

SANTA FE COUNTY, NEW MEXICO  
ORDINANCE NO. 2009- 7

AUTHORIZING THE ISSUANCE OF THE SANTA FE COUNTY, NEW MEXICO CAPITAL OUTLAY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$13,000,000 FOR THE PURPOSE OF DEFRAIVING THE COSTS OF PURCHASING WATER RIGHTS WITHIN THE COUNTY AND TO PAY COSTS OF ISSUANCE OF THE SERIES 2009 BONDS; PROVIDING FOR THE EXACT PRINCIPAL AMOUNTS, MATURITIES, PRICES, REDEMPTION FEATURES AND OTHER DETAILS OF THE SERIES 2009 BONDS TO BE DETERMINED IN A SUBSEQUENT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE SERIES 2009 BONDS FROM THE PORTION OF THE DISTRIBUTIONS TO THE COUNTY OF THE REVENUES OF THE ONE-FOURTH OF ONE PERCENT CAPITAL OUTLAY GROSS RECEIPTS TAX ENACTED PURSUANT TO SECTION 7-20E-21 NMSA 1978 FROM THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT PURSUANT TO SECTION 7-1-6.13 NMSA 1978 WHICH HAS BEEN ALLOCATED FOR WATER PROJECTS BENEFITING UNINCORPORATED AREAS OF THE COUNTY; PROVIDING FOR THE PLEDGE OF SUCH REVENUES BY THE COUNTY; PROVIDING FOR THE FORM, EXECUTION AND OTHER DETAILS CONCERNING THE BONDS; AUTHORIZING THE USE OF A PRELIMINARY OFFICIAL STATEMENT FOR THE MARKETING AND SALE OF THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; AND REPEALING ALL ORDINANCES IN CONFLICT WITH THIS BOND ORDINANCE.

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

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

WHEREAS, pursuant to Section 7-20E-21 NMSA 1978, the County adopted Santa Fe County Ordinance No. 2002-5 ("Ordinance No. 2002-5") enacting the one-fourth of one percent (0.250%) County Capital Outlay Gross Receipts Tax (the "Capital Outlay Gross Receipts Tax") effective as of January 1, 2003; and

WHEREAS, Section 4 of Ordinance No. 2002-5 provides in pertinent part that 75 percent of the revenues generated by the Capital Outlay Gross Receipts Tax shall be dedicated for:

(1) acquisition, construction or improvement of water or wastewater systems or facilities and related facilities, including water or sewer lines and storm sewers and other drainage improvements;

(2) acquisition of land for open space, public parks or public recreational facilities and for the design, acquisition, construction, improvement or equipping of parks and recreational facilities; and

(3) construction, reconstruction or improvement of roads, streets or bridges, including acquisition of rights of way;

and

WHEREAS, Section 5 of Ordinance No. 2002-5 provides in pertinent part that at least one-half of the revenues generated from the County Capital Outlay Gross Receipts Tax shall be used for projects that benefit residents within the incorporated boundaries of the City of Santa Fe; and

WHEREAS, pursuant to Ordinance No. 2002-5, up to one-half of the County Capital Outlay Gross Receipts Tax revenues may be used for projects that benefit unincorporated portions of the County (the "County-Only Allocation"), up to 75% of which may be used for water or wastewater projects (the "County-Only Water Project Allocation"); and

WHEREAS, the Board of County Commissioners (the "Governing Body") is authorized to pledge the County-Only Water Project Allocation (the "Pledged Revenues," as more specifically defined in Section 1 of this Ordinance) for the financing of the Project; and

WHEREAS, pursuant to Section 7-1-6.13 NMSA 1978 the County receives monthly distributions of the Pledged Revenues from the New Mexico Taxation and Revenue Department; and

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

WHEREAS, the Governing Body hereby determines that there is a need for the Project as herein defined, and that the Bonds shall be issued for the Project; and

WHEREAS, the County expects to receive an offer to purchase the Bonds from the Underwriters pursuant to a Bond Purchase Agreement; and

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

WHEREAS, the Governing Body has determined that it is in the best interest of the County to authorize the issuance of the Bonds to an aggregate principal amount not to exceed \$13,000,000 pursuant to this Bond Ordinance and to provide for the final terms of Bonds, including the specific principal amounts, maturities, interest rates, prices, redemption features and other details of the Bonds in a Sale Resolution; and

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

- (A) the proposed form of Bond Ordinance;
- (B) the proposed form of Continuing Disclosure Undertaking; and
- (C) the proposed form of Preliminary Official Statement.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY, NEW MEXICO:

Section 1. Definitions. As used in this Bond Ordinance, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

"Acquisition Fund" means the "Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 Acquisition Fund" established by Section 16 of this Bond Ordinance.

"Act" means the general laws of the State, including Sections 4-62-1 to 4-62-10 NMSA 1978, as amended and enactments of the Governing Body relating to the issuance of the Bonds, including this Bond Ordinance.

"Bond Ordinance" or "Ordinance" means this Ordinance.

"Bond Purchase Agreement" means the bond purchase agreement to be entered into between the County and the Underwriters, the execution and delivery of which shall be approved by the Governing Body in the Sale Resolution.

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

"Bonds" or "2009 Bonds" means the "Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009" authorized by this Bond Ordinance.

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

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

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

"County Capital Outlay Gross Receipts Tax" means the County Capital Outlay Gross Receipts Tax imposed on persons engaging in business in the County pursuant to Section 7-20E-21 NMSA 1978 and County Ordinance No. 2002-5, 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-fourth of one percent (0.250%) 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 7-1-6.46 NMSA 1978, as that distribution relates to the gross receipts tax revenues received pursuant to Section 7-1-6.4 NMSA 1978, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93, NMSA 1978; provided that if an additional amount of such gross receipts tax revenues or other equivalent funds are hereafter provided to be remitted to the County in connection with the County Capital Outlay Gross Receipts Tax under applicable laws of the State, 37.5% of such additional amounts shall be included as Pledged Revenues pledged pursuant to this Bond Ordinance.

"County-Only Water Project Allocation" means 37.5% of the revenues of the County Capital Outlay Gross Receipts Tax, which revenues may be utilized for water or wastewater projects that benefit unincorporated portions of the County pursuant to Ordinance No. 2002-5.

"Debt Service Fund" means the "Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 Debt Service Fund" established in Section 16 of this Bond Ordinance.

"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.

"Event of Default" means any of the events stated in Section 25 of this Bond Ordinance.

"Expenses" means the reasonable and necessary fees, costs and expenses incurred by the County with respect to the issuance of the Bonds, including the fees, compensation, costs and expenses paid or to be paid to the Insurer, Paying Agent, Registrar and Underwriter, and legal and accounting fees and expenses.

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

"Governing Body" means the Board of County Commissioners of Santa Fe County, New Mexico.

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

"Income Fund" means the "Santa Fe County, New Mexico, Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 Income Fund" created in Section 16 of this Bond Ordinance.

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

"Insurance Policy" means, if applicable, an insurance policy issued by a bond insurer guaranteeing the scheduled payment of principal of and interest on the Bonds when due, as may be provided in the Sale Resolution.

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

"Insurer" means, if applicable, the provider of an Insurance Policy and/or a Reserve Fund Insurance Policy, as provided in the Sale Resolution; provided, that if an Insurance Policy is not obtained in connection with the Bonds, references to the Insurer in this Bond Ordinance shall have no effect.

"Interest Payment Date" means each June 1 and December 1, commencing December 1, 2009.

"Issuer" means Santa Fe County, New Mexico.

"Minimum Reserve" means an amount equal to the least of (i) 10% of the principal amount of the outstanding Bonds, (ii) the maximum annual debt service on the outstanding Bonds, or (iii) 125% of the average annual debt service on the outstanding Bonds. The Minimum Reserve shall be recalculated every year on or about June 1.

"Moody's" means Moody's Investor Service, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the County.

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

"Official Statement" means the final disclosure document to be used by the Underwriters in connection with the sale of the Bonds to the public.

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

A. those cancelled at or prior to such date or delivered or acquired by the County at or prior to such date for cancellation;

B. those otherwise deemed to be paid in accordance with Section 28 or Section 31 of this Bond Ordinance;

C. those in lieu of or in exchange or substitution for which other Bonds shall have been delivered, unless proof satisfactory to the County and the Paying Agent is presented that any Bond for which a new Bond was issued or exchanged is held by a bona fide holder or in due course.

Principal and/or interest on Bonds paid by the Insurer under the Insurance Policy shall not be deemed paid for purposes of this Bond Ordinance and such amounts shall remain Outstanding and continue to be due and owing until paid by the County in accordance with this Bond Ordinance.

"Parity Bonds" or "Parity Obligations" means the 2009 Bonds and any other bonds or other obligations hereafter issued or incurred, payable from and constituting a lien upon the Pledged Revenues on parity with the Bonds, as provided in Section 20 of this Bond Ordinance.

"Paying Agent" means the County Treasurer, as agent for the County for the payment of the Bonds or any other entity at the time appointed Paying Agent by resolution of the Governing Body.

"Pledged Revenues" means the County-Only Water Project Allocation (i.e. 37.5%) of the revenues of the one-fourth of one percent (0.250%) County Capital Outlay Gross Receipts Tax; provided that if an additional amount of such gross receipts

tax revenues or other equivalent funds are hereafter provided to be remitted to the County in connection with the County Capital Outlay Gross Receipts Tax under applicable laws of the State, 37.5% of such additional amounts shall be included as Pledged Revenues pledged pursuant to this Bond Ordinance; and provided further that the County intends that Section 4-62-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Bond Ordinance.

"Preliminary Official Statement" means the disclosure document used by the Underwriters in connection with the initial offering of the Bonds to the public which document was deemed final as of its date by the County for purposes of Securities and Exchange Commission Rule 15c2-12.

"Project" means the purchase of water rights for use in connection with County water projects and any Expenses related to the issuance of the Bonds.

"Qualified Investments" means:

1. (a) Direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America ("United States Treasury Obligations"), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated. These obligations may constitute "Defeasance Obligations."

2. Federal Housing Administration debentures.

3. The listed obligations of government-sponsored agencies which are not backed by the full faith and credit of the United States of America:

- Federal Home Loan Mortgage Corporation (FHLMC)  
Participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)  
Senior Debt obligations
- Farm Credit Banks (formerly: Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives)  
Consolidated system-wide bonds and notes
- Federal Home Loan Banks (FHL Banks)  
Consolidated debt obligations
- Federal National Mortgage Association (FNMA)

Senior debt obligations

Mortgage-backed securities (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)

- Student Loan Marketing Association (SLMA)

Senior debt obligations (excluded are 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)

- Financing Corporation (FICO)

Debt obligations

- Resolution Funding Corporation (REFCORP)

Debt obligations

4. Unsecured certificates of deposit, time deposits, and bankers' acceptances (having maturities of not more than 30 days) of any bank the short-term obligations of which are rated 'A-1' or better by S&P.

5. Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least \$5 million.

6. Commercial paper (having original maturities of not more than 270 days) rated 'A-1+' by S&P and 'Prime-1' by Moody's.

7. Money market funds rated 'AAm' or 'AAm-G' by S&P, or better.

8. "State Obligations", which means:

A. Direct general obligations of any state of the United States of America or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated 'A3' by Moody's and 'A' by S&P, or better, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.

B. Direct general short-term obligations of any state agency or subdivision or agency thereof described in (A) above and rated 'A-1+' by S&P and 'MIG-1' by Moody's.

C. Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (A) above and rated 'AA' or better by S&P and 'Aa' or better by Moody's.

9. Pre-refunded municipal obligations rated "AAA" by S&P and "Aaa" by Moody's meeting the following requirements:



A. the municipal obligations are (1) not subject to redemption prior to maturity or (2) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

B. the municipal obligations are secured by cash or United States Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

C. the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations ("Verification");

D. the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

E. no substitution of a United States Treasury Obligation shall be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and

F. the cash or United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

10. Repurchase agreements:

With (1) any domestic bank, or domestic branch of a foreign bank, the long term debt of which is rated at least "A" by S&P and Moody's; or (2) any broker-dealer with "retail customers" or a related affiliate thereof which broker-dealer has, or the parent company (which guarantees the provider) of which has, long-term debt rated at least "A" by S&P and Moody's, which broker-dealer falls under the jurisdiction of the Securities Investors Protection Corporation; or (3) any other entity rated "A" or better by S&P and Moody's and acceptable to the Insurer, provided that:

A. The market value of the collateral is maintained at levels and upon such conditions as would be acceptable to S & P and Moody's to maintain an "A" rating in an "A" rated structured financing (with a market value approach);

B. The Trustee or Holder of the Collateral has possession of the collateral or the collateral has been transferred to the Holder of the Collateral in accordance with applicable state and federal laws (other than by means of entries on the transferor's books);

C. The repurchase agreement shall state and an opinion of counsel shall be rendered at the time such collateral is delivered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

D. All other requirements of S&P in respect of repurchase agreements shall be met.

E. The repurchase agreement shall provide that if during its term the provider's rating by either Moody's or S&P is withdrawn or suspended or falls below "A-" by S&P or "A3" by Moody's, as appropriate, the provider must, at the direction of the Issuer or the Trustee (who shall give such direction if so directed by the Insurer), within 10 days of receipt of such direction, repurchase all collateral and terminate the agreement, with no penalty or premium to the Issuer or Trustee.

Notwithstanding the above, if a repurchase agreement has a term of 270 days or less (with no evergreen provision), collateral levels need not be as specified in (A) above, so long as such collateral levels are 103% or better and the provider is rated at least "A" by S&P and Moody's, respectively.

11. Investment agreements with a domestic or foreign bank or corporation (other than a life or property casualty insurance company) the long-term debt of which, or, in the case of a guaranteed corporation the long-term debt, or, in the case of a monoline financial guaranty insurance company, claims paying ability, of the guarantor is rated at least "AA" by S&P and "Aa" by Moody's; provided that, by the terms of the investment agreement:

A. interest payments are to be made to the Trustee at times and in amounts as necessary to pay debt service (or, if the investment agreement is for the construction fund, construction draws) on the Bonds;

B. the invested funds are available for withdrawal without penalty or premium, at any time upon not more than seven days' prior notice; the Issuer and the Trustee hereby agree to give or cause to be given notice in accordance with the terms of the investment agreement so as to receive funds thereunder with no penalty or premium paid;

C. the investment agreement shall state that is the unconditional and general obligation of, and is not subordinated to any other obligation of, the provider thereof or, if the provider is a bank, the agreement or the opinion of counsel shall state that the obligation of the provider to make payments thereunder ranks pari passu with the obligations of the provider to its other depositors and its other unsecured and unsubordinated creditors;

D. the Issuer or the Trustee receives the opinion of domestic counsel (which opinion shall be addressed to the Issuer and the Insurer) that such investment agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and of foreign counsel (if applicable) in form and substance acceptable, and addressed to, the Insurer;

E. the investment agreement shall provide that if during its term

(i) the provider's rating by either S&P or Moody's falls below "AA-" or "Aa3", respectively, the provider shall, at its option, within 10 days of receipt of publication of such downgrade, either (a) collateralize the investment agreement by delivering or transferring in accordance with applicable state and federal laws (other than by means of entries on the provider's books) to the Issuer, the Trustee or the Holder of the Collateral, free and clear of any third-party liens or claims the market value of which collateral is maintained at levels and upon such conditions as would be acceptable to S & P and Moody's to maintain an "A" rating in an "A" rated structured financing (with a market value approach); or (b) repay the principal of and accrued but unpaid interest on the investment, and

(ii) the provider's rating by either S&P or Moody's is withdrawn or suspended or falls below "A-" or "A3", respectively, the provider must, at the direction of the Issuer or the Trustee (who shall give such direction if so directed by the Insurer), within 10 days of receipt of such direction, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium to the Issuer or Trustee, and

F. The investment agreement shall state and an opinion of counsel shall be rendered, in the event collateral is required to be pledged by the provider under the terms of the investment agreement, at the time such collateral is delivered, that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

G. the investment agreement must provide that if during its term

(i) the provider shall default in its payment obligations, the provider's obligations under the investment agreement shall, at the direction of the Issuer or the Trustee (who shall give such direction if so directed by the Insurer), be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Trustee, as appropriate, and

(ii) the provider shall become insolvent, not pay its debts as they become due, be declared or petition to be declared bankrupt, etc. ("event of insolvency"), the provider's obligations shall automatically be accelerated and amounts

invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Trustee, as appropriate.

"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.

"Registrar" means the County Treasurer, as agent for the County for transfer and exchange of the Bonds or any other entity at the time appointed by resolution of the Governing Body.

"Related Document" means any documentation of any amendment, supplement, modification to or waiver of this Bond Ordinance or any other transaction related to such amendment, supplement, modification or waiver, including any underlying security agreement.

"Reserve Fund" means the "Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 Reserve Fund" established by Section 16 of this Bond Ordinance.

"Reserve Fund Insurance Policy" means any policy of insurance, surety bond, letter of credit or other financial instrument issued to the County, the proceeds of which shall be used to prevent deficiencies in the payment of the principal of or interest on the Bonds resulting from insufficient amounts being on deposit in the Debt Service Fund to make the payment of principal of and interest on the Bonds as the same become due. Each policy shall be written by an Insurer or by a bank, insurance company or any financial institution experienced in insuring or guaranteeing municipal bonds whose policies of insurance, surety bond, letter of credit or other financial instrument would not adversely affect the rating of the Bonds by Moody's and/or S&P to the extent that the Bonds are or are to be so rated and provided that at the time of the issuance of such policy such bank, insurance company or any financial institution shall have received the highest policy claims rating accorded insurers by the A.M. Best Company or any comparable service, if applicable to the provider of the Reserve Fund Insurance Policy, and either of the two highest Rating Categories of Moody's and S&P to the extent that each rating agency provides such a rating and is then rating the Bonds. Such policy or surety bond shall insure and be in full force and effect at all times until the earlier of (i) the final maturity date of the Bonds (unless such date is extended by agreement of the Insurer) or (ii) the date on which there are sufficient funds on deposit in the Debt Service Fund sufficient to pay the principal and interest due or to become due on the Bonds as set forth in Section 17 of this Bond Ordinance. If there is any change in such policy or surety bond, the County shall notify Moody's.

"Sale Resolution" means a resolution of the Governing Body of the County approving the final terms of Bonds, including the specific principal amounts, maturities, interest rates, prices, redemption features and other details of the Bonds, the delivery of the Bonds to the Underwriters pursuant to the Bond Purchase Agreement, and the form of the Official Statement.

"S&P" means Standard & Poor's, a division of The McGraw-Hill Companies, Inc., its successors and their assigns, and, if such entity is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the County.

"Underwriters" means the investment banking firm or firms that agreeing to purchase the Bonds as provided in the Bond Purchase Agreement the Sale Resolution.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Bond Ordinance) by the Governing Body and the officers of the County, directed toward the Project, the issuance of the Bonds for the Project and the sale of the Bonds to the Underwritersbe, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of Project. The Project and the method of financing the Project are hereby authorized and ordered at a total cost estimated not to exceed the amount of the Bond proceeds and any investment earnings thereon, excluding any such cost defrayed or to be defrayed by any source other than Bond proceeds. The County is the owner of the Project, and the Project will be used solely by and for the benefit of the County and its residents.

Section 4. Findings. The Governing Body hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Project is needed to meet the needs of the County and its inhabitants.

B. Moneys available for the Project from all sources other than the issuance of revenue bonds are not sufficient to defray the cost of the Project.

C. The Pledged Revenues may lawfully be pledged to secure the payment and redemption of the Bonds.

D. It is economically feasible to defray, in part, the cost of the Project by the issuance of the Bonds.

E. The issuance of the Bonds pursuant to the Act, to provide funds for the financing of the Project, is necessary and in the interest of the public health, safety and welfare of the residents of the County.

Section 5. Bonds - Authorization and Detail.

A. Authorization. This Bond Ordinance has been adopted by the affirmative vote of at least three-fourths of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the citizens of the County, it is hereby declared necessary that the County, pursuant to the Act, issue its negotiable, fully registered, revenue bonds to be designated "Santa Fe County, New Mexico Capital Outlay Gross

Receipts Tax Revenue Bonds, Series 2009," in an aggregate principal amount not to exceed \$13,000,000 and the issuance of the Bonds is hereby authorized, with such final terms as shall be determined in the Sale Resolution.

(1) The Bonds shall be sold by a negotiated sale to the Underwriters pursuant to the Bond Purchase Agreement, the execution and delivery of which shall be approved in the Sale Resolution.

(2) The preparation of the Preliminary Official Statement and its use by the Underwriters in the marketing of the Bonds is hereby authorized.

(3) The Chairperson or Vice-Chair of the Governing Body is hereby authorized to execute and deliver the Official Statement to the Underwriters.

B. Details of Bonds. There is hereby authorized and created a series of bonds designated as the Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009.

(1) The Bonds shall be issued in an aggregate principal amount not to exceed \$13,000,000 for the Project. The form, terms, and provisions of the Bonds in the form set forth in Section 13 of this Bond Ordinance are hereby approved with only such changes therein as are not inconsistent with this Bond Ordinance and as shall be approved in the Sale Resolution.

(2) The Bonds shall be negotiable instruments but shall be issued only as fully registered bonds, in such numbers and denominations as may be requested by the Underwriter, but exchangeable for other fully registered Bonds of any denominations which are multiples of \$5,000.

(3) The Bonds shall be numbered separately and consecutively, shall be dated the date of their delivery to the Underwriter, shall mature on June 1 of each year and shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date, payable semi-annually on June 1 and December 1 in each year commencing on June 1, 2010 until their respective maturities.

(4) The Bonds shall bear the rates of interest and shall mature as provided in the Sale Resolution.

The net effective interest rate on the Bonds shall not exceed the statutory maximum of twelve percent (12%) per annum.

#### Section 6. Redemption.

A. Mandatory Sinking Fund Redemption. The Bonds shall be subject to mandatory sinking fund redemption as provided in the Sale Resolution.

B. Optional Redemption. The Bonds shall be subject to redemption at the option of the County at the times provided in the Sale Resolution. Notice and other redemption requirements shall be as provided Paragraph C and Paragraph D of this Bond Ordinance.

C. Notice. Notice of redemption shall be given by the Registrar by sending a copy of such notice by first-class, postage prepaid mail at least 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. The County shall give notice of optional redemption of the Bonds to the Registrar at least forty-five (45) days prior to the redemption date (unless such deadline is waived by the Registrar). The Registrar's failure to give such notice to the registered owner of any Bond, or any defect therein, shall not 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 Bond to be redeemed, the date fixed for redemption, and that on such redemption date there will become 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.

D. Conditional Redemption. If money or Defeasance Obligations (as defined in Section 31 of this Bond Ordinance) 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 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 the manner deemed reasonable and fair by the County and the Registrar shall give notice, in the manner in which the original notice or optional redemption was given, that such money was not received. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been optionally redeemed.

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

Section 8. Execution and Authentication of Bonds.

A. Execution. The Bonds shall be signed with the engraved, imprinted, stamped or otherwise reproduced facsimile of the signature, or the manual signature, of the Chairperson or, in the absence of the Chairperson, the Vice-Chairperson of the Governing Body and shall be attested with the facsimile or manual signature of the County Clerk or, in the absence of the Clerk, the Deputy Clerk. There shall be affixed to each Bond the printed, engraved, stamped or otherwise placed facsimile of, or imprint of, the County's corporate seal. The Bonds shall be authenticated by the manual signature of an authorized officer of the Registrar. The Bonds when authenticated and bearing the manual or facsimile signatures of the officers in office at the time of signing thereof shall be valid and binding special obligations of the County, notwithstanding that before delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices. The Chairperson or Vice-Chairperson of the Governing Body and County Clerk or Deputy Clerk, at the time of the execution of the Bonds and the signature certificate, each may adopt as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office if such facsimile signature appears upon any of the Bonds or certificates pertaining to the Bonds.

B. Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been fully executed if manually signed and inscribed 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 hereunder.

Section 9. Negotiability. The Bonds shall be fully negotiable and shall have all the qualities of negotiable paper, and the Bondholders shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code-Investment Securities. Except as set forth herein, the Bonds outstanding shall in all respects be equally and ratably secured, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds.

Section 10. Payment and Presentation of Bonds for Payment. Principal and interest on the Bonds shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. Principal shall be payable in immediately available funds at maturity or redemption thereof upon presentation and surrender of such Bond at the principal office of the Paying Agent or at the designated office of any successor Paying Agent. Upon any partial prior redemption of any Bond,



the registered owner, in its discretion, may request the Registrar to authenticate a new Bond or to make a notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. Interest on the Bonds shall be payable by check or draft mailed to the registered owner thereof (or in such other manner as may be agreed upon by the Paying Agent and the registered owner), as shown on the registration books maintained by the Registrar at the address appearing therein on the 15th day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or provided for shall cease to be payable to the owner thereof (or of one or more predecessor Bonds) as of the Record Date, but shall be payable to the owner thereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to Bond owners not less than ten days prior thereto. If any Bond presented for payment remains unpaid at maturity or redemption, it shall continue to bear interest at the rate or rates designated in, and applicable to, such Bond from time to time. If any Bond is not presented for payment at maturity or redemption when funds available therefor have been deposited with the Paying Agent, it shall cease bearing interest on and from the date of maturity or redemption.

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

A. Registration, Transfer and Exchange. The County shall cause books for registration, transfer, and exchange of the Bonds as provided herein to be kept at the principal office of the Registrar. Upon surrender for transfer or exchange of any fully registered Bond at the principal office of the Registrar duly endorsed by the registered owner or his attorney duly authorized in writing, or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and duly executed, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or registered owner, as appropriate, a new Bond or Bonds in authorized denominations, in fully registered form of the same aggregate principal amount, maturity and interest rate.

B. Limitations. The Registrar shall not be required to transfer or exchange any Bond (i) during the period of fifteen (15) days next preceding the mailing of notice calling any Bonds for redemption as herein provided, or (ii) after the mailing to registered owners of notice calling such Bonds or portion thereof for redemption as herein provided. The Registrar shall close books for change of registered owners' addresses on each Record Date; transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.

C. Owner of the Bonds. The person in whose name any Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either the principal of or interest on any such Bond shall be made only to

or upon the order of the registered owner thereof or his legal representative as stated herein, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

D. Lost Bonds. If any Bonds shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If any such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may request the Paying Agent to pay such bond in lieu of replacement.

E. Additional Bonds. Executed but unauthenticated Bonds are hereby authorized to be delivered to the Registrar in such quantities as may be convenient to be held in custody by the Registrar pending delivery as herein provided.

F. Charges. For each new Bond issued in connection with a transfer or exchange, the Registrar may make a charge to the owner of the Bond requesting such exchange or transfer sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

G. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the County shall reasonably determine that said Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the County may, upon notice mailed to the Insurer and 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 \$50,000,000. 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.

H. 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 Underwriters will, immediately after acceptance of delivery thereof, deposit, or cause to be deposited, the Bond certificates with the Depository, registered in the name of the Depository or its nominee. Principal, premium, if any, and interest will be paid to the Depository or its

nominee as the registered owner of the Bonds. The transfer of principal, premium, if any, and interest payments to Participants will be the responsibility of the Depository; the transfer of principal, premium, if any, and interest payments to the beneficial owners of the Bonds (the "Beneficial Owners") will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the "Indirect Participants"). The County will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.

If (i) the Bonds are not eligible for the services of the Depository, (ii) the Depository determines to discontinue providing its services with respect to the Bonds or (iii) the County determines that a continuation of the system of book-entry transfers through the Depository ceases to be beneficial to the County or the Beneficial Owners, the County will either identify another Depository or 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.

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

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

Section 12. Special Limited Obligations. All of the Bonds and all payments of principal, premium, if any, and interest thereon whether at maturity or on a redemption date, together with any interest accruing thereon, shall be special limited obligations of the County and shall be payable and collectible solely from the Pledged Revenues, which revenues are so pledged and are payable as set forth in Section 17 of this Bond Ordinance. The owner or owners of the Bonds may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor. The Bonds shall not constitute an indebtedness or a debt of the County within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or held to be general obligations of the County, and each of the Bonds shall recite that it is payable and collectible solely out of the Pledged Revenues, pledged as set forth in this Bond Ordinance, and that the holders thereof may not look to any general or other municipal fund for the payment of the principal of and interest on the Bonds. Nothing herein shall prevent the County from

applying other funds of the County legally available therefor to the payment of the Bonds, in its sole discretion.

Section 13. Form of Bonds. The forms, terms and provisions of the Bonds shall be substantially in the form set forth below, with such changes therein as are not inconsistent with this Bond Ordinance.

[Form of Bond follows]

UNITED STATES OF AMERICA  
STATE OF NEW MEXICO

SANTA FE COUNTY, NEW MEXICO  
CAPITAL OUTLAY GROSS RECEIPTS TAX REVENUE BONDS  
SERIES 2009

Bond No. \_\_\_\_\_ \$ \_\_\_\_\_

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATE OF BOND</u>	<u>CUSIP</u>
____% per annum	____, 20____	____, 2009	_____

Santa Fe County, New Mexico (the "County"), a county duly organized and existing under the Constitution and laws of the State of New Mexico, for value received, hereby promises to pay, solely from the special funds available for the purpose as hereinafter set forth, to THE DEPOSITORY TRUST COMPANY or registered assigns, on the Maturity Date upon presentation and surrender hereof at the principal office of the County Treasurer, Santa Fe County, New Mexico, as paying agent, or any successor paying agent (the "Paying Agent"), the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) and to pay from said sources interest on the unpaid principal amount at the Interest Rate on June 1, 2010, and on each December 1 and June 1 (each an "Interest Payment Date") thereafter to its maturity, or until redeemed if called for redemption prior to maturity. This bond will bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from its date. Interest on this bond is payable by check mailed to the registered owner hereof (or by such other arrangement as may be mutually agreed to by the Paying Agent and the registered owner) as shown on the registration books for this issue maintained by the County Treasurer, Santa Fe County, New Mexico, as registrar, or any successor registrar (the "Registrar") at the address appearing therein at the close of business on the fifteenth day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the owner hereof as of the Record Date but shall be payable to the owner hereof at the close of business on a special record date to be fixed by the Paying Agent for the payment of interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to owners of Bonds (defined below) as then shown on the Registrar's registration books not less than ten days prior to the special record date. If, upon presentation at maturity or redemption, payment of this bond is not made as herein provided, interest hereon shall continue at the Interest Rate until the principal hereof is paid in full. The principal, premium, if any, and interest on this bond are payable in lawful money of the United States of America, without deduction for the services of the Paying Agent or the Registrar.

This bond is one of a duly authorized series of fully registered bonds of the County in the aggregate principal amount of \$13,000,000 issued in denominations of \$5,000 or integral multiples thereof, designated as the Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 (the "Bonds") issued

under and pursuant to Ordinance No. 2009-\_\_ adopted on September 8, 2009 and Resolution No. 2009-\_\_ adopted on September 29, 2009 (together, the "Bond Ordinance").

The Bonds maturing on and after June 1, 20\_\_ are subject to prior redemption at the option of the County in one or more units of principal of \$5,000 on and after June 1, 20\_\_ 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), for the principal amount of each \$5,000 unit of principal so redeemed plus accrued interest to the redemption date. Redemption shall be made upon prior notice mailed to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

Notice of redemption of this bond will be given by providing at least thirty (30) days prior written notice by first-class postage prepaid mail to the owner hereof at the address shown on the registration books as of the fifth day prior to the mailing of notice as provided in the Bond Ordinance. Notices of redemption will specify the number or numbers and maturity date of the Bonds to be redeemed (if less than all are to be redeemed), the date fixed for redemption, the amount of such Bond to be redeemed (if less than the full amount of any Bond is to be redeemed), and shall further state 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 thereof plus accrued interest to the redemption date and that from and after such date, the redemption amount having been deposited and notice having been given, interest will cease to accrue. Upon any partial prior redemption of this bond, the registered owner, in its discretion, may request the Registrar to authenticate a new bond or to make an appropriate notation on this bond indicating the date and amount of prepayment, except in the case of final maturity, in which case this bond must be presented to the Paying Agent prior to payment.

Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer or exchange of a Bond at the principal office of the Registrar, duly endorsed or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or owner a new Bond or Bonds in fully registered form of the same aggregate principal amount, maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond of any tax or other similar governmental charge required to be paid with respect to such exchange or transfer. The Registrar shall not be required (i) to transfer or exchange any Bond during the period of fifteen days next preceding the mailing of notice calling any Bonds for redemption, or (ii) to transfer or exchange any Bond or part thereof called for redemption. The Registrar will close books for change of registered owners' addresses on each Record Date;

transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.

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 interest in the Bond 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. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar will, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.

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 held to be a general obligation of the County, and is payable and collectible solely out of Pledged Revenues, which are defined as the County-Only Water Project Allocation (i.e. 37.5%) of the revenues of the County Capital Outlay Gross Receipts Tax imposed pursuant to Section 7-20E-21 NMSA 1978, Ordinance No. 2002-5, imposed on persons engaging in business in the County, 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 County Capital Outlay Gross Receipts Tax remittances currently equal one-fourth of one percent (0.250%) of the taxable gross receipts reported for the persons engaging in business in the County for the month for which such remittances are made; provided that if an additional amount of such gross receipts tax revenues or other equivalent funds are hereafter provided to be remitted to the County in connection with the County Capital Outlay Gross Receipts Tax under applicable laws of the State, 37.5% of such additional amounts shall be included as revenues pledged pursuant to the Bond Ordinance. The lien of the Bonds on the Pledged Revenues is an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues. Upon satisfaction of the conditions set forth in the Bond Ordinance, additional bonds may be issued and made payable from the Pledged Revenues having a lien thereon either on a parity with, or subordinate and junior to, the lien on the Pledged Revenues of the Bonds, but additional bonds may not be issued with a lien thereon superior to the lien thereon of the Bonds. Amounts and securities held in the Debt Service Fund and the Reserve Fund, as such terms are defined in the Bond Ordinance, have been exclusively pledged for payment of the principal of, premium, if any, and interest on the Bonds.

The Bonds are issued to provide funds to defray the cost of the purchase of water rights for use in connection with County water projects, at an approximate cost of \$13,000,000, and to pay all costs incidental to the foregoing and the costs of the issuance of the Bonds. The Bonds are equally and ratably secured by the Pledged Revenues.

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

This Bond is subject to the condition, and every owner hereof by accepting the same agrees with the obligor and every subsequent owner hereof, that the principal of and interest on this bond shall be paid, and this bond is transferable, free from and without regard to any equities, set-offs or crossclaims between the obligor and the original or any other owner hereof.

It is hereby certified that all acts and conditions necessary to be done or performed by the County or to have happened precedent to and in the issuance of the Bonds to make them legal, valid and binding special obligations of the County have been performed and have happened as required by law, and that the Bonds do not exceed or violate any constitutional or statutory limitation of or pertaining to the County.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the Certificate of Authentication.



IN WITNESS WHEREOF, Santa Fe County, New Mexico has caused this bond to be signed and executed on the County's behalf with the facsimile or manual signature of the Chairperson of the Board of County Commissioners and the facsimile or manual signature of the County Clerk and has caused the corporate seal of the County or a facsimile thereof to be affixed hereon, all as of the Date of Bond.

SANTA FE COUNTY, NEW MEXICO

(SEAL)

By: \_\_\_\_\_  
Chairperson,  
Board of County Commissioners

ATTEST:

By: \_\_\_\_\_  
County Clerk

(Form of Registrar's Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

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

Date of Authentication: \_\_\_\_\_

Treasurer of Santa Fe County, New Mexico,  
as Registrar

By: \_\_\_\_\_  
Authorized Officer

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

(Form of Statement of Insurance)

[to be provided if applicable]

(End of Form of Statement of Insurance)

## (Form of Assignment)

For value received, \_\_\_\_\_ hereby sells, assigns and transfer 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.

Name and Address of Transferee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security or Tax Identification No. of Assignee: \_\_\_\_\_

Dated: \_\_\_\_\_

Signature Guarantee:

\_\_\_\_\_

NOTE: The assignor's signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

(End of Form of Assignment)

[End of Form of Bond]

Section 14. Period of Project's Usefulness. It is hereby determined and recited that the average reasonably expected useful life of the Project to be undertaken with the proceeds of the Bonds is not less than thirty (30) years from the date of initial delivery and issuance of the Bonds.

Section 15. Disposition of Proceeds; Completion of Project. Except as herein otherwise specifically provided, the proceeds derived from the sale of the Bonds, shall be used and paid solely for the valid costs of the Project.

A. Accrued Interest. All moneys received as accrued interest on the Bonds shall be deposited into the Debt Service Fund, to apply to the payment of interest next coming due on the Bonds.

B. Expenses. To the extent not paid by the Underwriter, an amount necessary, together with other legally available funds of the County, shall be used to pay Expenses.

C. Acquisition Fund. All remaining proceeds derived from the sale of the Bonds shall be deposited promptly upon the receipt thereof in the Acquisition Fund. The money in the Acquisition Fund shall be used and paid out solely for the purpose of the Project in compliance with applicable law.

D. Reserve Fund. Proceeds of the Bonds, other County moneys or a Reserve Fund Insurance Policy, in the amount of the Minimum Reserve, shall be deposited into the Reserve Fund on the date of issuance of the Bonds or thereafter, as provided in Section 17(E) of this Bond Ordinance.

E. Project Completion. As soon as practicable after completion of the Project, and in any event not more than sixty (60) days after completion of the Project, any balance remaining in the Acquisition Fund (other than any amount retained by the County for any Project costs not then due and payable) shall be transferred from the Acquisition Fund and deposited in the Debt Service Fund and used by the County to pay principal and interest on the Bonds as same become due.

F. Underwriters Not Responsible. The Underwriters of the Bonds shall in no manner be responsible for the application or disposal by the County or by its officers of the funds derived from the sale thereof or of any other funds herein designated.

Section 16. Funds and Accounts. The County hereby creates and continues the following special and separate funds:

A. Acquisition Fund. The "Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 Acquisition Fund" to be maintained by the County.

B. Income Fund. The "Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds (County-Only) Income Fund" to be maintained by the County.

C. Debt Service Fund. The "Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 Debt Service Fund" to be maintained by the County.

D. Reserve Fund. The "Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 Reserve Fund" to be maintained by the County.

Section 17. Deposit of Pledged Revenues and Flow of Funds.

A. Income Fund. So long as any of the Bonds are outstanding either as to principal or interest, or both, the County shall credit all Pledged Revenues to the Income Fund. The payments set forth in the succeeding subsections of this Section 17 shall be made from the Income Fund.

B. Debt Service Fund. As a first charge on the Income Fund, the following amounts shall be withdrawn from the Income Fund and shall be credited to the Debt Service Fund:

(1) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds, and monthly thereafter, commencing on each Interest Payment Date, one-sixth ( $1/6$ ) of the amount necessary to pay the next maturing installment of interest on the Bonds then outstanding.

(2) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of principal of the outstanding Bonds and monthly thereafter, commencing on each principal payment date, one-twelfth ( $1/12$ ) of the amount necessary to pay the next maturing installment of principal on the Bonds then outstanding.

C. Credit. In making the deposits required to be made into the Debt Service Fund, if there are any amounts then on deposit in the Debt Service Fund available for the purpose for which such deposit is to be made, the amount of the deposit to be made pursuant to paragraph B above shall be reduced by the amount available in such fund for such purpose.

D. Transfer of Money out of Debt Service Fund. Each payment of principal and interest becoming due on the Bonds shall be transferred from the Debt Service Fund to the Paying Agent on or before two Business Days prior to the due date of such payment.

E. Reserve Fund. No deposit shall be required in the Reserve Fund so long as the Pledged Revenues in each Fiscal Year equal or exceed 125% of the maximum annual principal and interest coming due in any subsequent Fiscal Year on all outstanding Parity Bonds. If the Pledged Revenues in any Fiscal Year are insufficient to meet the test set forth in the preceding sentence, the County shall acquire a Reserve Fund Insurance Policy in an amount equal to the Minimum Reserve or shall begin making substantially equal monthly deposits in the Reserve Fund from the first legally available Pledged Revenues so that after 24 months an amount equal to the Minimum Reserve will be held in the Reserve Fund. The prior written consent of the Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of cash deposit into the Debt Service Reserve Fund, if any. Notwithstanding anything to the contrary set forth in this Bond Ordinance, amounts on deposit in the Debt Service Reserve Fund shall be applied solely to the payment of debt service due on the Bonds. After funding the Reserve Fund in an amount equal to the Minimum Reserve, no additional payments need be made into the Reserve Fund so long as the moneys therein shall equal not less than the Minimum Reserve. The moneys in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in paragraph F of this Section, only to prevent deficiencies in the payment of the principal of and interest on the Bonds resulting from failure to deposit into the Debt Service Fund sufficient funds to pay the principal and interest as the same accrue.

F. Defraying Delinquencies in the Debt Service Fund and Reserve Fund. If, in any month, the County shall, for any reason, fail to pay into the Debt Service Fund the full amount above stipulated from the Pledged Revenues, then an amount shall be paid into the Debt Service Fund in such month from the Reserve Fund (if moneys are then on deposit in the Reserve Fund) equal to the difference between that paid from the Pledged Revenues and the full amount so stipulated. If the moneys paid into the Debt Service Fund from the Reserve Fund are not equal to the amount required to be paid into the Debt Service Fund for such month, then in the following month, an amount equal to the difference between the amount paid and the amount required shall be deposited into the Debt Service Fund, in addition to the normal payment required to be paid in such month, from the first Pledged Revenues thereafter received and not required to be otherwise applied. The money deposited in the Debt Service Fund from the Reserve Fund, if any, shall be replaced in the Reserve Fund from the first Pledged Revenues thereafter received not required to be otherwise applied. If, in any month, the County shall, for any reason, fail to pay into the Reserve Fund the full amount required, the difference between the amount paid and the amount so stipulated shall in a like manner be paid therein from the first Pledged Revenues thereafter received and not required to be otherwise applied. The moneys in the Reserve Fund shall be used solely and only for the purpose of paying any deficiencies in the payment of the principal of and the interest on the Bonds; provided, however, that any moneys at any time in excess of the Minimum Reserve in the Reserve Fund may be withdrawn therefrom and applied to any other lawful purpose. Cash accumulated in the Reserve Fund shall not be invested in a manner which could cause the Bonds to become arbitrage bonds within the meaning of the Code. Any investments held in the Reserve Fund shall be valued annually, on or about June 1, at their current fair market value and, if the amount then on deposit in the Reserve Fund exceeds the Minimum Reserve, all amounts in excess of the Minimum Reserve shall be

transferred to the Debt Service Fund and used to pay principal of and interest on the Bonds.

G. Payment of Parity Obligations. Concurrently with the payment of the Pledged Revenues required by paragraphs B, E and F of this Section, any amounts on deposit in the Income Fund shall be used by the County for the payment of principal of, interest on and debt service reserve fund deposits relating to Parity Bonds now outstanding and to additional Parity Bonds, if any, hereafter authorized to be issued and payable from the Pledged Revenues, as applicable, as the same accrue. If funds on deposit in the Income Fund are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the Bonds and any other outstanding Parity Bonds, then the available funds in the Income Fund will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Bonds, for the payment of principal of and interest on all series of outstanding Parity Bonds and, second, to the extent of remaining available funds in the Income Fund, on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Bonds, for the required debt service reserve fund deposits for all series of outstanding Parity Bonds.

H. Termination upon Deposits to Maturity. No payment shall be made into the Debt Service Fund or the Reserve Fund if the amounts (excluding any amount in the Reserve Fund represented by a Reserve Fund Insurance Policy) in such funds total a sum at least equal to the entire aggregate amount due as to principal, premium, if any, and interest, on the Bonds to their respective maturities or applicable redemption dates, in which case moneys in the Debt Service Fund and the Reserve Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same accrue, and any moneys in excess thereof in the Debt Service Fund and the Reserve Fund may be used as provided below.

I. Surplus Revenues. After making all the payments hereinabove required to be made by this Section and paying the Insurer all amounts due or to become due to the Insurer, the remaining Pledged Revenues, if any, may be applied to any other lawful purpose, as the County may from time to time determine.

Section 18. General Administration of Funds. The funds designated in Section 16 shall be administered and invested as follows:

A. Places and Times of Deposits. The funds shall be separately maintained as a trust fund or funds for the purposes established and shall be deposited in one or more bank accounts in an Insured Bank or Banks. Each fund or account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the designated purpose. Payments shall be made into the proper fund or account on the first day of the month except when the first day shall not be a Business Day, then payment shall be made on the next succeeding Business Day. No later than two Business Days prior to each Interest Payment Date, moneys sufficient to pay interest and principal then due on the Bonds



shall be transferred to the Paying Agent. Nothing in this Bond Ordinance shall prevent the County from establishing one or more bank accounts in an Insured Bank or Banks for all the funds required by this Bond Ordinance or shall prevent the combination of such funds and accounts with any other bank account or accounts or investments for other funds and accounts of the County.

B. Investment of Moneys. Moneys in the Reserve Fund shall be invested in accordance with paragraph C of this Section 18 and moneys in any other fund or account not immediately needed may be invested in any Qualified Investment. The obligations so purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund or account, and any loss resulting from such investment shall be charged to such fund or account. The County Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to satisfy any required payment or transfer from such fund.

C. Reserve Fund. Moneys, if any, in the Reserve Fund may be invested only in Qualified Investments with a maturity not greater than five years (except for investment agreements approved in writing by the Insurer. The County shall annually on or about June 1 of each year, commencing on the first June 1 succeeding funding of the Reserve Fund, value the Reserve Fund on the basis of the current fair market value of deposits and investments credited to the Reserve Fund. For purposes of determining the amount on deposit in the Reserve Fund, any Reserve Fund Insurance Policy held by, or the benefit of which is available to, the County as security for the Bonds shall be deemed to be a deposit in the face amount of the policy or the stated amount of the credit facility provided, except that, if the amount available under a Reserve Fund Insurance Policy has been reduced as a result of a payment having been made thereunder or as a result of the termination, cancellation or failure of such Reserve Fund Insurance Policy and not reinstated or another Reserve Fund Insurance Policy provided, then, in valuing the Reserve Fund, the value of such Reserve Fund Insurance Policy shall be reduced accordingly. If, upon any valuation, the value of the Reserve Fund exceeds the Minimum Reserve, the excess amount shall be withdrawn and deposited into the Debt Service Fund; if the value is less than the applicable requirement, the County shall replenish such amounts from the first Pledged Revenues thereafter received not required to be otherwise applied or other moneys legally available therefor.

At such time as the Bonds are paid in full or are deemed to be paid in full, the amount on deposit in the Reserve Fund may be used to pay the final installments of principal and interest on the Bonds and otherwise may be withdrawn and transferred to the County to be used for any lawful purpose, provided that, if such amounts are used for a purpose other than payment of the Bonds, there shall be delivered an opinion of nationally recognized bond counsel that the purpose for which such funds are to be used is a lawful purpose for which such proceeds may be used under the laws of the State and that such use shall not result in the inclusion of interest on any Bonds in gross income of the recipient thereof for federal income tax purposes.

If moneys have been withdrawn from the Reserve Fund or a payment has been made under a Reserve Fund Insurance Policy constituting all or a portion of the Reserve Fund, and deposited into the Debt Service Fund to prevent a default on the Bonds, then the County will pay, from Pledged Revenues or other moneys legally available therefor, the full amount so withdrawn, together with interest, if any, required under the terms of the Reserve Fund Insurance Policy, or so much as shall be required to restore the Reserve Fund to the Minimum Reserve and to pay such interest, if any. Such repayment shall be made as required by paragraph F of Section 17.

The County may in part, or in whole, replace amounts in the Reserve Fund with a Reserve Fund Insurance Policy if the County receives written consent of the Insurer prior to such replacement.

Section 19. Lien on Pledged Revenues. The Pledged Revenues and the amounts and securities on deposit in the Debt Service Fund and the Reserve Fund, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the County grants a security interest therein for, the payment of the principal of, premium, if any, and interest on the Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this Bond Ordinance. The Bonds constitute an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues on parity with any additional Parity Bonds, hereafter authorized to be issued and payable from the Pledged Revenues.

Section 20. Additional Bonds Payable from Pledged Revenues.

A. Parity Bonds Test. This Bond Ordinance shall not prevent the issuance of additional Parity Bonds payable from and constituting a lien upon the Pledged Revenues on parity with the lien of the Bonds. Before any additional Parity Bonds are actually issued, it must be determined that:

(1) The County is then current in the accumulation of all amounts which are required to have then been accumulated in the Debt Service Fund and the Reserve Fund (if any accumulation is then required in the Reserve Fund) as required by Section 17 of this Bond Ordinance; and

(2) The Pledged Revenues received by the County in the Fiscal Year immediately preceding the date of issuance of the proposed additional Parity Bonds shall have been sufficient to pay an amount representing at least 150% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on (a) the outstanding Bonds, (b) other outstanding Parity Bonds payable from and constituting a lien upon the Pledged Revenues, and (c) the Parity Bonds proposed to be issued.

B. Certification or Opinion Regarding Revenues. A written certificate or opinion by the County Treasurer or Finance Director or by an Independent Accountant that the Pledged Revenues are sufficient to pay the required amounts under the test in Paragraph A of this Section 20, shall conclusively determine the right of the County to issue additional Parity Bonds. The County Treasurer, Finance Director or

Independent Accountant may utilize the results of any annual audit to the extent it covers the applicable period.

C. Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the County from issuing bonds or other obligations payable from the Pledged Revenues pledged by this Bond Ordinance and having a lien on the Pledged Revenues subordinate to the lien of the Bonds.

D. Superior Obligations Prohibited. The County shall not issue any obligation having a lien on the Pledged Revenues pledged by this Bond Ordinance which is prior and superior to the Bonds.

E. Insurer Consent to Issuance of Additional Bonds under Certain Conditions. Notwithstanding satisfaction of the other conditions to the issuance of additional Parity Bonds set forth in this Bond Ordinance, no such issuance may occur (i) if an Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) exists unless such default shall be cured upon such issuance and (ii) unless the Debt Service Reserve Fund (if any) is fully funded at the Debt Service Reserve Requirement (including the proposed issue) upon the issuance of such additional Parity Bonds, in either case unless otherwise permitted by the Insurer.

Section 21. Refunding Bonds. The provisions of Section 20 of this Bond Ordinance are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time the County shall find it desirable to refund any outstanding obligations constituting a lien upon the Pledged Revenues, the Bonds or other obligations, or any part thereof, such obligations may be refunded, but only with the consent of the holders, unless the obligations shall then mature or be callable for redemption, or the plan of refunding calls for payment of the obligations at maturity or at a redemption date, regardless of whether the lien priority is changed by the refunding except that superior obligations are prohibited as provided in Paragraph D of Section 20 of this Bond Ordinance and except as provided in Paragraphs B and C of this Section.

B. Limitation upon Issuance of Parity Refunding Obligations. No refunding obligations shall be issued with a lien on the Pledged Revenues on a parity with the lien of the Bonds, unless:

(1) The lien on the Pledged Revenues of the outstanding obligations so refunded is on parity with the lien on the Pledged Revenues of the Bonds; or

(2) The refunding obligations are issued in compliance with Paragraph A of Section 20 of this Bond Ordinance.

C. Refunding Part of an Issue. The refunding bonds or other refunding obligations issued shall enjoy complete equality of lien with the portion of any bonds or other obligations of the same issue which is not refunded, if any; and the holder

or holders of such refunding bonds or other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the owner or owners of the same issue refunded thereby. If only a part of any issue or issues is refunded, then there may be no refunding without the consent of the holders of the unrefunded portion of such obligations, unless:

(1) The refunding obligations do not increase the aggregate principal and interest requirements for any Fiscal Year commencing prior to the last maturity date of such unrefunded obligations; or

(2) The lien of the refunding obligations is subordinate to the lien of any obligations not refunded; or

(3) The refunding bonds or other refunding obligations are issued in compliance with Paragraph A of Section 20 of this Bond Ordinance.

D. Limitation upon Issuance of Any Refunding Obligations. Any refunding obligations payable from Pledged Revenues shall be issued with such details as the Governing Body may provide, subject to the inclusion of any such rights and privileges designated in Paragraph C of this Section but without impairing any contractual obligation imposed by any proceedings authorizing any unrefunded portion of any issue or issues, including the Bonds.

Section 22. Equality of Parity Bonds. The Parity Bonds 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 or the date incurred, it being the intention of the Governing Body that, except as set forth herein, there shall be no priority among Parity Bonds regardless of whether they are actually issued and delivered or incurred at different times.

Section 23. Protective Covenants. The County hereby covenants and agrees with each and every holder of the Bonds issued hereunder:

A. Use of Bond Proceeds. The County will proceed without delay to apply the proceeds of the Bonds as set forth in Section 15 of this Bond Ordinance.

B. Payment of Bonds Herein Authorized. The County will promptly pay the principal of and the interest on every Bond at the place, on the date and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

C. County's Existence. The County will maintain its corporate identity and existence so long as any of the Bonds remain outstanding, unless another political subdivision by operation of law succeeds to the liabilities and rights of the County, without adversely affecting to any substantial degree the privileges and rights of any owner of the Bonds.

D. Extension of Interest Payments. In order to prevent any accumulation of claims for interest after maturity, the County will not directly or

indirectly extend or assent to the extension of time for the payment of any claim for interest on any of the Bonds, and the County will not directly or indirectly be a party to or approve any arrangements for any such extension. If the time for payment of any such interest shall be extended, such installment or installments of interest, after such extension or arrangement, shall not be entitled in case of default hereunder to the benefit or security hereof, except subject to the prior payment in full of the principal of all Bonds hereunder and then outstanding and of the matured interest on such Bonds, the payment of which has not been extended.

E. Records. So long as any of the Bonds remain outstanding, proper books of record and account will be kept by the County, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.

F. Audits and Budgets. The County will, within two hundred ten (210) days following the close of each Fiscal Year, cause an audit of its books and accounts relating to the Pledged Revenues to be commenced by an Independent Accountant showing the receipts and disbursements in connection with such revenues.

G. Other Liens. Other than as described and identified by this Bond Ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues.

H. Impairment of Contract. The County agrees that any law, ordinance or resolution of the County that in any manner affects the Pledged Revenues or the Bonds shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor or unless the required consents of the holders of the then outstanding Bonds are obtained pursuant to Section 30 of this Bond Ordinance.

I. Debt Service Fund and Reserve Fund. The Debt Service Fund and Reserve Fund shall be used solely and only, and those funds are hereby pledged, for the purposes set forth in this Bond Ordinance.

J. Surety Bonds. Each County official and employee being responsible for receiving Pledged Revenues shall be bonded at all times, which bond shall be conditioned upon the proper application of such funds.

K. Performing Duties. The County will faithfully and punctually perform all duties with respect to the Bonds required by the Constitution and laws of the State and ordinances and resolutions of the County relating to the Bonds.

L. Tax Covenants. The County covenants that it will restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. The Chairperson of the Governing Body and other officers of the County having responsibility for the issuance of the Bonds shall give an appropriate certificate of the

County, for inclusion in the transcript of 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 interest on the Bonds.

The County covenants that it (i) will take or cause to be taken such actions which may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and (ii) will not take or permit to be taken any actions which would adversely affect that exclusion, and that it or persons acting for it, will, among other acts of compliance, (a) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (b) restrict the yield on investment property acquired with those proceeds, (c) make timely rebate payments to the federal government, if required, (d) maintain books and records and make calculations and reports, and (e) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Chairperson of the Governing Body and other appropriate officers are hereby authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, if any, as may be required or appropriate to assure such exclusion of that interest.

In furtherance of the covenants set forth above, the County hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund (the "Rebate Fund"). Money and investments in the Rebate Fund shall not be used for the payment of the Bonds and amounts credited to the Rebate fund shall be free and clear under any pledge under this Bond Ordinance. Money in the Rebate Fund shall be invested in a manner provided in Section 18 for investment of money, and all amounts on deposit in the Rebate Fund shall be held by the County, or a designated trustee, in trust, to the extent required to pay rebatable arbitrage to the United States of America. The County shall unconditionally be entitled to accept and rely upon the recommendation, advice, calculation and opinion of an accounting firm or other person or firm with knowledge of or experience in advising with respect to the provisions of the Code relating to rebatable arbitrage. The County shall remit all rebate installments and the final rebate payment to the United States of America as required by the provisions of the Code. Any moneys remaining in the Rebate Fund after redemption and payment of all the Bonds and payment and satisfaction of any rebatable arbitrage shall be withdrawn and remitted, first to the Insurer to the extent of any amounts owed to the Insurer, and then to the County.

The Bonds are hereby designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code, as amended by the American Recovery and Reinvestment Act of 2009 ("ARRA"). Prior to ARRA, a qualified small issuer was defined as an issuer who did not reasonably anticipate the amount of its tax-exempt bonds (other than certain private activity bonds) would exceed \$10,000,000 in a calendar year. For 2009 and 2010, ARRA increased the \$10,000,000 threshold to \$30,000,000 for determining when a tax-exempt bond qualifies for the small issuer exception. The County has no "subordinate entities" with authority to issue tax-exempt obligations within the meaning of that Section of the Code. In that connection, the

Governing Body hereby covenants that the County in or during the calendar year in which the Bonds are issued, (i) will not designate as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code tax-exempt obligations, including the Bonds, in an aggregate principal amount in excess of \$30,000,000 and (ii) will not issue tax-exempt obligations within the meaning of Section 265(b)(4) of the Code, including the Bonds and any qualified 501(c)(3) bonds as defined in Section 145 of the Code (but excluding obligations, other than qualified 501(c)(3) bonds, that are private activity bonds as defined in Section 141 of the Code), in an aggregate principal amount exceeding \$30,000,000.

Section 24. Continuing Disclosure Undertaking. The officers of the County are authorized to sign such documents and to take such actions in the future with respect to the County's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Notwithstanding any other provisions of this Bond Ordinance, failure of the County to comply with the Continuing Disclosure Undertaking shall not be considered an Event of Default under Section 25 hereof, and holders and beneficial owners of Bonds shall be entitled to exercise only such rights with respect thereto as are provided in the Continuing Disclosure Undertaking.

Section 25. Events of Default. Each of the following events is hereby declared an Event of Default:

A. Nonpayment of Principal. Failure to pay the principal of any of the Bonds when the same becomes due and payable, either at maturity, or by proceedings for redemption, or otherwise.

B. Nonpayment of Interest. Failure to pay any installment of interest when the same becomes due and payable.

C. Effect of Payments made Under Insurance Policy. In determining whether a payment default has occurred as provided in Subsection A or Subsection B of this Section 25, or whether a payment on the Bonds has been made as provided in this Bond Ordinance, no effect shall be given to payments made under the Insurance Policy.

D. Incapable of Performing. The County shall for any reason be rendered incapable of fulfilling its obligations hereunder.

E. Default of any Provision. Default by the County in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in this Bond Ordinance on its part to be performed (other than a default set forth in subparagraphs A and B of this Section), and the continuance of such default for thirty (30) days after written notice specifying such default and requiring the same to be remedied has been given to the County by the holders of twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding. The Insurer shall be



deemed to be the sole holder of the Bonds insured by it for the purpose of the notification to be provided under this paragraph.

F. Bankruptcy. The County (i) files a petition or application seeking reorganization or arrangement of debt under Federal bankruptcy law, or other debtor relief under the laws of any jurisdiction, or (ii) is the subject of such petition or application which the County does not contest or is not dismissed or discharged within sixty (60) days.

Section 26. Remedies upon Default. Upon the happening and continuance of any of the events of default as provided in Section 25 of this Bond Ordinance, then and in every case, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the County, the Governing Body and its agents, officers and employees, but only in their official capacities, to protect and enforce the rights of any holder of Bonds under this Bond Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award relating to the execution of any power herein granted for the enforcement of any legal or equitable remedy as such holder or holders may deem most effectual to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of any Bondholder, or to require the Governing Body to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all holders of the Bonds then outstanding. The failure of any Bondholder to so proceed shall not relieve the County or any of its officers, agents or employees of any responsibility for failure to perform, in their official capacities, any duty. Each right or privilege of such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege.

Anything in this Bond Ordinance to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default as defined above in Section 25 of this Bond Ordinance, the Insurer, acting alone, shall have the right to direct all remedies in the Event of Default. The Insurer shall be recognized as the registered owner of the Bonds for purposes of exercising all rights and privileges available to the Bondholders under Sections 26 and 27 of this Bond Ordinance. The Insurer shall have the right to institute any suit, action, or proceeding at law or in equity under the same terms as the Bondholders in accordance with applicable provisions of this Bond Ordinance.

Section 27. Duties upon Default. Upon the happening of any of the events of default provided in Section 25 of this Bond Ordinance, the County, in addition, will do and perform all proper acts on behalf of and for the owners of the Bonds to protect and preserve the security created for the payment of the Bonds and to insure the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived from the Bonds, so long as any of the Bonds, either as to principal or



interest, are outstanding and unpaid, shall be applied as set forth in Section 17 of this Bond Ordinance. In the event the County fails or refuses to proceed as provided in this Section, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the owners of the Bonds as hereinabove provided.

Section 28. Bonds Not Presented When Due. If any Bonds shall not be duly presented for payment when due at maturity or on the redemption date thereof, and if moneys sufficient to pay such Bonds are on deposit with the Paying Agent for the benefit of the owners of such Bonds, all liability of the County to such owners for the payments of such Bonds shall be completely discharged, such Bonds shall not be deemed to be outstanding and it shall be the duty of the Paying Agent to segregate and to hold such moneys in trust, without liability for interest thereon, for the benefit of the owners of such Bonds as may be provided in any agreement hereafter entered into between the Paying Agent and an authorized officer of the County.

Section 29. Delegated Powers. The officers of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Bond Ordinance, including, without limiting the generality of the foregoing, the publication of the title and general summary of this Bond Ordinance set out in Section 38 (with such changes, additions and deletions as they may determine), the printing of the Bonds, the preparation, printing, execution and distribution of the Preliminary Official Statement and the final Official Statement, and the execution thereof, the Continuing Disclosure Undertaking and of such documents or certificates as may be required by the Underwriter, the Insurer or bond counsel. The use and distribution of the Preliminary Official Statement and the Official Statement in connection with the sale of the Bonds to the public is hereby authorized, approved and acknowledged.

Section 30. Amendment of Bond Ordinance. This Bond Ordinance, as supplemented by the Sale Resolution, may be amended without the consent of the holder of any Bond to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained herein. Prior to the date of the initial delivery of the Bonds to the Underwriter, the provisions of this Bond Ordinance may be amended with the written consent of the Underwriters and the Insurer with respect to any changes which are not inconsistent with the substantive provisions of this Bond Ordinance. In addition, this Bond Ordinance may be amended without receipt by the County of any additional consideration, but with the written consent of the holders of seventy-five percent (75%) of the Bonds then outstanding (not including Bonds which may be held for the account of the County); but no ordinance adopted without the written consent of the holders of all outstanding Bonds shall have the effect of permitting:

- A. An extension of the maturity of any Bond; or
- B. A reduction of the principal amount or interest rate of any Bond; or

C. The creation of a lien upon the Pledged Revenues ranking prior to the lien or pledge created by this Bond Ordinance; or

D. A reduction of the principal amount of Bonds required for consent to such amendatory ordinance; or

E. The establishment of priorities as between Bonds issued and outstanding under the provisions of this Bond Ordinance; or

F. The modification of or otherwise affecting the rights of the holders of less than all the outstanding Bonds.

Notwithstanding anything contained herein to the contrary, no amendment or supplement to this Bond Ordinance may become effective except upon obtaining the prior written consent of the Insurer. No contract shall be entered into or any action taken by which the rights of the Insurer or security for or sources of payment of the Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Insurer.

Section 31. Defeasance. When all principal, interest and prior redemption premium, if any, in connection with the Bonds hereby authorized have been duly paid, the pledge and lien for the payment of the Bonds shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this Bond Ordinance. Payment shall be deemed made with respect to any Bond or Bonds when the County has placed in escrow with a commercial bank exercising trust powers, an amount sufficient (including the known minimum yield from Defeasance Obligations, as defined below) to meet all requirements of principal, interest and prior redemption premium, if any, as the same become due to their final maturities or upon designated redemption dates. Any Defeasance Obligations shall become due when needed in accordance with a schedule agreed upon between the County and such bank at the time of the creation of the escrow. Defeasance Obligations within the meaning of this Section, unless otherwise approved by the Insurer, shall include only (i) cash, (ii) non-callable direct obligations of the United States of America ("Treasuries"), (iii) evidences of ownership of proportionate interest in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (iv) subject to the prior written consent of the Insurer, pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively, or (v) subject to the prior written consent of the Insurer, securities eligible for "AAA" defeasance under then existing criteria of S&P or any combination thereof, shall be used to effect defeasance of the Bonds unless the Insurer otherwise approves.

To accomplish defeasance, the County shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Insurer ("Accountant") verifying the

sufficiency of the escrow established to pay the Bonds in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Insurer), (iii) an opinion of nationally recognized bond counsel to the effect that the Bonds are no longer "Outstanding" under this Bond Ordinance and (iv) a certificate of discharge of the Paying Agent with respect to the Bonds. Each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Issuer, Paying Agent and Insurer. The Insurer shall be provided with final drafts of the above-referenced documentation not less than five (5) business days prior to the funding of the escrow.

Bonds shall be deemed Outstanding under this Bond Ordinance unless and until they are in fact paid and retired or the above criteria are met.

Amounts paid by the Insurer under the Insurance Policy shall not be deemed paid for purposes of this Bond Ordinance and the Bonds relating to such payments shall remain Outstanding and continue to be due and owing until paid by the Issuer in accordance with this Bond Ordinance. This Bond Ordinance shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.

Section 32. Ordinance Irrepealable. After any of the Bonds are issued, this Bond Ordinance shall be and remain irrepealable until the Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided, or there has been defeasance of the Bonds as herein provided. This Bond Ordinance shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full.

Section 33. Severability Clause. If any section, paragraph, clause or provision of this Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 34. Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 35. Provisions Relating to Insurer. If applicable, provisions relating to an Insurer and Insurance Policy shall be included in the Sale Resolution.

Section 37. Effective Date. Upon due adoption of this Bond Ordinance, it shall be recorded in the book of ordinances of the County kept for that purpose, authenticated by the signatures of the Chairperson of the Governing Body and County Clerk, and the title and general summary of the subject matter contained in this Bond Ordinance (set out in Section 38 below) shall be published in a newspaper which maintains an office and is of general circulation in the County and this Bond Ordinance shall be in full force and effect thereafter as provided by law.

Section 38. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

Santa Fe County, New Mexico  
Notice of Adoption of Bond Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in an Ordinance, duly adopted and approved by the Governing Body of Santa Fe County, New Mexico, on August 25, 2009, relating to the authorization and issuance of the Santa Fe County, New Mexico Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009 (the "Bonds"). Complete copies of this Bond Ordinance are available for public inspection during the normal and regular business hours of the County Clerk, Santa Fe County, New Mexico.

The title of this Ordinance is:

SANTA FE COUNTY, NEW MEXICO  
ORDINANCE

AUTHORIZING THE ISSUANCE OF THE SANTA FE COUNTY, NEW MEXICO CAPITAL OUTLAY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$13,000,000 FOR THE PURPOSE OF DEFRAYING THE COSTS OF PURCHASING WATER RIGHTS WITHIN THE COUNTY AND TO PAY COSTS OF ISSUANCE OF THE SERIES 2009 BONDS; PROVIDING FOR THE EXACT PRINCIPAL AMOUNTS, MATURITIES, PRICES, REDEMPTION FEATURES AND OTHER DETAILS OF THE SERIES 2009 BONDS TO BE DETERMINED IN A SUBSEQUENT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE SERIES 2009 BONDS FROM THE PORTION OF THE DISTRIBUTIONS TO THE COUNTY OF THE REVENUES OF THE ONE-FOURTH OF ONE PERCENT CAPITAL OUTLAY GROSS RECEIPTS TAX ENACTED PURSUANT TO SECTION 7-20E-21 NMSA 1978 FROM THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT PURSUANT TO SECTION 7-1-6.13 NMSA 1978 WHICH HAS BEEN ALLOCATED FOR WATER PROJECTS BENEFITING UNINCORPORATED AREAS OF THE COUNTY; PROVIDING FOR THE PLEDGE OF SUCH REVENUES BY THE COUNTY; PROVIDING FOR THE FORM, EXECUTION AND OTHER DETAILS CONCERNING THE BONDS; AUTHORIZING THE USE OF A PRELIMINARY OFFICIAL STATEMENT FOR THE MARKETING AND SALE OF THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION

WITH THE BONDS; AND REPEALING ALL ORDINANCES IN  
CONFLICT WITH THIS BOND ORDINANCE.

A general summary of the subject matter contained in this Bond  
Ordinance is set forth in its title.

This notice constitutes compliance with § 6-14-6 NMSA 1978.

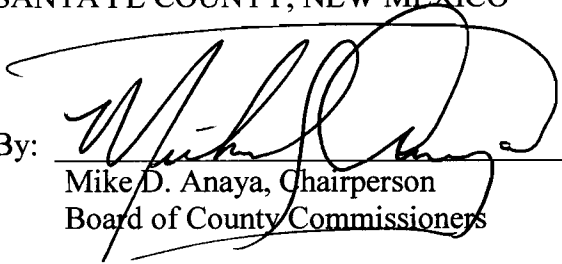
(End of Form of Summary for Publication)

PASSED, ADOPTED AND APPROVED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2009.

SANTA FE COUNTY, NEW MEXICO

[SEAL]

By:

  
Mike D. Anaya, Chairperson  
Board of County Commissioners



COUNTY OF SANTA FE           )  
STATE OF NEW MEXICO       ) ss

BCC ORDINANCE  
PAGES: 47

I Hereby Certify That This Instrument Was Filed for  
Record On The 10TH Day Of September, 2009 at 10:54:26 AM  
and Was Duly Recorded as Instrument # **1576718**  
Of The Records Of Santa Fe County

Deputy  Witness My Hand And Seal Of Office  
Valerie Espinoza  
County Clerk, Santa Fe, NM

After discussion, Commissioner \_\_\_\_\_ moved for approval, with Commissioner \_\_\_\_\_ seconding the motion. The Bond Ordinance was passed upon the following roll call vote:

Those voting aye:

---

---

---

---

---

Those voting nay:

---

---

---

Those absent:

---

---

---

Commissioner \_\_\_\_\_ thereupon declared that at least three-fourths of all the members of the Board having voted in favor of adoption of the Bond Ordinance, the motion was carried and the Bond Ordinance was duly passed and adopted.