23. Equality of Bonds. The Bonds authorized to be issued hereunder and from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of their issuance, it being the intention of the Governing Body that there shall be no priority among the Bonds regardless of the fact that they may be actually issued and delivered at different times.
- Section 24. <u>Protective Covenants</u>. The County hereby covenants and agrees with each and every registered owner of the Bonds that:
- A. Payment of Bonds Herein Authorized. The County will promptly pay the principal of and the interest on every Bond issued hereunder and secured hereby at the place, on the dates and in the manner specified herein and, in the Bonds, according to the true intent and meaning hereof. Such principal and interest are payable solely from the Pledged Revenues. Nothing in the Bonds, or this ordinance shall be construed as obligating the County to pay principal or interest on any of the Bonds from, and the holders of the Bonds and any Qualified Counterparty may not look to, any general or other fund of the County, except those specifically set forth herein.
- B. Records. So long as any of the Bonds remain outstanding, proper books of record and account will be kept by the County, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.
- C. Audits. The County further agrees that it will, within 270 days following the close of each Fiscal Year, cause an audit of such books and accounts to be made by an Independent Accountant, showing the revenues and expenditures of the Pledged Revenues. The County agrees to furnish forthwith a copy of each of such audits and reports to the Purchaser upon request. Any registered owner of a Bond shall have the right to discuss, with the Independent Accountant or person making the audit, the report and the contents thereof and to ask for such additional information as he may reasonably require.
 - D. Extending Interest Payments. In order to prevent any accumulation of

claims for interest after maturity, the County will not directly or indirectly extend or assent to extension of time for the payment of any claim for interest on any of the Bonds and it will not directly or indirectly be a party to or approve any arrangement for any such extension or for the purpose of keeping alive any of such interest.

- E. Performing Duties. The County will faithfully and punctually perform all duties with respect to the Refunding Project and the Bonds required by the Constitution and laws of the State of New Mexico and the ordinances and resolutions of the County including but not limited to the proper segregation of the Pledged Revenues and their application of the respective funds.
- F. Other Liens. Other than the outstanding Subordinate Obligations, the outstanding Parity Obligations and the Bonds as recited in this ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues. This ordinance does not prohibit the issuance of Parity Obligations with a lien on the Pledged Revenues on parity with the lien thereon of the Bonds.
- G. County's Existence. The County will maintain its corporate identity and existence so long as any of the Bonds herein authorized remain outstanding unless another political subdivision by operation of law succeeds to the liabilities and rights of the County, without affecting to any substantial degree the privileges and rights of any registered Owner of any outstanding Bonds.
- H. Duty With Respect to Pledged Revenues. If the statutes or any ordinance which materially affects the Pledged Revenues or any part of such ordinances, shall ever be held to be invalid or unenforceable, it shall be the duty of the County, to the extent authorized by Jaw, to immediately take any action necessary to produce sufficient Pledged Revenues to comply with the contracted obligations of this ordinance, except as provided in Paragraph I of this Section 25.
- I. Impairment of Contract. The County agrees that any law or ordinance or resolution of the County in any manner affecting the Pledged Revenues or the Bonds, or otherwise appertaining thereto, shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor, or unless the consent of the required percentage of the registered owners of the then outstanding Bonds is obtained pursuant to Section 33 of this ordinance.
- J. Tax Covenant. The County covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended, including applicable regulations, rulings and judicial decisions (the "Tax Code"), or (ii) be treated other than as bonds to which Section 103(a) of the Tax Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Tax Code. The County further covenants (a) that it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and to remain excluded from gross income for federal income tax purposes, (b) that it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) that it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of

the Bonds to the governmental purposes of the borrowings, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments, yield reduction payments or payments of alternative amounts in lieu of rebate to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Tax Code.

Authorized Officers of the County are hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the County with respect to the Bonds as the County is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in or available under Section 148 of the Tax Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting in the compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount, yield reduction payments or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate or yield reduction payments, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, including amounts required to be rebated to the United States pursuant to Section 148(f) of the Tax Code, and make or give reports, covenants and certifications of and on behalf of the County, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the County, for inclusion in the transcript of the proceedings for the Bonds, setting forth the reasonable expectations of the County regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds.

- K. Limitation on Parity Obligations with Variable Interest Rates. The County shall not issue Parity Obligations with a Variable Interest Rate which, at the time of issuance, are assigned a lower rating than the rating then assigned to the Bonds by Fitch or S&P, unless the written consent of such rating agency to a lower rating is obtained prior to issuance of such Parity Obligations.
- M. Continuing Disclosure Undertaking. Authorized Officers of the County are authorized to sign such documents with respect to the County's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

Section 25. <u>Defeasance</u>. When all principal and interest in connection with the Bonds hereby authorized have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this ordinance. There shall be deemed to be such due payment as to any Bond when the Governing Body has placed in escrow and in trust with a commercial bank located within or without the State of New Mexico and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may initially be invested) to meet all requirements of principal and interest as the same become due to its maturity or designated redemption date as of which the County shall have exercised or obligated itself to

exercise its option to call the Bond. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Governing Body and such bank at the time of the creation of the escrow or the Federal Securities shall be subject to the redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. Federal Securities within the meaning of this Section shall include only direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America and which are not callable prior to maturity by the issuer of such obligations.

- Section 26. Events of Default. Each of the following events is hereby declared an "event of default":
- A. Nonpayment of Principal. If payment of the principal of any of the Bonds herein authorized to be issued shall not be made when the same become due and payable; or
- B. Nonpayment of Interest. If payment of any installment of interest shall not be made when the same becomes due and payable; or
- C. Incapable to Perform. If the County shall for any reason be rendered incapable of fulfilling its obligations hereunder; or
- D. Default of any Provision. If the County shall default in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in this ordinance on its part to be performed (other than defaults described in Subparagraphs A, B and C of this Section 27), and if such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied shall have been given to the County by the registered owners of 25% in principal amount of the Bonds then outstanding.
- E. Bankruptcy or Insolvency of County. (1) The County shall (a) apply for or consent to the appointment of or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the County or of all or a substantial part of its property, (b) commence a voluntary case under the Federal Bankruptcy Code, or (c) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, or reorganization, or (2) a proceeding or case shall be commenced, without application or consent of the County, in any court of competent jurisdiction seeking (a) the liquidation, reorganization, dissolution, winding-up or adjustment of debts of the County, (b) appointment of a trustee, receiver, custodian, liquidator or the like of the County or of all or a substantial part of its assets, or (c) similar relief in respect of the County under any law relating to bankruptcy, insolvency, reorganization, winding-up or adjustment of debts.

Section 27. Remedies of Defaults. Upon the happening and continuance of any of the events of default as provided in Section 27 of this Ordinance, then and in every case the registered owner or owners of not less than 25% in principal amount of the Bonds then outstanding, including but not limited to a trustee or trustees, may proceed against the County, its Governing Body, and its agents, officers and employees to protect and enforce the rights of any registered owner of Bonds under this ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for specific performance of any covenant or agreement contained herein or award or execution of any power herein granted for the enforcement of any power, legal or equitable remedy as such registered owner or owners may deem most effectual to

protect and enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any registered owner, or to require the Governing Body of the County to act as if it were the trustee of an expressed trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all registered owners of the Bonds then outstanding. The failure of any such registered owner so to proceed shall not relieve the County or any of its officers, agents or employees of any liability for failure to perform any duty. Each right or privilege of any such registered owner (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any registered owner shall not be deemed a waiver of any other right or privilege thereof.

Section 28. <u>Duties Upon Default</u>. Upon the happening of any of the events of default as provided in Section 27 of this ordinance, the County, in addition, will do and perform all proper acts on behalf of and for the registered owners of the Bonds to protect and preserve the security created for the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived from the Pledged Revenues, so long as any of the Bonds herein authorized, either as to principal or interest, are outstanding and unpaid, shall be paid into the proper fund and used for the purposes therein provided. In the event the County fails or refuses to proceed as in this Section provided, the registered owner or registered owners of not less than 25% in principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the registered owners as hereinabove provided.

Section 29. <u>Enforcement</u>. Any registered owner of any one or more of the Bonds, may, either by law or in equity, by suit, action, mandamus or other appropriate proceedings in any court of competent jurisdiction enforce the payment of principal of, and interest on, any Bond on or after the date on which such payment is due, and may by suit, action, mandamus or other appropriate proceeding or proceedings enforce and compel the performance of such payment in accordance with the provisions of this ordinance.

Section 30. Severability. If any Section, paragraph, clause or provision of this ordinance shall 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 31. Repealer Clause. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

Section 32. Approval of Documents; Delegated Powers.

A. The form, terms and provisions of the Bond Purchase Agreement and, if any, the Paying Agent Agreement, the Continuing Disclosure Undertaking, the Preliminary Official Statement and the Official Statement shall be approved, authorized and confirmed in the Sale Certificate, and the County shall enter into the Related Documents. The officers of the County be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of the Bond Legislation, including, without limiting the generality of the foregoing, the publication of the summary of this Ordinance set out in Section 41 (with such changes, additions and deletions as they may determine), the distribution of material relating to the Bonds, any printing of the Bonds, the printing,

execution and distribution of the Preliminary Official Statement and the Official Statement, if any, and the execution of the Bond Purchase Agreement and the Continuing Disclosure Undertaking and of such certificates as may be required by the Purchaser or bond counsel and including preparation and submission to the Secretary of the Treasury of a statement meeting the informational reporting requirements of Section 149(e) of the Code. As applicable, the use and distribution of the Preliminary Official Statement and the Official Statement (as further approved in the Sale Certificate) in connection with the sale of the Bonds to the public is hereby ratified, authorized, approved and acknowledged, as applicable.

B. Details of Bonds; Delegation to Approve Final Terms to the Delegatee.

1. 2022A Bonds. There is hereby authorized and created a series of bonds designated as the Luna County New Mexico, Judicial-Correctional Complex Gross Receipts Tax Refunding Revenue Bonds, Series 2022A.

The Bonds shall be issued in one or more series in an original aggregate principal amount not to exceed \$4,500,000 for the Refunding Project, with the exact aggregate principal amount of the Bonds to be established by the Delegatee in the Sale Certificate. The forms, terms, and provisions of the Bonds, in the form set forth in Section 8 herein, are hereby approved with only such changes therein as are not inconsistent with this Ordinance and the Sale Certificate.

The sale of the Bonds to the Purchaser through a private placement and the issuance and delivery of the Bonds within the parameters set forth in this Ordinance with the final terms of the Bonds to be accepted by the Delegatee in the Sale Certificate and Bond Purchase Agreement is hereby authorized. The Delegatee is hereby authorized and delegated the power to determine the final terms of the Bonds within the parameters set forth below:

- (a) The principal amount of the Bonds shall not exceed \$4,500,000.
- (b) The final maturity of the Bonds shall be no later than 50 years from the date of issuance of the Bonds.
- (c) The proceeds of the Bonds shall be used for the Refunding Project.
- (d) The maximum interest rate on the Bonds shall not exceed 12% per annum.
- (e) The Bonds may be subject to optional and/or mandatory sinking fund redemption as set forth in the Sale Certificate.
- (f) The Purchaser's discount shall not exceed 2.0% of the aggregate principal amount of the Bonds.
- (g) The final forms of the Related Documents shall be consistent with this Ordinance, and the Bonds and the Escrow Agreement shall be in substantially the forms approved by the Board with the adoption of this Ordinance.

- (h) The Refunding Project shall include refunding all or a portion of the outstanding Series 2015 Bonds as specified by the Delegatee in the Sale Certificate
- (i) The Delegatee is authorized to determine the amount, if any, to be deposited in the 2022A Reserve Account for the Bonds to meet the 2022A Reserve Requirement, including the determination of whether to deposit a portion of the proceeds from the Bonds in the form of cash in the 2022A Reserve Account.
- (j) The present value savings for the Refunding Project shall not be less than 3.0% of the Refunded Bonds.
- (k) The Delegatee is hereby authorized pursuant to this Ordinance to determine the final terms of the 2022A Bonds as permitted by Section 6-14-10.2 NMSA 1978 and to execute a Sale Certificate, an Escrow Agreement (if needed), and a Bond Purchase Agreement with the Purchaser in conformance with these parameters and to enter into such agreements and execute such documents with a Bond Insurer acceptable to the Purchaser for the procurement of a Bond Insurance Policy on the Bonds, if any, in an amount and in a form acceptable to the Purchaser.
- (1) The Delegatee shall report to the Board the final terms of the Bonds as required by Section 6-14-10.2 NMSA 1978.
- 2. 2022B Bonds. There is hereby authorized and created a series of bonds designated as the Luna County New Mexico, Judicial-Correctional Complex Gross Receipts Tax Revenue Bonds, Series 2022B.

The Bonds shall be issued in one or more series in an original aggregate principal amount not to exceed \$4,000,000 for the Refunding Project, with the exact aggregate principal amount of the Bonds to be established by the Delegatee in the Sale Certificate. The forms, terms, and provisions of the Bonds, in the form set forth in Section 8 herein, are hereby approved with only such changes therein as are not inconsistent with this Ordinance and the Sale Certificate.

The sale of the Bonds to the Purchaser through a private placement and the issuance and delivery of the Bonds within the parameters set forth in this Ordinance with the final terms of the Bonds to be accepted by the Delegatee in the Sale Certificate and Bond Purchase Agreement is hereby authorized. The Delegatee is hereby authorized and delegated the power to determine the final terms of the Bonds within the parameters set forth below:

- (a) The principal amount of the Bonds shall not exceed \$4,00,000.
- (b) The final maturity of the Bonds shall be no later than 50 years from the date of issuance of the Bonds.
- (c) The proceeds of the Bonds shall be used for the Project.
- (d) The maximum interest rate on the Bonds shall not exceed 12% per annum.

- (e) The Bonds may be subject to optional and/or mandatory sinking fund redemption as set forth in the Sale Certificate.
- (f) The Purchaser's discount shall not exceed 2.0% of the aggregate principal amount of the Bonds.
- (g) The final forms of the Related Documents shall be consistent with this Ordinance, the Bonds and the Escrow Agreement.
- (h) The Project shall include 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 for as specified by the Delegatee in the Sale Certificate
- (i) The Delegatee is authorized to determine the amount, if any, to be deposited in the 2022B Reserve Account for the Bonds to meet the 2022B Reserve Requirement, including the determination of whether to deposit a portion of the proceeds from the Bonds in the form of cash in the 2022B Reserve Account.
- (j) The Delegatee is hereby authorized pursuant to this Ordinance to determine the final terms of the 2022B Bonds as permitted by Section 6-14-10.2 NMSA 1978 and to execute a Sale Certificate, an Escrow Agreement (if needed), and a Bond Purchase Agreement with the Purchaser in conformance with these parameters and to enter into such agreements and execute such documents with a Bond Insurer acceptable to the Purchaser for the procurement of a Bond Insurance Policy on the Bonds, if any, in an amount and in a form acceptable to the Purchaser.
- (k) The Delegatee shall report to the Board the final terms of the Bonds as required by Section 6-14-10.2 NMSA 1978.

The Bonds shall be negotiable instruments but shall be issued only as fully registered bonds, in denominations of \$5,000 (or such other denomination specified in the Sale Certificate) or any integral multiple thereof, in such numbers and denominations as may be requested by the Purchaser. The Bonds shall be numbered separately and consecutively and shall be dated the date of delivery to the Purchaser. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date, payable semi-annually on dates to be established in the Sale Certificate commencing on the date established in the Sale Certificate until their respective maturities at the interest rates and shall mature in the designated amounts; on the dates stated in the Sale Certificate.

Section 33. Amendment.

- A. Limitations upon Amendments. This ordinance may be amended or supplemented by ordinance or resolution of the Board without the consent of registered owners:
 - (1) To cure any ambiguity, or to cure, correct or supplement any defect

or inconsistent provision contained in this ordinance;

- (2) To grant to the registered owners any additional rights, remedies, powers or authority that may lawfully be granted to them;
- (3) To obtain or maintain a rating on the Bonds from any rating agency which amendment, in the judgment of Bond Counsel, does not materially adversely affect the registered owners of the Bonds;
 - (4) To achieve compliance with federal securities or tax laws; and
- (5) To make any other changes in this ordinance which, in the opinion of Bond Counsel, is not materially adverse to the registered owners.
- B. Additional Amendments. Except as provided above, this ordinance may only be amended or supplemented by ordinance adopted by the Board in accordance with the laws of the State, without receipt by the County of any additional consideration, but with the written consent of the registered owners of a majority of the principal amount of the outstanding Bonds which are affected by the amendment or supplement (not including Bonds which are then owned by or for the account of the County); provided, however, that, without first obtaining the consent of all registered owners of the outstanding Bonds, no such ordinances shall have the effect of permitting:
 - (1) An extension of the maturity of any Bond; or
 - (2) A reduction in the principal amount of or interest rate on any Bond;

or

- (3) The creation of a lien on or a pledge of Pledged Revenues ranking prior to the lien or pledge of Parity Obligations on Pledged Revenues; or
- (4) A reduction of the principal amount of Bonds required for consent to such amendment or supplement.
- C. Proof of Instruments. The fact and date of the execution of any instrument under the provisions of this Section may be proved by the certificate of any officer in any jurisdiction who by the laws of that jurisdiction is authorized to take acknowledgments of deeds within that jurisdiction that the person signing the instrument acknowledged before him the execution of that instrument, or may be proved by an affidavit of a witness to the execution sworn to before such officer.
- D. Proof of Bonds. The principal amount and number of Bonds owned by any person executing such instrument and the date of holding that instrument may be proved by a certificate executed by a bank or trust company showing that on the date mentioned that person had on deposit with the bank or trust company the Bonds described in the certificate.
- Section 34. Ordinance Irrepealable. After any of the Bonds herein authorized are issued, this ordinance shall be and remain irrepealable until the Bonds and interest thereon shall be fully paid, canceled and discharged as therein provided, or there has been defeasance as provided in

Section 26 hereof.

Section 35. Prior Redemption and Notice of Prior Redemption and Defeasance for the Refunded Bonds. The County has elected and does hereby declare its intent to exercise on the behalf and in the name of the County its option to redeem the Refunded Bonds maturing on and after July 1, 2025 on July 1, 2024, at a redemption price equal to 100% of the principal amount of the Refunded Bonds to be redeemed, plus accrued interest to the redemption date.

The County is hereby obligated so to exercise such option, which option shall be deemed to have been exercised upon adoption of this ordinance and delivery of the Bonds. Forthwith upon delivery of the Bonds, and as set forth in the Escrow Agreement, a notice of defeasance and prior redemption of the Refunded Bonds shall be mailed or delivered to the registered owners of the Refunded Bonds by the County Treasurer, as paying agent and registrar for the Refunded Bonds.

Section 36. Effective Date, General Summary for Publication. Upon due adoption of this ordinance, the ordinance shall be recorded and preserved by the County Clerk, authenticated by the signature of the Chair of the Board and County Clerk, and the seal of the County impressed hereon, and the title and general summary of the subject matter contained in this ordinance (set out below) shall be published in a newspaper which maintains an office and is of general circulation in the County and this ordinance shall be in full force and effect after its publication in accordance with law.

Pursuant to Section 4-37-9 NMSA 1978, as amended, 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)

LUNA COUNTY, NEW MEXICO

NOTICE IS HEREBY GIVEN of the title and of a general summary of the subject matter contained in Ordinance No. 109 duly adopted and approved by the Board of Commissioners of Luna County on March 10, 2022. A complete copy of Ordinance No. 109 is available for public inspection during the normal and regular business hours of the County Clerk in the office of the County Clerk, 700 S. Silver Avenue, Deming, New Mexico.

The title of the ordinance is:

AN ORDINANCE AUTHORIZING ISSUANCE OF UP TO \$8,500,000 (EIGHT AND A HALF MILLION DOLLARS) OF ITS JUDICIAL-CORRECTIONAL COMPLEX GROSS RECEIPTS TAX REVENUE REFUNDING BONDS, SERIES 2022A – TAXABLE AND ITS JUDICIAL COMPLEX GROSS RECEIPTS TAX REVENUE BONDS, 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, CONSTRUCTING, PURCHASING, MAINTAINING. 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 OR 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 contained in such ordinance is set forth in the title.

COMPLETE COPIES OF THE ORDINANCE ARE ON FILE IN THE OFFICE OF THE CITY CLERK AT 700 S. SILVER AVENUE, DEMING, NEW MEXICO, AND ARE AVAILABLE FOR INSPECTION AND/OR PURCHASE DURING REGULAR OFFICE HOURS. THIS NOTICE ALSO CONSTITUTES COMPLIANCE WITH Section 4-37-9 AND SECTIONS 6-14-4 THROUGH 6-14-7, NMSA 1978.

WITNESS my hand and the seal of the County on March 10, 2022.

COUNTY OF LUNA

(SEAL)

County Clerk

(End of Form of Ordinance for Publication)

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APPROVED AND ADOPTED THIS	DAY OF	, 2022.				
BOARD OF COUNTY COMMISSIONERS LUNA COUNTY, STATE OF NEW MEXICO						
	ATTEST:					
Linda M. Smrkovsky, Chairperson	Berenda McW	Jright				
Commissioner, District 2	County Clerk	0				
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:
- 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 March 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 an 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 March 10, 2022.

(SEAL)					
		Berend	Berenda McWright, County Clerk		

LUNA COUNTY, NEW MEXICO ORDINANCE NO. 110

AUTHORIZING THE ISSUANCE AND SALE OF THE LUNA COUNTY, NEW MEXICO CAPITAL OUTLAY GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2022, OR, IN THE ALTERNATIVE, THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN LUNA COUNTY, NEW MEXICO AND A FINANCIAL INSTITUTION, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED FIVE MILLION AND NO/100 DOLLARS (\$5,000,000) FOR THE PURPOSE OF REFUNDING THE OUTSTANDING TAXABLE CAPITAL OUTLAY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2015: PROVIDING FOR THE ISSUANCE AND SALE OF THE BONDS: PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM THE REVENUES DERIVED FROM THE 1/4TH OF 1% COUNTY CAPITAL OUTLAY GROSS RECEIPTS TAX WHICH IS LEVIED PURSUANT TO ORDINANCE NUMBER 66 (ADOPTED FEBRUARY 1, 2007 AND APPROVED BY A MAJORJTY OF THE QUALIFIED ELECTORS OF THE COUNTY VOTING THEREON AT A SPECIAL ALL-MAIL BALLOT ELECTION HELD IN THE COUNTY ON MARCH 27, 2007) AND PURSUANT TO SECTIONS 7-20E-21 AND 7-20E-8, NMSA 1978, AS AMENDED AND THROUGH SUPPLEMENTED; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM THE CAPITAL OUTLAY GROSS RECEIPTS TAX; PROVIDING FOR THE FORM, TERMS, EXECUTION AND OTHER DETAILS CONCERNING THE BONDS AND THE FUNDS APPERTAINING THERETO; PROVIDING FOR THE APPROVAL, EXECUTION AND DELIVERY OF COVENANTS AND AGREEMENTS IN CONNECTION WITH THE BONDS AND AUTHORIZING THE DELEGATION TO THE DELEGATEE AND OTHER DETAILS OF THE BONDS ALL PURSUANT TO A SUBSEQUENT SALE CERTIFICATE; AND RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH AND APPERTAINING THERETO.

Capitalized terms used in the following preambles have the same meaning as. defined in Section I of this Ordinance unless the context requires otherwise.

WHEREAS, the County is a legally and regularly created, established, organized and existing county under the general laws of the State of New Mexico; and

WHEREAS, on February 4, 2015, the County issued the Series 2015 Bonds in the original principal amount of \$6,185,000, of which \$3,480,000 is currently outstanding; and

WHEREAS, the proceeds of the Series 2015 Bonds were used by the County to refinance, refund and defease the 2015 Bonds; and

WHEREAS, the Board anticipates an offer from the Purchaser to purchase the Bonds pursuant to the Bond Purchase Agreement and the Sale Certificate to be executed by the Delegatee pursuant to Section 6-14-10.2 NMSA 1978, all within the parameters set forth in this Resolution; and

WHEREAS, the Pledged Revenues are not pledged to the payment of any bonds or other obligations that are presently outstanding and unpaid except the Series 2015 Bonds, the obligations to be refunded pursuant to the Bond Legislation; and

WHEREAS, the initial principal amount of the Bonds, the specific interest rate or rates to be borne by the Bonds. any discount or premium, the principal maturities, redemption provisions, forms and other details pertaining to the Bonds, and the final forms of the Related Documents shall be subject to determination, ratification, confirmation and approval by the Board pursuant to the Sale Certificate; and

WHEREAS, the Board has determined and hereby determines that it is in the best interests of the County and its residents that the Bonds be issued with a first lien, but not an exclusive first lien, on the Pledged Revenues on a parity with the lien thereon of future Parity Obligations; and

WHEREAS, all required authorizations, consents or approvals of any state, governmental body, agency or authority, in connection with the authorization, execution and delivery of the Bonds that are required to have been obtained by the date hereof have been obtained and that will be required to be obtained prior to the date of issuance of the Bonds will have been obtained by such date,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD AS THE BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY:

Section 1. <u>Definitions</u>. As used in this 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 NMSA 1978, as amended, and enactments of the Board relating to the issuance of the Bonds, including this Ordinance.

"Authorized Denominations" means denominations of \$5,000.00 or integral multiples of \$5,000.00, unless otherwise specified in the Sale Certificate.

"Board" means the Board of County Commissioners of the County or any future successor governing body of the County.

"Bond Insurance Policy" and "Policy" shall, as applicable, mean a bond insurance policy described in the Sale Certificate, which is issued by the Bond Insurer that guarantees the scheduled payment of principal of and interest on the Bonds when due.

"Bond Insurer" means, as applicable, the issuer of a Policy and/or and the Reserve

Insurance Policy described in the Sale Certificate.

"Bond Legislation" means this Ordinance and the Sale Certificate, collectively.

"Bond Purchase Agreement" or "Loan Agreement" means the agreement for purchase and sale of the Bonds to be entered into between the Board and the Purchaser and to be approved by the Delegatee within the parameters of this Ordinance.

"Bondholder," "holder," "owner" or "Owner" means the registered owner of any Bond as shown on the registration books of the County for the Bonds, from time to time, maintained by the Registrar. Any reference to a majority or a particular percentage or proportion of the Bondholders shall mean the holders at the particular time of a majority or of the specified percentage or proportion in aggregate principal amount of all Bonds then outstanding.

"Bonds" or "2022 Bonds" means the "Luna County, New Mexico Capital Outlay Gross Receipts Tax Refunding Revenue Bonds, Series 2022" or, in the alternative, a loan pursuant to a Loan Agreement, as authorized by the Bond Legislation.

"Business Day" means a day on which commercial banks in the city in which the principal office of the Paying Agent and Registrar is located are open for conduct of substantially all of their business operations.

"Chairperson" means the Chairperson of the Board.

"Code" means the Internal Revenue Code of 1986, as amended, including, when appropriate the statutory predecessor of the Code, and all applicable regulations whether proposed, temporary or final, including regulations issued and proposed pursuant to the statutory predecessor of the Code, and, in addition, all official rulings and judicial determinations applicable to the Bonds, and under the statutory predecessor of the Code and any successor provisions to those sections or regulations.

"Continuing Disclosure Undertaking" means the continuing disclosure undertaking, if any, with respect to the Bonds to be executed by the County on the day of issuance and delivery of the Bonds to the Purchaser.

"County" means the County of Luna in the State of New Mexico.

"County Local Option Gross Receipts Tax Act" means Sections 7-20E- 1 through 7-20E-28 NMSA 1978, as amended.

"Debt Service Fund" means the "Luna County, New Mexico Capital Outlay Gross Receipts Tax Refunding Revenue Bonds, Series 2015, Debt Service Fund" established by Section 16 of this Ordinance.

"Delegatee" means the County Manager, the Chair of the Board, or such other authorized officer of the County delegated the authority to approve the final terms of the Bonds.

"Depository" means The Depository Trust Company, New York, New York, or such other securities depository as may be designated in the Sale Certificate or by an officer of the County.

"Escrow Agreement" means the contract designated as the "Luna County New Mexico Taxable Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2015, Escrow Agreement" between the County and the Escrow Bank, providing for the deposit of the bond proceeds for the Refunding in the Escrow Fund on the date of delivery of the Bonds, which contract is herein authorized to be executed by the appropriate officers of the County.

"Escrow Bank" means the national or state banking association or financial institution appointed in the Sale Certificate, or any successor national or state banking association or financial institution at the time appointed as Escrow Bank by the County.

"Escrow Fund" means the special and separate fund designated as the "Luna County, New Mexico Taxable Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2015, Escrow Fund" established by Section 16 of this Ordinance and by the Escrow Agreement and required to be maintained by the Escrow Bank pursuant to the Escrow Agreement.

"Event of Default" means any of the events stated in Section 27 of this Ordinance.

"Expenses" means the reasonable and necessary fees, costs and expenses incurred by the County with respect to the issuance of the Bonds, including the fees, compensation, costs and expenses paid or to be paid to the Paying Agent, Registrar, Escrow Bank, Purchaser, attorney's fees, financial advisor's fees, and, as applicable, Bond Insurer.

"Federal Securities" as used in this Ordinance shall include only direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America.

"Fiscal Year" means the period commencing on July 1 in each calendar year and ending on June 30 of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the County as its fiscal year.

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

"Independent Accountant" means (A) an accountant employed by the State and under supervision of the State Auditor, or (B) any certified public accountant, registered accountant, or firm of such accountants duly licensed to practice and practicing as such under the laws of the State appointed and paid by the County who (i) is, in fact, independent and not under the domination of the

County, (ii) does not have any substantial interest, direct or indirect, with the County, and (iii) is not connected with the County as an officer or employee of the County, but who may be regularly retained to make annual or similar audits of the books or records of the County.

"Insured Bank" means a bank or savings and loan association insured by an agency of the United States.

"Interest Payment Date" means the date or dates for the payment of interest stated in the Sale Certificate.

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

"Obligations" means bonds, notes or any other instrument which evidence a borrowing or other obligation of the County, secured by the Pledged Revenues, issued or incurred for any purpose permitted by the Act.

"Official Statement" means the final disclosure document, if any, relating to the offer and sale of the Bonds (including the cover page and all summary statement appendices and other materials included or incorporated by reference or attached thereto), as amended or supplemented.

"Capital Outlay Gross Receipts Tax Income Fund" means the "Luna County, New Mexico Capital Outlay Gross Receipts Tax Income Fund" continued herein and maintained by the County into which the County shall deposit the Pledged Revenues.

"Ordinance" means this County Ordinance as amended or supplemented from time to time.

"Outstanding" or "outstanding" when used in reference to the Bonds means, on any particular date, the aggregate of all Bonds delivered under this Ordinance except:

- A. those cancelled at or prior to such date or delivered or acquired by the County at or prior to such date for cancellation;
- B. those otherwise deemed to be paid in accordance with Section 33 of this Ordinance;
- C. those in lieu of or in exchange or substitution for which other Bonds shall have been delivered, unless proof satisfactory to the County and the Paying Agent is presented that any Bond for which a new Bond was issued or exchanged is held by a bona fide holder or in due course; and
- D. those Bonds which have been refunded in accordance with this Ordinance or other ordinance of the County authorizing the issuance of the applicable bonds.

"Parity Bonds" or "Parity Obligations" means the Series 2015 Bonds, the Bonds and any other Obligations hereafter issued or incurred payable from the Pledged Revenues and issued with a lien on the Pledged Revenues on parity with the lien thereon of the Bonds.

"Paying Agent" means the County Treasurer of the County or successor or assigns or the trust company, national or state banking association or financial institution appointed in the Sale Certificate as agent for the County for the payment of the Bonds, or any successor trust company, national or state banking association or financial institution at the time appointed as Paying Agent by the County.

"Paying Agent Agreement" means, if any, the Paying Agent Agreement between the Paying Agent and the County, pertaining to the functions of Registrar and Paying Agent for the Bonds, and any successor agreement or agreements.

"Permitted Investments" means any of the following to the extent that, at the time the investment is made, it is an investment that is authorized by the law of the State for public money of the County:

(1) Federal Securities;

- (2) Obligations of, or obligations guaranteed as to principal and interest by any agency or instrumentality of the United States which are backed by the full faith and credit of the United States, but not including: General Services Administration -- participation certificates; Government National Mortgage Association (GNMA) -- GNMA guaranteed mortgage backed securities and GNMA guaranteed participation certificates; U.S. Department of Housing & Urban Development -- local authority bonds; and U.S. Export Import Bank -- all fully guaranteed obligations;
- (3) Obligations of the following government sponsored agencies: Federal Home Loan Mortgage Corporation -- participation certificates and senior debt obligations; Farm Credit System (formerly: Federal Land Banks and Banks for Cooperatives) -- consolidated system wide bonds and notes; Federal Home Loan Banks -- consolidated debt obligations; Federal National Mortgage Association -- senior debt obligations and mortgage-backed securities (excluding stripped mortgage securities which are valued greater than par on the portion of unpaid principal); Student Loan Marketing Association -- senior debt obligations (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date) and letter of credit backed issues; Financing Corporation -- debt obligations; and Resolution Funding Corporation -- debt obligations;
- (4) Certificates of deposit, time deposits and banker's acceptances of any bank or savings and loan association, the short term obligations of which are rated in the highest Rating Categories by S&P, Moody's, Fitch or other nationally recognized securities rating agency designated by the County in the Sale Certificate or other resolution or ordinance, provided that such deposits must be fully secured by securities designated in paragraphs (1), (2), (3) and (9) of this definition and held in safe keeping for, or on behalf of, or held in book entry form in the name of the County;
- (5) Accounts with banks and savings and loan associations located in Luna County, provided that the banks and savings and loan associations, and the collateral securing the investments permitted by this paragraph. satisfy the requirements of applicable State law;

- (6) Obligations, the interest on which is excluded from gross income of the recipient for federal income tax purposes, which are rated in the highest Rating Category by S&P, Moody's, Fitch or other nationally recognized securities rating agency designated by the County in the Sale Certificate:
- (7) Money market instruments and other securities of commercial banks, broker dealers or recognized financial investors, which securities or institutions are rated in the highest Rating Category by S&P, Moody's, Fitch or other nationally recognized securities rating agency designated by the County in the Sale Certificate or other resolution or ordinance, or which securities are guaranteed by a person or entity whose long term debt obligations are rated in the highest Rating Category by S&P, Moody's, Fitch or other nationally recognized securities rating agency designated by the County in the Sale Certificate or other resolution or ordinance, including, without limitation, securities of, or other interests in, any open end or closed end management type investment company or investment trust registered under the provisions of 15 U.S.C. Sections 80(a) 1 et seq., which invest only in, or. whose securities are secured only by, obligations of the type set forth in paragraphs (1), (2), (3) and (9) of this definition;
- (8) The "short term investment fund" described in Section 6-10-10.1 NMSA 1978 or other similar pooled fund maintained by the State for the investment of public funds of local public bodies of the State;
- (9) Stripped Securities: (i) U.S. Treasury STRIPS and (ii) REFCORP STRIPS (stripped by Federal Reserve Bank of New York);
- (10) Repurchase agreements involving the purchase and sale of, and guaranteed investment contracts, the par value of which is collateralized by a perfected first pledge of: or security interest in, or the payments of which are unconditionally guaranteed by, securities described in parts (1), (2), (3) and (9) of this definition, which collateral is held by the County, or for the benefit of the County, by a party other than the provider of the guaranteed investment contract or repurchase agreement, with a collateralized value of at least 102% of the par value of such repurchase agreement or guaranteed investment contract or 102% of the market value thereof, valued at intervals of no less than monthly and which collateral is not subject to any other pledge or security interest;
- (11) Cash insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with Federal Securities; and
- (12) Agreements which permit the County to require a commercial bank, broker-dealer or recognized financial institution to purchase from the County at a fixed price obligations described in paragraphs (1), (2), (3), and (9) of this definition; provided that, if required by law, the contract relating to such agreement is approved by resolution of the Board and all other requirements of law relating to any such investment are satisfied and provided further that such institution, or the guarantor of such institution or agreement, shall be rated in one of the top two Rating Categories by S&P, Moody's, Fitch or other nationally recognized securities rating agency designated by the County in the

Sale Certificate or other resolution or ordinance.

"Pledged Revenues" means the amounts of money derived from all of the revenue attributable to the one-fourth of one percent County capital outlay gross receipts tax transferred, on and after the effective date thereof, to the County pursuant to Section 7-1-6.13, NMSA 1978 and any distribution, on and after the effective date thereat related to such one-fourth of one percent made pursuant to Section 7-1-6.16, NMSA 1978, which County capital outlay gross receipts tax is imposed on all persons engaging in business in the County pursuant to Ordinance Number 66 adopted and approved on February 1, 2007 and approved by a majority of the qualified electors of the County voting thereon at a special all-mail election held on January 27, 2007, as authorized by Sections 7-20E-21 and 7-20E-1 through 7-20E-8, NMSA 1978, (a) which tax equals, subject to the exemptions specified in Section 7-20E-5. NMSA 1978 and the exemptions and deductions referred to in Section 7-20E-7, NMSA 1978, one-fourth of one percent of the gross receipts of all persons engaging in business in the entire County for the privilege of engaging in business in the entire County, and (b) which amounts are collected and, after any deductions for administrative costs, any additional administrative fee and any disbursements for tax credits, refunds and the payment of interest applicable to such gross receipts tax and subject to any increase or decrease pursuant to Section 7-16.15, NMSA 1978, are distributed monthly (together with the balance of the County's gross receipts tax) by the Revenue Division of the Taxation and Revenue Department of the State of New Mexico to the County pursuant to Sections 7-1-6.13 and 7-1-6.16 NMSA 1978 (provided that Pledged Revenues does not include and the County is not pledging to the Bonds any of such County capital outlay gross receipts tax revenues received pursuant to Such Sections 7-1-6.13 and 7-1-6.16 NMSA, 1978, which exceeds the aforesaid, and does not include any gross receipts or excise tax revenues received pursuant to any other statute).

"Preliminary Official Statement" means the preliminary disclosure document, if any, to be used by the Purchaser in connection with the sale of the Bonds.

"Principal Payment Date" means the date or dates for the payment of principal stated in the Sale Certificate.

"Purchaser" means, as set forth in the Sale Certificate, the original purchaser or purchasers of the Bonds or, alternatively, the financial institution serving as lender under the Loan Agreement.

"Rebate Fund" means the "Luna County, New Mexico Capital Outlay Gross Receipts Tax Refunding Revenue Bonds, Series 2022, Rebate Fund" established by Section 26(N) of this Ordinance.

"Record Date" means the 15th day of the calendar month next preceding the Interest Payment Date.

"Refunded Bond Requirements" means the principal of and interest on (i.e., all debt service requirements for) the Series 2015 Bonds to and including their first optional redemption date.

"Refunding" means (1) refunding, refinancing, discharging and prepaying the Series 2015 Bonds on the date stated in the Sale Certificate and (2) paying Expenses related to the issuance of the Bonds and the prepayment and discharge of the Series 2015 Bonds.

"Registrar" means the County Treasurer of the County or her successor or assigns or the trust company, national or state banking association or financial institution appointed in the Sale Certificate as agent for the County for transfer and exchange of the Bonds, or any successor trust company, national or state banking association or financial institution at the time appointed as Registrar by the County.

"Related Documents" means the Bond Purchase Agreement, the Escrow Agreement, the Continuing Disclosure Undertaking, the Tax Compliance Certificate, the Paying Agent Agreement, the Preliminary Official Statement, the Official Statement and any other document or agreement containing an obligation of the County as described in the Sale Certificate or as otherwise may be required in connection with the issuance of the Bonds.

"Reserve Fund" means the "Luna County, New Mexico Capital Outlay Gross Receipts Tax Refunding Revenue Bonds, Series 2022, Reserve Fund" established in Section 16 hereat and to be maintained by the County.

"Reserve Fund Insurance Policy" or "Reserve Insurance Policy" means any insurance policy, surety bond or letter of credit, if any. deposited in or credited to the Reserve fund as provided in Section 20 hereof in lieu of or in partial substitution for cash or allowable investments on deposit in the Reserve Fund. Any such insurance policy, surety bond or letter of credit, if any, will have such terms as further described in the Sale Certificate.

"Reserve Requirement" means an amount equal to (a) the least of (i) ten percent (10%) of the proceeds of the Bonds as the term "proceeds" is used in Section 148(d)(1) of the Code, (ii) the maximum annual debt service on the Bonds, or (iii) one hundred twenty-five percent (125%) of the average annual debt service on the Bonds, or (b) such lesser amount (including zero) from time to time as may be provided in the Sale Certificate.

"Sale Certificate" means one or more certificates executed by the Delegatee dated on or before the date of delivery of the Bonds, setting forth the following final terms of the Bonds including, but not limited to: (i) the interest and principal payment dates; (ii) the principal amount, denominations and maturity amortization; (iii) the sale price; (iv) the Purchaser; (v) the interest rate or rates; (vi) the interest payment periods; (vii) the redemption and tender provisions; (viii) the creation of any capitalized interest fund, including the size and funding of such fund(s); (ix) the amount of Purchaser's discount; (x) the acquisition of and terms related to a bond insurance policy, if any, (xi) the maturities of the Series 2015 Bonds to be refunded pursuant to the Refunding Project, (xii) the final terms of Related Documents and agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Bonds, (xiii) the redemption date for the Refunded Bonds and any call premium or cost associated with the redemption of the Series 2015 Bonds, if it imposes such premium or charge for the change in redemption date, and (xiv) the federal tax status of the Bonds, all subject to the parameters and conditions contained in this Ordinance.

"Series 2015 Bonds" means the "Luna County, New Mexico Taxable Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2015" issued on February 4, 2015 in the aggregate principal amount of \$6,185,000 and secured by a pledge of the Pledged Revenues.

"Series 2015 Ordinance" means Luna County. New Mexico Ordinance No. 90, which authorized the issuance of the Series 2015 Bonds.

"Series 2015 Paying Agent" means the County Treasurer of the County as the current Registrar and Paying Agent for the Series 2015 Bonds.

"State" means the State of New Mexico.

"Tax Compliance Certificate" means the Tax Compliance Certificate to be delivered by the County at the time of issuance of the Bonds, as the same may be supplemented in accordance with its terms.

Section 2. <u>Ratification</u>. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Board and the officers of the County, directed toward the Refunding, the issuance of the Bonds for the Refunding and the sale of the Bonds to the Purchaser (including but not necessarily limited to the prior distribution of the Preliminary Official Statement, if applicable) be, and the same hereby is, ratified, approved and confirmed.

Section 3. <u>Authorization of Refunding</u>. The Refunding and the method of financing the Refunding are hereby authorized and ordered at a total cost not to exceed \$5,000,000 and the necessity thereof is hereby so declared, excluding any such cost defrayed or to be defrayed by any source other than Bond proceeds.

Section 4. <u>Findings</u>. The Board hereby declares that it has considered all relevant information and data and hereby makes the following findings:

- A. Moneys available for the Refunding from all sources other than the issuance of revenue bonds are not sufficient to completely defray the cost of the Refunding.
- B. The Pledged Revenues may lawfully be pledged to secure the payment of the Bonds.
- C. It is economically feasible to defray, in part, the cost of the Refunding by the issuance of the Bonds.
- D. The issuance of the Bonds pursuant to the Act to provide funds for the Refunding is necessary and in the interest of the public health, safety and welfare of the residents of the County.

- E. The issuance of the Bonds provides debt service savings for the County.
- F. The County is current in the accumulation of all amounts which are required to have been accumulated in the 2015 Bond Account (as defined in the Series 2015 Ordinance) and the 2015 Reserve Account (as defined in the Series 2015 Ordinance) for the Series 2015 Bonds.
- G. The issuance of the Bonds will not result in an increase to the aggregate principal and interest requirements evidenced collectively by the Bonds, as well as any other outstanding Obligations not refunded on and prior to the last maturity date of such unrefunded Obligations.

Section 5. Bonds - Authorization and Detail.

A. <u>Authorization</u>. This Ordinance has been adopted by the affirmative vote of a majority of all of the members of the Board. For the purpose of protecting the public health, safety and welfare of the residents of the County, it is hereby declared necessary that the County, pursuant to the Act, issue its negotiable, fully registered, revenue bonds to be designated "Luna County, New Mexico Capital Outlay Gross Receipts Tax Refunding Revenue Bonds, Series 2022," in an aggregate principal amount not to exceed \$5,000,000 and the issuance, sale and delivery of the Bonds are hereby authorized, subject to the provisions of the Sale Certificate, none of which provisions shall be inconsistent with the provisions of this Ordinance. The Bonds shall be sold to the Purchaser pursuant to the Bond Purchase Agreement at a negotiated sale, subject to the terms and conditions of the Sale Certificate.

B. Details of Bonds.

- (1) The Bonds shall be issued in an original aggregate principal amount to be specified in the Sale Certificate, but not to exceed \$5,000,000. The Bonds shall be in the forms, with such appropriate variations, omissions and insertions, as are permitted or required by the Bond Legislation.
- (2) The Bonds shall be issued in Authorized Denominations and numbered with such prefixes or other distinguishing designations as the Registrar may determine necessary or appropriate to distinguish one Bond of a series from another. The Bonds shall be fully registered unless Bond Counsel shall otherwise determine. The Bonds shall be dated, have such principal amounts and have such maturity dates (no later than 50 years, or other shorter period of time from the date of issuance of that series) as set forth in the Sale Certificate.
- (3) Interest on the Bonds shall be payable at the rates set forth in the applicable Sale Certificate. Unless otherwise provided in the Sale Certificate, interest shall be payable on each Interest Payment Date, provided that the maximum interest rate and net effective interest rate shall not exceed 12% per annum.

Unless otherwise stated in Sale Certificate, the Bonds shall bear interest from the

most recent date to which interest has been paid or provided for or if no interest has been paid or provided for from the date of the Bonds until maturity or until redeemed if called for redemption prior to maturity. Unless otherwise stated in the Sale Certificate, interest on the Bonds will be computed on the basis of a 360-day year consisting of twelve 30-day months (upon presentation at maturity or for prior redemption, payment of the principal amount of any Bond is not made as required by this Ordinance, interest on the unpaid principal amount of such Bond shall continue to accrue at the interest rate stated or described in that Bond until the principal amount of that Bond is paid in full.

Section 6. Prior Redemption.

- A. Optional Redemption. The Bonds shall be subject to optional redemption, in whole or in part, and including redemption premiums, if any, as provided in the Sale Certificate. If the Bonds are optionally redeemed in part, the Bonds to be so redeemed shall be selected by lot by the Registrar in such manner as the Registrar shall consider appropriate and fair. The Registrar shall not be required to give notice of any optional redemption unless the Registrar has received written instructions from the County in regard thereto, at least 45 days prior to such redemption date unless waived by the Registrar.
- B. <u>Mandatory Sinking Fund Redemption</u>. Some or all of the Bonds may be subject to sinking fund redemption, as provided in the Sale Certificate.
- Notice. Notice of redemption shall be given by the Registrar by sending a copy of such notice by first-class, postage prepaid mail at least 30 days prior to the redemption date to the registered owner of each Bond, or portion thereof. to be redeemed at the address shown as of the close of business of the Registrar on the fifth day prior to the mailing of notice on the registration books kept by the Registrar. Any Bonds to be redeemed pursuant to the mandatory sinking fund redemption provisions of the Sale Certificate shall be called for redemption by the Registrar without the necessity of any notice to the Registrar from the County, after selection of the Bonds to be redeemed by lot in such manner as the Registrar shall consider appropriate and fair. Neither the County's failure to give such notice nor the Registrar's failure to give such notice to the registered owner of any Bond, or any defect therein, shall affect the validity of the proceedings for the redemption of any Bonds for which proper notice was given. Notices of redemption shall specify the maturity dates and the number or numbers of the Bonds to be redeemed (if less than all are to be redeemed) and if less than the full amount of any Bond is to be redeemed, the amount of such Bonds to be redeemed, the date fixed for redemption, and that on such redemption date there will become and be due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount to be redeemed, including premium, if any, plus accrued interest to the redemption date and that from and after such date interest will cease to accrue on such amount. Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable on the redemption date so designated and if an amount of money sufficient to redeem all Bonds called for redemption shall on the redemption date be on deposit with the Paying Agent, the Bonds to be redeemed shall be deemed not outstanding and shall cease to bear interest from and after such redemption date. Upon presentation of the Bonds to be redeemed at the office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption with funds deposited with the Paying Agent by the County. From and

after such date of redemption (such notice having been given and such deposit having been made) the Bonds to be redeemed shall be deemed to not be outstanding hereunder, and the County shall have no further liability in respect thereof in the event that only a portion of the principal amount of a Bond is so redeemed, a new Bond representing the unredeemed principal shall be duly completed, authenticated and delivered by the Registrar to the registered owner pursuant to Section 11 hereof.

D. Conditional Notice. If money or securities sufficient to pay the optional redemption price of the Bonds to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to paragraph D of this Section, such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent by 2:00 p.m. on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the optional redemption price is on deposit with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Bonds to be redeemed shall be selected in a manner deemed reasonable and fair by the County and the Paying Agent shall give notice, in the manner in which the original notice of optional redemption was given, that such money was not received. In that event, the Paying Agent, shall promptly return to the owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been redeemed.

Section 7. Filing of Signatures. Prior to the execution of any Bond, the Chairperson and County Clerk shall each file, pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended, with the New Mexico Secretary of State his or her manual signature certified by him or her under oath; provided that filing shall not be necessary for any officer where any previous filing may have legal application to the Bonds.

Section 8. Execution and Authentication of Bonds.

- A. Execution. The Bonds shall be signed with the engraved, imprinted, stamped or otherwise reproduced facsimile of the signature, or the manual signature, of the Chairperson and shall be attested with the facsimile or manual signature of the County Clerk. There shall be affixed to each Bond the printed, engraved, stamped or otherwise placed facsimile of, or imprint of the County's corporate seal. The Bonds shall be authenticated by the manual signature of the Registrar. The Bonds when authenticated and bearing the manual or facsimile signatures of the officers in office at the time of signing thereof shall be valid and binding special obligations of the County, notwithstanding that before delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices. The Chairperson and County Clerk, at the time of the execution of the Bonds and the signature certificate, each may adopt as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office if such facsimile signature appears upon any of the Bonds or certificates pertaining to the Bonds.
- B. <u>Authentication</u>. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Registrar.

Section 9. Negotiability. The Bonds shall be fully negotiable and shall have all the qualities of negotiable paper, and the Bondholders shall possess all rights enjoyed by the holders of negotiable

instruments under the provisions of the Uniform Commercial Code Investment Securities. Except as set forth herein, the Bonds outstanding shall in all respects be equally and ratably secured, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds.

Section 10. Payment and Presentation of Bonds for Payment. Principal and interest on the Bonds shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. Principal shall be payable in immediately available fonds at maturity thereof upon presentation and surrender of such Bond at the principal office of the Paying Agent or at the designated office of any successor Paying Agent Interest on the Bonds shall be payable by check or draft mailed to the registered owner thereof (or in such other manner as may be agreed upon by the Paying Agent and the registered owner), as shown on the registration books maintained by the Registrar at the address appearing therein on the Record Date. Any interest which is not timely paid or provided for shall cease to be payable to the owner thereof (or of one or more predecessor Bonds) as of the Record Date, but shall be payable to the owner thereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to Bond Owners not less than ten days prior thereto. If any Bond presented for payment remains unpaid at maturity, it shall continue to bear interest at the rate or rates designated in, and applicable to, such Bond from time to time. If any Bond is not presented for payment at maturity when funds available therefor have been deposited with the Paying Agent, it shall cease bearing interest on and from the date of maturity.

Section 11. Registration, Transfer, Exchange and Ownership of Bonds.

- A. Registration, Transfer and Exchange. The County shall cause books for registration, transfer, and exchange of the Bonds as provided herein to be kept at the principal office of the Registrar. Upon surrender for transfer or exchange of any fully registered Bond at the principal office of the Registrar duly endorsed by the registered owner or his attorney duly authorized in writing, or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and duly executed, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or registered owner, as appropriate, a new Bond or Bonds in authorized denominations, in fully registered form of the same aggregate principal amount, maturity and interest rate.
 - B. <u>Limitations</u>. The Registrar shall close books for change of registered owners' addresses on each Record Date; transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.
- C. Owner of the Bonds. The person in whose name any Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either the principal of or interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative as stated herein, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the

liability upon such Bond to the extent of the sum or sums so paid.

- D. Replacement Bonds. If any Bonds shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If any such lost, stolen, destroyed or mutilated Bond shall have matured, the Registrar may request the Paying Agent to pay such bond in lieu of replacement.
- E. <u>Additional Bonds</u>. Executed but unauthenticated Bonds are hereby authorized to be delivered to the Registrar in such quantities as may be convenient to be held in custody by the Registrar pending delivery as herein provided.
- F. <u>Charges.</u> For each new Bond issued in connection with a transfer or exchange, the Registrar may make a charge to the owner of the Bond requesting such exchange or transfer sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.
- G. <u>Successor Registrar or Paying Agent.</u> If the Registrar or Paying Agent initially appointed hereunder shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the County shall reasonably determine that said Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the County may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having a shareholders' equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than \$5,000. It shall not be required that the same institution serves as both Registrar and Paying Agent hereunder, but the County shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.
- H. <u>Book Entry.</u> The Bonds may be issued or registered, in whole or in part, in bookentry form from time to time with no physical distribution of bond certificates made to the public, with a Depository acting as securities depository for the Bonds. A single certificate for each maturity date of the Bonds issued in book-entry form will be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in authorized denominations, with transfer of ownership affected on the books of the Depository and its participants ("Participants"). As a condition to delivery of the Bonds in book-entry form, the Purchaser will immediately after acceptance of delivery thereof, deposit or cause to be deposited, the Bond certificates with the Depository, registered in the name of the Depository or its nominee. Principal, premium, if any, and interest will be paid to the Depository or its nominee as the registered owner of the Bonds. The transfer of principal, premium, if any, and interest payments to Participants will be the responsibility of the Depository; the transfer of principal premium, if any, and interest payments to the beneficial owners of the Bonds (the "Beneficial Owners") will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the "Indirect Participants"). The

County will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.

If (i) the Bonds are not eligible for the services of the Depository, (ii) the Depository determines to discontinue providing its services with respect to the Bonds or (iii) the County determines that a continuation of the system of book-entry transfers through the Depository ceases to be beneficial to the County or the Beneficial Owners, the County will either identify another Depository or Bonds certificates will be delivered to the Beneficial Owners or their nominees, and the Beneficial Owners or their nominees, upon authentication of Bonds and registration of those Bonds in the Beneficial Owners' or nominees' names, will become the owners of the Bonds for all purposes. In that event, the County shall maintain appropriate notice to the Depository for notification to Participants, Indirect Participants and Beneficial Owners of the substitute Depository or the issuance of bond certificates to Beneficial Owners or their nominees, as applicable.

Officers of the County are authorized to sign agreements with the Depository relating to the matters set forth in this Section.

Notwithstanding any other provision of this Ordinance, so long as all of the Bonds are registered in the name of the Depository or its nominee, all payments of principal, premium, if any, and interest on the Bonds, and all notices with respect to the Bonds. shall be made and given by the Paying Agent Registrar or the County to the Depository as provided in this Ordinance and by the Depository to its Participants or Indirect Participants and notices to the Beneficial Owners of the Bonds in the manner provided in an agreement or letter of the County to the Depository.

Section 12. Special Limited Obligations. All of the Bonds and all payments of principal, premium, if any, and interest thereon at maturity, together with any interest accruing thereon, shall be special limited obligations of the County and shall be payable and collectible solely from the Pledged Revenues, which revenues are so pledged and are payable as set forth in Section 20 of this Ordinance. The owner or owners of the Bonds may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor. The Bonds shall not constitute an indebtedness or a debt of the County within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or held to be general obligations of the County, and each of the Bonds shall recite that it is payable and collectible solely out of the Pledged Revenues, pledged as set forth in this Ordinance, and that the holders thereof may not look to any general or other municipal fund for the payment of the principal of and interest on the Bonds. Nothing herein shall prevent the County from applying other funds of the County legally available therefor to the payment of the Bonds, in its sole discretion.

Section 13. Form of Bonds. The form, terms and provisions of the Bonds shall be substantially in the form provided in the Sale Certificate, with such changes therein as are not inconsistent with this Ordinance.

Section 14. <u>Period of Project's Usefulness</u>. It is hereby determined and recited that the period of remaining usefulness of the project financed with the proceeds of the Series 2007 Bonds is not less

than the final maturity date of the Bonds.

- Section 15. <u>Disposition of Proceeds</u>. Except as herein otherwise specifically provided, and subject to confirmation of the refunding of the Series 2015 Bonds in the Sale Certificate, the proceeds derived from the sale of the Bonds, shall be used and paid solely for the valid costs of the Refunding.
- A. <u>Accrued Interest and Premium.</u> Unless otherwise provided in the Sale Certificate, upon the sale of the Bonds, all moneys received as accrued interest shall be deposited into the Debt Service Fund to apply on the payment of interest next due on the Bonds. All moneys received as premium on the Bonds shall be deposited in the Escrow Fund and used to purchase Federal Securities pursuant to this Ordinance and the Escrow Agreement.
- B. <u>Expenses.</u> Unless otherwise provided in the Sale Certificate, upon the sale and delivery of the Bonds, an amount necessary to pay Expenses shall be used for payment of the Expenses in compliance with applicable law.
- C. <u>Escrow Fund Deposit.</u> An amount of proceeds received from the sale of the Bonds, as specified in the Sale Certificate, shall be deposited in the Escrow Fund. Such amount shall be sufficient to acquire the Federal Securities necessary to pay the Refunded Bond Requirements in accordance with the terms of the Escrow Agreement and Section 17 of this Ordinance; provided, however, that the provisions of this Subsection C are subject to approval in the Sale Certificate.
- D. <u>Purchaser Not Responsible.</u> The Purchaser of the Bonds shall in no manner be responsible for the application or disposal by the County or by its officers of the proceeds derived from the sale thereof or of any other funds herein designated.
- Section 16. <u>Funds and Accounts.</u> The County hereby creates or continues the following special and separate funds, which shall be under the control of the County or the Escrow Bank:
- A. <u>Capital Outlay Gross Receipts Tax Income Fund.</u> The "Luna County, New Mexico Capital Outlay Gross Receipts Tax Income Fund" into which the County shall deposit the Pledged Revenues, which was created under Section 17 of the Series 2015 Ordinance is continued, and shall continue to be maintained by the County.
- B. <u>Debt Service Fund.</u> The Luna County, New Mexico Capital Outlay Gross Receipts Tax Refunding Revenue Bonds, Series 2022. Debt Service Fund to be maintained by the County unless provided otherwise in the Sale Certificate.
- C. <u>Reserve Fund.</u> The Luna County, New Mexico Capital Outlay Gross Receipts Tax Refunding Revenue Bonds. Series 2022, Reserve Fund to be maintained and funded by the County unless provided otherwise in the Sale Certificate.
 - D. <u>Escrow Fund</u>. The Luna County, New Mexico Taxable Capital Outlay Gross

Receipts Tax Revenue Bonds, Series 2015 Escrow Fund to be maintained by the Escrow Bank.

Section 17. Escrow Fund

- A. <u>Maintenance of Escrow Fund</u>. The Escrow Fund shall be maintained on behalf of the County by and in the Escrow Bank in an amount at the time of the deposit and all times subsequently at least sufficient, together with the known minimum yield to be derived from the investment of the deposits therein or any pan thereof in Federal Securities to pay the Refunded Bond Requirements, both accrued and not accrued, as the same become due, all as provided in the Escrow Agreement.
- B. <u>Use of Escrow Fund</u>. Moneys shall be withdrawn by the Escrow Bank from the Escrow Fund in sufficient amounts and at times to permit the payment without default of the Refunded Bond Requirements as provided in the Escrow Agreement. Any moneys remaining in the Escrow Fund after provision shall have been made for payment in full of the Refunded Bond Requirements shall be deposited in the Debt Service Fund.
- C. <u>Insufficiency of Escrow Fund</u>. If for any reason the amount in the Escrow Fund shall be insufficient for the purpose of paragraphs A and B above the County shall forthwith deposit in the Escrow Fund from the first legally available Pledged Revenues such additional moneys as shall be necessary to permit the payment in full of the Refunded Bond Requirements.

Section 18. [RESERVED].

Section 19. <u>Deposit of Pledged Revenues.</u> So long as any Bonds are outstanding, the Pledged Revenues shall, immediately upon receipt thereof by the County, be set aside and deposited into the Capital Outlay Gross Receipts Tax Income Fund. All money deposited into the Capital Outlay Gross Receipts Tax Income Fund shall be held separate and apart from the County's general fund and applied only in accordance with the provisions of this Ordinance and any other County ordinance authorizing the issuance of Parity Obligations.

Section 20. Administration of the Capital Outlay Gross Receipts Tax Income Fund.

A. Debt Service Fund Payments.

- (1) First, so long as any of the Bonds shall be outstanding, the following amounts shall be withdrawn from the Capital Outlay Gross Receipts Tax Income Fund. and credited to the Debt Service Fund:
- (a) <u>Interest Payments</u>. Monthly, commencing on the first day of the first month following the delivery of the Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds then outstanding and monthly thereafter commencing on each Interest Payment Date, one-sixth (1/6th) of the amount necessary to pay the next maturing installment of interest on the outstanding Bonds, and
 - (b) Principal Payments. Monthly, commencing on the first day of the

first month following delivery of the Bonds, an amount in equal monthly installments necessary together with any moneys therein and available therefor, to pay the next maturing installment of principal on the Bonds then outstanding and monthly thereafter commencing on each Principal Payment Date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment of principal on the Bonds.

(2) Second but concurrently with the payments required by paragraph A(l) of this section funds remaining in the Capital Outlay Gross Receipts Tax Income Fund shall be used by the County to pay the Debt Service Requirements of Parity Obligations, currently outstanding or hereafter authorized to be issued and payable from Pledged Revenues.

If prior to any Interest Payment Date or Principal Payment Date, there has been accumulated in the Debt Service Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in subparagraphs 2(a) and 2(b) (whichever is applicable) of this section, may be appropriately reduced and the required monthly amounts again shall be so credited to such account commencing on such Interest Payment Date or Principal Payment Date (whichever is applicable).

- B. Reserve Fund. Immediately upon delivery of the Bonds, a Reserve Insurance Policy or a cash amount of not less than the Reserve Requirement shall be deposited into and credited to a separate fund hereby created to the Reserve Fund so that the Reserve Fund Requirement is accumulated upon delivery of the Bonds; provided, however, that if pursuant to the provisions of the Sale Certificate the Reserve Requirement at the time of the issuance of the Bonds is zero, then no monies shall be deposited in the Reserve Fund at that time. Any moneys and investments thereof or, in lieu thereof, a Reserve Fund Insurance Policy deposited in the Reserve Fund are irrevocably and exclusively pledged to payment of the Bonds.
- Subsection A of this Section 20 and concurrently with and on parity with the payments required for any monthly reserve fund payments for additional Parity Obligations, there shall be credited monthly to the Reserve Fund, from the moneys in the Capital Outlay Gross Receipts Tax Income Fund, such cash amount or amounts. if any, as are necessary, raking into account the amount of any Reserve Fund Insurance Policy which may then be applicable to maintain the Reserve Fund as a continuing reserve in an amount not less than the Reserve Requirement to meet possible deficiencies in the Debt Service Fund. The moneys, if any, and the amount of any Reserve Fund Insurance Policy which hereafter may be acquired in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in Subsections C and D of this Section 20, only to prevent deficiencies in the payment of the principal of and interest on the Bonds hereby authorized resulting from the failure to credit to the Debt Service Fund sufficient funds to pay the principal and interest as the same become clue and payable. Cash amounts in the Reserve Fund Requirement shall be withdrawn from the Reserve Fund and transferred to the Debt Service Fund.
 - (2) The County may at any time substitute (i) one or more Reserve Fund

Insurance Policies for cash or investments therein or (ii) cash or investments thereof for a Reserve Fund Insurance Policy, so long as the amount on deposit in the Reserve Fund after such substitution is at least equal to the Reserve Requirement. In the event the County shall substitute a Reserve Fund Insurance Policy for cash or investments in the Reserve Fund, the amount on deposit in the Reserve Fund shall be chat amount available to be drawn or otherwise paid pursuant to such policy at the time of calculation and such cash or investments so withdrawn may be used by the County for any legal purpose.

- The Reserve Fund Insurance Policy, if acquired by the County, shall (3)be held by the Paying Agent. In the event of a draw upon any Reserve Fund Insurance Policy, the Paying Agent shall deliver a demand for payment in substantially the form required by the Bond Insurer to be delivered to (and to be received by) the Bond Insurer not later than the business day prior to the business day on which the funds are required. In the event there is cash in the Reserve Fund at the time of a draw from any Reserve Fund Insurance Policy, such cash (including any investments) shall be drawn down completely before any demand is made on any Reserve Fund Insurance Policy. If the Reserve Fund contains any Reserve Fund Insurance Policy from more than one provider, any draw shall be on a pro-rata basis from both. After such a draw, any available moneys in the Capital Outlay Gross Receipts Tax Income Fund, concurrently and on parity with the payments in subparagraph (1) of this Subsection B and the payments required to replenish the reserve fund for any additional Parity Obligations, shall be used first to reimburse each such issuer of any Reserve Fund Insurance Policy for such payment of principal of and interest on the Bonds pursuant to the terms of the any agreement relating to such Reserve Fund Insurance Policy so as to reinstate each Reserve Fund Insurance Policy and thereafter to replenish any cash in the Reserve Fund.
- C. <u>Termination Upon Deposits to Maturity.</u> No payment need be made into the Debt Service fund. the Reserve Fund, or both, if the amount in such funds (excluding the amount of any Reserve Fund Insurance Policy) totals a sum at least equal to the entire amount of Bonds then outstanding, both as to principal and interest to their respective maturities, and both accrued and not accrued, in which case, moneys in the Debt Service Fund and Reserve Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue and any moneys in excess thereof in the Debt Service Fund and Reserve Fund and any other moneys derived from the Pledged Revenues may be used in any lawful manner determined by the County.
- D. <u>Defraying Delinquencies in Debt Service and Reserve Fund</u>. If in any month the County shall, for any reason fail to pay into the Debt Service Fund the full amount above stipulated from the Pledged Revenues then an amount shall be paid into the Debt Service Fund in such month from the moneys. if any. in the Reserve Fund (including the amount of any Reserve Fund Insurance Policy except that there shall be no draw on any Reserve Fund Insurance Policy except immediately prior to an interest or principal payment dare) equal to the difference between the amount paid from Pledged Revenues and the full amount so stipulated. Moneys used in that manner shall be replaced in the Reserve Fund and any Reserve Fund Insurance Policy Issuer shall be reimbursed for any draw as provided in Subsection 8(3) of this Section from the first revenues thereafter received from Pledged Revenues not required to be otherwise applied. If the County shall, for any reason, fail to pay into the Reserve Fund the full amount above stipulated from the Pledged Revenues (or to reinstate the Reserve

Fund Insurance Policy as provided in Subsection B(3) of this Section), the difference between the amount paid and the amount so stipulated shall in like manner be paid into the Reserve Fund from the first revenues thereafter received from Pledged Revenues not required to be otherwise applied. The moneys in the Debt Service Fund and the Reserve Fund (including the amount represented by the Reserve Fund Insurance Policy) shall be used solely and only for the purpose of paying the principal of and the interest on the Bonds issued hereunder; provided, however, that any moneys in the Debt Service Fund and the Reserve Fund (excluding the amount represented by any Reserve Fund Insurance Policy) in excess of accrued and unaccrued principal and interest requirements to the maturities of the outstanding Bonds may be withdrawn and used for any lawful purpose.

- E. <u>Interest on and Expenses relating to any Reserve Fund Insurance Policy Draws.</u> Subordinate and subsequent to the payments required by Subsections A through D of this Section 20, Pledged Revenues shall be used to pay interest on amounts advanced under and reasonable expenses relating thereto under any agreement relating to any Reserve Fund Insurance Policy.
- F. Payment of Subordinate Obligations. From any balance remaining in the Capital Outlay Gross Receipts Tax Income Fund after making the payments hereinabove required, there shall be paid the interest on and the principal of additional bonds or other obligations, if any hereafter authorized to be issued and payable from the Pledged Revenues, including reasonable reserves therefor as the same accrue, with a lien on the Pledged Revenues subordinate to the lien and pledge of the Bonds as the same become due and payable.
- Use of Surplus Pledged Revenues. At the end of each Fiscal Year, all amounts remaining in the Capital Outlay Gross Receipts Tax Income Fund after all annual obligations of principal or interest on and expenses relating to the Bonds and additional bonds payable from the Pledged Revenues have been fully met and any necessary payments into the Reserve Fund if any, and of interest on amounts advanced under and reasonable expenses relating to a Reserve Fund Insurance Policy, if any, and the reserve account and rebate account, if any, for additional bonds payable from the Pledged Revenues shall be made pursuant to the foregoing provisions of this Section, all remaining amounts shall be transferred to any other fund or account as may be required or permitted by Constitution and laws of the State, as the Board may direct. The foregoing is subject to the exceptions that if Section 4-62-1.B, NMSA 1978 is amended, modified or construed by a competent court (1) so as to permit such transfer of Pledged Revenues to any other fund or account prior to the end of each Fiscal Year without restriction, then such transfers to any other fund or account may be made monthly after the aforesaid monthly deposits into the Debt Service Fund and as applicable and if required by the provisions of the Sale Certificate, the Reserve Fund have been made or (2) so as to permit such transfer of Pledged Revenues to any other fund or account prior to the end of each Fiscal Year but after the required annual accumulations into any required bond and reserve fund and accounts have been fully made, then such transfers may be made after the aforesaid annual deposits into the Debt Service Fund and, as applicable, Reserve Fund have been made. The owners of the Bonds (including beneficial owners thereof) consent that if during any Fiscal Year the accumulations provided under (1) or (2) of the preceding sentence have been made, such owners waive any rights which they may have to require that such excess amounts not be transferred from the Capital Outlay Gross Receipts Tax Income Fund to any other County fund or account until the end of such Fiscal Year.
- Section 21. <u>General Administration of Funds.</u> The funds designated in Section 16 shall be administered and invested as follows:

- A. Places and Times of Deposits. The funds shall be separately maintained as a trust fund or funds for the purposes established and shall be deposited in one or more bank accounts in an Insured Bank or Bank. Each account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the designated purpose. Payments shall be made into the proper account on the first day of the month except when the first day shall not be a Business Day, then payment shall be made on the next succeeding Business Day. No later than four Business Days prior to each Interest Payment Date, moneys sufficient to pay interest and principal then due on the Bonds shall be transferred to the Paying Agent. Nothing in this Ordinance shall prevent the County from establishing one or more bank accounts in an Insured Bank or Banks for all the funds required by this Ordinance or shall prevent the combination of such funds and accounts with any other bank account or accounts for other funds and accounts of the County.
- B. <u>Investment of Moneys</u>. Moneys in any fund or account not immediately needed may be invested in any Permitted Investments. The obligations so purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund or account, and any loss resulting from such investment shall be charged to such fund or account. The County Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.
- Section 22. First Lien on Pledged Revenues. The Pledged Revenues and the amounts and securities on deposit in the Debt Service Fund, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the County grants a security interest therein for, the payment of the principal of, premium, if any, and interest on the Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this Ordinance. The Bonds constitute an irrevocable first lien, but not necessarily an exclusive first lien on the Pledged Revenues on parity with the lien thereon of the Parity Bonds.

Section 23. Additional Bonds Payable from Pledged Revenues.

- A. <u>Limitations Upon Issuance of Additional Obligations</u>. No provision of this Ordinance shall be construed in such a manner as to prevent the issuance by the County of additional Parity Obligations. Before any additional Parity Obligations are issued, the conditions set forth in the ordinances authorizing the issuance of Parity Obligations must be satisfied.
- B. Parity Bonds Test. Before any additional Parity Obligations are actually issued, it must be determined that
- (1) The County is then current in the accumulation of all amounts which are required to have then been accumulated in the Debt Service Fund as required by Section 20 of this Ordinance; and
 - (2) The requirements of either of the following subparagraphs (a) or (b) of this

Section are met and a certificate or opinion as provided for in Paragraph C of this Section has been obtained:

- (a) The annual Pledged Revenues for the Fiscal Year immediately preceding the date of the ordinance authorizing the issuance of any Parity Bonds shall have been sufficient to pay an amount representing at least one hundred fifty percent (150%) of the maximum annual principal and interest coming due in subsequent Fiscal Years on (1) the outstanding Bonds, (2) other outstanding Parity Bonds payable from and constituting a lien upon the Pledged Revenues, and (3) the Parity Bonds proposed to be issued, excluding reserves therefor; or
- (b) If, during the period beginning on the first day of the completed Fiscal Year immediately preceding the date of the ordinance authorizing the issuance of the Parity Bonds proposed to be issued and ending on the date of such ordinance, a change in the rate of Pledged Revenues has been adopted by law, the estimate of the Pledged Revenues (sometimes herein the "Estimated Revenues"), determined by changing the actual Pledged Revenues for the preceding Fiscal Year by the percentage of rate increase or decrease in the gross receipts tax rate, shall have been sufficient to pay an amount representing at least one hundred fifty percent (150%) of the maximum annual principal and interest coming due in subsequent Fiscal Years on (1) the outstanding Bonds, (2) other outstanding Parity Bonds payable from and constituting a lien upon the Pledged Revenues, and (3) the Parity Bonds proposed to be issued, excluding reserves therefor. The preceding Fiscal Year shall be determined as aforesaid from the date of adoption of the ordinance authorizing the issuance of additional Parity Bonds and shall not be determined from the date of publication of such ordinance or adoption of any ordinance which amends or supplements such ordinance.
- C. Certification or Opinion Regarding: Revenues. A written certificate or opinion by an Independent Accountant that the Pledged Revenues or the Estimated Revenues. When determined as provided in Paragraph B of this Section, are sufficient to pay the required amounts under the applicable test in Paragraph B of this Section shall conclusively determine the right of the County to issue additional Parity Bonds. The Independent Accountant may utilize the results of any annual audit to the extent it covers the applicable period.
 - D. <u>Subordinate Obligations Permitted</u>. No provision of this Ordinance shall be construed in such a manner as to prevent the issuance by the County of additional bonds or other obligations payable from the Pledged Revenues constituting a lien upon such Pledged Revenues subordinate and junior to the lien of the Bonds.
 - E. <u>Superior Obligations Prohibited</u>. The County shall not issue bonds payable from the Pledged Revenues having a lien thereon prior and superior to the Bond.
 - Section 24. Refunding Bonds. The provisions of Section 23 of this Ordinance are subject to the following exceptions:
- A. <u>Privilege of Issuing Refunding Obligations</u>. If at any time the County shall find it desirable to refund any Parity Obligations or other outstanding obligations constituting a lien upon the Pledged Revenues, the Bonds or other Obligations, or any part thereof may be refunded, but only

with the consent of the holders, unless the obligations shall then mature or be callable for redemption, or the plan of refunding calls for payment of the obligations at maturity or at a redemption date, regardless of whether the lien priority is changed by the refunding, except as provided in Paragraphs B and C of this Section.

- B. <u>Limitation Upon Issuance of Parity Refunding Obligations</u>. No refunding obligations shall be issued with a lien on the Pledged Revenues on parity with the lien of the Bonds, unless
 - (1) The lien on the Pledged Revenues of the outstanding obligations so refunded is on a parity with the lien on the Pledged Revenues of the Bonds; or
 - (2) The refunding obligations are issued in compliance with Paragraph B of Section 23 of this Ordinance.
- C. Refunding Part of an Issue. The refunding bonds or other refunding obligations issued shall enjoy complete equality of lien with the portion of any bonds or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the owner or owners of the same issue refunded thereby. If only a part of any issue or issues is refunded, then there may be no refunding without the consent of the holders of the unrefunded portion of such obligations, unless:
- (1) The refunding obligations do not increase the aggregate principal and interest requirements for any Fiscal Year commencing prior to the last maturity date of such unrefunded obligations; or
- (2) The refunding bonds or other refunding obligations are issued in compliance with Paragraph B of Section 23 of this Ordinance.
- D. <u>Limitation Upon Issuance of any Refunding Obligations</u>. Any refunding obligations payable from Pledged Revenues shall be issued with such details as the County may by ordinance provide, subject to the inclusion of any such rights and privileges designated in Paragraph C of this Section but without impairing any contractual obligation imposed by any proceeding authorizing any unrefunded portion of an issue or issues, including the Bonds.
- Section 25. Equality of Parity Bonds. The Parity Bonds, from any source of the Pledged Revenues, from time to time outstanding, shall not be entitled to any priority one over the other in the application of the Pledged Revenues, as applicable, regardless of the time or times of their issuance or the date incurred, it being the intention of the Board that, except as set forth herein, there shall be no priority among Parity Bonds regardless of whether they are actually issued and delivered or incurred at different times.

- Section 26. <u>Protective Covenants</u>. The County hereby covenants and agrees with each and every holder of the Bonds issued hereunder:
- A. <u>Use of Bond Proceeds.</u> The County will proceed without delay to apply the proceeds of the Bonds as set forth in Section 15 of this Ordinance.
- B. <u>Payment of Bonds Herein Authorized</u>. The County will promptly pay the principal of and the interest on every Bond at the place, on the date and in the manner specified herein and, in the Bonds, according to the true intent and meaning hereof.
- C. <u>County's Existence</u>. The County will maintain its corporate identity and existence so long as any of the Bonds remain outstanding, unless another political subdivision by operation of law succeeds to the liabilities and rights of the County, without adversely affecting to any material degree the privileges and rights of any owner of the Bonds.
- D. Extension of Interest Payments. In order to prevent any accumulation of claims for interest after maturity, the County will not directly or indirectly extend or assent to the extension of time for the payment of any claim for interest on any of the Bonds, and the County will not directly or indirectly be a party to or approve any arrangements for any such extension. If the time for payment of any such interest shall be extended, such installment or installments of interest, after such extension or arrangement, shall not be entitled in case of default hereunder to the benefit or security hereof, except subject to the prior payment in full of the principal of all Bonds hereunder and then outstanding and of the matured interest on such Bonds, the payment of which has not been extended.
- E. Records. So long as any of the Bonds remain outstanding, proper books of record and account will be kept by the County separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.
- F. Audits and Budgets. The County will within two hundred and seventy (270) days following the close of each Fiscal Year cause an audit of its books and accounts relating to the Pledged Revenues to be commenced by an Independent Accountant showing the receipts and disbursements in connection with such revenues. The County agrees to furnish forthwith a copy of each of such audits and reports to the Purchaser and the holder of any of the Bonds at its written request.
- G. Other Liens. Other than as described and identified by this Ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues. This Ordinance does not prohibit the issuance, consistent with the requirements herein, of (1) Parity Obligations with a lien on the Pledged Revenues on parity with the lien thereon of the Bonds or (2) additional bonds or other obligations payable from the Pledged Revenues constituting a lien upon such Pledged Revenues subordinate and junior to the lien of the Bonds.
 - H. Duty to Impose One-Fourth Percent County Capital Outlay Gross Receipts

<u>Tax</u>. If State law or any County ordinance or part thereof, which in any manner affects the Pledged Revenues shall ever be held to be invalid or unenforceable, it shall be the duty of the County to take any legally permissible action necessary to produce sufficient Pledged Revenues to comply with the contracted obligations of this Ordinance, except as is provided in Paragraph 1 of this Section.

- I. <u>Impairment of Contract</u>. The County agrees that any law, ordinance or resolution of the County that in any manner affects the Pledged Revenues or the Bonds shall not be repealed or otherwise directly or indirectly modified in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor or unless the required consents of the holders of the then outstanding Bonds are obtained pursuant to Section 32 of this Ordinance.
- J. <u>Debt Service Fund and Reserve Fund</u>. The Debt Service Fund and Reserve Fund shall be used solely and only and those funds are hereby pledged, for the purposes set forth in this Ordinance.
- K. <u>Surety Bonds.</u> Each County official and employee being responsible for receiving Pledged Revenues shall be bonded at all times, which bond shall be conditioned upon the proper application of Pledged Revenues.
- L. <u>Performing Duties</u>. The County will faithfully and punctually perform all duties with respect to the Bonds required by the Constitution and laws of the State of New Mexico and the ordinances and resolutions of the County relating to the Bonds.
- M. Rebate Fund. In furtherance of the covenants set forth in the preceding paragraph, the County hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund. Money and investments in the Rebate Fund shall not be used for the payment of the Bonds and amounts credited to the Rebate Fund shall be free and clear under any pledge under this Ordinance. Money in the Rebate Fund shall be invested pursuant to the procedures in the manner provided in Section 21(B) for investment of money, and all amounts on deposit in the Rebate Fund shall be held by the County, or a designated trustee, in trust, to the extent required to pay rebatable arbitrage to the United States of America. The County shall unconditionally be entitled to accept and rely upon the recommendation, advice, calculation and opinion of an accounting firm or other person or firm with knowledge of or experience in advising with respect to the provisions of the Code relating to rebatable arbitrage. The County shall remit all rebate installments and the final rebate payment to the United States of America as required by the provisions of the Code. Any moneys remaining in the Rebate Fund after redemption and payment of all the Bonds and payment and satisfaction of any rebatable arbitrage shall be withdrawn and remitted to the County.
- N. <u>Continuing Disclosure Obligations</u>. The officers of the County are authorized to sign such documents and to take such actions in the future with respect to the County's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Notwithstanding any other provisions of this Ordinance,

failure of the County to comply with the Continuing Disclosure Undertaking shall not be considered an "event of default" under Section 27 hereof and holders and beneficial owners of Bonds shall be entitled to exercise only such rights with respect thereto as are provided in the Continuing Disclosure Undertaking.

- Section 27. <u>Events of Default.</u> Each of the following events is hereby declared an "event of default."
- A. <u>Nonpayment of Principal.</u> Failure to pay the principal of any of the Bonds when the same becomes due and payable either at maturity or otherwise.
- B. <u>Nonpayment of Interest</u>. Failure to pay any installment of interest when the same becomes due and payable.
- C. <u>Default of any Provision</u>. Default by the County in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in this Ordinance on its part to be performed, and the continuance of such default (other than a default set forth in subparagraphs A and B of this Section) for sixty (60) days after written notice specifying such default and requiring the same to be remedied has been given to the County by the holders of twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding.
- D. <u>Bankruptcy</u>. The County (i) files a petition or application seeking reorganization, arrangement under Federal bankruptcy law or other debtor relief under the laws of any jurisdiction, or (ii) is the subject of such petition or application which the County does not contest or is not dismissed or discharged with sixty (60) days.

Section 28. Remedies Upon Default. Upon the happening and continuance of any of the events of default as provided in Section 27 of this Ordinance, then in every case the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, including, but not limited to a trustee or trustees therefor, may proceed against the County, the Board and its agents, officers and employees to protect and enforce the rights of any holder of Bonds under this Ordinance by mandamus or other suit, action or special proceedings in equity or at law in any court of competent jurisdiction either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award relating to the execution of any power herein granted for the enforcement of any legal or equitable remedy as such holder or holders may deem most effectual to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of any Bondholder or to require the Board to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all holders of the Bonds then outstanding. The failure of any Bondholder so to proceed shall not relieve the County or any of its officers, agents or employees of any liability for failure to perform any duty. Each right or privilege of such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege.

Section 29. <u>Duties Upon Default.</u> Upon the happening of any of the events of default provided in Section 27 of this Ordinance, the County, in addition, will do and perform all proper acts on behalf of and for the owners of the Bonds to protect and preserve the security created for the payment of the Bonds and to insure the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived therefrom, so long as any of the Bonds, either as to principal or interest, are outstanding and unpaid, shall be applied as set forth in Section 20 of this Ordinance. In the event the County fails or refuses to proceed as provided in this Section, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, after demand in writing may proceed to protect and enforce the rights of the owners of the Bonds as hereinabove provided.

Section 30. <u>Bonds Not Presented When Due</u>. If any Bonds shall not be duly presented for payment when due at maturity and if moneys sufficient to pay such Bonds are on deposit with the Paying Agent for the benefit of the owners of such Bonds, all liability of the County to such owners for the payments of such Bonds shall be completely discharged, such Bonds shall not be deemed to be outstanding and it shall be the duty of the Paying Agent to segregate and to hold such moneys in trust, without liability for interest thereon, for the benefit of the owners of such Bonds as may be provided in any agreement hereafter entered into between the Paying Agent and an officer of the County.

Section 31. Approval of Documents; Delegated Powers.

A. The form, terms and provisions of the Bond Purchase Agreement and, if any, the Paying Agent Agreement, the Continuing Disclosure Undertaking, the Preliminary Official Statement and the Official Statement shall be approved, authorized and confirmed in the Sale Certificate, and the County shall enter into the Related Documents in substantially the forms presented at the meeting at which the Sale Certificate is adopted. The officers of the County be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of the Bond Legislation, including, without limiting the generality of the foregoing, the publication of the summary of this Ordinance set out in Section 41 (with such changes, additions and deletions as they may determine), the distribution of material relating to the Bonds, any printing of the Bonds, the printing, execution and distribution of the Preliminary Official Statement and the Official Statement, if any, and the execution of the Bond Purchase Agreement and the Continuing Disclosure Undertaking and of such certificates as may be required by the Purchaser or bond counsel and including preparation and submission to the Secretary of the Treasury of a statement meeting the informational reporting requirements of Section 149(e) of the Code. As applicable, the use and distribution of the Preliminary Official Statement and the Official Statement (as further approved in the Sale Certificate) in connection with the sale of the Bonds to the public is hereby ratified, authorized, approved and acknowledged.

B. <u>Details of Bonds</u>; <u>Delegation to Approve Final Terms to the Delegatee</u>. There is hereby authorized and created a series of bonds designated as the Luna County New Mexico, Gross Receipts Tax Refunding Revenue Bonds, Series 2022.

The Bonds shall be issued in one or more series in an original aggregate principal amount not to exceed \$5,000,000 for the Refunding Project, with the exact aggregate principal amount of the Bonds to be established by the Delegatee in the Sale Certificate. The forms, terms, and provisions of

the Bonds, in the form set forth in Section 8 herein, are hereby approved with only such changes therein as are not inconsistent with this Ordinance and the Sale Certificate.

The sale of the Bonds to the Purchaser through a private placement and the issuance and delivery of the Bonds within the parameters set forth in this Ordinance with the final terms of the Bonds to be accepted by the Delegatee in the Sale Certificate and Bond Purchase Agreement is hereby authorized. The Delegatee is hereby authorized and delegated the power to determine the final terms of the Bonds within the parameters set forth below:

- (a) The principal amount of the Bonds shall not exceed \$5,000,000.
- (b) The final maturity of the Bonds shall be no later than 50 years from the date of issuance of the Bonds.
- (c) The proceeds of the Bonds shall be used for the Refunding Project.
- (d) The maximum interest rate on the Bonds shall not exceed 12% per annum.
- (e) The Bonds may be subject to optional and/or mandatory sinking fund redemption as set forth in the Sale Certificate.
- (f) The Purchaser's discount shall not exceed 2.0% of the aggregate principal amount of the Bonds.
- (g) The final forms of the Related Documents shall be consistent with this Ordinance, and the Bonds and the Escrow Agreement shall be in substantially the forms approved by the Board with the adoption of this Ordinance.
- (h) The Refunding Project shall include refunding all or a portion of the outstanding Series 2015 Bonds as specified by the Delegatee in the Sale Certificate
- (i) The Delegatee is authorized to determine the amount, if any, to be deposited in the Reserve Account for the Bonds to meet the Reserve Requirement, including the determination of whether to deposit a portion of the proceeds from the Bonds in the form of cash in the Reserve Account.
- (j) The present value savings for the Refunding Project shall not be less than 3.0% of the Refunded Bonds.
- (k) The Delegatee is hereby authorized pursuant to this Ordinance to determine the final terms of the 2022 Bonds as permitted by Section 6-14-10.2 NMSA 1978 and to execute a Sale Certificate, an Escrow Agreement (if needed), and a Bond Purchase Agreement with the Purchaser in conformance with these parameters and to enter into such agreements and execute such documents with a Bond Insurer acceptable to the Purchaser for the procurement of a Bond Insurance Policy on the Bonds, if any, in an amount and in a form acceptable to the Purchaser.

(l) The Delegatee shall report to the Board the final terms of the Bonds as required by Section 6-14-10.2 NMSA 1978.

The Bonds shall be negotiable instruments but shall be issued only as fully registered bonds, in denominations of \$5,000 (or such other denomination specified in the Sale Certificate) or any integral multiple thereof, in such numbers and denominations as may be requested by the Purchaser. The Bonds shall be numbered separately and consecutively and shall be dated the date of delivery to the Purchaser. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date, payable semi-annually on dates to be established in the Sale Certificate commencing on the date established in the Sale Certificate until their respective maturities at the interest rates and shall mature in the designated amounts; on the dates stated in the Sale Certificate.

Section 32. Amendment of Ordinance. This Ordinance may be amended without the consent of the holder of any Bond to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained herein. Furthermore, the provisions of this Ordinance shall be supplemented by the provisions of the Sale Certificate, which provisions shall not be inconsistent with the provisions of this Ordinance. Except as provided above, this Ordinance may be amended without receipt by the County of any additional consideration, but with the written consent of the holders of three-fourths (3/4ths) of the Bonds then outstanding (not including Bonds which may be held for the account of the County); but no ordinance adopted without the written consent of the holders of all outstanding Bonds shall have the effect of permitting:

- A. An extension of the maturity of any Bond; or
- B. A reduction of the principal amount or interest rate of any Bond; or
- C. A reduction of the principal amount of Bonds required for consent to such amendatory ordinance; or
- D. The establishment of priorities as between Bonds issued and outstanding under the provisions of this Ordinance, or
- E. The modification of or otherwise affecting the rights of the holders of less than all the outstanding Bonds.

Section 33. <u>Defeasance</u> When all principal and interest in connection with the Bonds hereby authorized have been duly paid, the pledge and lien for the payment of the Bonds shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this Ordinance. Payment shall be deemed made with respect to any Bond or Bonds when the County has placed in escrow with a commercial bank exercising trust power, an amount sufficient (including the known minimum yield from Federal Securities) to meet all requirements of principal and interest as the same become due to their final maturities. Any Federal Securities shall become due when needed in accordance with a schedule agreed upon between the County and such bank at the time of the

creation of the escrow.

- Section 34. <u>Bond Insurer Provisions</u>. The Bond Insurer's provisions relating to the Bond Insurance Policy and/or the Reserve Insurance Policy, if any, shall be set forth in the Sale Certificate.
- Section 35. <u>Bond Legislation Irrepealable</u>. After any of the Bonds are issued, this Ordinance and the Sale Certificate shall be and remain irrepealable until the Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided, or there has been defeasance as herein provided.
- Section 36. <u>Severability Clause</u>. 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 37. <u>Repealer Clause</u>. 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 38. <u>Effective Date</u>. Upon due adoption of this Ordinance, it shall be recorded in the book of ordinances of the County kept for that purpose, authenticated by the signatures of the Chairperson and County Clerk, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 41 below) shall be published in a newspaper which maintains an office and is of general circulation in the County, or posted in accordance with law, and said Ordinance shall be in full force and effect thirty days after recording.
- Section 39. <u>Limitation of Action Period.</u> After the passage of the thirty (30) days from the publication required by Section 41 hereof, any action attacking the validity of any proceedings had or taken by the County preliminary to and in the authorization and issuance of the Bonds shall be perpetually barred.
- Section 40. Prior Redemption and Notice of Prior Redemption and Defeasance for the Series 2015 Bonds. The County has elected and does hereby declare its intent to exercise on the behalf and in the name of the County its option to prior redeem the Series 2015 Bonds maturing on and after July 1, 2025 on July 1, 2024 at a redemption price equal to 100% of the principal amount of the Series 2015 Bonds to be redeemed, plus accrued interest to the redemption date, as approved in the Sale Certificate. Promptly upon issuance of the Bonds, the County shall deliver to the Series 2015 Paying Agent a notice of prior redemption and defeasance of the Series 2015 Bonds. No earlier than 60 days and no later than 30 days prior to the redemption date of the Series 2015 Bonds on the date approved in the Sale Certificate, the Series 2015 Paying Agent shall deliver such notice electronically or by certified first-class, postage pre-paid mail to each registered owner of the Series 2015 Bonds. Such notice may be in substantially the form attached as an exhibit to the Sale Certificate and shall contain such information as required in Section 6.E of the Series 2015 Ordinance.

The provisions of this Section 40 are specifically subject to the further approval of the refunding of the Series 2015 Bonds in the Sale Certificate.

Section 41. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject manner contained in this Ordinance shall be published in substantially the following form:

[Form of Summary of Ordinance for Publication]

Luna 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 County Ordinance No. 110, duly adopted and approved by the Board of County Commissioners of Luna County, New Mexico, on March 10. 2022, relating to the authorization and issuance of the County's Capital Outlay Gross Receipts Tax Refunding Revenue Bonds, Series 2022. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the County Clerk, Luna County Courthouse, 700 S. Silver Ave., Deming, New Mexico.

The title of the Ordinance is:

AUTHORIZING THE ISSUANCE AND SALE OF THE LUNA COUNTY, NEW MEXICO CAPITAL OUTLAY GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2022, OR, IN THE ALTERNATIVE, THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN LUNA COUNTY, NEW MEXICO AND A FINANCIAL INSTITUTION, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED FIVE MILLION AND NO/100 DOLLARS (\$5,000,000) FOR THE PURPOSE OF REFUNDING THE OUTSTANDING TAXABLE CAPITAL OUTLAY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2015: PROVIDING FOR THE ISSUANCE AND SALE OF THE BONDS: PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM THE REVENUES DERIVED FROM THE 1/4TH OF 1% COUNTY CAPITAL OUTLAY GROSS RECEIPTS TAX WHICH IS LEVIED PURSUANT TO ORDINANCE NUMBER 66 (ADOPTED FEBRUARY 1, 2007 AND APPROVED BY A MAJORJTY OF THE QUALIFIED ELECTORS OF THE COUNTY VOTING THEREON AT A SPECIAL ALL-MAIL BALLOT ELECTION HELD IN THE COUNTY ON MARCH 27, 2007) AND PURSUANT TO SECTIONS 7-20E-21 AND 7-20E- 1 THROUGH 7-20E-8, NMSA 1978, AS AMENDED SUPPLEMENTED; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM THE CAPITAL OUTLAY GROSS RECEIPTS TAX; PROVIDING FOR THE FORM, TERMS, EXECUTION AND OTHER DETAILS CONCERNING THE BONDS AND THE FUNDS APPERTAINING THERETO; PROVIDING FOR THE APPROVAL, EXECUTION AND DELIVERY OF COVENANTS AND AGREEMENTS IN CONNECTION WITH THE BONDS AND

AUTHORIZING THE DELEGATION TO THE DELEGATEE AND OTHER DETAILS OF THE BONDS ALL PURSUANT TO A SUBSEQUENT SALE CERTIFICATE; AND RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH AND APPERTAINING THERETO.

The title sets forth a general summary of the subject matter contained in the Ordinance. This notice constitutes compliance with Section 6-14-6 NMSA 1978.

[End of Form of Summary for Publication]

Section 42. <u>Governing Law</u>. All rights and obligations of the parties with respect to the Bonds and this Ordinance shall be construed, enforced, and interpreted according to the laws of the State. Venue with regard to any action relating to the Bonds or this Ordinance shall be in federal or state district court in the State.

Section 43. <u>Interested Parties</u>. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the County, the Registrar, the Paying Agent, the Purchaser and the registered owners of the Bonds, any right. remedy. or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof.

Section 44. Payment Due on Other Than Business Days. In any case where the date of payment of principal, premium, if any, or interest on the Bonds or the date fixed for redemption of any Bonds, or the date for performing any act or exercising any right, shall be a day other than a business day. then payment of interest or principal and premium, if any, or the performance of such act or exercise of such right need not be made on such date but may be made on the next succeeding business day with the same force and effect as if it had been made on the date scheduled for such payment, performance, or exercise.

Section 45. Limitation on County's Liability. NOTWITHSTANDING ANY PROVISION OF THIS ORDINANCE TO THE CONTRARY, THE OBLIGATIONS OF THE COUNTY UNDER THIS ORDINANCE ARE SPECIAL, LIMITED OBLIGATIONS OF THE COUNTY PAYABLE SOLELY FROM THE PLEDGED REVENUES AND CERTAIN PROCEEDS OF THE SALE OF THE BONDS. NEITHER THE FAITH AND CREDIT, NOR THE TAXING POWER OF THE STATE OF NEW MEXICO OR ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE COUNTY, IS PLEDGED TO THE PAYMENT OR PERFORMANCE OF SUCH OBLIGATIONS NO AGREEMENTS OR PROVISIONS CONTAINED IN THIS ORDINANCE OR ANY OTHER DOCUMENT OR INSTRUMENT RELATED TO THE BONDS SHALL GIVE RISE TO ANY PECUNIARY LIABILITY OF THE COUNTY, ITS OFFICERS, ITS EMPLOYEES OR MEMBERS OF ITS GOVERNING BODY OR CONSTITUTE A CHARGE AGAINST THE COUNTY'S GENERAL CREDIT, OR OBLIGATE THE COUNTY FINANCIALLY IN ANY WAY, EXCEPT WITH RESPECT TO THE PLEDGED REVENUES, AND THEIR APPLICATION AS PROVIDED IN THIS ORDINANCE. NO FAILURE OF THE COUNTY TO COMPLY WITH ANY TERMS, COVENANTS OR AGREEMENTS IN THIS ORDINANCE OR IN ANY OTHER DOCUMENT OR

INSTRUMENT RELATED TO THE BONDS SHALL SUBJECT THE COUNTY, ITS OFFICERS. ITS EMPLOYEES OR MEMBERS OF ITS GOVERNING BODY TO ANY PECUNIARY CHARGE OR LIABILITY EXCEPT TO THE EXTENT THAT THE SAME CAN BE PAID OR RECOVERED FROM THE PLEDGED REVENUES AND CERTAIN PROCEEDS OF THE SALE OF THE BONDS.

[Remainder of page left blank intentionally.]

APPROVED AND ADOPTED THIS D	AY OF	, 2022
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BOARD OF COUNTY COMMISSIONERS LUNA COUNTY, STATE OF NEW MEXICO

	ATTEST:
Linda M. Smrkovsky, Chairperson Commissioner, District 2	Berenda McWright, County Clerk
Commissioner, District 2	County Clork
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 March 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 an 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 March 10, 2022.

SEAL)	
	Berenda McWright, County Clerk

Be it remembered that at the Regular Meeting of the Board of County Commissioners of Luna County in Deming New Mexico, on the 10th day of March 2022, the following proceedings were had and entered of record.

RESOLUTION 22-10

CALL TO ADOPT ORDINANCE 111

WHEREAS, pursuant to Section 4-37-1, NMSA 1978, grants Counties, through the Board of County Commissioners the power to make, publish and repeal ordinances;

WHEREAS, Section 4-37-7, NMSA 1978, Ordinances governs the proposal of ordinances.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners hereby give notice of its intent to consider adoption of Ordinance 111; An Ordinance Addressing the Naming of County Owned Property; at the Regular Meeting on April 14, 2022, at 10:00 a.m. or as soon thereafter as the matter may be heard in the Luna County Courthouse, 700 S. Silver Ave., Deming, New Mexico.

BE IT FURTHER RESOLVED that the Luna County Manager is authorized to take all necessary action necessary to properly place the issue of the adoption of Ordinance 111 before the Board of County Commissioners, including but not limited to, the publication of title and a general summary of the proposed adoptions and making a copy of the proposed available to interested persons beginning with the date of publication, but no later than two weeks prior to the April 14, 2022 regular meeting.

DONE THIS 10th DAY OF MARCH, 2022

by the Board of County Commissioners of Luna County

	ATTEST:
Linda M. Smrkovsky, Chairperson	Berenda McWright,
Commissioner, District 2	County Clerk
	REVIEWED FOR LEGAL SUFFICIENCY:
Barbara L. Reedy	
Commissioner, District 1	
	Charles C. Kretek, County Attorney
John S. Sweetser	
Commissioner, District 3	

LCBCC Meeting March 10, 2022

Accounts Payable

02/04/2022	\$508225.01
02/04/2022	\$1672.98
02/11/2022	\$1 39663.18
02/11/2022	\$9951.80
02/17/2022	\$968433.61
02/17/2022	\$518.90
02/24/2022	\$29954.42
02/24/2022	\$3558.67

P-Cards

September 2021 \$180,313.61

Total \$1,842,292.18

Luna County Board of County Commissioners

AGENDA 03/10/2022 PAYROLL

02/11/2022	Register # 20220007	\$ 537,699.67
02/11/2022	*Register # 20220008	\$ 31,995.26
02/25/2022	Register # 20220009	\$ 544,281.54
02/25/2022	*Register # 20220010	\$ 21,621.74
02/28/2022	*Register # 20220011	\$ 2,347.85
02/28/2022	*Register # 20220012	\$ 3,617.04

Total \$ 1,141,563.10

^{*} Special Assignment Pay

APPOINTMENT OF BRITNEY VALDEZ

STATE OF NEW MEXICO) COUNTY OF LUNA) ss
This is to certify that I have on this
SHERIFF, LUNA COUNTY, NEW MEXICO
OATH OF OFFICE
STATE OF NEW MEXICO) COUNTY OF LUNA) ss
I, <u>Britney Valdez</u> , having received the above appointment as <u>DEPUTY SHERIFF</u> in and for the County of Luna, State of New Mexico, do solemnly swear that I will support the Constitution of the United States, and also the Constitution of the State of New Mexico, and that I will faithfully, impartially, and to the best of my ability discharge all the duties of said office and appointment. Signature of Appointment
STATE OF NEW MEXICO COUNTY OF LUNA Subscribed and sworn before me by Kelly Gamaway Sheriff and Britney Valdez, appointee. This /o day of , 2022.
Approved thisday of20223 A.D., by the Board of County Commissioners, Luna County, New Mexico.
CHAIRMAN, BOARD OF LUNA COUNTY COMMISSIONERS

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 22-21 Proposed Inter/Intra Fund Budget Increases

WHEREAS, the Board of County Commissioners of Luna County has the statutory authority to approve, modify and amend the County's annual operating budget; and

WHEREAS, development of an annual budget includes a considerable amount of professional guessing about events that may occur in the future; and

WHEREAS, during the course of the budget year actual events can result in receiving revenues or making expenditures that were not expected at the time the budget was prepared and adopted; and

WHEREAS, it is necessary to adjust the County's adopted budget to properly provide for these unexpected events.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Luna County hereby adopts the changes to the County's Fiscal Year 110, July 1, 2021 through June 30, 2022 Budget proposed by the County's management staff and attached hereto in spreadsheet form, as amendments to the previously adopted operating budget.

PASSED, APPROVED AND ADOPTED THIS 10th DAY OF MARCH 2022.

	BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY
	Barbara L. Reedy, District One
ATTEST:	Linda M. Smrkovsky, District Two
Berenda L. McWright, Luna County Clerk	John S. Sweetser, District Three

Be it remembered that at a Regular meeting of the Board of County Commissioners of Luna County in Deming NM on the 10th day of March, 2022, the following budget adjustments are proposed and entered of record.

Budget Resolution Number 22-21 Proposed Inter/Intra FUND Budget Increase/Decrease

SCHEDULE OF BUDGET **ADJUSTMENTS**

Entity Code

Resolution Number

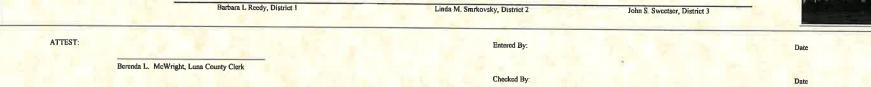
ITEM NO	Adjustment Type	Fund/ DFA Fund	Dept.	From		Amount	То		Amount	Purpose	Approved Budget Balance	Adjusted Budget Balance
One	Increase	401/11000	General Fund - Commission	401/11000	s	50,000.00	401-00-2101 Professional/Contract Services	s	50,000.00	To pay for advertising to promote Luna County and to allow for spending through remainder of fiscal year.	\$ 237,500.00	287,500.00
Two	Increase	401/11000	General Fund - Safety & Risk Assmnt	401/11000	s	300.00	401-28-2007 Telephone	\$	300.00	To pay for County issued cell phone through remainder of fiscal year.	5	\$ 300.00
Three	Increase	411/21800	Community	411/21800	\$	(30,000.00)	411-77-1442 (Revenue) Emergency Mgmt Grants	s	(30,000,00)	To account for and allow for spending of NM DOH Isolation and Quarantine Planning Grant as awarded.	\$ (84,256,33)	
					s	30,000.00	411-41-2443 Emergency Mgmt Grants	s	30,000,00	To account for and allow for spending of NM DOH Isolation and Quarantine Planning Grant as awarded.	\$ 95,164.77	
Four	Increase	412/21800	KLCB-Aluminum Recycling	412/21800	s	(263,452.00)	412-77-1185 (Revenue) Recycling & Illegal Dumping Grant	s	(263,452,00)	To account for and allow for spending of NMED RAID FY 22-02 Grant for tire amnesty and equipment.	5	s (263,452,00)
					s	263,452.00	412-00-2085 Recycling & Illegal Dumping Grant	s	263,452.00	To account for and allow for spending of NMED RAID FY 22-02 Grant for tire amnesty and equipment.	S	263,452.00
Five	lncrease	421/21800	Domestic Violence Shelter	421/21800	s	(6,000.00)	421-77-1629 (Revenue) Other Revenue Sources	s	(6,000.00)	Friends of the Healing House grant award to upgrade technology.	s	(6,000.00)
					s	6,000.00	421-00-2020 Supplies	s	6,000.00	Friends of the Healing House grant award to upgrade technology.	\$ 26,171.84	\$ 32,171.84
Six	Increase	610/21800	Drug Investigation - Operation Stonegarden (Even)	610/21800	s	25,125.00	610-08-2036 Administrative Expense	s	25,125.00	Grant agreement allowance for administrative expenses inadvertently left off of final budget.	s	\$ 25,125.00
Seven	Decrease	610/21800	Drug Investigation - DOJ-US Marshals Service Grant	610/21800	s	997.07	610-77-1481 (Revenue) US Marshal Service - Grant	\$	997.07	To decrease FY 2021 JLEO Grant and clear out line items.	\$ (4,000.00)	3 (3,002.93)
					s	(953.52)	610-69-2005 Salaries - Overtime	s	(939.90)	To decrease FY 2021 JLEO Grant and clear out line items.	\$ 3,942.83	\$ 3,002.93
							610-69-2060 Match - Medicare 1.45%	\$	(13.62)	To decrease FY 2021 JLEO Grant and clear out line items.	57.17	\$ 43.55
	lncrease	610/21800	Drug Investigation - DOJ-US Marshals Service Grant	610/21800	s	(5,000.00)	610-77-1481 (Revenue) US Marshal Service - Grant	\$	(5,000.00)	To account for and allow for spending of FY 2022 JLEO Grant through September 30 2022.	s	\$ (5,000.00)
					s	5,000.00	610-69-2005 Salaries - Overtime	s	4,928.54	COORDANIE	s	\$ 4,928.54
							610-69-2060 Match - Medicare 1.45%	s	71.46	To account for and allow for spending of FY 2022 JLEO Grant through September 30 2022.	s	5 71.46

ITEM NO	Adjustment Type	Fund/ DFA Fund	Dept.	From	Amount	To	Amount	Purpose	Approved Budget Balance	Adjusted Budget Balance
					\$ 75,468.55	s	75,468.55		\$ 274,580.28	\$ 350,048.8

NOW, THEREFORE, it is respectfully requested that the Board of County Commissioners of Luna County, authorize the above adjustments to the Luna County Budget.

Done at Deming New Mexico this Thursday the 10th day of March 2022.

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY



LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 22-22 Proposed Inter Department/Fund Transfers

WHEREAS, the Board of County Commissioners of Luna County has the statutory authority to approve, modify and amend the County's annual operating budget; and

WHEREAS, development of an annual budget includes a considerable amount of professional guessing about events that may occur in the future; and

WHEREAS, during the course of the budget year actual events can result in receiving revenues or making expenditures that were not expected at the time the budget was prepared and adopted; and

WHEREAS, it is necessary to adjust the County's adopted budget to properly provide for these unexpected events.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Luna County hereby adopts the changes to the County's Fiscal Year 110, July 1, 2021 through June 30, 2022 Budget proposed by the County's management staff and attached hereto in spreadsheet form, as amendments to the previously adopted operating budget.

PASSED, APPROVED AND ADOPTED THIS 10th DAY OF MARCH 2022.

	BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY
	Barbara L. Reedy, District One
ATTEST:	Linda M. Smrkovsky, District Two
Berenda L. McWright, Luna County Clerk	John S. Sweetser, District Three

Be it remembered that at a Regular meeting of the Board of County Commissioners of Luna County in Deming NM on the 10th day of March, 2022 the following budget adjustments are proposed and entered of record.

Budget Resolution Number 22-22

Proposed Inter Department Transfer

ITEM NO	Adjustment Type	Fund/ DFA Fund	Dept.	From	FROM Current Balance	Transfer amount	TO Line Number	Transfer Amount	Purpose
One	Transfer	415/21800	Parents As Teachers	415-52-2010 Mileage/Per Diem	\$29,743,21	\$9,755.06	415-52-2101 Professional/Contract Services	\$9,755.06	To allow for spending where and as needed through remainder of fiscal year for professional services
Two	Transfer	605/21100	Law Enforcement Protection Fund	605-08-2012 Equip/Supplies/Mtn/ Repairs	\$12,114.38	\$8,000.00	605-08-2010 Mileage/Per Diem	\$8,000.00	To allow for spending where and as needed through remainder of fiscal year for advanced training
Three	Transfer	609/22600	Adult Detention	609-21-2067 Insurance Property/ Liability	\$33,300,20	\$20,000.00	609-21-2029 Capital Improvement	\$20,000.00	To allow for spending where and as needed through remainder of fiscal year for office buildout at new maintenance shop
Four	Transfer	704/20900	Cooks Peak VFD	704-00-2028 Capital Outlay	\$209,405.84	\$15,000.00	704-00-2075 Equip Operating Expense	\$15,000.00	To allow for spending where and as needed through remainder of fiscal year for vehicle maintenance to NFPA standards.
Five	Transfer	401/11000	General Fund - Clerks	401-05-2012 Equip/Supplies/ Mtn/Repairs	\$3,849.61	\$1,000.00	401-05-2010 Mileage/Per Diem	\$1,000.00	To allow for spending where and as needed through remainder of fiscal year.
Six	Transfer	401/11000	General Fund - Sheriffs	401-08-2012 Equip/Supplies/ Mtn/Repairs	\$10,838,37	\$7,000.00	401-08-2116 Department Uniforms	\$7,000.00	To allow for spending where and as needed through remainder of fiscal year.
					\$299,251.61	\$60,755.06	WITE	\$60,755_06	

NOW, THEREFORE, it is respectfully requested that the Board of County Commissioners of Luna County, authorize the above adjustments to the Luna County Budget.

Done at Deming New Mexico this Thursday the 10th day of March 2022.

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY

Barbara L, Reedy, District 1 Linda M, Smrkovsky, District 2 John S, Sweetser, District 3

ATTEST: Entered By: Date

Berenda L. McWright, Luna County Clerk

Checked By:

Date

3/3/2022 Resolution 22-22 - Transfers 1 of 1

Be it remembered that at a Regular Meeting of the Luna County Board of County Commissioners in Deming New Mexico, on the 10th day of March 2022, the following proceedings were had and entered of record.

RESOLUTION 22-23

ACCEPTANCE AND APPROVAL OF THE FY2021 AUDIT

WHEREAS, the County of Luna is required by §12-6-3 NMSA 1978 to contract with an independent auditor to perform the required annual audit or agreed upon procedures for Fiscal Year 2021; and,

WHEREAS, the Luna County Board of County Commissioners has directed the accomplishment of the audit for FY2021 be completed; and,

WHEREAS, this audit has been completed and presented to the Luna County Board of County Commissioners at the Regular Meeting of March 10, 2022 as allowed per the February 14, 2022 Letter from the Statue Auditor authorizing release of the FY2021 audit; and

WHEREAS, NMAC 2.2.2.10 (M) (4) provides in pertinent part that "Once the audit report is officially released to the agency by the state auditor (by a release letter) and the required waiting period of five calendar days has passed, unless waived by the agency in writing, the audit report shall be presented by the IPA, to a quorum of the governing authority of the agency at a meeting held in accordance with the Open Meetings Act, if applicable;" and,

NOW THEREFORE, BE IT RESOLVED, that the Luna County Board of County Commissioners does hereby accept and approve the completed audit report and findings as presented.

Done at Deming, New Mexico this 10th day of March 2022.

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY

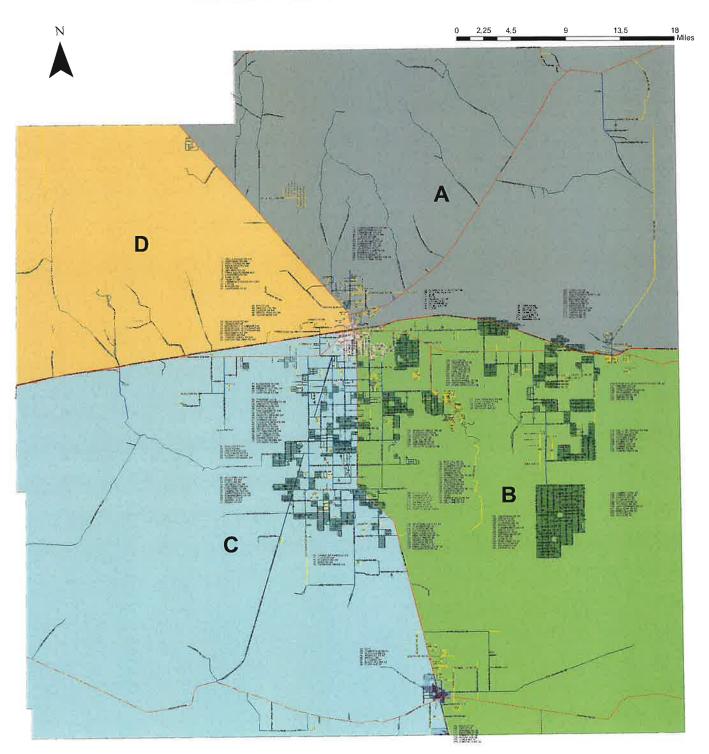
	ATTEST:
Barbara L. Reedy, Commissioner, District 1	Berenda McWright, County Clerk
Linda M. Smrkovsky Commissioner, District 2	
John S. Sweetser Commissioner, District 3	



LUNA COUNTY 2022 CERTIFIED MILES

Total Miles Paved: 1,631. 53Miles Total Maintained Unpaved: 221.3 Miles A Total Of:





Proclamation 22-02 Child Abuse Awareness & Prevention Month

Whereas; The County of Luna recognizes that each child is a contribution to the community, and every child is entitled to be loved, cared for, nurtured, and feel free from verbal, sexual, emotional & physical abuse and neglect.

Whereas; Child abuse and neglect are a serious problem affecting every segment of our community, and finding solutions requires input and action from everyone. Child abuse can have long-term psychological, emotional, and physical effects with lasting consequences for victims of abuse. Based on the latest data collected from the Child Maltreatment Report, it is found that child abuse and neglect is prevalent in the United States. There were 60.8% of neglected victims reported, 10.7% physically abused and 7% sexually abused. More than 15% were victims of two or more maltreatment types.

Whereas; Effective child abuse prevention activities succeed because of the partnerships created between child welfare professionals, education, health, community, and faith-based organizations, businesses, law enforcement agencies, and families. We acknowledge that we must work together as a community to increase awareness about child abuse and contribute to promote the social and emotional well-being of children and families in a safe, stable, and nurturing environment.

Therefore; The Board of County Commissioners of Luna County hereby proclaims the Month of April as "NATIONAL CHILD ABUSE & NEGLECT PREVENTION MONTH" in Luna County and urges all citizens to recognize and acknowledge each child for their accomplishments and to dedicate yourselves to the task of improving the quality of life for all children and families.

DONE THIS ____ DAY OF MARCH 2022.

By the Board of County Commissioners of Luna County.

Linda M. Smrkovsky, Chairperson Commissioner, District 2	Berenda McWright County Clerk
Barbara L. Reedy	
Commissioner, District 1	
John S. Sweetser Commissioner, District 3	

Proclamation 22-03 Fair Housing Month

Whereas; The County of Luna Recognizes fair and equal housing is a right guaranteed to all Americans; the principle of fair and equal housing is a fundamental human entitlement.

Whereas; All citizens have the right to live where they choose within their financial means. People must not be denied housing because of race, color, religion, sex, national origin, handicap or familial status. We must, as individuals, assure equal access to housing for all in our communities.

Whereas; Luna County acknowledges the importance of assuring fair and equal treatment to all citizens;

Therefore; The Board of County Commissioners of Luna County hereby proclaims the month of April as "FAIR HOUSING MONTH" in Luna County.

DONE THIS _____ DAY OF MARCH 2022 by the Board of County Commissioners of Luna County.

Linda M. Smrkovsky, Chairperson Commissioner, District 2	Berenda McWright County Clerk
Barbra L. Reedy,	
Commissioner, District 1	