

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

The Board of County Commissioners (the "Board") of Grant County (the "County"), in the State of New Mexico, met in open regular session in full conformity with law and the ordinances and rules of the County, in the Commission Meeting Room at the Grant County Administration Center, located at 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board, at 9:00 a.m. on Thursday, September 14, 2023, at which time there were present and answering the roll call the following members:

Chairman:

Chris M. Ponce

Commissioners:

Eloy H. Medina  
Alicia Edwards  
Harry Browne

Absent:

Gerald W. ("Billy") Billings, Jr.

Thereupon the following proceedings, among others, were had and taken, to wit:

There was officially filed with the County Clerk, the Chairman and each Commissioner, a copy of an ordinance in final form, which is as follows:

202303757 B: 285 P: 3757 Pgs: 63 Ordinance  
This instrument was recorded on 09/15/2023 08:38:10 AM  
Marisa Castrillo, County Clerk, Grant County NM  
Deputy - dsierra



**GRANT COUNTY, NEW MEXICO  
BOARD OF COUNTY COMMISSIONERS  
ORDINANCE NO. O-23-07**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GRANT COUNTY, NEW MEXICO GENERAL OBLIGATION BONDS, SERIES 2023, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,000,000 (THE "BONDS"), PAYABLE FROM AD VALOREM TAXES LEVIED ON ALL TAXABLE PROPERTY WITHIN THE COUNTY, LEVIED WITHOUT LIMIT AS TO RATE OR AMOUNT; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT, SUBJECT TO THE PARAMETERS ESTABLISHED HEREIN, INCLUDING, WITHOUT LIMITATION, THE DATES, MATURITIES, REDEMPTION PROVISIONS, INTEREST RATES, SALE PRICES, AND PAYMENT TERMS; PROVIDING FOR THE FORM, PARAMETERS, TERMS, AND CONDITIONS OF THE BONDS, THE MANNER OF THEIR EXECUTION, AND THE METHOD OF, AND SECURITY FOR, PAYMENT OF THE BONDS; AUTHORIZING THE SALE OF THE BONDS THROUGH A NEGOTIATED SALE; AUTHORIZING THE USE OF A PRELIMINARY OFFICIAL STATEMENT AND OFFICIAL STATEMENT WITH RESPECT TO THE BONDS AND THE EXECUTION OF A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE UNDERTAKING; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE AND REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR OTHER DETAILS CONCERNING THE BONDS.

**WHEREAS**, Grant County, New Mexico (the "County") is a legally and regularly created, established, organized and existing political subdivision of the State of New Mexico (the "State") created pursuant to NMSA 1978, Sections 4-9-1 to -2 (1867, as amended through 1917); and

**WHEREAS**, at a regular general election duly called and held in the County, on the 8<sup>th</sup> day of November, 2022 (the "Election"), the electors of the County authorized the Board of County Commissioners (the "Board") of the County to contract bonded indebtedness on behalf of the County and upon the credit thereof by issuing general obligation bonds of the County; and

**WHEREAS**, the purposes and categorization of the proposed general obligation bonds (the "Bonds") to be sold are as follows:

<b>Description</b>	<b>Initial Authorization</b>	<b>Proposed Sale Amount</b>
--------------------	----------------------------------	---------------------------------



---

1. Remodeling and making additions to necessary public buildings within the County, including, but not limited to, courthouses, jails, bridges, hospitals, public libraries, facilities for the holding of county fairs, cultural facilities, juvenile detention homes, athletic facilities, parking structures, administrative facilities, facilities for housing equipment, repairing equipment and servicing equipment and sewage facilities, and for water, sewer or sanitary landfill systems.	\$4,000,000	\$-0-
2. Constructing or repairing public roads and for construction and acquisition of water, sewer or sanitary landfill systems.	\$4,000,000	\$2,000,000
<b>Total Amounts:</b>	<b><u>\$8,000,000</u></b>	<b><u>\$2,000,000</u></b>

**WHEREAS**, the Board hereby determines that it is necessary and in the best interest of the County and the inhabitants thereof that the Bonds be issued at this time for the purposes and in the amounts set forth in the immediately preceding recital (each, a "Project" and collectively, the "Projects"), provided that a satisfactory price be obtained therefor upon a negotiated sale; and

**WHEREAS**, the Board has determined and does hereby determine that the Bonds shall be issued at this time under the authority of the New Mexico Constitution and applicable law as hereinafter set forth, and desires to fix the form and details of the Bonds and to provide for the levy of taxes for the payment of the principal of and interest on the Bonds; and

**WHEREAS**, pursuant to NMSA 1978, Section 6-14-10.2 (2017) of the Supplemental Public Securities Act, the Board is authorized to adopt an ordinance delegating to one or more of its members, officers, or employees the authority to sign a contract for the purchase or sale of public securities or to accept a binding bid for public securities and to determine the final terms for public securities to be issued so long as such final terms are within the parameters established by an authorizing ordinance adopted in conformity with the Supplemental Public Securities Act; and



**WHEREAS**, the County intends to market and sell the Bonds via negotiated sale and the entity or entities to whom the Bonds will be originally sold (the "Purchaser") (which may be a bank or an underwriter), the purchase price, and other details of the Bonds, will be established in the Final Terms Certificate (as defined in Section 13 below) pursuant to this ordinance (this "Bond Ordinance" or "Ordinance"); and

**WHEREAS**, in order to, among other things, allow the Board flexibility in setting the pricing date of the Bonds and to optimize debt service costs to the County, the Board desires to grant to the County Manager the authority to (a) determine any or all of the following terms of the Bonds: (i) the interest and principal dates; (ii) the principal amounts; (iii) the sale price; (iv) the interest rate; (v) the interest payment periods; (vi) the redemption and tender provisions; (vii) the procurement of municipal bond insurance and any related covenants or agreements; (viii) the creation of any capitalized interest or debt service reserve funds, including the size and funding of the funds; (ix) the amount of underwriting discount, if any; and (x) the final terms of agreements, if any, with one or more trustee, paying agent, registrar, dissemination agent or any other agent or service provider required for the purchase, sale, issuance, and delivery of the Bonds; and (b) to make any changes with respect thereto from those terms which were before the Board at the time of adoption of this Bond Ordinance, provided such terms do not exceed the parameters set forth for such terms in Sections 2, 3, and 13 of this Bond Ordinance (the "Parameters"), as further described herein; and

**WHEREAS**, there has been presented to the Board at this meeting a form of the preliminary official statement (the "Preliminary Official Statement") to be used in connection with the sale of the Bonds and the Board desires to authorize the distribution of the Preliminary Official Statement in substantially the form presented in connection with this Bond Ordinance and attached hereto as Exhibit A; and

**WHEREAS**, there has been presented to the Board at this meeting a form of Continuing Disclosure Undertaking providing for the disclosure by the Board of certain annual financial information with respect to the County and the County's borrowers, for the purpose of enabling the Purchaser to comply with Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934; and

**WHEREAS**, pursuant to NMSA 1978, Section 6-14-6 (1975), after the passage of thirty (30) days from the publication of the notice of adoption of this Bond Ordinance, as directed in Section 27 of this Bond Ordinance (the "Notice of Adoption"), any action attacking the validity of the proceedings had or taken by the Board preliminary to and in the authorization and issuance of the Bonds described in the Notice of Adoption is perpetually barred; and

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



**WHEREAS**, no action or suit has been commenced by any person or corporation contesting the validity of any of the proceedings directed toward the issuance and sale of the Bonds heretofore taken by the Board and the officers of the County; and

**WHEREAS**, there has been published in the *Silver City Daily Press and Independent*, a newspaper of general circulation in the County, public notice of the Commission's intention to adopt this Bond Ordinance, which notice contained the title and general summary of the subject matter of this Bond Ordinance and the date and time of the meeting of the Board at which this Bond Ordinance is proposed for final passage, which notice was published at least fourteen (14) days prior to final action upon this Bond Ordinance; and

**WHEREAS**, there has been on deposit with the County Clerk the proposed form of this Bond Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, OF THE COUNTY OF GRANT, NEW MEXICO:**

Section 1.     **RATIFICATION.** All action heretofore taken and not inconsistent with the provisions of this Bond Ordinance by the Board, the officers of the County and its employees or agents directed toward the Election, the issuance of the Bonds (including publication of the Notice of Meeting and Intent to Adopt Bond Ordinance in the *Silver City Daily Press and Independent* on August 30, 2023), or the sale of the Bonds to the Purchaser be, and the same hereby are, ratified, approved and confirmed.

Section 2.     **AUTHORIZATION; NOTICE OF BOND SALE.**

A.     **AUTHORIZATION.** This Bond Ordinance has been adopted by the affirmative vote of a majority of all members of the Board. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the citizens of the County, by financing the capital projects described herein, it is hereby declared necessary that the County, pursuant to the Public Securities Act, NMSA 1978, Sections 6-14-1 to -3 (1970, as amended through 1999), the Public Securities Limitation of Action Act, NMSA 1978, Sections 6-14-4 to -7 (1975), the Supplemental Public Securities Act, NMSA 1978, Sections 6-14-8 to -11 (1983, as amended through 2017), NMSA 1978, Sections 6-15-1 to -22 (1925, as amended through 2013) and the Election Code, NMSA 1978, Sections 1-1-1 to -28 (1969, as amended through 2019), and acts amendatory and supplemental thereto (collectively, the "Act"), issue its negotiable, fully registered, general obligation bonds to be designated "Grant County, New Mexico General Obligation Bonds, Series 2023," in an aggregate principal amount not to exceed \$2,000,000 (the "Bonds") and the issuance, sale and delivery of the Bonds is hereby authorized. The Bonds shall be sold pursuant to a negotiated sale to the Purchaser. The maximum net effective interest rate for the Bonds shall not exceed five percent (5.000%) per annum. Such maximum net effective interest rate is reasonable under existing and anticipated bond market conditions and is necessary and advisable for the marketing and sale of the Bonds. The underwriter's discount on the Bonds shall not exceed one percent (1.000%) of the aggregate principal amount of the Bonds.



Section 3. BOND DETAILS. The Board, on behalf of the County and upon the full faith and credit thereof, shall issue the Bonds in one series in the maximum aggregate principal amount of \$2,000,000. The form, terms and provisions of the Bonds, as set forth in Section 10 of this Bond Ordinance below, are hereby approved with only such changes therein as are consistent with this Bond Ordinance and the Final Terms Certificate (as defined in Section 13 below).

The Bonds shall be dated the date of issuance (the "Series Date"), and shall be issued in fully registered form only, without coupons, and when issued will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC") as registered owner of the Bonds. DTC will act as the securities depository of the Bonds. A single certificate will be issued and delivered to DTC for the total principal amount of each maturity of the Bonds. Individual purchases of the Bonds will be made in book-entry form only in the principal amount of \$5,000 or integral multiples thereof ("Authorized Denomination" or "Authorized Denominations"). The Purchaser of the Bonds will not receive certificates representing its interest in the bonds purchased. The Bonds shall bear interest from the Series Date to maturity at the rates per annum set forth in the Final Terms Certificate (defined in Section 13 below), but not to exceed ten percent (10%) per annum, as required by NMSA 1978, Section 6-14-3 (1981), payable to the registered owner thereof, or registered assigns, commencing on the date established in the Final Terms Certificate (defined in Section 13 below), and semi-annually thereafter on March 1 and September 1 in each year in which the Bonds are outstanding, (each, an "Interest Payment Date"); and shall mature on September 1 of each year as set forth in the Final Terms Certificate (defined in Section 13 below), provided, however, Bonds which are reissued upon transfer, exchange or other replacement shall bear interest from the most recent Interest Payment Date to which interest has been fully paid or provided for in full or, if no interest has been paid, from the Series Date.

The exact principal amount, Authorized Denominations, transfer restrictions, if any, and maturity schedule for the Bonds shall be established in the Final Terms Certificate (defined in Section 13 below), subject to the parameters and conditions contained in Section 13 of this Bond Ordinance.

The principal of each bond and interest due at maturity shall be payable to the registered owner thereof as shown on the registration books kept by BOKF, N.A., Albuquerque, New Mexico, as "registrar/paying agent" (or any successor thereto, the "Registrar/Paying Agent") for the Bonds, upon maturity and upon presentation and surrender thereof at the principal office of the Registrar/Paying Agent. The County may appoint a successor or successors to the Registrar/Paying Agent to perform some or all of the duties of registrar, paying agent and transfer agent, which shall be a financial institution having an unimpaired capital and surplus of not less than \$10,000,000. Payments to DTC made hereunder shall be made in accord with the DTC Representations Letter. If any bond shall not be paid upon such presentation and surrender at or after maturity, it shall continue to draw interest at the rate borne by said bond until the principal thereof is paid in full. Payment of interest on the Bonds (other than at maturity) shall be made by check or draft mailed (or in such other manner as may be agreed upon by the Registrar/Paying Agent and the registered owner) to the registered owner thereof as of the close of business on the Record Date (defined below) at its address as it appears on the registration



books kept by the Registrar/Paying Agent (or by such other arrangement as may be mutually agreed to by the Registrar/Paying Agent and such registered owner). All such payments shall be made in lawful money of the United States of America. The term "Record Date" as used herein with respect to any Interest Payment Date shall mean the fifteenth (15<sup>th</sup>) day of the month next preceding the Interest Payment Date. The person in whose name any bond is registered at the close of business on any Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable thereon on such Interest Payment Date notwithstanding any transfer or exchange thereof subsequent to such Record Date and prior to such Interest Payment Date; but interest on any bond which is not timely paid or duly provided for shall cease to be payable as provided above and shall be payable to the person in whose name such bond is registered at the close of business on a special record date (the "Special Record Date") fixed by the Registrar/Paying Agent for the payment of any such overdue interest. The Special Record Date shall be fixed by the Registrar/Paying Agent whenever moneys become available for payment of overdue interest, and notice of any such Special Record Date shall be given not less than ten (10) days prior thereto, by first-class mail, to the registered owners of the Bonds as of the fifth day preceding the mailing of such notice by the Registrar/Paying Agent, stating the Special Record Date and the date fixed for the payment of overdue interest.

#### Section 4. PRIOR REDEMPTION.

A. All or any portion of the Bonds may be subject to optional redemption, mandatory redemption and/or mandatory sinking fund redemption prior to their stated maturities at a redemption price and on the dates established therefor in the Final Terms Certificate (defined in Section 13 below).

B. Notice of any redemption, if authorized in the Final Terms Certificate (defined in Section 13 below), shall be given by the Registrar/Paying Agent by sending a copy of such notice by registered or certified first-class, postage prepaid mail at least thirty (30) days prior to the redemption date to the registered owners of the bonds to be redeemed, at the address shown as of the close of business of the Registrar/Paying Agent on the fifth day prior to the mailing of notice on the registration books kept by the Registrar/Paying Agent. The County shall give the Registrar/Paying Agent written instructions to give notice of redemption to the registered owners of the bonds to be redeemed at least forty-five (45) days prior to such redemption date. Neither the County's failure to give such notice nor the Registrar/Paying Agent's failure to give such notice to the registered owners of the Bonds, or any defect therein, shall affect the validity of the proceedings for the redemption of any bonds for which proper notice was given. Notice of redemption shall specify the amount being redeemed, the date fixed for redemption, and that on such redemption date there will become and be due and payable upon the bonds to be redeemed at the office of the Registrar/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 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 the bonds called for redemption shall on the redemption date be on deposit with the Registrar/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



Registrar/Paying Agent, the Registrar/Paying Agent will pay the bonds so called for redemption with funds deposited with the Registrar/Paying Agent by the County.

Section 5. EXECUTION OF THE BONDS. One bond for each stated maturity shall bear the manual or facsimile signatures of the Chair or Vice-Chair of the Board and shall be attested by the manual or facsimile signature of the County Clerk or a deputy County Clerk with the seal or facsimile seal of the County. The Bonds shall be authenticated by the manual signature of BOKF, N.A. as Registrar/Paying Agent. The Bonds bearing the signatures or the signing thereof shall be the valid and binding obligations of the County, notwithstanding that before the delivery of the Bonds and payment therefor, or before the issuance thereof upon transfer or exchange, any or all of the persons whose signatures appear on the Bonds shall have ceased to fill their respective offices. The Chair of the Board and the County Clerk, pursuant to the Uniform Facsimile Signature of Public Officials Act, NMSA 1978, Sections 6-9-1 to -6 (1959, as amended through 1983), may each file his/her manual signature, certified by him/her under oath, with the Secretary of State of New Mexico, provided that such filing shall not be necessary for any officer where any previous filing shall have application to the Bonds.

Section 6. PLEDGE OF FULL FAITH AND CREDIT. The Bonds represent a portion of the bonds approved at the regular general election duly called and held in the County on November 8, 2022. The Bonds shall constitute the general obligation of the County, payable from general *ad valorem* taxes which shall be levied without limitation as to the rate or amount. The full faith and credit of the County shall be, and hereby is, irrevocably pledged to the payment of the principal of and interest on the Bonds.

No bond shall be valid or obligatory for any purpose unless the certificate of authentication, substantially in the form hereinafter provided, has been duly executed by the Registrar/Paying Agent. The Registrar/Paying Agent's certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized officer of the Registrar/Paying Agent, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 7. REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP OF BONDS.

A. Registration, Transfer and Exchange. Books for the registration, transfer and exchange of the Bonds shall be kept by the Registrar/Paying Agent for the Bonds. Upon the surrender or transfer or exchange of any fully registered bond at the principal office of the Registrar/Paying Agent or any successor, duly endorsed for transfer or exchange or accompanied by an assignment duly executed by the registered owner or his/her attorney duly authorized in writing, the Registrar/Paying Agent 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 fully registered form of the same aggregate principal amount of Authorized Denominations, and of the same maturity, interest rate and series, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at the principal office of the Registrar/Paying Agent for an equal aggregate principal amount of bonds of other Authorized Denominations, and of the same maturity, series and



interest rate. The Registrar/Paying Agent shall authenticate and deliver, not more than three (3) business days after receipt of the bond to be exchanged, a bond or bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of bonds as herein provided shall be without charge to the owner or any transferee, but the Registrar/Paying Agent may require the payment by the owner of any bond requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

B. Limitations. The Registrar/Paying Agent shall not be required (i) to transfer or exchange the bond during the period of fifteen (15) days next preceding the mailing of notice calling any bonds for redemption as herein provided, or (ii) to transfer or exchange any bond or parts thereof called for redemption. The Registrar/Paying Agent 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. Owners of the Bonds. The person in whose name any bond shall be registered, on the registration books kept by the Registrar/Paying Agent, 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 as is provided in Section 3 hereof; 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/her legal representative, but such registration may be changed upon transfer of such bond in the manner and subject to the conditions and limitations provided herein. 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.

D. Lost Bonds. If any bond shall be lost, stolen, destroyed or mutilated, the Registrar/Paying Agent shall, upon receipt of the mutilated bond and such evidence, information or indemnity relating thereto as it may reasonably require and as may be required by law, authenticate and deliver a replacement bond or bonds of a like aggregate principal amount of Authorized Denominations, and of the same maturity, interest rate and series, 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/Paying Agent may pay such bond in lieu of replacement.

E. Additional Bonds. The officers of the County are authorized to deliver to the Registrar/Paying Agent fully executed but unauthenticated bonds in such quantities as may be convenient to be held in custody by the Registrar/Paying Agent pending use as herein provided.

F. Cancellation. Whenever any bond shall be surrendered to the Registrar/Paying Agent upon payment thereof, or to the Registrar/Paying Agent for transfer, exchange or replacement as provided herein, such bond shall be promptly canceled by the Registrar/Paying Agent, and counterparts of a certificate of such cancellations shall be furnished by the Registrar/Paying Agent to the County.



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

H. Book-Entry Bonds.

i. The registered bondholder of all of the Bonds shall be DTC and any substitute for or successor to such securities depository as the County may designate in writing (a "Securities Depository") and such Bonds shall be registered in the name of the nominee for the Securities Depository. The Bonds referred to in this subsection i shall refer to the Bonds registered in the name of the Securities Depository.

ii. The Bonds shall be initially issued in the form of separate, single, authenticated fully-registered bonds in the amount of each separately stated maturity of the Bonds. Upon initial issuance, the ownership of each such bond shall be registered in the registration books kept by the Registrar/Paying Agent in the name of the nominee of the Securities Depository. The Registrar/Paying Agent and the County may treat the Securities Depository (or its nominee) as the sole and exclusive registered owner of the Bonds registered in its name for the purposes of (a) payment of the principal or redemption price of or interest on the Bonds, (b) selecting the Bonds or portions thereof to be redeemed, and giving any notice permitted or required to be given to bondholders under this Ordinance, (c) registering the transfer of bonds, and (d) obtaining any consent or other action to be taken by bondholders and for all other purposes whatsoever and neither the Registrar/Paying Agent nor the County shall be affected by any notice to the contrary (except as provided in subsection (iii) below). Neither the Registrar/Paying Agent nor the County shall have any responsibility or obligation to any broker-dealers, banks and other financial institutions from time to time for which DTC holds bonds as Securities Depository (each, a "Participant"), any entity from time to time for whose account the Participant or Participants hold bonds (the "Beneficial Holders") or any other person claiming a beneficial ownership interest in the Bonds under or through the Securities Depository or any Participant, or any other person which is not shown on the registration books of the Registrar/Paying Agent as being a bondholder, with respect to the accuracy of any records maintained by the Securities Depository or any Participant, the payment to the Securities Depository of any amount in respect of the principal or redemption price of or interest on the Bonds; any notice which is permitted or required to be given to bondholders under this Bond Ordinance; the selection by the Securities Depository or any Participant of any person to receive payment in the event of a partial redemption of the Bonds; or any consent given or other action taken by the Securities Depository as bondholder. The Registrar/Paying Agent shall pay all principal and redemption price of and interest on the Bonds only to or "upon the order of" the Securities Depository (as that term is used in the Uniform Commercial Code as adopted in the State of New Mexico), all such payments shall be valid and effective to fully satisfy and discharge the County's obligations with respect to the principal, purchase price or redemption price of and interest on the Bonds to the extent of the sum or sums so paid. Except as provided in subsection iii below, no person other than the Securities Depository shall receive an authenticated bond for each separate stated maturity evidencing the obligation of the County to make payment of principal or redemption price and interest pursuant to this Ordinance. Upon



delivery by the Securities Depository to the Registrar/Paying Agent of written notice to the effect that the Securities Depository has determined to substitute a new nominee in place of the preceding nominee, the Bonds will be transferable to such new nominee in accordance with subsection vi below.

iii. In the event the County determines that it is in the best interest of the County not to continue the book-entry system of transfer or that the interest of the bondholders might be adversely affected if the book-entry system of transfer is continued, the County may notify the Securities Depository, whereupon the Securities Depository will notify the Participants of the availability through the Securities Depository of bond certificates. In such event, the Registrar/Paying Agent shall authenticate, transfer and exchange bond certificates as requested by the Securities Depository in appropriate amounts in accordance with subsection vi below. The Securities Depository may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the County and discharging its responsibilities with respect thereto under applicable law, or the County may determine that the Securities Depository is incapable of discharging its responsibilities and may so advise the Securities Depository. In either such event, the County shall either establish its own book-entry system or use reasonable efforts to locate another Securities Depository. Under such circumstances (if there is no successor Securities Depository) the County and the Registrar/Paying Agent shall be obligated to deliver bond certificates as described in this Bond Ordinance and in accordance with subsection vi below. In the event bond certificates are issued, the provisions of this Bond Ordinance shall apply to such bond certificates in all respects, including, among other things, the transfer and exchange of such certificates and the method of payment of principal or redemption price of and interest on such certificates. Whenever the Securities Depository requests the County and the Registrar/Paying Agent to do so, the Registrar/Paying Agent and the County will cooperate with the Securities Depository in taking appropriate action after reasonable notice (a) to make available one or more separate certificates evidencing the Bonds to any Participant having bonds credited to its account with the Securities Depository or (b) to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

iv. Notwithstanding any other provision of this Bond Ordinance to the contrary, so long as any bond is registered in the name of the nominee of the Securities Depository, all payment with respect to the principal or redemption price of and interest on such bond and all notices with respect to such bond shall be made and given respectively, to the Securities Depository as provided in its representation letter.

v. In connection with any notice or other communication to be provided to bondholders pursuant to this Bond Ordinance by the County or the Registrar/Paying Agent with respect to any consent or other action to be taken by bondholders, the County or the Registrar/Paying Agent, as the case may be, shall establish a record date for such consent or other action and give the Securities Depository notice of such record date for such consent or other action and give the Securities Depository notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible. Such notice to the Securities Depository shall be given only when the Securities Depository is the sole bondholder.



vi. In the event that any transfer or exchange of bonds is permitted under subsection (ii) and (iii) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar/Paying Agent from the registered owner thereof of the Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee, all in accordance with the applicable provisions of this Bond Ordinance. In the event bond certificates are issued to owners other than the nominee of the Securities Depository, or another securities depository as holder of all the Bonds, the provisions of this Bond Ordinance shall also apply to, among other things, the printing of such certificates and the methods of payment of principal or redemption price of and interest on such certificates.

vii. Notwithstanding any provision of this Bond Ordinance to the contrary, in connection with any redemption of bonds while the DTC is the sole bondholder, the County shall give notice of such redemption to the Registrar/Paying Agent at least forty-five (45) days prior to the date fixed for redemption and the Registrar/Paying Agent shall give notice of redemption to DTC as holder of such bonds at least thirty (30) days and not more than sixty (60) days prior to the date fixed for redemption.

Section 8. REGISTRAR/PAYING AGENT. As previously stated, BOKF, N.A., Albuquerque, New Mexico shall serve as the initial registrar/paying agent. The County may, upon notice mailed to each registered owner of bonds at the address last shown on the registration books, appoint a successor registrar/paying agent (including the County Treasurer). Every such successor registrar/paying agent, unless it is the County Treasurer) 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, of not less than \$10,000,000.

Section 9. NEGOTIABILITY. Subject to the registration provisions hereof, the Bonds hereby authorized shall be fully negotiable and shall have all the qualities of negotiable paper, and the registered owner or owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code.

Section 10. FORM OF BONDS. The form, terms and provisions of the Bonds shall be substantially as set forth below, with such changes therein as are consistent with this Bond Ordinance and the Final Terms Certificate (defined in Section 13 below).

#### **[FORM OF BOND]**

**UNITED STATES OF AMERICA**

**STATE OF NEW MEXICO**

AS PROVIDED IN THE BOND ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF REGISTERED OWNERSHIP OF ALL OF THE BONDS THROUGH THE DEPOSITORY TRUST COMPANY (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISION OF THE BOND ORDINANCE TO THE CONTRARY, THE PRINCIPAL AMOUNT OUTSTANDING UNDER THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE REGISTRAR/PAYING AGENT. DTC OR A



TRANSFeree OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND TO BE PAID. THE PRINCIPAL AMOUNT OUTSTANDING AND TO BE PAID ON THIS BOND SHALL FOR ALL PURPOSES BE THE AMOUNT INDICATED ON THE BOOKS OF THE REGISTRAR/PAYING AGENT.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC TO THE REGISTRAR/PAYING AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC AND ANY PAYMENT IS MADE TO CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSONS IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED NO. R-\_\_\_\_\_ \$ \_\_\_\_\_

**GRANT COUNTY, NEW MEXICO  
GENERAL OBLIGATION BOND  
SERIES 2023**

<b>Interest Rate:</b>	<b>Maturity Date:</b>	<b>Series Date:</b>	<b>CUSIP:</b>
_____ % per annum	_____	_____, 2023	_____

**Registered Owner:** Cede & Co.

**Principal Amount:** \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

The Board of County Commissioners of Grant County, New Mexico (the "Board"), on the faith, credit and behalf of Grant County, New Mexico (the "County"), for value received, hereby promises to pay to the registered owner named above, or registered assignees, the principal amount stated above on the Maturity Date stated above and to pay interest on the principal amount at the Interest Rate on September 1, 2024 and thereafter on March 1 and September 1 of each year (the "Interest Payment Date") from the Series Date stated above to its maturity. The principal of the bonds of the series of which this is one (the "Bonds") and interest due at maturity shall be payable to the registered owner thereof as shown on the registration books kept by BOKF, N.A., Albuquerque, New Mexico, as "registrar/paying agent" (and any successor thereto, the "Registrar/Paying Agent") for the Bonds, upon maturity and upon presentation and surrender thereof at the principal office of the Registrar/Paying Agent. If any bond shall not be paid upon such presentation and surrender at or after maturity, it shall continue to draw interest at the rate borne by said bond until the principal thereof is paid in full. Payment of interest on the Bonds (other than at maturity) shall be made by check or draft mailed (or in such other manner as may be agreed upon by the Registrar/Paying Agent and the registered owner) by the Registrar/Paying Agent, on or before each Interest Payment Date to the registered owner thereof as of the close of business on the Record Date (defined below) at its address as it



appears on the registration books kept by the Registrar/Paying Agent. All such payments shall be made in lawful money of the United States of America. The term "Record Date" as used herein with respect to any Interest Payment Date shall mean the fifteenth (15<sup>th</sup>) day of the month next preceding the Interest Payment Date. The person in whose name any bond is registered at the close of business on any Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable thereon on such Interest Payment Date notwithstanding any transfer or exchange thereof subsequent to such Record Date and prior to such Interest Payment Date; but interest on any bond which is not timely paid or duly provided for shall cease to be payable as provided above and shall be payable to the person in whose name such bond is registered at the close of business on a special record date (the "Special Record Date") fixed by the Registrar/Paying Agent for the payment of any such overdue interest. The Special Record Date shall be fixed by the Registrar/Paying Agent whenever moneys become available for payment of overdue interest, and notice of any such Special Record Date shall be given not less than ten (10) days prior thereto, by first-class mail, to the registered owners of the Bonds as of the fifth (5<sup>th</sup>) day preceding the mailing of such notice by the Registrar/Paying Agent, stating the Special Record Date and the date fixed for the payment of overdue interest.

The Bonds are fully registered and are issuable in denominations of \$5,000 and any integral multiple thereof (provided that no individual bond may be issued for more than one maturity).

The Bonds, of which this bond is one, are limited to the total principal amount of \$[AGGREGATE PRINCIPAL AMOUNT OF BONDS] are of like tenor, except as to number, denomination, maturity date, and interest rate, and are issued by the County of Grant, New Mexico, to provide for (i) remodeling and making additions to necessary public buildings within the County, including, but not limited to, courthouses, jails, bridges, hospitals, public libraries, facilities for the holding of county fairs, cultural facilities, juvenile detention homes, athletic facilities, parking structures, administrative facilities, facilities for housing equipment, repairing equipment and servicing equipment and sewage facilities, and for water, sewer or sanitary landfill systems and, (ii) constructing or repairing public roads and for construction and acquisition of water, sewer or sanitary landfill systems and to reimburse the County for expenditures, if any, made by the County for the foregoing purposes. The Bonds are issued under the authority of and in full conformity with the Constitution and laws of the State of New Mexico (particularly, the Public Securities Act, NMSA 1978, Sections 6-14-1 to -3 (1970, as amended through 1999), the Public Securities Limitation of Action Act, NMSA 1978, Sections 6-14-4 to -7 (1975), the Supplemental Public Securities Act, NMSA 1978, Sections 6-14-8 to -11 (1983, as amended through 2017), NMSA 1978, Sections 6-15-1 to -22 (1925, as amended through 2013) and the Election Code, NMSA 1978, Sections 1-1-1 to -28 (1969, as amended through 2019), and acts amendatory and supplemental thereto), and pursuant to Ordinance No. O-23-07, duly adopted by the Board on September 14, 2023, and made a law of the County prior to the issuance of this bond (the "Bond Ordinance").

The Registrar/Paying Agent will maintain the books of the County for the registration of ownership of the Bonds. Upon the surrender for transfer of any bond at the principal office of the Registrar/Paying Agent, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his/her attorney duly authorized in writing, the



Registrar/Paying Agent shall authenticate and deliver not more than three (3) business days after receipt of the bond to be transferred in the name of the transferee or transferees a new bond or bonds in fully registered form of the same aggregate principal amount of authorized denominations, and of the same maturity, interest rate and series, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at the principal office of the Registrar/Paying Agent for an equal aggregate principal amount of Bonds of other authorized denominations, and of the same maturity, series and interest rate. The Registrar/Paying Agent shall authenticate and deliver, not more than three (3) business days after receipt of the bond to be exchanged, a bond or bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of bonds as herein provided shall be without charge to the owner or any transferee, but the Registrar/Paying Agent may require the payment by the owner of any bond requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer. The Registrar/Paying Agent shall not be required (i) to transfer or exchange any bond during the period of fifteen (15) days next preceding the mailing of notice calling any bond for redemption, or (ii) to transfer or exchange any bond or parts thereof called for redemption. The Registrar/Paying Agent 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 shall be registered on the registration books kept by the Registrar/Paying Agent, shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes; 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/her legal representative, in the manner and subject to the conditions and limitations provided herein. 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/Paying Agent shall, upon receipt of the mutilated bond and such evidence, information or indemnity relating thereto as it may reasonably require and as may be required by law, authenticate and deliver a replacement bond or bonds of a like aggregate principal amount of authorized denominations, and of the same maturity, interest rate and series, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated bond shall have matured, the Registrar/Paying Agent may pay such bond in lieu of replacement.

[INSERT REDEMPTION PROVISIONS, IF ANY, HERE AS DETERMINED  
PURSUANT TO THE FINAL TERMS CERTIFICATE]

For the punctual payment of the principal of and interest on this bond as aforesaid and for the levy and collection of taxes in accordance with the statutes authorizing the issuance of this bond, the full faith and credit of the County is hereby irrevocably pledged. The Board has, by the Bond Ordinance, ordered the creation of an Interest and Sinking Fund for the payment of the Bonds. Such fund is to be held in trust for the benefit of the owner or owners of the Bonds.

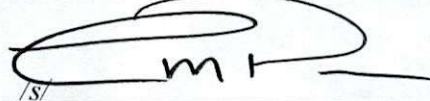


It is hereby certified, recited and warranted that all the requirements of law have been complied with by the proper officials of the County in the issuance of this bond; that the total indebtedness of the County, including that of this bond, does not exceed any limit of indebtedness prescribed by the Constitution or laws of the State of New Mexico; that the issuance of this bond represents the bonds authorized at the regular general election duly called and held in Grant County, State of New Mexico (the "County") on the 8<sup>th</sup> day of November, 2022; that provision has been made for the levy and collection of annual taxes sufficient to pay the principal of and interest on this bond when the same become due.

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

**IN TESTIMONY WHEREOF**, the Board of County Commissioners of Grant County, New Mexico, constituting the governing board of the County, has caused the manual or facsimile of the seal of the County to be hereto affixed and this bond to be signed and executed with the manual or facsimile signature of the Chair or Vice-Chair of the Board and subscribed and attested with the manual or facsimile signature of the Clerk or Deputy Clerk of the County all as of the Series Date.

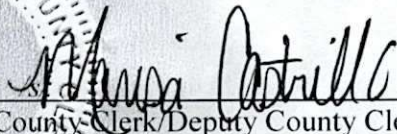
**GRANT COUNTY, NEW MEXICO  
BOARD OF COUNTY COMMISSIONERS**



/s/ \_\_\_\_\_  
[Chair/Vice-Chair]

[SEAL]

Attest:



\_\_\_\_\_  
[County Clerk/Deputy County Clerk]

**[FORM OF CERTIFICATE OF AUTHENTICATION]**

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

Date of Authentication and  
Registration: \_\_\_\_\_, 2023

**BOKF, N.A.**  
as Registrar/Paying Agent

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



**[END OF FORM OF CERTIFICATE OF AUTHENTICATION]**

**[FORM OF ASSIGNMENT]**

**FOR VALUE RECEIVED** the undersigned hereby sells, assigns and transfers unto

---

(Please print or typewrite Name and Address,  
Including Zip Code, of Assignee)

---

(Social Security or Federal Taxpayer Identification Number)

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints the Registrar/Paying Agent under the Bond Ordinance as attorney to register the transfer of the within bond on the books kept for registration thereof, with full power of substitution in the premises.

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

**NOTICE:** The signature of the registered owner to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

Signature guaranteed by:

**NOTICE:** Signature guarantee should be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the [Trustee].

**[END OF FORM OF ASSIGNMENT]**

**[END OF FORM OF BOND]**

Section 11. DELIVERY OF THE BONDS. When the Bonds have been duly executed and authenticated, such Bonds shall be delivered to the lawful purchaser thereof named in the Final Terms Certificate (defined in Section 13 below). The funds realized from the sale of the Bonds shall be applied solely to the specified purposes (provided that any accrued interest shall be used to pay interest on the Bonds if any accrued interest was received). Any interest earned on investment of bond proceeds shall be allocated as directed by the County Manager. The purchaser of any bonds shall in no manner be responsible for the application of or disposal by the



County, or any of its officers, employees or agents, of any of the funds derived from the sale thereof. The County may establish construction trust accounts in financial institutions for administration of bond proceeds.

Section 12. TAX LEVY, INTEREST AND SINKING FUND. There shall be levied on all taxable property in the County at the time and in the manner provided by law, in addition to all other taxes, direct annual *ad valorem* taxes sufficient to pay the principal of an interest accruing on the Bonds promptly as the same shall become due. This Bond Ordinance is hereby declared to be the certificate of the Board as to the amount of taxes necessary to be levied for the purposes herein stated and said taxes shall be certified, levied and extended upon the tax rolls and collected in the same manner, at the same time and subject to the same penalties as general state and county taxes are certified, levied and collected. Said taxes, when collected, shall be kept by the County Treasurer in a separate special fund for the Bonds to be known as the "Grant County, New Mexico General Obligation Bonds, Series 2023 Interest and Sinking Fund" (the "Interest and Sinking Fund") which fund shall be used solely for the purpose of paying the principal of and interest on the Bonds as the same become due or mature and, if so required, to satisfy the covenants of the County set forth in Section 16 hereof; provided that nothing herein contained shall be so construed as to prevent the application of any other funds belonging to the County and available for that purpose, to the payment of the Bonds or the interest thereon, as the same become due and upon such payment the levy or levies of tax provided for in this Section 12 may thereupon to that extent be diminished. If the taxes herein provided for shall not be levied or collected in time to pay the interest on or principal of the Bonds as the same become due or mature, then such interest or principal shall be paid from any funds belonging to the County, which funds may be reimbursed from the taxes herein provided for when the same are collected.

Section 13. DELEGATED POWERS; BOND PARAMETERS; APPROVAL OF DOCUMENTS; RIGHTS OF BONDHOLDERS.

A. The officers of the County be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Bond Ordinance and the Final Terms Certificate (defined below), including without limiting the generality of the foregoing, the publication of the summary of publication set out in Section 27 of this Bond Ordinance (with such changes, additions and deletions as they may determine), the preparation and distribution of the Preliminary Official Statement, the official statement (the "Official Statement"), material relating to the Bonds, the entering into of a Registrar/Paying Agent agreement, the entering of necessary agreements with DTC, the printing of the Bonds, obtaining one or more ratings for the Bonds, the printing, execution and distribution of bond offering documents and the continuing disclosure undertaking, if needed, and of such other documents and certificates as may be required by the Purchaser or bond counsel relating to the signing of the Bonds, the tenure and identity of County officials, the receipt of the purchase price of the Bonds from the Purchaser and the absence of litigation, pending or threatened, if in accordance with the facts, affecting the validity thereof and the absence and existence of factors affecting the exclusion of interest on the Bonds from gross income for federal income tax purposes.

B. Pursuant to the Supplemental Public Securities Act, NMSA 1978, Sections 6-14-8 to -11 (1983, as amended through 2017), the County Manager is hereby delegated authority to



sign a contract with the Purchaser for the purchase and sale of the Bonds, to execute the Final Terms Certificate (defined below) and to determine any or all of the final terms of the Bonds, subject to the Parameters and conditions contained in this Bond Ordinance. The County Manager shall present the Final Terms Certificate (defined below) to the Board in a timely manner, before or after delivery of the Bonds, at a regularly scheduled public meeting of the Board. "Final Terms Certificate" means one or more certificates executed by the County Manager dated on or before the date of delivery of the Bonds, setting forth the following final terms of the Bonds: (i) the interest and principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii) the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the redemption and tender provisions; (vii) the creation of any capitalized interest fund, including the size and funding of such fund(s); (viii) the amount of underwriting discount, if any; and (ix) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Bonds, all subject to the Parameters and conditions contained in this Bond Ordinance.

C. The following Parameters with respect to the Bonds are hereby established:

(1) The maximum aggregate principal amount of the Bonds shall not exceed \$2,000,000;

(2) The Bonds may mature in serial or term maturities with the last such maturity no later than September 1, 2042;

(3) The true interest cost on the Bonds shall not exceed five percent (5.000%) per annum and the maximum coupon shall not exceed a fixed interest rate of six percent (6.000)% per annum;

(4) The Bonds will be secured by general *ad valorem* taxes levied on all taxable property within the County, levied without limit as to rate or amount;

(5) The Bonds will be sold to the Purchaser via a negotiated sale and pursuant to a Bond Purchase Agreement in substantially the form attached hereto as Exhibit B, and within the Parameters established in this Bond Ordinance;

(6) the net original discount, if any, shall not exceed zero percent (0.000%) of the aggregate principal amount of the Bonds (on an aggregate basis);

(7) The underwriting discount shall not exceed one percent (1.000%) of the aggregate principal amount of the Bonds (on an aggregate basis);

(8) The form of the Bonds shall be in substantially the form given in Section 10 of this Bond Ordinance;

(9) BOKF, N.A., Albuquerque, New Mexico is appointed Registrar/Paying Agent for the Bonds;



(10) The Bonds shall be dated as determined by the County Manager as evidenced by the Final Terms Certificate (the "Series Date");

(11) The Bonds shall be issued only as fully registered bonds in Authorized Denominations, subject to the Book-Entry System;

(12) The Bonds will be issued in one series and shall consist of bonds numbered consecutively from R-1 upward (provided that no individual bond will be issued for more than one maturity) or as otherwise requested by the Purchaser;

(13) The Bonds may be subject to optional prior redemption and/or mandatory sinking fund redemption prior to their stated maturities upon the terms and conditions determined by the County Manager and set forth in the Final Terms Certificate.

Section 14. DISPOSITION OF BOND PROCEEDS. Except as herein otherwise specifically provided, the proceeds from the sale of the Bonds shall be used as follows:

A. Accrued Interest and Premium. Upon the sale of the Bonds, all monies received as accrued interest and any premium therefor (except for such amounts of premium necessary to pay any or all of the expenses described in Section 14(C) below), shall be deposited into the Interest and Sinking Fund to be applied to the payment of interest next due on the Bonds.

B. Project Fund Created. There is created a separate fund of the County designated as the "Grant County, New Mexico General Obligation Bonds, Series 2023 Project Fund" (the "Project Fund") and the County shall maintain a separate account in the Project Fund for each Project (each such account is referred to in this Bond Ordinance as a "Project Account"). A sufficient amount of the proceeds derived from the sale of the Bonds to finance the Projects shall be deposited by the County upon receipt in the Project Fund.

C. Expenses. From proceeds derived from the sale of the Bonds, the County shall pay, or cause to be paid the reasonable and necessary fees, commissions, costs and expenses incurred by the County with respect to the issuance of the Bonds, including but not limited to the fees, commissions, costs and expenses to or to be paid by the County directly or to the Registrar/Paying Agent (or any successor registrar/paying agent), financial advisor, underwriter, rating agencies, financial printers, bond counsel and other attorneys' fees.

Section 15. GENERAL ADMINISTRATION OF FUNDS. The funds and accounts designated in Sections 12, 14 and 16 of this Bond Ordinance 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 by this Bond Ordinance and shall be deposited in one or more bank accounts in one or more banks or savings and loan associations insured by an agency of the United State of America (an "Insured Bank"). Each account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the purpose authorized by this Bond Ordinance. 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 day on which commercial banks in the city in which the principal office of the Registrar/Paying Agent is located are open for the conduct of substantially all of its business operations (a "Business Day"), then payment shall be made on the next succeeding Business Day. No later than two Business Days prior to each interest and principal payment date, moneys sufficient to pay interest and principal then due on the Bonds shall be transferred to the Registrar/Paying Agent. Nothing in this Bond Ordinance shall prevent the County from establishing one or more bank accounts in an Insured Bank or Insured Banks for all of 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 other funds and accounts of the County.

B. Investment of Moneys. Moneys in any fund or account not immediately needed for the purposes authorized by this Bond Ordinance may be invested in any investment permitted by law. 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 shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

Section 16. TAX AND ARBITRAGE COVENANTS; REBATE. The County covenants for the benefit of the registered owners of the Bonds that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any other funds of the County or any facilities financed with the proceeds of the Bonds if such action or omission (i) would cause the interest on the Bonds to be not excludable from the gross income of the owners of the Bonds for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Tax Code") and the applicable regulations thereunder, or (ii) would cause the Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code and the applicable regulations thereunder. The foregoing covenants shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all obligations of the County in fulfilling the above covenant under the Tax Code have been met.

With the intent not to limit the generality of the foregoing, 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 Tax Code. The Board Chair, County Clerk, County Manager, County Treasurer or any other officer 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 "Tax Compliance Certificate"). The County hereby designates the Bonds as "qualified tax exempt obligations" for purposes of Section 265(b)(3) of the Tax Code.



The County further covenants that it (a) 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 excludable from gross income for federal income tax purposes, and (b) will not take or permit to be taken any actions which would adversely affect that excludability, and that it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely rebate payments to the federal government, (iv) maintain books and records and make calculations and reports, (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such excludability of that interest under the Tax Code; (vi) reasonably expects that the amount of tax-exempt obligations which will be issued by the County during calendar year 2023 will not exceed \$10,000,000; and (vii) the County will not designate more than \$10,000,000 of "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Tax Code during calendar year 2023. The Board Chair, County Clerk, County Manager, County Treasurer 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, as may be appropriate to assure such excludability of that interest.

For purposes of complying with the covenants of the County set forth in the preceding paragraph, there is hereby created a fund of the County to be known as the "Grant County, New Mexico General Obligation Bonds, Series 2023 Rebate Fund" (the "Rebate Fund") for the deposit of any amounts that may be due to the U.S. Treasury under the Tax Code. The County shall deposit into the Rebate Fund any amounts available, from the proceeds of the Bonds or investment earnings thereon, as specified in the Tax Compliance Certificate of the County, in the Rebate Fund as will be sufficient to pay any rebate due to the United States Department of the Treasury for the applicable rebate period. Moneys in the Rebate Fund shall be invested in accordance with the Tax Compliance Certificate. Excess moneys shall be released from the Rebate Fund at the end of the applicable rebate period and may be used by the County as permitted by law. Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder or in any other ordinance or resolution authorizing the issuance of bonds of the County.

The County shall keep such records pursuant to this Section 16 as are required under the Tax Code.

The requirements of any part of this Section 16 may be modified, if and to the extent, at any time, the County receives an opinion of nationally recognized bond counsel that such action will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes under Section 103(a) of the Tax Code.

Section 17. 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 undue delay to apply the proceeds of the Bonds required for funding the Projects.



B. Payment of the Bonds Herein Authorized. The County will promptly pay the principal or interest on and premium, if any, on the Bonds at the place, on the date and in the manner specified herein and in the Bonds.

C. County's Existence. The County will maintain its corporate identity and existence so long as 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. Prohibition of any 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 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 the Bonds hereunder and then outstanding and of the matured interest on such Bonds, the payment of which has not been extended.

E. Audits. The County will, at the time of the annual audit required by law, cause an audit of its books and accounts relating to the revenues derived from property taxes imposed on all taxable real property within the County subject to property tax without limitation as to rate or amount (the "Property Tax Revenues") to be performed by an Independent Accountant (defined below) showing the receipts and disbursements in connection with such revenues. The County agrees to furnish forthwith a copy of each such audits and reports to the owners of the Bonds upon written request. For purposes of this Section 17(E), "Independent Accountant" means any certified public 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 (a) is, in fact, independent and not under the domination of the County, (b) does not have any substantial interest, direct or indirect, with the County, and (c) 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.

F. Impairment of Contract. The County agrees that any law, ordinance or resolution of the County that in any manner affects the Property Tax Revenues or the Bonds shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any outstanding Bonds, 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 22 of this Bond Ordinance.

Section 18. 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 or interest on the Bonds when the same becomes due and payable.



B. Inability to Perform. The County shall for any reason be rendered incapable of fulfilling its obligations hereunder.

C. Default of Any Material Provisions. Default by the County in the due and timely performance of its covenants or conditions, agreements and provisions contained in the Bonds, in this Bond Ordinance on its part to be performed, and the continuance of such default (other than a default set forth in Section 18(A) above) for sixty (60) days after written notice specifying such default and requiring the same to be remedied has been given to the County by the registered owner of twenty-five percent (25%) in principal amount of the Bonds then outstanding.

Section 19. REMEDIES UPON DEFAULT. Upon the happening and continuance of any of the events of default as provided in Section 18 of this Bond Ordinance, then in every case the registered owner of any Bonds then outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the County, the Board and its agents, officers and employees to protect and enforce the rights of any holder of the 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 Board to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of the holders of the Bonds then outstanding. The failure of any bondholder so to proceed shall not relieve the County or any of its officers, agents or employees of any liability for failure to perform any duty. Each right or privilege of such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege.

Section 20. DUTIES UPON DEFAULT. Upon the happening of any of the events of default provided in Section 18 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 ensure the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived therefrom, so long as the Bonds, either as to principal or interest, are outstanding and unpaid, shall be applied as set forth in Section 15 of this Bond Ordinance. In the event the County fails or refuses to proceed as provided in this Section 20, the owners of the Bonds then outstanding, after demand in writing, may proceed, protect and enforce the rights of the owners of the Bonds as hereinabove provided.

Section 21. BONDS NOT PRESENTED WHEN DUE. If any of the 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 Registrar/Paying Agent for the benefit of the owners of such Bonds, all liability of the County to such owners for the payment of such Bonds shall be completely discharged, such Bonds shall not be deemed to be outstanding and it shall be the duty of the Registrar/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 by law.

Section 22. AMENDMENT OF BOND ORDINANCE. This Bond Ordinance may be amended without the consent of the holder of any Bonds 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 Purchaser, the provisions of this Bond Ordinance may be amended without the written consent of the Purchaser by resolution of the Board with respect to any changes which are not inconsistent with the substantive provisions of this Bond Ordinance. Except as provided above, this Bond Ordinance may be amended without receipt by the County of any additional consideration, but with the written consent of two-thirds of all holders of the Bonds then outstanding; but no resolution adopted without the written consent of the holders of all outstanding Bonds shall have the effect of permitting:

- A. An extension of the maturity or scheduled payment of any of the Bonds; or
- B. A reduction of the principal amount or interest rate or prior redemption premium of any of the Bonds; or
- C. A reduction of the principal amount of the Bonds required for consent to such amendatory resolution. Any amendment to this Bond Ordinance which is not inconsistent with the terms hereof, may be made by resolution of the Board; any other amendment to this Bond Ordinance shall be made by subsequent resolution of the Board.

Section 23. DEFEASANCE. When the principal and interest due in connection with any of the Bonds have been duly paid, all obligations hereunder with respect to such bonds shall be discharged, and such bonds shall no longer be deemed to be outstanding for any purpose of this Bond Ordinance. Payment of such bonds or any portion thereof shall be deemed made when the County has placed in escrow with a commercial bank exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities (defined below) in which such amount may be wholly or in part initially invested) to meet all requirements of principal, premium, if any, and interest on such bonds as the same become due to maturity or to any redemption date as of which the County shall have exercised or obligated itself to exercise its prior redemption option and have given irrevocable instructions to the Registrar/Paying Agent to give notice of redemption to the holder of any such bonds. The Federal Securities shall become due or be callable at the option of the holder at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule agreed upon between the County and such bank at the time of creation of the escrow.

For the purposes of this Section 23, "Federal Securities" means only direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or ownership interests in any of the foregoing) and which are not callable prior to their scheduled maturities by the issuer thereof (or an ownership interest in any of the foregoing). When such defeasance is accomplished, the Registrar/Paying Agent shall mail written notice of the defeasance to the registered owners of the bond at the address last shown on the registration records for the bond maintained by the Registrar/Paying Agent.



In the event that there is a defeasance of only part of the Bonds, the Registrar/Paying Agent shall, if requested by the County, institute a system to preserve the identity of the individual bonds or portions thereof so defeased, regardless of changes in bond numbers attributable to transfers and exchanges of Bonds.

Notwithstanding any other provision of this Bond Ordinance, the covenants set forth in Section 16 shall survive payment of the Bonds.

Section 24. CONTINUING DISCLOSURE UNDERTAKING. The County will make a written undertaking by the Board on behalf of the County for the benefit of the holders of the Bonds required by Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 C.F.R. § 240. 15c2-12) (the "Rule") in the form submitted to the Board (the "Continuing Disclosure Undertaking"). The Continuing Disclosure Undertaking is hereby authorized to be executed and delivered on behalf of the Board in connection with the negotiated sale of the Bonds. The Continuing Disclosure Undertaking shall be in substantially the form and with substantially the content as the form presented at this meeting as Appendix B to the form of Preliminary Official Statement (which is Exhibit A to this Bond Ordinance), with final terms as may be established by the County Manager within the Parameters set forth herein and with such alterations, changes, or additions as may be necessary or as may be authorized by Section 28 hereof. In order to assist the Purchaser in complying with the Rule, at the time of delivery of the Bonds, the Board will undertake, pursuant to the Continuing Disclosure Undertaking, to provide annual financial information and notices of material events as required by the Rule.

Section 25. ORDINANCE IRREPEALABLE. After any of the Bonds have been issued, this Bond Ordinance shall constitute a contract between the County and the holder or holders of the Bonds and shall be and remain irrevocable and unalterable (except as provided in Section 22 of this Bond Ordinance) until the Bonds and the interest thereon shall have been fully paid, satisfied and discharged or until such payment has been duly provided for.

Section 26. SAVINGS CLAUSE. If any section, paragraph, clause or provisions 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 27. GENERAL SUMMARY FOR PUBLICATION. The following notice shall be published one time in the *Silver City Daily Press and Independent*, a newspaper having general circulation in the County, as soon as is practicable following the adoption hereof:

**[FORM OF NOTICE]**

**GRANT COUNTY, NEW MEXICO**

**NOTICE OF ADOPTION OF COUNTY ORDINANCE O-23-07**



Notice is hereby given of the title and of a general summary of the subject matter contained in an ordinance (the "Ordinance") duly adopted and approved by the Board of County Commissioners of Grant County, New Mexico, on September 14, 2023, relating to the authorization and issuance of the County's General Obligation Bonds, Series 2023. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the County Clerk, whose office is located at 1400 Highway 180 East, Silver City, New Mexico 88061.

The Title of the Ordinance is:

**GRANT COUNTY, NEW MEXICO  
BOARD OF COUNTY COMMISSIONERS  
ORDINANCE NO. O-23-07**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GRANT COUNTY, NEW MEXICO GENERAL OBLIGATION BONDS, SERIES 2023, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,000,000 (THE "BONDS"), PAYABLE FROM AD VALOREM TAXES LEVIED ON ALL TAXABLE PROPERTY WITHIN THE COUNTY, LEVIED WITHOUT LIMIT AS TO RATE OR AMOUNT; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT, SUBJECT TO THE PARAMETERS ESTABLISHED HEREIN, INCLUDING, WITHOUT LIMITATION, THE DATES, MATURITIES, REDEMPTION PROVISIONS, INTEREST RATES, SALE PRICES, AND PAYMENT TERMS; PROVIDING FOR THE FORM, PARAMETERS, TERMS, AND CONDITIONS OF THE BONDS, THE MANNER OF THEIR EXECUTION, AND THE METHOD OF, AND SECURITY FOR, PAYMENT OF THE BONDS; AUTHORIZING THE SALE OF THE BONDS THROUGH A NEGOTIATED SALE; AUTHORIZING THE USE OF A PRELIMINARY OFFICIAL STATEMENT AND OFFICIAL STATEMENT WITH RESPECT TO THE BONDS AND THE EXECUTION OF A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE UNDERTAKING; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR OTHER DETAILS CONCERNING THE BONDS.

The Ordinance directs and authorizes the issuance and sale of one series of Grant County, New Mexico General Obligation Bonds, Series 2023 in a total aggregate principal amount not to exceed \$2,000,000 (the "Bonds"); provides for the negotiated sale of the Bonds to the purchaser or purchasers at a price or prices to be approved in one or more certificates executed by the County Manager on or before the delivery of the Bonds, setting forth the final terms of the Bonds subject to the parameters and conditions contained in the Ordinance (the "Final Terms



Certificate”); provides that the maturity schedule and interest for the Bonds will be established in the Final Terms Certificate, and that the Bonds shall be issued as fully registered bonds; provides for the delivery thereof; provides for the levy of taxes to pay the principal of and interest on the Bonds; makes certain covenants with the bond purchaser; delegates powers to the officers of the County to effectuate the provisions of the Ordinance; and provides other details concerning the Bonds.

This notice constitutes compliance with NMSA 1978, Section 6-14-6 (1975).

DATED this 14<sup>th</sup> day of Sept., 2023.

/s/ Marisa Castrillo

Marisa Castrillo  
County Clerk

**[END OF FORM OF NOTICE]**



Section 28. CHANGES, ALTERATIONS AND ADDITIONS TO DOCUMENTS. The Board Chair, Vice-Chair, County Clerk or a Deputy County Clerk, the County Manager and other officers of the County be and they hereby are authorized and directed to make any changes, alterations or additions to this Bond Ordinance (including the form of the Bonds), the Final Terms Certificate, or the Continuing Disclosure Undertaking, which may be necessary to correct errors or omissions therein, to remove ambiguities therefrom, to conform the same to provisions of said instruments, or to the provisions of this Bond Ordinance or any other ordinance or resolution adopted by the Board, or the provisions of the laws of the State or of the United States of America.

Section 29. FORMS OF PRELIMINARY OFFICIAL STATEMENT; OFFICIAL STATEMENT.

A. The Preliminary Official Statement, in substantially the form attached as Exhibit A to this Bond Ordinance, shall be published in connection with the offering of the Bonds. The Preliminary Official Statement, with the terms and provisions as submitted to the Board for review, and subject to such further revisions deemed necessary by the County and its professional advisors is approved, authorized and confirmed. The use and distribution of the Preliminary Official Statement in connection with the sale and issuance of the Bonds are approved. The County Manager shall provide final approval as to the form and provisions of the Preliminary Official Statement prior to publication.

B. The Board hereby authorizes the distribution and use of the Official Statement, in substantially the form attached as Exhibit A to this Bond Ordinance in connection with the offering and negotiated sale of the Bonds. The Board authorizes the use of the Official Statement by the Purchaser in connection with the offering and public, competitive sale of the Bonds.

Section 30. LIMITATION ON ISSUANCE OF BONDS. The County may not issue the Bonds pursuant to this Bond Ordinance after the expiration of one hundred twenty (120) days from the date hereof, in accordance with NMSA 1978, Section 6-14-10.2(A) (2017).

Section 31. REQUIREMENT FOR CERTIFICATION AND FORM OF FINAL TERMS CERTIFICATE; PRESENTATION OF FINAL TERMS CERTIFICATE. In accordance with NMSA 1978, Section 6-14-10.2(E) (2017), the County Manager shall certify in writing, prior to the delivery of the Bonds, that the final terms of the Bonds comply with the Parameters established in this Bond Ordinance. Such certification shall be substantially in the form of the Final Terms Certificate attached as Exhibit C to this Bond Ordinance. The County Manager shall present the Final Terms Certificate to the Board in a timely manner before or after the delivery of the Bonds at a regularly scheduled meeting of the Board.

Section 32. CONDITIONS FOR ISSUANCE OF BONDS. Delivery of the Bonds shall be conditioned on the County's delivery of the Tax Compliance Certificate and such other certificates, instruments, and documents as the Purchaser or bond counsel determine are necessary or appropriate to effectuate the transactions contemplated in this Bond Ordinance and the Final Terms Certificate.



Section 33. CONFLICTS OF INTEREST. No member of the Board or employee of the County has any interest, direct or indirect, in the transactions contemplated in this Bond Ordinance, the Final Terms Certificate or otherwise in connection with the Bonds or the documents concerning the Bonds.

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. 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 Chair of the Board and the County Clerk, and this Bond Ordinance shall be in full force and effect 30 days thereafter in accordance with law.

*[Signature page follows]*




**ADOPTED AND APPROVED** this 14<sup>th</sup> day of September, 2023 in Silver City, Grant County, New Mexico.

BOARD OF COUNTY COMMISSIONERS,  
GRANT COUNTY, NEW MEXICO

  
Chris M. Ponce, Chair

  
Gerald W. ("Billy") Billings, Jr., Vice-Chair

  
Eloy H. Medina, Commissioner

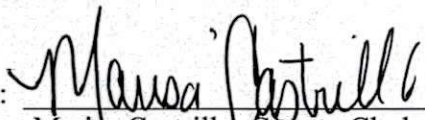
  
Alicia Edwards, Commissioner

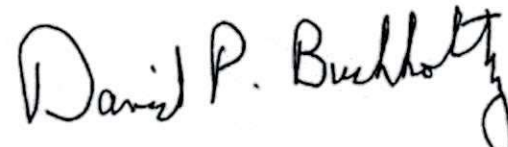
  
Harry Browne, Commissioner



**ATTEST:**

**APPROVED AS TO FORM:**

By:   
Marisa Castrillo, County Clerk

  
Rodey, Dickason, Sloan, Akin & Robb, P.A.  
Bond Counsel



Commissioner Edwards then moved that the ordinance as filed with the County Clerk be passed and adopted. Commissioner Browne seconded the motion.

The question being upon the passage and adoption of said ordinance, the motion was voted upon with the following result:

Those Voting Yea:

Chris M. Ponce, Chairman  
Eloy H. Medina  
Alicia Edwards  
Harry Browne

Those Voting Nay:

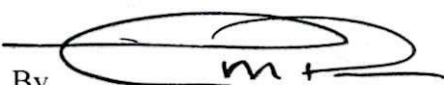
None

Those Absent:

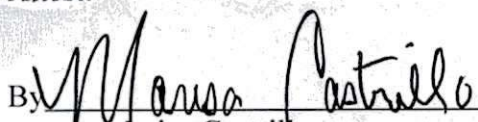
Gerald W. ("Billy") Billings, Jr.

The Chair thereupon declared that at least a majority of all the members of that Board having voted in favor thereof, the motion was carried and the ordinance duly passed and was adopted. After consideration of matters not relating to the ordinance, the meeting on motion duly made, seconded and unanimously carried, was adjourned.

BOARD OF COUNTY COMMISSIONERS  
GRANT COUNTY, NEW MEXICO

By   
Chris M. Ponce,  
Chair



By   
Marisa Castrillo,  
County Clerk



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

I, Marisa Castrillo, County Clerk of Grant County, New Mexico (the "County"), do hereby certify:

1. The foregoing pages are a true, correct and complete copy of the record of the proceedings of the Board of County Commissioners (the "Board") of the County, constituting the governing body of the County, taken at a duly called regular, open meeting of the Board held in the Commission Meeting Room at the Grant County Administration Center located at 1400 Highway 180 East, Silver City, New Mexico, being the regular meeting place of the Board, on Thursday, September 14, 2023, beginning at 9:00 a.m., insofar as the same relate to the proposed ordinance, a copy of which is set forth in the official records of the proceedings of the County kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Notice of such meeting was given in compliance with the permitted methods of giving notice of meetings of the Board as required by the open meetings standards then in effect, i.e., the County's Open Meetings Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of Grant County, New Mexico, this 14th day of September, 2023.



*Marisa Castrillo*  
\_\_\_\_\_  
Marisa Castrillo, County Clerk



EXHIBIT B

FORM OF BOND PURCHASE AGREEMENT

(Attached)

EXHIBIT



BOND PURCHASE AGREEMENT  
\$2,000,000  
GRANT COUNTY, NEW MEXICO  
GENERAL OBLIGATION BONDS, SERIES 2023

[November \_\_, 2023]

Chairperson and Commissioners of the Board of County Commissioners  
Grant County, New Mexico  
1400 Highway 180 East  
Silver City, New Mexico 88061

Ladies and Gentlemen:

On the basis of the representations, warranties, and covenants contained in this Bond Purchase Agreement, and upon the terms and conditions contained herein, the undersigned, [BANK/UNDERWRITER] (the "Underwriter"), acting on behalf of itself and not acting as a fiduciary or agent for Grant County, New Mexico (the "Issuer"), offers to enter into the following agreement (the "Agreement") with the Issuer which, upon the Issuer's written acceptance of this offer, will be binding upon the Issuer and upon the Underwriter. This offer is made subject to the Issuer's written acceptance hereof on or before 10:00 P.M., prevailing Mountain Time, on the date set forth above, and, if not so accepted, will be subject to withdrawal by the Underwriter upon written notice delivered to the Issuer at any time prior to the acceptance hereof by the Issuer. Terms not otherwise defined in this Agreement shall have the same meanings set forth in the Bond Ordinance (as defined herein) or in the Official Statement (as defined herein).

**1. Purchase and Sale of the Bonds.** (a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell and deliver to the Underwriter, all, but not less than all, of the Issuer's \$[2,000,000] General Obligation Bonds, Series 2023 (the "Bonds").

(b) Inasmuch as this purchase and sale represents a negotiated transaction, the Issuer acknowledges and agrees that: (i) the primary role of the Underwriter, as an underwriter, is to purchase securities for resale to investors, in an arm's length commercial transaction between the Issuer and the Underwriter and the Underwriter has financial and other interests that differ from those of the Issuer; (ii) the Underwriter is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the Issuer and has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the Issuer on other matters); (iii) the only obligations the Underwriter has to the Issuer with respect to the transactions contemplated hereby are expressly set forth in this Agreement; (iv) the Issuer has consulted its own financial and/or municipal, legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate; (v) the Underwriter has provided to the Issuer prior disclosures under Rule G-17 of the Municipal Securities Rulemaking Board (the "MSRB"), which have been received by the Issuer; and (vi) the Issuer recognizes that the Underwriter expects to profit from the acquisition and potential distribution of the Bonds. Bosque Advisors, LLC is the Issuer's financial advisor (the "Financial Advisor") with respect to the sale and delivery of the Bonds.



(c) The principal amount of the Bonds to be issued, the dated date therefor, the maturities, the initial yields, maturity amounts, redemption provisions and interest rates per annum are set forth in Schedule I hereto. The Bonds are being issued to finance certain projects as authorized by the electors of the County at the November 8, 2022 general election (the "Bond Election"). The Bonds shall be as described in, and shall be issued and secured under and pursuant to the provisions of the ordinance adopted by the Issuer on September 14, 2023, authorizing the sale and issuance of the Bonds (the "Bond Ordinance"). In the Bond Ordinance, the Board of County Commissioners of the Issuer delegated authority to the County Manager (the "Authorized Officer") to establish the pricing terms for the Bonds through a final terms certificate dated the date hereof (the "Final Terms Certificate"), within the parameters set forth in the Bond Ordinance. The Bonds shall be secured and payable as provided in the Bond Ordinance and the Final Terms Certificate (the Final Terms Certificate and the Bond Ordinance are referred to collectively herein as the "Ordinance").

(d) The purchase price for the Bonds shall be \$[ ] (representing the par amount of the Bonds, plus an aggregate reoffering premium of \$[ ] on the Bonds, and less an underwriting discount of \$[ ]).

## **2. Public Offering and Establishment of Issue Price.**

(a) *Public Offering.* The Underwriter agrees to make a bona fide public offering of all of the Bonds, and shall, at or before the Closing (as defined herein), execute and deliver to Rodey, Dickason, Sloan, Akin & Robb, P.A., Albuquerque, New Mexico ("Bond Counsel" and "Disclosure Counsel"), an issue price certificate for the Bonds, prepared by Bond Counsel in substantially the form attached hereto as Exhibit A and in accordance with paragraph (b) below (the "Issue Price Certificate").

(b) *Establishment of Issue Price of the Bonds.* Notwithstanding any provision of this Agreement to the contrary, the following provisions related to the establishment of the issue price of the Bonds apply:

(1) Definitions. For purposes of this section, the following definitions apply:

(i) "Public" means any person (including an individual, trust, estate, partnership, association, company or corporation) other than a Participating Underwriter or a Related Party to a Participating Underwriter.

(ii) "Participating Underwriter" means (A) any person that agrees pursuant to a written contract with the Issuer (or with the Underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public).

(iii) "Related Party" means any two or more persons who are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the



partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(iv) “Sale Date” means the date of execution of this Agreement by all parties.

(2) Issue Price Certificate. The Underwriter, on behalf of the Participating Underwriter, agrees to assist the Issuer in establishing the issue price of the Bonds and shall execute and deliver to the Issuer, at or before the Closing, the Issue Price Certificate, together with the supporting pricing wires or equivalent communications, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the Issuer, and Bond Counsel, to accurately reflect, as applicable, the initial offering price (the “Initial Offering Price”) or prices or the sales price or prices to the Public of the Bonds. Delivery of the Issue Price Certificate to Bond Counsel shall constitute delivery of the same to the Issuer. As applicable, all actions to be taken by the Issuer under this Section to establish the issue price of the Bonds may be taken on behalf of the Issuer by the Financial Advisor.

(3) Substantial Amount Test. The Issuer will treat the Initial Offering Price at which at least ten percent (a “Substantial Amount”) in principal amount of each maturity of the Bonds is sold to the Public as of the Sale Date (the “Substantial Amount Test”) as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the Substantial Amount Test). Those maturities of the Bonds which do not satisfy the Substantial Amount Test (the “Hold-the-Price Maturities”) will be identified in the Issue Price Certificate and will be subject to the Hold-the-Price Restriction (as hereinafter defined).

(4) Hold-the-Price Restriction. The Underwriter agrees that the Participating Underwriter will neither offer nor sell any of the unsold Hold-the-Price Maturities to any person at a price that is higher than the applicable Initial Offering Price for any such Hold-the-Price Maturity during the period starting on the Sale Date and ending on the earlier of the following: (i) the close of the fifth business day after the Sale Date; or (ii) the date on which the Participating Underwriter has sold a Substantial Amount of such Hold-the-Price Maturity to the Public at a price that is no higher than the Initial Offering Price of such Hold-the-Price Maturity. The restriction described in this subparagraph (4) is herein referred to as the “Hold-the-Price Restriction”.

The Underwriter shall promptly advise the Issuer when the Participating Underwriter has sold a Substantial Amount of each such Hold-the-Price Maturity to the Public at a price that is no higher than the applicable Initial Offering Price of such Hold-the-Price Maturity, if that occurs prior to the close of the fifth business day after the Sale Date.

The Issuer acknowledges that, in making the representation set forth in this subsection, the Underwriter will rely on (i) the agreement of each Participating Underwriter to comply with the Hold-the-Price Restriction, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Bonds to the Public, the agreement of each dealer who is a member of the selling group to comply with the Hold-the-Price Restriction, as set forth in a selling group agreement and the related pricing wires and (iii) in the event that a Participating Underwriter is a party to a third-party distribution agreement that was employed in connection with the initial



sale of the Bonds to the public, the agreement of each underwriter, dealer or broker-dealer that is a party to such agreement to comply with the Hold-the-Price Restriction, as set forth in the third-party distribution agreement and the related pricing wires. The Issuer further acknowledges that each Participating Underwriter shall be solely liable for its failure to comply with its agreement regarding the Hold-the-Price Restriction and that no Participating Underwriter shall be liable for the failure of any other Participating Underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement, to comply with its corresponding agreement regarding the Hold-the-Price Restriction as applicable to the Bonds.

(5) Agreements Among Participating Underwriters. The Underwriter confirms that: (i) any agreement among Participating Underwriters, any selling group agreement and each third-party distribution agreement (to which the Underwriter is a party) relating to the initial sale of the Bonds to the Public, together with the related pricing wires, contains or will contain language obligating each Participating Underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, to (A) report the prices at which it sells to the Public the unsold Bonds of each maturity allocated to it until it is notified by the Underwriter that either the Substantial Amount Test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the Public, (B) comply with the Hold-the-Price Restriction, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires, and (C) acknowledge that, unless otherwise advised by the Participating Underwriter, the Underwriter will assume that based on such agreement each order submitted by the underwriter, dealer or broker-dealer is a sale to the Public; and (ii) any agreement among Participating Underwriters relating to the initial sale of the Bonds to the Public, together with the related pricing wires, contains or will contain language obligating each Participating Underwriter that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Bonds to the Public to require each broker-dealer that is a party to such third-party distribution agreement to (A) report the prices at which it sells to the Public the unsold Bonds of each maturity allotted to it until it is notified by the Underwriter or the applicable Participating Underwriter that either the Substantial Amount Test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the Public and (B) comply with the Hold-the-Price Restriction, if applicable, in each case if and for so long as directed by the Underwriter or the applicable Participating Underwriter and as set forth in the related pricing wires.

(6) Sale to Related Party. The Underwriter acknowledges that sales of any Bonds to any person that is a Related Party to a Participating Underwriter shall not constitute sales to the Public for purposes of this section. If a Related Party to a Participating Underwriter purchases, during the initial offering period, all of a Hold-the-Price Maturity, the related Participating Underwriter will take steps to confirm in writing that such Related Party will either (i) hold such Bonds for its own account, without present intention to sell, reoffer or otherwise dispose of such Bonds for at least five business days from the Sale Date, or (ii) comply with the Hold-the-Price Restriction.

### **3. The Official Statement.**

(a) The Bonds have been offered pursuant to the Preliminary Official Statement dated [September 14, 2023], including the notice, cover page, and appendices thereto, of the Issuer relating to the Bonds (the "Preliminary Official Statement"). The Preliminary Official Statement, as amended to reflect the information indicated on Schedule I hereto, and as it may otherwise be amended or supplemented in accordance with this Agreement is hereinafter called the "Official Statement."



(b) The Preliminary Official Statement has been prepared for use by the Underwriter in connection with the public offering, sale and distribution of the Bonds and is in a "designated electronic format" as defined in and specified by Rule G-32 of the MSRB. The Issuer hereby represents and warrants that the Preliminary Official Statement was deemed final by the Issuer as of its date, except for the omission of such information which is dependent upon the final pricing of the Bonds for completion, all as permitted to be excluded by Section (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule").

(c) The Issuer hereby authorizes the Official Statement and the information therein contained to be used by the Underwriter in connection with the public offering and the sale of the Bonds. The Issuer consents to and ratifies the use and distribution by the Underwriter, prior to the date hereof, of the Preliminary Official Statement in connection with the public offering of the Bonds. The Issuer represents that its governing body or a designated official thereof has reviewed and approved the content of the Preliminary Official Statement. The Issuer shall provide, or cause to be provided, to the Underwriter as soon as practicable after the date of the Issuer's acceptance of this Agreement (but, in any event, not later than within seven business days after the Issuer's acceptance of this Agreement and in sufficient time to accompany any confirmation that requests payment from any customer) copies of the Official Statement which is complete as of the date of its delivery to the Underwriter. The Issuer agrees to provide, or cause to be provided, to the Underwriter the Preliminary Official Statement, the Official Statement and any amendments or supplements thereto in such printed or "designated electronic format" as may be required for the Underwriter to comply with the Rule or the rules of the MSRB, and consents to the distribution of the Preliminary Official Statement and the Official Statement in a "designated electronic format." The Issuer further agrees to provide such documents in a printed format in such quantity as the Underwriter shall reasonably request in order for the Underwriter to comply with Section (b)(4) of the Rule and the rules of the MSRB.

(d) If, after the date of this Agreement to and including the date the Underwriter is no longer required to provide an Official Statement to potential customers who request the same pursuant to the Rule (the earlier of (i) 90 days from the "end of the underwriting period" (as defined in the Rule) or (ii) the time when the Official Statement is available to any person from the MSRB, but in no case less than 25 days after the "end of the underwriting period" for the Bonds), the Issuer becomes aware of any fact or event which might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it is necessary to amend or supplement the Official Statement to comply with law, the Issuer will notify the Underwriter (and for the purposes of this clause provide the Underwriter with such information as the Underwriter may from time to time reasonably request), and if, in the reasonable opinion of the Underwriter, such fact or event requires preparation and publication of a supplement or amendment to the Official Statement, the Issuer will forthwith prepare and furnish, at the Issuer's own expense (in a manner approved by the Underwriter), an amendment or supplement to the Official Statement in a "designated electronic format" so that the statements in the Official Statement as so amended and supplemented will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. If such notification shall be subsequent to the Closing, the Issuer shall, at the Issuer's own expense, furnish such legal opinions, certificates, instruments and other documents as the Underwriter may deem reasonably necessary to evidence the truth and accuracy of such supplement or amendment to the Official Statement.



(e) The Underwriter hereby agrees to timely file the Official Statement (including any supplements thereto) with the MSRB. Unless otherwise notified in writing by the Underwriter, the Issuer can assume that the "end of the underwriting period" for purposes of the Rule is the date of the Closing.

(f) For the benefit of the owners of the Bonds, the Issuer shall undertake in the Continuing Disclosure Undertaking of the Issuer which satisfies the requirements of section (b)(5)(i) of the Rule dated as of the Closing (the "Undertaking") to provide Annual Financial Information (as defined by the Rule) relating to the Issuer and notices of certain events relating to the Bonds. The form of Undertaking to be executed is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

**4. Representations, Warranties, and Covenants of the Issuer.** The Issuer hereby represents and warrants to and covenants with the Underwriter that:

(a) The Issuer is a duly organized county and political subdivision of the State of New Mexico (the "State") duly created, organized and existing under the laws of the State (NMSA 1978, Sections 4-9-1 to -2 (1867, as amended through 1917) and has full legal right, power and authority under the Constitution and Public Securities Act, NMSA 1978, Sections 6-14-1 to -3 (1970, as amended through 1999), the Public Securities Limitation of Action Act, NMSA 1978, Sections 6-14-4 to -7 (1975), the Supplemental Public Securities Act, NMSA 1978, Sections 6-14-8 to -11 (1983, as amended through 2017), NMSA 1978, Sections 6-15-1 to -22 (1925, as amended through 2013) and the Election Code, NMSA 1978, Sections 1-1-1 to -28 (1969, as amended through 2019), and acts amendatory and supplemental thereto (collectively, the "Provisions"), and at the date of the Closing will have full legal right, power and authority under the Provisions (i) to adopt the Bond Ordinance and to make the delegations set forth therein and take the actions authorized thereby, (ii) to enter into, execute and deliver this Agreement, the Bond Ordinance, the Final Terms Certificate, the Undertaking, the paying agent/registrar agreement between the Issuer and BOKF, NA (the "Paying Agent/Registrar") dated on or before the date of the Closing (the "Paying Agent Agreement") and all documents required hereunder and thereunder to be executed and delivered by the Issuer (this Agreement, the Paying Agent Agreement, the Undertaking, the Final Terms Certificate, the Bond Ordinance, and all documents required hereunder and thereunder to be executed and delivered by the Issuer are collectively hereinafter referred to as the "Issuer Documents"), (iii) to sell, issue and deliver the Bonds to the Underwriter as provided herein, and (iv) to carry out and consummate the transactions described in the Issuer Documents and the Official Statement, and the Issuer has complied, and will at the Closing be in compliance, in all material respects with the terms of the Provisions and the Issuer Documents as they pertain to such transactions;

(b) By all necessary official action of the Issuer prior to or concurrently with the acceptance of this Agreement, the Issuer has duly authorized all necessary action to be taken by it for (i) the adoption of the Bond Ordinance and the issuance and sale of the Bonds and the Authorized Officer shall have executed and delivered the Final Terms Certificate in accordance with the Bond Ordinance and the Provisions, (ii) approval of the Preliminary Official Statement and Official Statement, (iii) the approval, execution and delivery of the Bonds, and the performance by the Issuer of the obligations on its part contained in the Bonds and the Issuer Documents, and (iv) the consummation by the Issuer of all other transactions described in the Official Statement and the Issuer Documents and any and all such other agreements and documents as may be required to be executed, delivered and/or received by the Issuer in order to



carry out, give effect to, and consummate the transactions described herein and in the Official Statement;

(c) The Bonds, when issued, delivered and paid for, in accordance with the Issuer Documents, will constitute legal, valid and binding obligations of the Issuer entitled to the benefits of the Bond Ordinance and will be enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of sovereign immunity or principles of equity relating to or affecting the enforcement of creditors' rights; upon the issuance, authentication and delivery of the Bonds as aforesaid, the Bonds will be payable from an annual ad valorem tax levied without legal limitation as to rate or amount, as set forth in the Ordinance;

(d) To the best of its knowledge, the Issuer is not in breach of or default in any material respect under any applicable constitutional provision, law or administrative regulation of the State or the United States, or any applicable judgment or decree, relating to the issuance of the Bonds or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or to which the Issuer is or any of its property or assets are otherwise subject, and no event has occurred or is continuing, that with the passage of time or the giving of notice, or both, constitutes or would constitute a material default or event of default by the Issuer under any of the foregoing; and the execution and delivery of the Bonds and the Issuer Documents and the adoption of the Bond Ordinance and compliance with the provisions on the Issuer's part contained therein will not conflict with or constitute a material breach of or default under the Provisions, any constitutional provision, any administrative regulation relating to the issuance of the Bonds, or any judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or to which the Issuer is or to which any of its property or assets are otherwise subject;

(e) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the Issuer of its obligations under the Issuer Documents and the Bonds have been duly obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any jurisdiction in connection with the offering and sale of the Bonds;

(f) The Bonds and the Ordinance conform to the descriptions thereof contained in the Official Statement under the captions ["THE BONDS AND THE NOTES" "SECURITY AND REMEDIES" and "SOURCES AND USES OF FUNDS"]; the proceeds from the sale of the Bonds will be applied generally as described in the Official Statement under the caption ["SOURCES AND USES OF FUNDS"]; and the Undertaking conforms to the description thereof contained in the Official Statement under the caption ["CONTINUING DISCLOSURE UNDERTAKING"] and the form included in [APPENDIX E];

(g) Except as otherwise set forth in the Preliminary Official Statement or the Official Statement, there is no litigation, action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best knowledge of the Issuer, threatened against the Issuer, affecting the existence of the Issuer or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or the collection of ad valorem taxes for the payment of principal of and interest on the Bonds pursuant to the Ordinance or in any way contesting or affecting the validity or enforceability of the Bonds or the Issuer Documents, or contesting the



excludability from gross income of interest on the Bonds for federal income tax purposes, or contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto, or contesting the powers of the Issuer or any authority for the issuance of the Bonds, the adoption of the Bond Ordinance or the execution and delivery of the Issuer Documents, nor, to the best knowledge of the Issuer is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Bonds or the Issuer Documents;

(h) As of the date thereof, the Preliminary Official Statement did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that for the purpose of this Agreement and any certificate delivered by the Issuer in accordance herewith, the Issuer makes no representations with respect to the descriptions in the Preliminary Official Statement or the Official Statement of The Depository Trust Company, New York, New York ("DTC"), or its book-entry-only system;

(i) At the time of the Issuer's acceptance hereof and (unless the Official Statement is amended or supplemented pursuant to paragraph (d) of Section 3 of this Agreement) at all times subsequent thereto during the period up to and including the date of the Closing, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(j) If the Official Statement is supplemented or amended pursuant to paragraph (d) of Section 3 of this Agreement, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto, the Official Statement as so supplemented or amended will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which made, not misleading;

(k) The Issuer will apply, or cause to be applied, the proceeds from the sale of the Bonds as provided in and subject to all of the terms and provisions of the Ordinance and will not take or omit to take any action which action or omission will adversely affect the excludability from gross income for federal income tax purposes of the interest on the Bonds;

(l) The Issuer will furnish such information and execute such instruments and take such action in cooperation with the Underwriter as the Underwriter may reasonably request (A) to (y) qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions in the United States as the Underwriter may designate and (z) determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions and (B) to continue such qualifications in effect so long as required for the distribution of the Bonds (provided, however, that such actions shall be at no expense to the Issuer and the Issuer will not be required to qualify as a foreign corporation or to file any general or special consents to service of process under the laws of any jurisdiction) and will advise the Underwriter immediately of receipt by the Issuer of any notification with respect to the suspension of the qualification of the Bonds for sale in any jurisdiction or the initiation or threat of any proceeding for that purpose;

(m) (i) The financial statements of, and other financial information regarding, the Issuer in the Official Statement fairly present the financial position and results of the Issuer as of



the dates and for the periods therein set forth; (ii) the audited financial statements have been prepared in accordance with generally accepted accounting principles consistently applied; and (iii) the other financial information has been determined on a basis substantially consistent with that of the Issuer's audited financial statements included in the Official Statement. Prior to the Closing, the Issuer will not take any action within or under its control that will cause any adverse change of a material nature in such financial position, results of operations or condition, financial or otherwise, of the Issuer from that described in the Official Statement. Except as may otherwise be described in the Official Statement, there is no litigation, action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body pending or, to the best knowledge of the Issuer, threatened which, if decided adversely to the Issuer, would have a materially adverse effect on the financial condition of the Issuer;

(n) [Prior to the Closing, except as otherwise disclosed in the Official Statement, the Issuer will not offer or issue any bonds, notes or other obligations for borrowed money secured by ad valorem tax revenues without the prior written approval of the Underwriter, which approval shall not be unreasonably withheld];

(o) Any certificate, signed by any official of the Issuer authorized to do so in connection with the transactions described in this Agreement, shall be deemed a representation and warranty by the Issuer to the Underwriter as to the statements made therein;

(p) To the extent requested by the Underwriter, the Issuer has delivered to the Underwriter true, correct, complete and legible copies of all written information, applications, reports or other documents of any nature whatsoever submitted to any rating agency for the purpose of obtaining a rating for the Bonds and, in each instance, true, correct, complete and legible copies of all correspondence or other communications relating thereto; and

(q) To the best knowledge and belief of the Issuer, the Official Statement contains information, including financial information or operating data, as required by the Rule. Except as set forth in the Official Statement, during the last five years, the Issuer has complied in all material respects with all continuing disclosure undertakings entered into by the Issuer pursuant to the Rule.

## **5. Closing.**

(a) At 10:00 A.M. prevailing Mountain Time, on [November \_\_], 2023, or at such other time and date as shall have been mutually agreed upon by the Issuer and the Underwriter (the "Closing"), the Issuer will, subject to the terms and conditions hereof, deliver the Bonds to the Underwriter, duly executed and authenticated, together with the other documents hereinafter mentioned, and the Underwriter will, subject to the terms and conditions hereof, accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 of this Agreement in immediately available funds to the order of the Issuer.

(b) Delivery of the Bonds shall be made through the facilities of DTC, utilizing the book-entry-only form of issuance. The Bonds shall be delivered in definitive fully registered form, bearing CUSIP numbers without coupons, with one Bond for each maturity of the Bonds, registered in the name of Cede & Co., all as provided in the Ordinance, and shall be made available to the Underwriter at least one (1) business day before the Closing for purposes of inspection at the offices of DTC or, if the Bonds are to be held in safekeeping for DTC by the Paying Agent/Registrar, pursuant to DTC's FAST system, at the designated payment office of the Paying Agent/Registrar.



**6. Closing Conditions.** The Underwriter has entered into this Agreement in reliance upon the representations, warranties and agreements of the Issuer contained herein, and in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer of its obligations hereunder, both as of the date hereof and as of the date of the Closing. Accordingly, the Underwriter's obligations under this Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the Issuer of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions, including the delivery by the Issuer of such documents as are enumerated herein, in form and substance reasonably satisfactory to the Underwriter:

(a) The representations and warranties of the Issuer contained herein shall be true, complete and correct in all material respects on the date hereof and on and as of the date of the Closing, as if made on the date of the Closing;

(b) The Issuer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing;

(c) At the time of the Closing, (i) the Issuer Documents and the Bonds shall be in full force and effect, and shall not have been amended, modified or supplemented, and the Official Statement shall not have been supplemented or amended, except in any such case as may have been agreed to by the Underwriter; and (ii) all actions of the Issuer required to be taken by the Issuer shall be performed in order for Bond Counsel, counsel to the Underwriter and other counsel to deliver their respective opinions referred to hereafter;

(d) At or prior to the Closing, the Bond Ordinance shall have been duly approved by the governing body of the Issuer in accordance with law and the Issuer shall have duly executed and delivered and the Paying Agent/Registrar shall have duly authenticated the Bonds;

(e) At the time of the Closing, there shall not have occurred any change in the condition, financial or otherwise, or in the revenues or operations of the Issuer, from that set forth in the Official Statement that in the reasonable judgment of the Underwriter, is material and adverse and that makes it, in the reasonable judgment of the Underwriter, impracticable to market the Bonds on the terms and in the manner described in the Official Statement;

(f) The Issuer shall not currently be in default with respect to the payment of principal or interest when due on any of its outstanding obligations for borrowed money;

(g) All steps to be taken and all instruments and other documents to be executed, and all other legal matters in connection with the transactions described in this Agreement shall be reasonably satisfactory in legal form and effect to the Underwriter;

(h) At or prior to the Closing, the Underwriter shall have received one copy of each of the following documents:

(1) The Official Statement approved and executed by a designated official of the Issuer, and each supplement or amendment thereto, if any;



(2) The Bond Ordinance (with such supplements or amendments as may have been agreed to by the Underwriter or counsel to the Underwriter);

(3) The Final Terms Certificate, having been duly executed on behalf of the Issuer by an Authorized Officer;

(4) The executed Undertaking and a copy of the Issuer's policies and procedures related to its continuing disclosure obligations;

(5) The approving opinion of Bond Counsel with respect to the Bonds, in substantially the form and substance attached to the Official Statement as [Appendix D], accompanied by a letter from Bond Counsel, dated the date of the Closing and addressed to the Underwriter, stating that such opinions may be relied upon by the Underwriter to the same extent as if they were addressed to them;

(6) A supplemental opinion of Bond Counsel, addressed to the Underwriter, substantially to the effect that:

(i) the Bond Ordinance has been duly adopted by the Issuer, the Final Terms Certificate has been duly executed, and both of the aforementioned documents are in full force and effect and the Issuer Documents (assuming due authorization, execution and delivery of this Agreement by the Underwriter), constitute the legal, valid and binding special obligations of the Issuer enforceable in accordance with their respective terms;

(ii) the Bonds are exempted securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended (the "1933 Act"), and the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), and it is not necessary, in connection with the offering and sale of the Bonds, to register the Bonds under the 1933 Act or to qualify the Bond Ordinance under the Trust Indenture Act; and

(iii) such firm has reviewed the statements and information contained in the Official Statement appearing under the captions ["THE BONDS," "SECURITY AND SOURCES OF PAYMENT," "PURPOSE AND PLAN OF FINANCING," "TAX MATTERS," and "LEGAL MATTERS"] and such firm is of the opinion that the statements and information contained under such captions is an accurate and fair description of the laws and legal issues addressed therein and, with respect to the Bonds, such information conforms to the provisions of the Ordinance;

(7) An opinion of Disclosure Counsel, addressed to the Issuer and the Underwriter, dated the date of Closing, substantially to the effect that: based upon their examination of certain laws and documents, participation in the preparation of the Preliminary Official Statement and the Official Statement as Disclosure Counsel and their participation at conferences with various parties, but without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Preliminary Official Statement and the Official Statement, nothing has come to the attention of the attorneys in the firm rendering legal services in connection with their representation that led them to believe that the Preliminary Official Statement (except for the completion of pricing information), as of its date and as of the date of



pricing, or the Official Statement, as of its date and as of the date of the Closing (except for the financial statements, demographic, economic, engineering and statistical data and any statements of trends, forecasts, estimates, projections, assumptions, or any expressions of opinion contained in the Preliminary Official Statement and the Official Statement and its Appendices, as to which no view need be expressed), contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements in the Preliminary Official Statement and the Official Statement, in the light of the circumstances under which they were made, not misleading;

(8) An opinion of [\_\_\_\_], as counsel for the Underwriter, dated the date of the Closing, addressed to the Underwriter, substantially in the form attached hereto as Exhibit B;

(9) A certificate, dated the date of Closing, of the Issuer, executed on its behalf by an authorized officer or official of the Issuer substantially in the form or containing substantially similar language to that in the form attached hereto as Exhibit C;

(10) A certificate of the Issuer in form and substance satisfactory to Bond Counsel and counsel to the Underwriter setting forth the facts, estimates and circumstances in existence on the date of the Closing, which establish that it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and any applicable regulations (whether final, temporary or proposed) issued pursuant to the Code;

(11) Evidence satisfactory to the Underwriter that the Bonds have been rated ["\_\_\_"] by [S&P Global Ratings], without regard to credit enhancement, and that such rating is in effect as of the date of the Closing;

(12) The executed Paying Agent Agreement; and

(13) Such additional legal opinions, certificates, instruments and other documents as the Underwriter or counsel to the Underwriter may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the date of the Closing, of the Issuer's representations and warranties contained herein and of the statements and information contained in the Official Statement and the due performance or satisfaction by the Issuer on or prior to the date of the Closing of all the respective agreements then to be performed and conditions then to be satisfied by the Issuer.

All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance reasonably satisfactory to the Underwriter.

If the Issuer shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds contained in this Agreement, or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate and neither the Underwriter nor the Issuer shall be under any further obligation hereunder, except that the representations, warranties and obligations of the Issuer and the Underwriter set forth in Sections 4 and 8 hereof shall continue in full force and effect.



7. **Termination.** If any of the conditions to the obligations of the Underwriter contained in Section 6 hereof or elsewhere in this Agreement shall not have been satisfied when and as required herein, the Underwriter may waive such conditions by written notice to the Issuer or all obligations of the Underwriter hereunder may be terminated by the Underwriter at, or at any time prior to, the Closing by written notice to the Issuer. Additionally, the Underwriter shall have the right to cancel the Underwriter's obligation to purchase the Bonds, as evidenced by a written notice to the Issuer terminating the obligation of the Underwriter to accept delivery of and pay for the Bonds, if, between the date of this Agreement and the Closing, the market price or marketability of the Bonds shall be materially adversely affected, in the reasonable judgment of the Underwriter, by the occurrence of any of the following:

(a) legislation shall be enacted by the United States or the State or introduced in the Congress of the United States or the State legislature, or recommended to the Congress for passage by the President of the United States or the Governor of the State, or the Treasury Department of the United States or the Treasurer of the State or the Internal Revenue Service or the State Tax and Revenue Department or any member of the Congress or any member of the State legislature or favorably reported for passage to either Chamber of the Congress or to either Chamber of the State legislature by any committee of such Chamber to which such legislation has been referred for consideration, a decision by a court of the United States or of the State or the United States Tax Court shall be rendered, or an order, ruling, regulation (final, temporary or proposed), opinion letter, press release, statement or other form of notice by or on behalf of the Treasury Department of the United States or State Treasurer, the Internal Revenue Service the State Tax and Revenue Department or other State or federal governmental agency shall be made or proposed, the effect of any or all of which would be to impose, directly or indirectly, State or federal income taxation upon interest received on obligations of the general character of the Bonds as described in the Official Statement, or other action or events shall have transpired which may have the purpose or effect, directly or indirectly, of changing the State or federal income tax consequences of any of the transactions described herein;

(b) legislation introduced in or enacted (or resolution passed) by the Congress or an order, decree, or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary, or proposed), press release or other form of notice issued or made by or on behalf of the United States Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Bonds, including any or all underlying arrangements, are not exempt from registration under or other requirements of the 1933 Act, or that the Bond Ordinance is not exempt from qualification under or other requirements of the Trust Indenture Act, or that the issuance, offering, or sale of obligations of the general character of the Bonds, including any or all underlying arrangements, as described herein or in the Official Statement or otherwise, is or would be in violation of the federal securities law as amended and then in effect;

(c) any state blue sky or securities commission or other governmental agency or body in any jurisdiction in which at least 10% of the principal amount of the Bonds have been offered and sold shall have withheld registration, exemption or clearance of the offering of the Bonds as described herein, or issued a stop order or similar ruling relating thereto;

(d) a general suspension of trading on the New York Stock Exchange or other major exchange shall be in force, or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on any such exchange, whether by virtue of determination by that exchange or by order of the United States Securities and Exchange Commission or any other governmental authority having



jurisdiction, the establishment of material restrictions (not in force as of the date hereof) upon trading securities generally by any governmental authority or any national securities exchange, or a general banking moratorium declared by federal, State of New York, or State officials authorized to do so or a material disruption in securities settlement, payment or clearance services in the United States shall have occurred and shall be continuing as of the date of the Closing;

(e) a national securities exchange or any governmental authority shall impose, as to the Bonds or as to obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Underwriter;

(f) any amendment to the federal or State Constitution or action by any federal or State court, legislative body, regulatory body, or other authority materially adversely affecting the tax status of the Issuer, its property, income, securities (or interest thereon), or the validity or enforceability of the levy of ad valorem taxes to pay principal of and interest on the Bonds;

(g) any event occurring, or information becoming known which, in the reasonable judgment of the Underwriter, makes untrue in any material respect any statement or information contained in the Official Statement, or has the effect that the Official Statement contains any untrue statement of material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(h) there shall have occurred since the date of this Agreement any materially adverse change in the affairs or financial condition of the Issuer;

(i) there shall have occurred (whether or not foreseeable) any (a) new material outbreak of hostilities involving the United States (including, without limitation, an act of terrorism) or (b) other new material national or international calamity or crisis or escalation thereof, including but not limited to, an escalation of hostilities or national or international calamity or crisis that existed prior to the date hereof, or (c) material financial crisis or adverse change in the financial or economic conditions affecting the State or United States government or the securities markets in the United States;

(j) any fact or event shall exist or have existed that, in the reasonable judgment of the Underwriter, requires or has required an amendment of or supplement to the Official Statement;

(k) there shall have occurred any downgrading, or any published notice shall have been given of any (a) intended or potential downgrading or (b) review or possible change that does not indicate a possible upgrade, in any rating by any "nationally recognized statistical rating organization," as such term is defined for purposes of Rule 436(g)(2) under the 1933 Act, of the unenhanced rating of the Bonds or any of the Issuer's debt obligations that are secured in a like manner as the Bonds; and

(l) the purchase of and payment for the Bonds by the Underwriter, or the resale of the Bonds by the Underwriter, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission, which prohibition shall occur subsequent to the date hereof and shall not be due to the malfeasance, misfeasance or nonfeasance of the Underwriter.



## **8. Expenses.**

(a) The Underwriter shall be under no obligation to pay, and the Issuer shall pay, any expenses incident to the performance of the Issuer's obligations hereunder, including, but not limited to (i) the cost of preparation and printing of the Preliminary Official Statement, the Official Statement and the Bonds, (ii) the fees and disbursements of Bond Counsel, Disclosure Counsel, and counsel to the Issuer; (iii) the fees and disbursements of the Financial Advisor to the Issuer; (iv) the fees and disbursements of any engineers, accountants, and other experts, consultants or advisers retained by the Issuer; (v) the fee for bond ratings;; (vi) the fees of the Paying Agent/Registrar; and (vii) the disbursements to the Issuer's officials and employees for expenditures made in connection with the issuance of the Bonds.

(b) The Underwriter shall pay (i) the cost of preparation and printing of this Agreement, the Blue Sky Survey, if any; (ii) all advertising expenses in connection with the public offering of the Bonds; and (iii) all other expenses incurred by the Underwriter in connection with the public offering of the Bonds, including the fees and disbursements of counsel retained by the Underwriter and including reimbursements payable from bond proceeds to the Underwriter for Issuer meals and travel, but not entertainment expenses, paid for by the Underwriter.

(c) The Issuer acknowledges that the Underwriter has advised the Issuer that the Underwriter will pay from the expense allocation of the underwriting discount certain expenses incurred by the Underwriter which are incidental to implementing this Agreement and the issuance of the Bonds.

(d) The Issuer acknowledges that it has had an opportunity, in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred as part of the issuance of the Bonds.

**9. Notices.** Any notice or other communication to be given to the Issuer under this Agreement may be given by delivering the same in writing to: [Board of County Commissioners, P.O. Box 898, Silver City, NM 88062, Attention: County Manager], and any notice or other communication to be given to the Underwriter under this Agreement may be given by delivering the same in writing to [\_\_\_\_\_, Attention: \_\_\_\_\_].

**10. Parties in Interest.** This Agreement shall constitute the entire agreement between the Issuer and the Underwriter and is made solely for the benefit of the Issuer and the Underwriter (including successors or assigns of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof. This Agreement may not be assigned by the Issuer. All of the Issuer's representations and warranties contained in this Agreement shall remain operative and in full force and effect, regardless of (i) any investigations made by or on behalf of the Underwriter; (ii) delivery of and payment for the Bonds pursuant to this Agreement; and (iii) any termination of this Agreement.

**11. [No Boycott of Israel.]** By entering into this Agreement, the Underwriter certifies that it and its parent company, wholly or majority-owned subsidiaries, and other affiliates, if any, are not currently engaged in, or for the duration of this Agreement will not engage in, a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. The Underwriter understands that "boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations, but does not include an action made for ordinary business purposes.]



**12. Effectiveness.** This Agreement shall become effective upon the acceptance hereof by the Issuer and shall be valid and enforceable at the time of such acceptance.

**13. Choice of Law.** This Agreement shall be governed by and construed in accordance with the law of the State.

**14. Severability.** If any provision of this Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provisions of any Constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

**15. Business Day.** For purposes of this Agreement, "business day" means any day on which the New York Stock Exchange is open for trading.

**16. Section Headings.** Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement.

**17. Counterparts.** This Agreement may be executed in several counterparts each of which shall be regarded as an original (with the same effect as if the signatures thereto and hereto were upon the same document) and all of which shall constitute one and the same document.

**18. No Personal Liability.** None of the members of the Board of County Commissioners of the Issuer, or any officer, agent, or employee of the Issuer, shall be charged personally by the Underwriter with any liability, or be held liable to the Underwriter under any term or provision of this Agreement, or because of execution or attempted execution, or because of any breach or attempted or alleged breach, of this Agreement.

[Signature page follows.]



If the Issuer agrees with the foregoing, please sign the enclosed counterpart of this Agreement and return it to the Underwriter. This Agreement shall become a binding agreement between the Issuer and the Underwriter when at least the counterpart of this Agreement shall have been signed by or on behalf of each of the parties hereto.

Respectfully submitted,

[BANK/UNDERWRITER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ACCEPTED AND AGREED TO at \_\_\_\_\_ am / pm Mountain Time on \_\_\_\_\_, 2023.

GRANT COUNTY, NEW MEXICO

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



## SCHEDULE I

**Grant County, New Mexico**  
**\$2,000,000**  
**General Obligation Bonds, Series 2023**

The Bonds will be dated [November \_\_,] 2023 (the "Delivery Date"). Interest on the Bonds will accrue from the Delivery Date, will be payable on March 1 and September 1 of each year commencing September 1, 2024, until maturity or prior redemption, and will be calculated on the basis of a 360-day year consisting of twelve 30-day months.

<u>Maturity Date</u> <u>(August 1)*</u> ***	<u>Principal</u> <u>Amount(\$)</u> ***	<u>Interest</u> <u>Rate(%)</u> ***	<u>Initial</u> <u>Yield(%)</u> ***
---	--	--	--

[(c) = Initial yield shown to first available optional redemption date of [\_\_\_\_\_].]  
[\*Constitutes Hold-the-Offering Price Rule maturities.]

**[OPTIONAL REDEMPTION OF BONDS.]** [The Bonds maturing on or after [\_\_\_\_\_] may be redeemed prior to their scheduled maturities on [\_\_\_\_\_], or on any date thereafter, in whole or in part, at the option of the Issuer, with funds derived from any available and lawful source, at the redemption price of par, plus accrued interest to the date fixed for redemption.]



## EXHIBIT A

### FORM OF ISSUE PRICE CERTIFICATE

The undersigned, as the duly authorized representative of [ ] (the "Underwriter"), with respect to the General Obligation Bonds, Series 2023 issued by Grant County, New Mexico (the "Issuer") in the principal amount of \$2,000,000 (the "Bonds"), hereby certifies, based on its records and information, as follows:

The first price at which at least ten percent ("Substantial Amount") of the principal amount of each maturity of the Bonds having the same credit and payment terms (a "Maturity") was sold to a person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter (the "Public") is set forth in the final Official Statement relating to the Bonds.

(a) Other than the Bonds maturing in [ ] ("Hold-the-Price Maturities"), the first price at which at least ten percent ("Substantial Amount") of the principal amount of each maturity of the Bonds having the same credit and payment terms (a "Maturity") was sold to a person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter (the "Public") is set forth in the final Official Statement relating to the Bonds.

(b) On or before the first day on which the Bond Purchase Agreement is entered into (the "Sale Date"), the Underwriter offered to the Public each Maturity of the Hold-the-Price Maturities at their respective initial offering prices (the "Initial Offering Prices"), as listed in the final Official Statement relating to the Bonds.

(c) As set forth in the Bond Purchase Agreement, the Underwriter agreed in writing to neither offer nor sell any of the Hold-the-Price Maturities to any person at any higher price than the respective Initial Offering Price for such Maturity until a date that is the earlier of the close of the fifth business day after the Sale Date or the date on which the Underwriter sells a Substantial Amount of a Maturity of the Bonds to the Public at no higher price than the Initial Offering Price for such Maturity.]

A copy of the pricing wire or equivalent communication for the Bonds is attached to this Certificate as Schedule A.

For purposes of this Issue Price Certificate, the term "Underwriter" means (1) (i) a person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, or (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (1)(i) of this paragraph (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public) to participate in the initial sale of the Bonds to the Public, and (2) any person who has more than 50% common ownership, directly or indirectly, with a person described in clause (1) of this paragraph.

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Rodey, Dickason, Sloan, Akin & Robb, P.A., in connection with rendering its opinion that the interest on the Bonds is excludable from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

[Signature page follows.]



EXECUTED and DELIVERED as of this \_\_\_\_\_, 2023.

[BANK/UNDERWRITER]

By: \_\_\_\_\_  
[banker]

By: \_\_\_\_\_  
[underwriter]

EXHIBIT



## EXHIBIT C

### **Form of Issuer's Closing Certificate**

I, the undersigned officer or official of Grant County, New Mexico (the "Issuer"), in connection with the issuance, sale and delivery by the Issuer of \$2,000,000 aggregate principal amount of the Grant County, New Mexico General Obligation Bonds, Series 2023 (the "Bonds"), hereby certify that:

1. This certificate is delivered pursuant to Section 6(h)(9) of the Bond Purchase Agreement dated [November \_\_,] 2023 (the "Agreement"), between the Issuer and [\_\_\_\_], the underwriter of the Bonds. Capitalized words used herein as defined terms and not otherwise defined herein have the respective meanings assigned to them in the Agreement.
2. The representations and warranties of the Issuer contained in the Agreement are true and correct in all material respects on and as of the date of Closing as if made on the date of Closing.
3. No litigation, proceeding or tax challenge against the Issuer is pending or, to our knowledge, threatened in any court or administrative body nor, to our knowledge, is there a basis for litigation which would (a) contest the right of the members or officials of the Issuer to hold and exercise their respective positions, (b) contest the due organization and valid existence of the Issuer, (c) contest the validity, due authorization and execution of the Bonds or the Issuer Documents, (d) attempt to limit, enjoin or otherwise restrict or prevent the Issuer from functioning and collecting ad valorem taxes, or the pledge thereof for the payment of the principal of and interest on the Bonds, or (e) contest the accuracy, completeness or the fairness of the Preliminary Official Statement or the Official Statement.
4. The Bond Ordinance, which authorized the execution, delivery and/or performance of the Official Statement, the Bonds and the other Issuer Documents, has been duly adopted and executed by the Issuer, is in full force and effect and has not been modified, amended or repealed.
5. To the best knowledge of the Issuer, no event affecting the Issuer has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein, in the light of the circumstances under which they were made, not misleading in any respect as of the time of Closing, and the information contained in the Official Statement is correct in all material respects and, as of the date of the Official Statement did not, and as of the date of the Closing does not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.
6. There has not been any materially adverse change in the financial condition of the Issuer since [June 30, 2023], the latest date as of which audited financial information is available.

[Signature page follows.]



EXECUTED and DELIVERED as of this \_\_\_\_\_, 2023.

GRANT COUNTY, NEW MEXICO

By: \_\_\_\_\_  
[County Manager]

EXHIBIT



FINAL TERMS CERTIFICATE OF THE  
\$[2,000,000]  
GRANT COUNTY, NEW MEXICO  
GENERAL OBLIGATION BONDS  
SERIES 2023

Pursuant to the Public Securities Act, NMSA 1978, Sections 6-14-1 to -3 (1970, as amended through 1999), the Public Securities Limitation of Action Act, NMSA 1978, Sections 6-14-4 to -7 (1975), the Supplemental Public Securities Act, NMSA 1978, Sections 6-14-8 to -11 (1983, as amended through 2017), NMSA 1978, Sections 6-15-1 to -22 (1925, as amended through 2013), and the Election Code, NMSA 1978, Sections 1-1-1 to -28 (1969, as amended through 2019), and acts amendatory and supplemental thereto (collectively, the "Act"), and the authority delegated in Ordinance O-23-07, adopted by the Board of County Commissioners (the "Board") of Grant County, New Mexico (the "County") on [September 14], 2023 (the "Ordinance"), authorizing the issuance and sale of the County's General Obligation Bonds, Series 2023 (the "Bonds"), the undersigned hereby certifies that the final terms of the Bonds comply with the parameters and conditions established in the Ordinance, as further detailed below:

A. The \$[2,000,000] par amount of the Bonds does not exceed the maximum aggregate principal amount of \$[2,000,000].

B. The Bonds mature on September 1 of each year beginning in 2024 and have a final maturity of 20[ ], which is not later than September 1, 2042, as permitted by the Ordinance. The Bonds mature and bear interest as shown on Schedule 1 attached to this Final Terms Certificate.

C. The true interest cost on the Bonds of [INSERT TRUE INTEREST COST]% per annum is less than 5.000% per annum and the maximum coupon is [INSERT MAXIMUM COUPON]% which does not exceed a fixed interest rate of 6.000% per annum, as required by the Ordinance.

D. The Bonds will be sold to [INSERT NAME OF PURCHASER] (the "Purchaser"), as the result of a negotiated sale, for their par amount [plus original issue premium of \$[INSERT AMOUNT OF ORIGINAL ISSUE PREMIUM]], less an underwriting discount of \$[INSERT AMOUNT OF UNDERWRITING DISCOUNT]. The underwriting discount is [INSERT UNDERWRITING DISCOUNT RATE]%, which does not exceed 1.000% of the aggregate principal amount of the Bonds (on an aggregate basis) as required by the Ordinance. [The Bonds were sold with original issue premium of \$[INSERT AMOUNT OF ORIGINAL ISSUE PREMIUM], which means that the Bonds were not sold with any net original discount].

E. The Bonds are secured by general *ad valorem* taxes levied on all taxable property within the County, levied without limit as to rate or amount. The Bonds shall be dated the date of their issuance and delivery to the Purchaser.

F. The Bonds shall be issued only as fully registered bonds in Authorized Denominations, subject to the Book-Entry system.



G. The Bonds shall be issued in one series and be numbered consecutively from R-1 upwards or as otherwise requested by the Purchaser.

H. [The Bonds maturing on and after September 1, 20[ ] are subject to redemption at the option of the County on September 1, 20[ ], or any date thereafter, at a price of 100% of the par amount of the bonds plus accrued interest to the call date, upon notice as provided Subsection B of Section 4 of the Ordinance.

All capitalized terms used, but not defined herein, shall have the meanings assigned by the Ordinance unless the context hereof requires otherwise.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this [INSERT SALE DATE], 2023, pursuant to the authority delegated to me as the County Manager under the Ordinance.

GRANT COUNTY, NEW MEXICO

By: \_\_\_\_\_  
Charlene Webb, County Manager