

LUNA COUNTY, NEW MEXICO
ORDINANCE NO. 97



AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE LUNA COUNTY, NEW MEXICO CORRECTIONAL FACILITY GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2017 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,000,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING LUNA COUNTY, NEW MEXICO CORRECTIONAL FACILITY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2007A (THE "BONDS"); PROVIDING THAT THE REFUNDING BONDS WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM THE REVENUES DERIVED FROM THE FIRST INCREMENT OF COUNTY GROSS RECEIPTS TAX IMPOSED BY THE COUNTY PURSUANT TO SECTION 7-20F-7 NMSA 1978; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM THE GROSS RECEIPTS TAX REVENUES; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE REFUNDING BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT IN CONNECTION WITH THE REFUNDING BONDS; PROVIDING FOR REDEMPTION OF THE SERIES 2007A BONDS; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE REFUNDING BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE REFUNDING BONDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS.

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 2007A Bonds maturing on and after July 1, 2018 (the "Refunded Bonds") are subject to redemption at the option of the County on or after July 1, 2017, 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, 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 advance refund, refinance, pay and discharge the Refunded Bonds from the proceeds of the Bonds authorized by this Ordinance; 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 Correctional Facility Gross Receipt Tax Revenue Refunding Bonds, Series 2017 (the "Bonds" or the "Series 2017 Bonds") to pay the cost of paying and refunding the Series 2007A Bonds (the "Refunding Project"), will reduce debt service costs for the County, 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, the County has received an offer to purchase the Bonds from BBVA Compass Bank, as purchaser of the Bonds; 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 2007A 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 GOVERNING BODY (THE BOARD OF COUNTY COMMISSIONERS) OF LUNA COUNTY, NEW MEXICO:

Section 1. Definitions. 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: Madam Chairwoman of the Board, County Manager, County Treasurer or other officer of the County when designated by a certificate signed by the Madam Chairwoman 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 “Series 2017 Bonds” means the “Luna County Correctional Facility Gross Receipts Tax Refunding Revenue Bonds, Series 2017” 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.

“Bond Fund” or “Bond Service Fund” means the “Luna County Correctional Facility Gross Receipts Tax Refunding Revenue Bonds, Series 2017, 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.

“Chairman” or “Madam Chairwoman” means the Chairman 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 Correctional Facility 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 Correctional Facility Gross Receipts Tax Revenue Refunding Bonds, Series 2017, 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.

“Escrow Agreement” means the contract designated as the “Luna County Correctional Facility Gross Receipts Tax Refunding Revenue Bonds, Series 2017, 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 Correctional Facility 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.

"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 Correctional Facility Gross Receipts Tax Refunding Revenue Bonds, Series 2017, 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 2007A.

"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. Authorization of Refunding Project. 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. 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 Correctional Facility Gross Receipt Revenue Refunding Bonds, Series 2017,” in an aggregate principal amount of Three Million Two Hundred Forty-Five Dollars (\$3,245,000). 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 Bonds shall be issued in the aggregate principal amount of \$3,245,000 for the Refunding 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 Bonds shall be numbered consecutively from 1 upwards.

The Bonds shall bear interest from the Series Date, payable semi-annually on July 1 and December 1 each year, commencing on December 1, 2017, until their respective maturities and shall bear the rates of interest and shall mature on July 1 in each of the designated amounts

and years as set forth below:

<u>Year Maturing</u>	<u>Amounts Maturing</u>	<u>Interest Rate (Per Annum)</u>
2018	\$155,000	3.120%
2019	180,000	3.120%
2020	185,000	3.120%
2021	190,000	3.120%
2022	200,000	3.120%
2023	200,000	3.120%
2024	210,000	3.120%
2025	220,000	3.120%
2026	220,000	3.120%
2027	230,000	3.120%
2028	235,000	3.120%
2029	245,000	3.120%
2030	250,000	3.120%
2031	255,000	3.120%
2032	270,000	3.120%

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

B. **Payment-Regular Record Date.** The principal of any Bond shall be payable 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.

C. 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. Notice to Registrar. 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. 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. Negotiability. 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. Execution.

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 Madam Chairwoman 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 Madam Chairwoman 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 Madam Chairwoman 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 Madam Chairwoman 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. Provisions Relating to Registration, Transfer, Replacement and Cancellation of and Registration Records for the Bonds.

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. Form of Bonds, Certificate of Authentication and Assignment. The Bonds, Registrar's Certificate of Authentication and Form of Assignment shall be in substantially the following forms, with such changes therein as are not inconsistent with this ordinance:

(Form of Bond)

UNITED STATES OF AMERICA
COUNTY OF LUNA
STATE OF NEW MEXICO

No. _____

\$ _____

LUNA COUNTY
CORRECTIONAL FACILITY GROSS RECEIPTS TAX REFUNDING REVENUE BONDS,
SERIES 2017

INTEREST RATE	MATURITY DATE	SERIES DATE	CUSIP
_____ % per annum	_____	_____, 2017	_____

REGISTERED OWNER: CEDE & CO.

LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
201701111
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03/29/2017 09:53:29 AM
BY MDUARTE

PRINCIPAL AMOUNT: _____

The County of Luna (herein "County"), in the State of New Mexico, for value received, hereby promises to pay upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, to the registered owner named above, or registered assigns, on the Maturity Date specified above, upon the presentation and surrender hereof at the office of the County Treasurer, as paying agent, or its successor (herein the "Paying Agent"), the Principal Amount stated above, in lawful money of the United States of America, and to pay to the registered owner hereof as of the Regular Record Date (being the 15th day of the calendar month whether or not a business day preceding each regularly scheduled interest payment date as defined in Ordinance No. 97, adopted March 29, 2017, which authorizes this bond and which is referred to herein as the "Bond Ordinance"), by check or draft mailed to such registered owner, on or before each interest payment date as hereinafter provided (or, if such interest payment date is not a business day, on or before the next succeeding business day), at his address as it last appears on the Regular Record Date on the registration books kept for that purpose by the County Treasurer, as registrar (i.e., transfer agent) for the bonds, or its successor (herein the "Registrar") or by such other arrangement as may be agreed to by the Paying Agent and the registered owner hereof, interest on such sum in lawful money of the United States of America from the Series Date specified above or the most recent interest payment date to which interest has been fully paid or duly provided for in full (as more fully provided in the Bond Ordinance) until maturity at the per annum Interest Rate specified above, payable on July 1, 2018 and semiannually thereafter on December 1 and July 1 in each year. Any such interest not so timely paid or duly provided for shall cease to be payable to the registered owner as of the Regular Record Date and shall be payable to the registered owner as of a Special Record Date (as defined in the Bond Ordinance), as further provided in the Bond Ordinance. If upon presentation and surrender to the Paying Agent at or after maturity, payment of this bond is not made as herein provided, interest hereon shall continue at the rate herein designated until the principal hereof is paid in full. If the Bonds are issued in book-entry only form, an authorized officer of the County and the applicable securities depository ("Depository") may make other arrangements for the payments on the Bonds.

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.

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 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.

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.

The bonds of the series of which this is one are fully registered (i.e., registered as to payment of both principal and interest), and are issuable in the denomination of \$5,000 or any denomination which is an integral multiple of \$5,000 (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). Upon surrender of any of such bonds at the Registrar with a written instrument satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney, such bond may, at the option of the registered owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such bonds of the same maturity of other authorized denominations, subject to such terms and conditions as set forth in the Bond Ordinance.

This bond is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration books kept by the Registrar upon surrender of this bond together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered bond of authorized denomination or denominations of the

same aggregate principal amount and maturity will be issued to the transferee in exchange for this bond, subject to such terms and conditions as set forth in the Bond Ordinance. The County and the Registrar and Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes.

This bond is one of a series of bonds designated "Luna County Correctional Facility Gross Receipts Tax Refunding Revenue Bonds, Series 2017," of like tenor and date, except as to interest rate, number and maturity, authorized for the purpose of refunding outstanding bonds of the County, all as set forth in the Bond Ordinance.

This bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of New Mexico.

This bond does not constitute an indebtedness of the County within the meaning of any constitutional or statutory provision or limitation, shall not be considered or be held to be a general obligation of the County, and is payable and collectible solely out of the County's Pledged Gross Receipts Tax Revenues pursuant to the pledge made by and as defined in the Bond Ordinance, which revenues are so pledged; and the holder of this bond may not look to any general or other fund for the payment of the principal and interest on this obligation, except the special funds pledged therefor. Payment of the bonds of the series of which this bond is one and the interest thereon shall be made solely from, and as security for such payment, there are pledged pursuant to the Bond Ordinance special funds identified as the County correctional facility gross receipts tax of 1/8th of 1% of the gross receipts of persons engaging in business within the entire County into which the County covenants to pay the Pledged Correctional Facility Gross Receipts Tax Revenues, concurrently with debt service payments for outstanding parity bonds, sums sufficient to pay when due the principal of and the interest on the bonds of the series of which this bond is one. For a description of the funds, the nature and extent of the security afforded thereby for the payment of the principal of and interest on the bonds, and other details concerning the bonds, reference is made to the Bond Ordinance. The bonds of the series of which this bond is one are equally and ratably secured by a first lien on the County's Pledged Correctional Facility Gross Receipts Tax Revenues; the Bonds constitute an irrevocable first lien, but not necessarily an exclusive first lien, upon the Pledged Correctional Facility Gross Receipts Tax Revenues. Parity bonds and other obligations, in addition to the series of which this bond is one, may be issued and made payable from the County's Pledged Correctional Facility Gross Receipts Tax Revenues having a lien thereon inferior and junior to the lien or, subject to designated conditions, having a lien thereon on a parity with the lien of the bonds of the series of which this bond is one, in accordance with the provisions of the Bond Ordinance. No obligations may be issued with a lien on the Pledged Correctional Facility Gross Receipts Tax Revenues which is superior to the lien thereon of the Bonds.

The County covenants and agrees with the registered owner of this bond and with each and every person who may become the registered owner hereof that it will keep and perform all of the covenants of the Bond Ordinance.

This bond is subject to the conditions, and every registered owner hereof by accepting the same agrees with the obligor and every subsequent registered owner hereof that the principal of and the interest on this bond shall be paid, and this bond is transferable, free from, and without

regard to any equities between the obligor and the original or any intermediate registered owner hereof for any setoffs or cross-claims.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the Board and officers of the County in the issuance of this bond; and that it is issued pursuant to and in strict conformity with the Constitution and laws of the State of New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the certificate of authentication herein.

IN WITNESS WHEREOF, the County of Luna has caused this bond to be signed, subscribed, and executed, and attested with the facsimile signatures of its Madam Chairwoman of the Board and its County Clerk, respectively and has caused the facsimile of its corporate seal to be affixed on this bond, all as of the Series Date.

COUNTY OF LUNA

[(SEAL)]

By _____
Madam Chairwoman of the Board

ATTEST:

By _____
County Clerk

LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
201701111
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03/29/2017 09:53:29 AM
BY MDUARTE

(Form of Registrar's Certificate of Authentication)

REGISTRAR'S CERTIFICATE OF
AUTHENTICATION

Date of Authentication: _____

This is one of the bonds described in the within-mentioned Bond Ordinance, and this bond has been duly registered on the registration books kept by the undersigned as Registrar for such Bonds.

County Treasurer, as Registrar

(End of Form of Registrar's Certificate of Authentication)

LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
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BY MDUARTE

(Form of Assignment)

ASSIGNMENT

For value received, _____ hereby sells, assigns and transfers unto _____ the within bond and hereby irrevocably constitutes and appoints _____ attorney, to transfer the same on the books of the Registrar, with full power of substitution in the premises.

Signature

Guaranteed:

Name and Address of Transferee

Dated: _____

Social Security Number or
other Tax Identification
Number

(End of Form of Assignment)

(End of Form Bond)

Section 13. Period of Project's Usefulness. 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.

Section 14. Delivery of Bonds and Initial Registration. 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 15. 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 Madam Chairwoman 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 Madam Chairwoman 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 Madam Chairwoman 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 Madam Chairwoman 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 Madam Chairwoman 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 16. Use of Bond Proceeds; Purchaser Not Responsible. 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 Correctional Facility Gross Receipts Tax Refunding Revenue Bonds, Series 2017, 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 17. 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 18. Continuance of Pledged Gross Receipts Tax Funds. The County hereby continues the following special and separate trust fund:

A. Correctional Facility Gross Receipts Tax Revenue Fund. The “County of Luna, New Mexico Correctional Facility 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 Correctional Facility Gross Receipts Tax Revenues.

Section 19. Administration of Pledged Correctional Facility Gross Receipts Tax Revenue Funds. 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 Correctional Facility Gross Receipts Tax Revenues:

A. Bond Service Fund Payments. First, as a first charge on the Pledged Correctional Facility Gross Receipts Tax Revenues and on a parity with other outstanding Parity Obligations, the following amounts shall be withdrawn from the Correctional Facility Gross Receipts Tax Revenue Fund, and shall be concurrently credited to the “Luna County Correctional Facility Gross Receipts Tax Refunding Revenue Bonds, Series 2017, Bond Service

Fund” (herein the “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. 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.

D. Rebate Fund. There is hereby created a separate account to be known as the “Luna County Correctional Facility Gross Receipt Revenue Refunding Bonds, Series 2017, Bond Rebate Fund” (the “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 20. General Administration of Funds. 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 21. Lien on Pledged Revenues. The Pledged Correctional Facility 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 22. 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 2017 Bond Account; 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 2017 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 23. Refunding Bonds. 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 24. 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 25. Protective Covenants. 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 26. Defeasance. 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 27. 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 28. 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 29. Duties Upon Default. 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 30. Enforcement. 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 31. 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 32. 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 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, 2018 on July 1, 2017, 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 Madam Chairwoman 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:

LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
201701111
33 of 37
03/29/2017 09:53:29 AM
BY MDUARTE

(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. 97 duly adopted and approved by the Board of Commissioners of Luna County on March 29, 2017. A complete copy of Ordinance No. 97 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 THE ISSUANCE AND SALE OF THE LUNA COUNTY, NEW MEXICO CORRECTIONAL FACILITY GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2017 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,000,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING LUNA COUNTY, NEW MEXICO CORRECTIONAL FACILITY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2007A (THE "BONDS"); PROVIDING THAT THE REFUNDING BONDS WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM THE REVENUES DERIVED FROM THE FIRST INCREMENT OF COUNTY GROSS RECEIPTS TAX IMPOSED BY THE COUNTY PURSUANT TO SECTION 7-20F-7 NMSA 1978; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM THE GROSS RECEIPTS TAX REVENUES; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE REFUNDING BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT IN CONNECTION WITH THE REFUNDING BONDS; PROVIDING FOR REDEMPTION OF THE SERIES 2007A BONDS; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE REFUNDING BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE REFUNDING BONDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS.

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.

LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
201701111
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03/29/2017 09:53:29 AM
BY MDUARTE

WITNESS my hand and the seal of the County on March 29, 2017.

COUNTY OF LUNA

(SEAL)

County Clerk


(End of Form of Ordinance for Publication)

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LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
201701111
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03/29/2017 09:53:29 AM
BY MDUARTE

PASSED, ADOPTED, SIGNED AND APPROVED THIS 29th Day of
MARCH, 2017.

BOARD OF COUNTY COMMISSION,
LUNA COUNTY


Madam Chairwoman of the Board




County Clerk
by: 

LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
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03/29/2017 09:53:29 AM
BY MDUARTE

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

I, Andrea Rodriguez, County Clerk of the County of Luna, New Mexico, do hereby certify:

1. The foregoing pages constitute a full and correct copy of the record of the proceedings of the Board of the County at a regular meeting thereof, held on March 29, 2017, taken from the official minutes of the Board, a copy of which is set forth in the record of proceedings; the copy of that Ordinance as contained in the record of proceedings is a full, true and correct copy of the original of Ordinance No. 97 as passed by the Board at that meeting, and the original Ordinance has been duly authenticated by the signatures of the Madam Chairwoman of the Board of the County and the County Clerk on that date, sealed with the corporate seal of the County, and recorded in my office in a book of ordinances kept for that purpose.

2. Three (3) members of the Board were present at that meeting, and the members of the Board voted on the passage of that Ordinance as set forth in the record of proceedings.

3. Notice of the March 29, 2017 meeting of the Board was duly given as required by the Open Meetings Act, Sections 10-15-1 through 10-15-4, NMSA 1978, and Resolution No. 16-01 which is the current resolution of the County which establishes the reasonable notice policy of the County as required by the Open Meetings Act.

4. On March 15, 2017, a Notice of Public Hearing on Adoption of Ordinance No. 97 was published in *The Deming Headlight*, a newspaper which maintains an office in and is of general circulation within the County. A true and correct copy of the affidavit of publication of the Notice of Public Hearing is attached hereto as Exhibit A.

5. On March 30, 2017, a Notice of Adoption of Ordinance No. 97 was published by title and summary of its subject matter in *The Deming Headlight*, a newspaper which maintains an office in and is of general circulation within the County. A true and correct copy of the affidavit of publication of the Notice of Adoption is attached hereto as Exhibit B.

6. No other business concerning that Ordinance was taken at that meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the County of Luna, New Mexico this 29th day of March, 2017.

LUNA COUNTY, NEW MEXICO

Andrea Rodriguez by Berenice M. Puente
County Clerk



LUNA COUNTY-NM
ANDREA RODRIGUEZ, CLERK
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03/29/2017 09:53:29 AM
BY MDUARTE