

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

The Board of County Commissioners (the "Governing Body") of Sierra County, New Mexico (the "County"), met in regular session in full conformity with law and the rules and regulations of the Governing Body at the Sierra County Administration Building, located at 855 Van Patten, Truth or Consequences, New Mexico, being the meeting place of the Governing Body for the regular meeting held on October 16, 2018, beginning at 10:00 a.m. Upon roll call, the following Governing Body members were found to be present:

[JAMES PAXON]
[FRANCES LUNA]

Absent:

[KENNETH LYON]

Also Present:

[Bruce Swingle, Shelly Trujillo, David Pato, Serina Bartoo]

Thereupon, there was officially filed with the County Clerk, the County Manager and each member of the Governing Body, a copy of a proposed Ordinance in final form. [Chairman Lyon] thereupon introduced the following Ordinance:

SIERRA COUNTY, NM
SHELLY K TRUJILLO, COUNTY CLERK
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BY DEBBY

SIERRA COUNTY
BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 18-018

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AMONG THE SIERRA VISTA HOSPITAL GOVERNING BOARD (THE "GOVERNING BOARD"), THE SIERRA VISTA HOSPITAL JOINT POWERS COMMISSION (THE "JPC") (THE GOVERNING BOARD AND THE JPC COLLECTIVELY, THE "GOVERNMENTAL UNIT"), SIERRA COUNTY, NEW MEXICO (THE "COUNTY"), THE VILLAGE OF WILLIAMSBURG, NEW MEXICO ("WILLIAMSBURG"), THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO ("T OR C"), THE CITY OF ELEPHANT BUTTE, NEW MEXICO ("ELEPHANT BUTTE") (THE COUNTY, WILLIAMSBURG, T OR C AND ELEPHANT BUTTE COLLECTIVELY, THE "PARTICIPANTS") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"); APPROVING THE FORM OF THE LOAN AGREEMENT AMONG THE GOVERNMENTAL UNIT, THE PARTICIPANTS AND THE FINANCE AUTHORITY (THE "LOAN AGREEMENT") EVIDENCING THE SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY THE PRINCIPAL AMOUNT OF UP TO \$25,495,991, TOGETHER WITH INTEREST THEREON FOR THE PURPOSE OF DEFEASING AND REFUNDING THE MAY 24, 2016, LOAN FROM THE FINANCE AUTHORITY FOR THE PLANNING, DESIGN AND CONSTRUCTION OF THE SIERRA VISTA HOSPITAL FOR USE BY THE GOVERNMENTAL UNIT (THE "REFUNDED LOAN") AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT, A CAPITALIZED INTEREST ACCOUNT, THE GOVERNMENTAL UNIT PROGRAM ACCOUNT AND THE FINANCE AUTHORITY DEBT SERVICE ACCOUNT; APPROVING THE FORM OF INTERCEPT AGREEMENT AMONG THE GOVERNMENTAL UNIT, THE COUNTY AND THE FINANCE AUTHORITY; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET SYSTEM REVENUES OF THE GOVERNMENTAL UNIT AND THE DISTRIBUTIONS OF COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX AND COUNTY HOLD HARMLESS GROSS RECEIPTS TAX REVENUES RECEIVED BY THE COUNTY PURSUANT TO NMSA 1978, SECTION 7-20E-12.1 (2010) AND 7-20E-28 (2013) AND THE MUNICIPAL GROSS RECEIPTS TAX REVENUES RECEIVED BY WILLIAMSBURG, T OR C AND ELEPHANT BUTTE PURSUANT TO NMSA 1978, SECTION 7-19D-9 (2018) AND THE MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX REVENUES RECEIVED BY ELEPHANT BUTTE PURSUANT TO NMSA 1978, SECTION 7-19D-11 (2018), AND DISTRIBUTED BY THE NEW MEXICO DEPARTMENT OF TAXATION AND REVENUE PURSUANT TO NMSA 1978, SECTIONS 7-1-6.1 (2007), 7-1-6.4 (2006) AND 7-1-6.15 (2015); PROVIDING FOR THE DISTRIBUTIONS OF COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX, COUNTY HOLD HARMLESS GROSS RECEIPTS TAX, MUNICIPAL GROSS RECEIPTS TAX AND MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX REVENUES FROM THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO INTERCEPT AGREEMENTS WITH EACH PARTICIPANT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE

LOAN AGREEMENT AND INTERCEPT AGREEMENTS.

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

RECITALS:

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

WHEREAS, pursuant to NMSA 1978, Sections 4-51-1 to -10 (1992, as amended through 2017) (the "Act"), the County is authorized to issue gross receipts tax revenue bonds and loan agreements and to use the proceeds of such bonds and loan agreements to, among other things, acquire, equip, remodel or improve a county hospital or county health facility and to refinance, pay and discharge all or any part of any such outstanding bonds and loans; and

WHEREAS, the Governmental Unit is considering a loan from the New Mexico Finance Authority in the maximum principal amount of \$25,495,991 (the "Loan"), to refund and defease Loan Agreement No. 3416-PP, dated May 24, 2016, among the Finance Authority, the Governmental Unit, the County, Williamsburg, T or C and Elephant Butte, which financed the costs of planning, designing and constructing a new hospital on or near the site of the existing Sierra Vista Hospital for use by the Governmental Unit (the "Refunded Loan"); and

WHEREAS, repayment of the Loan will be secured, in part, by gross receipts tax revenues imposed by the Participants under a Joint Powers Agreement ("JPA") amending the existing JPA No. 97-059 adopted May 14, 1998, Revised July 15, 2009, May 23, 2016 and as further revised in connection with the Loan; and

WHEREAS, repayment of the Loan will be secured, in part, by the net system revenue ("Net Revenues") of the Governmental Unit and the Sierra Vista Hospital, a community-operated Critical Access Hospital located in the City of Truth or Consequences, New Mexico, which is overseen by the Governmental Unit; and

WHEREAS, in order to finalize the Loan, the New Mexico Finance Authority has required that the Participants pledge the revenues dedicated under the JPA, and that the Governmental Unit pledge its Net Revenues, to the repayment of the Loan for the refunding and defeasance of the Refunded Loan for the entirety of its term; and

WHEREAS, in order to finalize the Loan for the Project, the County desires to pledge the revenues from its 0.25% Hospital Emergency Gross Receipts Tax imposed pursuant to NMSA 1978, Section 7-20E-12.1 and Sierra County Ordinance Number 94-003, as amended by Sierra County Ordinances 96-001, 97-005 and 11-013 ("Hospital Emergency Gross Receipts Tax Revenues"), and upon the expiration or unavailability of such Hospital Emergency Gross Receipts Tax Revenues, subject to any extensions or amendments to the County Hospital Emergency Gross Receipts Tax authorized pursuant to NMSA 1978, Section 7-20E-12.1, to pledge two thirds (2/3) of its 0.375% County Hold Harmless Gross Receipts Tax ("Hold Harmless Gross Receipts Tax Revenues") imposed pursuant to NMSA 1978, Section 7-20E-28

and Sierra County Ordinance Number 14-009 for the term of the Loan; and

WHEREAS, in order to finalize the Loan for the Project, the New Mexico Finance Authority requires that the Participants each approve the loan agreement between and among the Governmental Unit, the Participants and the New Mexico Finance Authority (the "Loan Agreement") and individually approve an Intercept Agreement by which each Participant will authorize the New Mexico Taxation and Revenue Department to distribute the revenues that each Participant has pledged for the repayment of the Loan to the New Mexico Finance Authority or its assigns (the "Intercept Agreement" or "Intercept Agreements"); and

WHEREAS, the Participants have determined that the Project may be financed with amounts borrowed under the Loan Agreement and the County has determined that it is in the best interest of the County and its residents that the Loan Agreement and Intercept Agreement be executed and delivered and that the financing of the Project take place by executing and delivering the Loan Agreement and the Intercept Agreement; and

WHEREAS, the County wishes to pledge the Hospital Emergency Gross Receipts Tax Revenues and Hold Harmless Gross Receipts Tax Revenues, and the Governmental Unit and the other Participants have or are expected to pledge certain other revenues to the repayment of the Loan Agreement payments due under the Loan Agreement (the "Pledged Revenues"); and

WHEREAS, the Governing Body of the County has determined pursuant to the Act that it may lawfully pledge the County's portion of the Pledged Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than as described in the Term Sheet, the County's portion of the Pledged Revenues have not heretofore been pledged to secure the payment of any obligation, which is currently outstanding; and

WHEREAS, the Loan shall be a special limited obligation of the Governmental Unit, the County and the other Participants, payable solely from the Pledged Revenues, and shall not constitute a general obligation of the Governmental Unit, the County or the other Participants, or a debt or pledge of the full faith and credit of the Governmental Unit, the County or the other Participants, or the State; and

WHEREAS, the County desires to provide that distributions of its portion of the Pledged Revenues be redirected to the Finance Authority or its assigns pursuant to an Intercept Agreement among the Governmental Unit, the County and the Finance Authority for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than its portion of the Pledged Revenues, no tax revenues collected by the County shall be pledged to the Loan Agreement; and

WHEREAS, there has been presented to the Governing Body of the County and there presently are on file with the County Clerk, this Ordinance and the forms of the Loan Agreement and the Intercept Agreement, which are incorporated by reference and considered to be a part hereof; and

WHEREAS, the Governing Body of the County hereby determines that the Project to

be financed by the Loan is to be used for governmental purposes of the Governmental Unit, the Hospital and the Participants and will not be used for purposes which would cause the Loan Agreement to be deemed a "Private Activity Bond" as defined by the Code; and

WHEREAS, the Governing Body of the County intends by this Ordinance to authorize the execution and delivery of the Loan Agreement and Intercept Agreement in the amount and for the purposes set forth herein; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Pledged Revenues to the Finance Authority (or its assigns) for the payment of the amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Project, and (iii) the authorization, execution and delivery of the Loan Agreement and the Intercept Agreement which are required to have been obtained by the date of this Ordinance, have been obtained or are reasonably expected to be obtained.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners, the Governing Body of Sierra County, New Mexico (hereinafter, the "County"):

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

"Act" means the general laws of the State, NMSA 1978, Sections 3-31-1 to -12 (1965, as amended through 2018), 4-62-1 to -10 (1992, as amended through 2017), 7-19D-9, 7-19D-11, 7-20E-12.1, 7-20E-28, 11-1-1 to -7 (1961, as amended through 2009) and enactments of the Governing Body relating to the Loan Agreement and Intercept Agreement, including this Ordinance.

"Aggregate Annual Debt Service Requirement" means the total principal and interest payments due and payable pursuant to the Loan Agreement and on all parity obligations, if any, secured by a pledge of the Pledged Revenues for any one Fiscal Year.

"Authorized Officers" means the members of the Governing Body, the County Clerk or the Deputy County Clerk of Sierra County, New Mexico.

"Bonds" means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority and specifically related to the Loan Agreement and the Loan Agreement payments.

"Capitalized Interest Account" means an amount not to exceed the amount specified in Exhibit "A" of the Loan Agreement, which amount shall be used for the payment of the initial Interest Components (as defined in the Loan Agreement) of the Loan.

"Closing Date" means the date of execution, delivery and funding of the Loan Agreement.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

“Completion Date” means the date of final payment of the cost of the Hospital.

“County” means the County of Sierra, New Mexico.

“Distributing State Agency” or “TRD” means the department or agency of the State as described on the Term Sheet.

“Expenses” means the cost of execution of the Loan Agreement and the costs of issuance of Bonds, if any, and the periodic and regular fees and expenses incurred by the Finance Authority in administering the Loan Agreement, including legal fees.

“Finance Authority” means the New Mexico Finance Authority.

“Finance Authority Debt Service Account” means the debt service account in the name of the Governmental Unit and held by the Finance Authority to pay principal and interest on the Loan Agreement as the same become due.

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

“Governing Body” means the Board of County Commissioners of Sierra County, New Mexico, or any future successor governing body of Sierra County, New Mexico.

“Governmental Unit” means the Sierra Vista Hospital and the Sierra County Joint Powers Commission.

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

“Hold Harmless Gross Receipts Tax Revenues” means two thirds (2/3) of the revenues from the imposition of the County’s 0.375 County Hold Harmless Gross Receipts Tax imposed pursuant to NMSA 1978, Section 7-20E-28 and Sierra County Ordinance Number 14-009, upon the expiration or unavailability of the Hospital Emergency Gross Receipts Tax Revenues, subject to any extensions or amendments to the County Hospital Emergency Gross Receipts Tax authorized pursuant to NMSA 1978, Section 7-20E-12.1.

“Hospital” means the Governmental Unit’s hospital in Truth or Consequences, New Mexico, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the Governmental Unit through purchase, condemnation, construction or otherwise, including all expansions, extensions, enlargements and improvements of or to the hospital, and used in connection therewith or relating thereto, and any other related activity or enterprise of the Governmental Unit designated by the governing bodies of the Governmental Unit as part of the hospital, whether situated within or without the limits of the Governmental Unit, which hospital improvements are being financed by the Refunded Loan and will continue to be financed by a portion of the proceeds of the Loan.

“Hospital Emergency Gross Receipts Tax Revenues” means the revenues from the imposition of the County’s 0.25% Hospital Emergency Gross Receipts Tax imposed pursuant to NMSA 1978, Section 7-20E-12.1 and Sierra County Ordinance Number 94-003, as amended by Sierra County Ordinances 96-001, 97-005 and 11-013.

“Indenture” means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

“Intercept Agreement” means the Intercept Agreement dated the Closing Date, among the Governmental Unit, the County and the Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of its portion of the Pledged Revenues in amounts sufficient to pay Loan Agreement payments, and any amendments or supplements to the Intercept Agreement.

“Loan” means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement.

“Loan Agreement” means the Loan Agreement dated the Closing Date among the Finance Authority and the Governmental Unit, the County and the other Participants, which provides for the financing of the Project and requires payments by or on behalf of the Governmental Unit to the Finance Authority and/or the Trustee.

“Loan Agreement Principal Amount” means the original principal amount of the Loan Agreement as shown on Exhibit “A” to the Loan Agreement.

“Loan Agreement Reserve Account” means the loan agreement reserve account established in the name of the Governmental Unit, funded from the proceeds of the Loan Agreement and administered by the Trustee to the Indenture.

“Loan Agreement Reserve Requirement” means, with respect to the Loan, the amount shown as the Loan Agreement Reserve Account Deposit on Exhibit “A” to the Loan Agreement, which amount does not exceed the least of: (i) ten percent (10%) of the Loan Agreement Principal Amount; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest requirements under the Loan Agreement; or (iii) the maximum annual principal and interest requirements under the Loan Agreement.

“Ordinance” or “this Ordinance” means this ordinance approving the Loan Agreement and the Intercept Agreement and pledging the County’s portion of the Pledged Revenues to the payment of the Loan Agreement payments as shown on the Term Sheet.

“Pledged Revenues” means the Hospital Emergency Gross Receipts Tax Revenues, and the Hold Harmless Gross Receipts Tax Revenues, together with the revenues pledged to the repayment of the Loan Agreement payments by the Governmental Unit and the other Participants. The pledge of the Pledged Revenues to the repayment of the Loan Agreement payments stated herein shall not exceed [28] years from the Closing Date.

“Project” means the project described in the Term Sheet, which is Exhibit “A” to the Loan Agreement.

“Refunded Loan” means Loan Agreement No. 3416-PP, dated May 24, 2016, among the Finance Authority, the Governmental Unit, the County, Williamsburg, T or C and Elephant Butte, which financed the costs of planning, designing and constructing a new hospital on or near the site of the existing Sierra Vista Hospital for use by the Governmental Unit.

“State” means the State of New Mexico.

“Term Sheet” means Exhibit “A” to the Loan Agreement.

“Trustee” means BOKF, NA, Albuquerque, New Mexico, or any successor trustee company, national or state banking association or financial institution at the time appointed Trustee by the Finance Authority.

SECTION 2. RATIFICATION. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the County directed toward the completion of the Project and the execution and delivery of the Loan Agreement and the Intercept Agreement, be, and the same hereby are, ratified, approved and confirmed.

SECTION 3. AUTHORIZATION OF THE PROJECT, THE LOAN AGREEMENT AND THE INTERCEPT AGREEMENT. The completion of the Project and the method of financing the Project through execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Governmental Unit and the Participants.

SECTION 4. FINDINGS. The County 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 residents, the Governmental Unit and the other Participants and the issuance and delivery of the Loan Agreement is necessary or advisable.

B. Moneys available and on hand for the Project from all sources other than the Loan are not sufficient to defray the costs of completing the Project.

C. The County’s portion of the Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

D. It is economically feasible to defray, in whole or in part, the costs of the Project by the execution and delivery of the Loan Agreement.

E. The Project and the execution and delivery of the Loan Agreement and the Intercept Agreement pursuant to the Act to provide partial funding for the financing of the Project are necessary and in the interest of the public health, safety and welfare of the residents of and the public served by the County.

F. The Governmental Unit will complete the Project, in whole or in part,

with the net proceeds of the Loan.

G. Other than as described in the Term Sheet, the County does not have any outstanding obligations payable from its portion of the Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement and the Intercept Agreement.

H. The net effective interest rate on the Loan does not exceed twelve percent (12.0%) per annum, which is the maximum rate permitted by State law.

I. The County is current in the accumulation of all amounts which are required to have been accumulated in both the Finance Authority Debt Service Account and Loan Agreement Reserve Account for all parity obligations, if any, listed on the Term Sheet.

SECTION 5. LOAN AGREEMENT AND INTERCEPT AGREEMENT – AUTHORIZATION AND DETAIL.

A. AUTHORIZATION. This Ordinance has been adopted by the affirmative vote of at least two-thirds of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the County and completing the Project, it is hereby declared necessary that the County, pursuant to the Act, execute and deliver the Loan Agreement, evidencing a special, limited obligation of the Governmental Unit and the Participants, to pay a maximum principal amount of \$25,495,991, and the execution and delivery of the Loan Agreement is hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the completion of the Project; (ii) fund the Loan Agreement Reserve Account; (iii) fund the Capitalized Interest Account; and (iv) to make a deposit to the Finance Authority Debt Service Account. The Project will be owned by the Governmental Unit, subject to the terms of the JPA.

B. DETAIL. The Loan Agreement and Intercept Agreement shall be in substantially the forms of the Loan Agreement and Intercept Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an original maximum aggregate principal amount of up to \$25,495,991, shall be payable in installments of principal due on May 1 of the years designated in Exhibit "B" to the Loan Agreement and bear interest payable on May 1 and November 1 of each year, beginning on May 1, 2019 at the rates designated in Exhibit "B" to the Loan Agreement.

SECTION 6. APPROVAL OF LOAN AGREEMENT AND INTERCEPT AGREEMENT. The forms of the Loan Agreement and the Intercept Agreement, as presented at the meeting of the Governing Body at which this Ordinance was adopted are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement and the Intercept Agreement, with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the County Clerk is hereby authorized to affix the seal of the County on the Loan Agreement and the Intercept Agreement and attest the same. The execution of the Loan Agreement and the Intercept Agreement by an Authorized Officer shall be conclusive evidence of such approval.

SECTION 7. SPECIAL LIMITED OBLIGATION. The Loan Agreement shall be

secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues. The Loan Agreement, together with the other obligations of the County thereunder, shall be a special, limited obligation of the Governmental Unit and each of the Participants, payable solely from the Pledged Revenues as provided in this Ordinance, the Participant ordinances, and the Loan Agreement and shall not constitute a general obligation of the Governmental Unit, the Participants or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit or the Participants for payment of the obligations thereunder. Nothing contained in this Ordinance or in the Loan Agreement, or any other instruments, shall be construed as obligating the County (except with respect to the application of its portion of the Pledged Revenues), as incurring a pecuniary liability or a charge upon the general credit of the County or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power. Nothing herein shall prevent the County from applying other funds of the County legally available therefore to payments required by the Loan Agreement, in its sole and absolute discretion.

SECTION 8. DEPOSIT OF PLEDGED REVENUES, DISTRIBUTIONS OF THE PLEDGED REVENUES AND FLOW OF FUNDS.

A. DEPOSIT OF PLEDGED REVENUES. Pursuant to the terms of the Loan Agreement and the Intercept Agreement, the Hospital Emergency Gross Receipts Tax Revenues and Hold Harmless Gross Receipts Tax Revenues shall be paid directly by the Distributing State Agency to the Finance Authority for deposit in the Finance Authority Debt Service Account and remittance to the Trustee in an amount sufficient to pay principal, interest, premium, if any, and other amounts due under the Loan Agreement, including sufficient Pledged Revenues in the Loan Agreement Reserve Account to maintain the Loan Agreement Reserve Requirement.

B. TERMINATION ON DEPOSITS TO MATURITY. No payment shall be made into the Finance Authority Debt Service Account if the amounts in the Finance Authority Debt Service Account and Loan Agreement Reserve Account total a sum at least equal to the entire aggregate amount to become due as to principal, interest on, and any other amounts due under, the Loan Agreement in which case moneys in such account in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided below.

C. USE OF SURPLUS REVENUES. After making all the payments hereinabove required to be made by this Section and any payments required by outstanding parity obligations, if any, any moneys remaining in the Finance Authority Debt Service Account shall be transferred to the Governmental Unit, for use by the Hospital, on a timely basis and shall be applied to any other lawful purpose consistent with the JPA.

SECTION 9. LIEN ON PLEDGED REVENUES. Pursuant to the Loan Agreement and

the Intercept Agreement, the Hospital Emergency Gross Receipts Tax Revenues and Hold Harmless Gross Receipts Tax Revenues 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, interest, and any other amounts due under the Loan Agreement, subject to the uses hereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable and first lien, but not necessarily an exclusive first lien, on the County's Hospital Emergency Gross Receipts Tax Revenues and Hold Harmless Gross Receipts Tax Revenues as set forth herein and therein and the County shall not create a lien on the County's Hospital Emergency Gross Receipts Tax Revenues or Hold Harmless Gross Receipts Tax Revenues superior to that of the Loan Agreement.

SECTION 10. WITHDRAWAL FROM JPA. The County hereby acknowledges that the term of the JPA is at least until the Loan is paid at maturity or retired prior to its maturity, and that any withdrawal from the JPA by the County shall be made in compliance with the terms of the JPA. The County further acknowledges that any withdrawal from the JPA by the County or termination of the JPA by the County shall not affect the obligations, financial or otherwise, previously incurred by the County pursuant to the JPA.

SECTION 11. AUTHORIZED OFFICERS. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement, the Intercept Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance, the Loan Agreement and the Intercept Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance, the Loan Agreement and the Intercept Agreement, including but not limited to, the execution and delivery of closing documents, including but not limited to documents required by the Code, in connection with the execution and delivery of the Loan Agreement and the publication of the summary of this Ordinance set out in Section 17 of this Ordinance (with such changes, additions and deletions as may be necessary).

SECTION 12. AMENDMENT OF ORDINANCE. Prior to the date of the initial delivery of the Loan Agreement to the Finance Authority, the provisions of this Ordinance may be supplemented or amended by ordinance or by resolution of sale adopted by the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance or which reflect the marketing of the Bonds. This Ordinance may be amended without receipt by the County of additional consideration, but only with the prior written consent of the Finance Authority.

SECTION 13. ORDINANCE IRREPEALABLE. After the Loan Agreement and the Intercept Agreement have been executed and delivered, this Ordinance shall be and remain irrevocable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.

SECTION 14. SEVERABILITY CLAUSE. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect

any of the remaining provisions of this Ordinance.

SECTION 15. REPEALER CLAUSE. All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

SECTION 16. EFFECTIVE DATE. Upon due adoption of this Ordinance, it shall be recorded in the book of the County kept for that purpose, authenticated by the signatures of the members of the Governing Body and the County Clerk, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 17 below) shall be published in a newspaper which maintains an office and is of general circulation in the County, or posted in accordance with law, and said Ordinance shall be in full force and effect thereafter, in accordance with law.

SECTION 17. GENERAL SUMMARY FOR PUBLICATION. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 18-018 duly adopted and approved by the Governing Body of Sierra County, New Mexico, on October 16, 2018. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the County Clerk, 100 N. Date, Truth or Consequences, New Mexico.

The title of the Ordinance is:

**SIERRA COUNTY
BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 18-018**

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AMONG THE SIERRA VISTA HOSPITAL GOVERNING BOARD (THE "GOVERNING BOARD"), THE SIERRA VISTA HOSPITAL JOINT POWERS COMMISSION (THE "JPC") (THE GOVERNING BOARD AND THE JPC COLLECTIVELY, THE "GOVERNMENTAL UNIT"), SIERRA COUNTY, NEW MEXICO (THE "COUNTY"), THE VILLAGE OF WILLIAMSBURG, NEW MEXICO ("WILLIAMSBURG"), THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO ("T OR C"), THE CITY OF ELEPHANT BUTTE, NEW MEXICO ("ELEPHANT BUTTE") (THE COUNTY, WILLIAMSBURG, T OR C AND ELEPHANT BUTTE COLLECTIVELY, THE "PARTICIPANTS") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"); APPROVING THE FORM OF THE LOAN AGREEMENT AMONG THE GOVERNMENTAL UNIT, THE PARTICIPANTS AND THE FINANCE AUTHORITY (THE "LOAN AGREEMENT") EVIDENCING THE SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY THE PRINCIPAL AMOUNT OF UP TO \$25,495,991, TOGETHER WITH INTEREST THEREON FOR THE PURPOSE OF DEFEASING AND REFUNDING THE MAY 24, 2016, LOAN FROM THE FINANCE

AUTHORITY FOR THE PLANNING, DESIGN AND CONSTRUCTION OF THE SIERRA VISTA HOSPITAL FOR USE BY THE GOVERNMENTAL UNIT (THE "REFUNDED LOAN") AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT, A CAPITALIZED INTEREST ACCOUNT, THE GOVERNMENTAL UNIT PROGRAM ACCOUNT AND THE FINANCE AUTHORITY DEBT SERVICE ACCOUNT; APPROVING THE FORM OF INTERCEPT AGREEMENT AMONG THE GOVERNMENTAL UNIT, THE COUNTY AND THE FINANCE AUTHORITY; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET SYSTEM REVENUES OF THE GOVERNMENTAL UNIT AND THE DISTRIBUTIONS OF COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX AND COUNTY HOLD HARMLESS GROSS RECEIPTS TAX REVENUES RECEIVED BY THE COUNTY PURSUANT TO NMSA 1978, SECTION 7-20E-12.1 (2010) AND 7-20E-28 (2013) AND THE MUNICIPAL GROSS RECEIPTS TAX REVENUES RECEIVED BY WILLIAMSBURG, T OR C AND ELEPHANT BUTTE PURSUANT TO NMSA 1978, SECTION 7-19D-9 (2018) AND THE MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX REVENUES RECEIVED BY ELEPHANT BUTTE PURSUANT TO NMSA 1978, SECTION 7-19D-11 (2018), AND DISTRIBUTED BY THE NEW MEXICO DEPARTMENT OF TAXATION AND REVENUE PURSUANT TO NMSA 1978, SECTIONS 7-1-6.1 (2007), 7-1-6.4 (2006) AND 7-1-6.15 (2015); PROVIDING FOR THE DISTRIBUTIONS OF COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX, COUNTY HOLD HARMLESS GROSS RECEIPTS TAX, MUNICIPAL GROSS RECEIPTS TAX AND MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX REVENUES FROM THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO INTERCEPT AGREEMENTS WITH EACH PARTICIPANT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENTS.

A general summary of the subject matter of the Ordinance is contained in its title. This notice constitutes compliance with NMSA 1978, Sections 4-37-9 (1997) and 6-14-6 (1975).

(End of Form of Summary of Ordinance for Publication)

[Signature page follows]

APPROVED, ADOPTED, AND PASSED on this 16th day of October, 2018

BOARD OF COUNTY COMMISSIONERS

Absent
KENNETH C. LYON

[Signature]
FRANCES LUNA

[Signature]
JAMES PAXON

ATTEST:

[Signature]
SHELLY TRUJILLO, COUNTY CLERK

SIERRA COUNTY, NM
SHELLY K TRUJILLO, COUNTY CLERK
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BY DEBBY

Commissioner [NAME] then moved adoption of the foregoing ordinance, duly seconded by Commissioner [NAME].

The motion to adopt the ordinance upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye:

[JAMES PAXON]
[FRANCES LUNA]

Those Voting Nay:

[NONE]

Those Absent:

[KENNETH LYON]

[Two] Governing Body members having voted in favor of the motion, the [Vice-Chairman] declared said motion carried and the ordinance adopted, whereupon the members of the Board of County Commissioners and County Clerk signed the ordinance upon the records of the minutes of the County.

After consideration of the matters not relating to the ordinance, the meeting, on motion duly made, seconded and [unanimously] carried, was adjourned.

BOARD OF COUNTY COMMISSIONERS

Absent

KENNETH C. LYON

Frances Luna

FRANCES LUNA

James E. Paxson

JAMES PAXON

ATTEST BY
Shelly K. Trujillo
SHELLY K. TRUJILLO, COUNTY CLERK