

STATE OF NEW MEXICO            )  
COUNTY OF GRANT                ) ss.  
TOWN OF SILVER CITY             )

The Town Council (the “Council”) of the Town of Silver City (the “Town”), in the State of New Mexico, met in open regular session in full conformity with law and the ordinances and rules of the Town, in the Grant County Administration Center, 1400 Highway 180 East, Silver City, New Mexico, being the regular meeting place of the Council, at 6:00 p.m., on Tuesday, June 10, 2014, at which time there were present and answering the roll call the following members:

Mayor:

Councilors:

Absent:

Thereupon the following proceedings, among others, were taken at such meeting:

There was officially filed with the Town Clerk, the Mayor and each Councilor, a copy of an ordinance in final form, which is as follows:

ORDINANCE NO. 1228

AUTHORIZING THE ISSUANCE OF THE TOWN OF SILVER CITY, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE NOTES, SERIES 2014 IN TWO SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,500,000 FOR THE PURPOSE TO (1) FINANCE ACQUISITION AND CONSTRUCTION OF CERTAIN CAPITAL IMPROVEMENTS FOR THE BENEFIT OF THE TOWN AND ITS RESIDENTS, INCLUDING BUT NOT LIMITED TO, PUBLIC SAFETY EQUIPMENT AND PUBLIC RECREATION FACILITIES, AND (2) PAY COSTS OF ISSUANCE OF THE SERIES 2014 NOTES; PROVIDING THAT THE SERIES 2014 NOTES WILL BE PAYABLE AND COLLECTIBLE FROM AND SECURED BY A PLEDGE OF (1) THE GROSS RECEIPTS TAX DISTRIBUTED TO THE TOWN PURSUANT TO SECTION 7-1-6.4 NMSA 1978, AS AMENDED (THE "STATE-SHARED GROSS RECEIPTS TAX"); PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM SAID TAX PROCEEDS; PROVIDING THAT CERTAIN TERMS OF THE NOTES WILL BE PROVIDED IN A SUBSEQUENT RESOLUTION; PRESCRIBING OTHER DETAILS CONCERNING THE NOTES AND TAX PROCEEDS, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND THE FORM, TERMS, CONDITIONS AND MANNER OF EXECUTION OF THE NOTES; RATIFYING ALL ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the Town of Silver City, New Mexico (the "Town") is a legally and regularly created, established, organized and existing municipality under the general laws of the State of New Mexico; and

WHEREAS, pursuant to Section 7-1-6.4 NMSA 1978, as amended, the Town now receives monthly from the Revenue Division of the New Mexico Taxation and Revenue Department from the gross receipts tax imposed on any person engaging in business in New Mexico, a distribution of the gross receipts tax which is to be in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the product of the quotient of 1.225% divided by the tax rate imposed by Section 7-9-4 NMSA 1978 (currently 5.125%), times the net receipts (*i.e.*, the total gross receipts tax from business locations within the Town and other places designated in Section 7-1-6.4 NMSA 1978, such distributions to the Town as further defined in Section 1 being referred to herein as the "State-Shared Gross Receipts Tax Revenues") which are being pledged to the Notes herein authorized; and

WHEREAS, pursuant to Ordinance 1184, adopted on September 30, 2011, the Town issued its Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2011A & B in the original aggregate principal amount of \$6,400,000 (the "2011 Bonds"), which are payable from and secured, in part, by an irrevocable and first lien (but not necessarily an exclusively first lien) on the State-Shared Gross Receipts Tax Revenues; and

WHEREAS, pursuant to Ordinance 1192, adopted on January 10, 2012, the Town issued its Gross Receipts Tax Improvement Revenue Bonds, Series 2012 in the original aggregate

principal amount of \$800,000 (the “2012 Bonds”), which are payable from and secured, in part, by an irrevocable and first lien (but not necessarily an exclusively first lien) on the State-Shared Gross Receipts Tax Revenues; and

WHEREAS, other than identified herein, the Town has no outstanding obligations payable from the State-Shared Gross Receipts Tax Revenues; and

WHEREAS, the Town has determined that there is an urgent public need for the Project (defined below) to be funded with proceeds of the Notes; and

WHEREAS, Section 3-31-6(C) NMSA 1978, provides as follows:

Any law which authorizes the pledge of any or all of the pledged revenues to the payment of any revenue bonds issued pursuant to Sections 3-31-1 through 3-31-12 NMSA, or which affects the pledged revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds, unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor; and

WHEREAS, Sections 3-31-1 through 3-31-12 NMSA 1978, as amended, permit the Town to issue revenue bonds for the Project (defined below) and to pledge the Pledged Revenues to the payment of the interest on and principal of the revenue bonds; and

WHEREAS, the Council hereby determines that the Tax-Exempt Project is for a governmental purpose and is not a project which would cause the Notes to be "private activity Notes" as defined by the Internal Revenue Code of 1986, as amended to the date of delivery of the Notes; and

WHEREAS, the Notes shall be issued with a first (but not necessarily exclusively first) lien on the Pledged Revenues.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF SILVER CITY, NEW MEXICO:

Section 1. Definitions. As used in ordinance and any ordinance or resolution amendatory hereof or supplemental hereto, or relating hereto:

“Acquisition Fund” has the meaning specified in Section 18.

“Authorized Officer” means the Mayor, Manager/Finance Director, Clerk or other officer or employee of the Town when designated by a Certificate signed by the Mayor of the Town from time to time.

“Bond Counsel” means an attorney or firm of attorneys nationally recognized as bond counsel.

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

“Council” means the Town Council of the Town.

“Debt Service Fund” has the meaning specified in Section 18.

“Event of Default” has the meaning assigned in Section 28.

“Expenses” means the reasonable and necessary fees, costs and expenses incurred by the Town with respect to the issuance of the Notes, including the fees, premiums, compensation, costs and expenses paid or to be paid to the Purchaser and attorneys' fees.

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

“Fiscal Year” means the 12 months beginning on the first day of July of each calendar year and ending on the last day of June of the next calendar year, but it may mean any other 12-month period which any appropriate authority may hereafter establish for the its Fiscal Year.

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

“Independent Counsel” means an attorney duly admitted to the practice of law before the highest court of the State who is not a full time employee of the Town.

“Insured Bank” means a bank which is a member of the Federal Deposit Insurance Corporation.

“Interest Payment Date” means June 1 and December 1 in each year beginning December 1, 2014.

“Minimum Reserve” means an amount which is equal to the lesser of (i) ten percent of the proceeds of the Notes as the term proceeds is used in Section 148(d)(1) of the Code, (ii) the maximum annual debt service on the Notes, or (iii) 125% of the average annual debt service on the Notes.

“Notes” means collectively the Series 2014A Tax-Exempt Notes and the Series 2014B Taxable Notes.

“Outstanding” when used with reference to the Notes and as of any particular date, means all Notes theretofore executed by the Town and authenticated by the Registrar except: (i) any Notes cancelled or fully paid on or before such date; (ii) any Note in lieu of on in substitution for which another Note has been delivered pursuant to this Ordinance; (iii) any Note for the payment or redemption of which funds or securities permitted by Section 24 in the necessary amount have theretofore been deposited with the Paying Agent (whether upon or prior to the maturity or redemption date of such Note); and (iv) for the sole purpose of determining the percentage of Owners consenting to any amendment to this Ordinance or authorizing the exercise of any remedy hereunder, any Notes owned by the Town. For all other purposes, Notes owned by the Town which are not described in clauses (i), (ii) or (iii) shall be treated as Outstanding.

“Owner” means the registered owner of any Note.

“Parity Obligations” means the 2011 Bonds, the 2012 Bonds, the Notes and other bonds or other obligations payable from the State-Shared Gross Receipts Tax Revenues hereafter issued with a lien on the State-Shared Gross Receipts Tax Revenues on parity with the Notes.

“Paying Agent” means the Town’s Manager/Finance Director (or successor in function) of the Town, as agent for the Town for the payment of the principal of and interest and premium, if any, on the Notes.

“Payment Date” means any date upon which any payment of principal of or interest on any Note is scheduled to be made.

“Permitted Investments” means securities which are at the time legal investments of the Town for the money to be invested, as applicable, including but not limited to the following if permitted by law: (i) direct obligations of, or obligations fully guaranteed by the United States of America or instruments evidencing ownership interests in those obligations or in specified portions of the principal of or interest on those obligations; (ii) negotiable securities of the State; (iii) money market funds which invest solely in obligations described in clause (i) above which are rated in the highest rating category by Moody's Investors Service, Inc., or Standard & Poor's Rating Group; and (iv) the State Treasurer's short-term investment fund created pursuant to Section 6-10-10.1 NMSA 1978, and operated, maintained and invested by the office of the State Treasurer.

“Pledged Revenues” means the State-Shared Gross Receipts Tax Revenues.

“Project” means collectively the Tax-Exempt Project and the Taxable Project.

“Purchaser” means the original purchaser of the Notes to be identified in the Sale Resolution.

“Registrar” means the Town’s Manager/Finance Director (or successor in function) of the Town, as registrar and transfer agent for the Notes.

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

“Reserve Fund” has the meaning specified in Section 18.

“Sale Resolution” means a resolution to be adopted by the Council after sale of the Notes which shall specify the exact aggregate principal amounts of the Notes, the maturity dates, the amounts maturing on each maturity date, the interest rates, the Purchaser, and the redemption features applicable to the Notes and which shall approve documents and which may contain such other terms and provisions as the Council may determine; provided that in no event shall the Sale Resolution specify a net effective interest rate on the Notes in excess of the statutory maximum of twelve percent (12%) per annum.

“Series 2014A Tax-Exempt Notes” means the Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenue Notes, Series 2014A.”

“Series 2014B Taxable Notes” means the Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenue Notes, Taxable Series 2014B.”

“Series Date” means the date of original issuance of each series of Notes.

“Special Record Date” means a special date fixed to determine the names and addresses of registered owners of the Notes for purposes of paying interest on a special interest payment date for the payment of defaulted interest thereon, all as further provided in Section 6(b).

“State” means the State of New Mexico.

“State-Shared Gross Receipts Tax Income Fund” has the meaning specified in Section 18.

“State-Shared Gross Receipts Tax Revenues” means revenues from the State gross receipts tax derived pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted monthly by the Revenue Division of the Taxation and Revenue Department of the State to the Town as authorized by Sections 7-1-6.1 and 7-1-6.4 NMSA 1978, and which remittances as of the date of adoption of this Ordinance are equal to one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported to the Town for the month for which such remittance is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the Town under applicable law, such additional amounts shall be included as revenues pledged pursuant to this Ordinance; and provided further that the amount of revenues pledged pursuant to this Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the Town as set forth above, or (ii) the maximum amount at any time provided hereinafter to be remitted to the Town under applicable law; and provided further, the Town

intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Ordinance. State-Shared Gross Receipts Tax Revenues also includes (i) the portion of the gross receipts tax distribution to the Town to be made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax Revenues set forth in the sentence above that would have been remitted to the Town but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978 and (ii) any similar distributions made to the Town in lieu of State-Shared Gross Receipts Tax Revenues, but State-Shared Gross Receipts Tax Revenues do not include any similar distributions in lieu of any municipal local option gross receipts tax revenues.

“Tax-Exempt Project” means acquiring, constructing, purchasing, furnishing, equipping, rehabilitating, beautifying, making additions to or making improvements to capital projects for the Town, including but not limited to public safety equipment and recreation facilities.

“Taxable Project” means acquiring, constructing, purchasing, furnishing, equipping, rehabilitating, beautifying, making additions to making improvements to capital projects related to the Town’s municipal golf course.

“Town” means the municipal body corporate and politic known as the Town of Silver City, New Mexico.

“2011 Bonds” means the Town of Silver City, New Mexico Gross Receipts Tax Improvement and Refunding Revenues Bonds, Series 2011A & B issued on November 8, 2011 in the aggregate principal amount of \$6,400,000 and authorized by Town Ordinance No. 1184, adopted on September 13, 2011, as supplemented by Town Resolution No. 2011-35, adopted on October 25, 2011.

“2012 Bonds” means the Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenues Bonds, Series 2012 issued on February 28, 2012 in the aggregate principal amount of \$800,000 and authorized by Town Ordinance No. 1192, adopted on January 10, 2012, as supplemented by Town Resolution No. 2012-06, adopted on February 13, 2012.

Section 2. Ratification. All action heretofore taken (not inconsistent with the express provisions of this Ordinance) by the Council and officers of the Town directed toward the Project, and toward the authorization, sale and issuance of the Notes is ratified, approved and confirmed.

Section 3. Authorization of Project. The Project and the method of financing the Project are hereby authorized and ordered at a total cost estimated not to exceed the amount of the Note proceeds and any investment earnings thereon, excluding any such cost defrayed or to be defrayed by any source other than Note proceeds. The Project is found and declared to be necessary.

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

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

B. The Pledged Revenues may lawfully be pledged to secure the payment and redemption of the Notes.

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

D. The issuance of the Notes pursuant to the Act, to provide funds for the financing of the Project is necessary and in the interest of the public health, safety, morals and welfare of the residents of the Town.

E. The net effective interest rate on the Notes, as set forth in the Sale Resolution, shall be less than 12% per annum, the maximum rate permitted by State law.

F. The Project is needed to meet the needs of the Town and its residents.

Section 5. Authorization of Notes. This Ordinance has been adopted by the affirmative vote of at least a three-fourth's (3/4<sup>ths</sup>) majority of all of the members of the Council. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Town, it is hereby declared necessary that the Town, pursuant to the Act, issue its negotiable, fully registered, revenue Notes in two series to be designated "Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenue Notes, Series 2014A" and "Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenue Notes, Taxable Series 2014B" in an aggregate principal amount not to exceed \$1,500,000. The issuance, sale and delivery of the Notes are hereby authorized. The Project is authorized and approved. The Notes shall be sold to the Purchaser pursuant to the Note Purchase Agreement at a negotiated sale pursuant to the terms in the Sale Resolution.

Section 6. Note Details.

A. Basic Details. The Notes shall be dated the date of delivery, are issuable in the denomination of \$1,000 each or any integral multiple thereof (provided that no Note may be in a denomination which exceeds the principal coming due on any maturity date and no individual Note will be issued for more than one maturity), numbered consecutively from 1 upwards, shall bear interest from their dated date until maturity at a rate of interest not to exceed twelve percent (12%) per annum, as set forth in the Sale Resolution, and shall be payable on December 1, 2014 and semiannually thereafter on June 1 and December 1 in each year as set forth in the Sale Resolution.

B. Payment. The principal of and any prior redemption premium applicable to any Note shall be payable to the Owner thereof as shown on the registration books kept by the Registrar (which is appointed as registrar and transfer agent for the Notes), upon maturity or prior redemption thereof and upon presentation and surrender at office of the Paying Agent (which is appointed as paying agent for the Notes). If any Note shall not be paid upon such presentation and surrender at or after maturity or on a designated prior redemption date on which



the Town may have exercised its right to prior redeem any Note pursuant to Section 7, it shall continue to draw interest at the rate borne by the Note until the principal thereof is paid in full. Payment of interest on any Note shall be made to the registered owner thereof as of the Regular Record Date by check or draft mailed by the Paying Agent, on or before each interest payment date (or, if such interest payment date is not a business day, on or before the next succeeding business day without accruing any additional interest), to the Owner thereof on the Regular Record Date at such Owner's address as it last appears on the registration books kept by the Registrar on the Regular Record Date (or by such other arrangement as may be mutually agreed to by the Paying Agent and any registered owner on such Regular Record Date). All such payments shall be made in lawful money of the United States of America. The person in whose name any Note is registered at the close of business on any Regular Record Date with respect to any interest payment date shall be entitled to receive the interest payable thereon on such interest payment date notwithstanding any transfer or exchange thereof subsequent to such Regular Record Date and prior to such interest payment date; but any such interest not so timely paid or duly provided for shall cease to be payable as provided above and shall be payable to the person in whose name any Note is registered at the close of business on a Special Record Date fixed by the Paying Agent for the payment of any such defaulted interest. Such Special Record Date shall be fixed by the Paying Agent whenever moneys become available for defaulted interest, and notice of any such Special Record Date shall be given not less than ten days prior thereto, by first-class mail, to the Owners of the Notes as of a date selected by the Paying Agent, stating the Special Record Date and the date fixed for the payment of such defaulted interest.

Section 7. Prior Redemption.

A. Redemption. The Notes may be subject to optional or mandatory sinking fund redemption prior to their stated maturities at the redemption price(s) and on the dates established in the Sale Resolution.

B. Notice by Town. Unless waived by the Registrar, at least 45 days prior to any date selected by the Town for prior redemption of any of the Notes, the Town shall give written instructions to the Registrar (and, if the Registrar is not also the Paying Agent, to the Paying Agent) with respect to such prior redemption.

C. Notice by Registrar. Additionally, notice of redemption shall be given by the Registrar by sending a copy of such notice by first class, postage prepaid mail, not more than 60 days and not less than 30 days prior to the redemption date to each Owner as shown on the registration books kept by the Registrar as of the date of selection of units of principal for redemption. The Registrar shall not be required to give notice of any prior redemption unless it has received written instructions from the Town in regard thereof, at least 45 days prior to such redemption date or unless the 45 day deadline is waived by the Registrar. Failure to give such notice by mailing to the registered owner of any Note, or any defect therein, shall not affect the validity of the proceedings for the redemption of any of the Notes for which proper notice was given.

D. Conditional Redemption. If money or Federal Securities sufficient to pay the optional redemption price of the Notes to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to paragraph

(c) of this Section, such notice shall state such Notes will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent by 2:00 p.m. on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Notes for which the optional redemption price is on deposit with the Paying Agent. If all Notes called for optional redemption cannot be redeemed, the Notes to be redeemed shall be selected in a manner deemed reasonable and fair by the Town and the Registrar shall give notice, in the manner in which the original notice of optional redemption was given, that such money was not received. In that event, the Registrar shall promptly return to the Owners thereof the Notes or certificates which it has received evidencing the part thereof which have not been redeemed.

E. Other Redemption Details. The notice required by Section 7(C) shall specify the number or numbers of the Note or Notes or portions thereof to be so redeemed (if less than all are to be redeemed); and all notices required by this Section 7 shall specify the date fixed for redemption, and shall further state that on such redemption date there shall become and be due and payable upon each \$1,000 unit of principal so to be redeemed at the office of the Paying Agent the principal thereof and the applicable prior redemption premium thereon (if any), and that from and after such date interest shall cease to accrue. Accrued interest to the redemption shall be paid by check or draft mailed to the Owner (or by alternative means if so agreed to by the Paying Agent and the Owner). Notice having been given in the manner hereinbefore provided, the Note or Notes so called for redemption shall become due and payable on the redemption date so designated; and upon presentation thereof at the office of the Paying Agent, the Town shall pay the Note or Notes so called for redemption and the applicable prior redemption premium (if any). In the event that only a portion of the principal amount of a Note is so redeemed, a new Note representing the unredeemed principal shall be duly completed, authenticated and delivered by the Registrar to the Owner pursuant to Section 10 and without charge to the Owner thereof.

Section 8. Negotiability. Subject to the provisions specifically made or implied herein, the Notes shall be fully negotiable, and shall have all the qualities of negotiable paper, and the Owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code.

Section 9. Execution.

A. Method of Execution. Each Note shall be executed by the manual or facsimile signature of the Mayor under the seal of the Town, each Note shall be executed and attested with the manual or facsimile signature of the Town Clerk; and each Note shall be authenticated by the manual signature of an authorized officer of the Registrar as hereafter provided. The Notes bearing the manual or facsimile signatures of the officers in office at the time of the authorization thereof shall be the valid and binding obligations of the Town (subject to the requirement of authentication by the Registrar) notwithstanding that before the delivery thereof and payment therefor, or before the issuance thereof upon transfer or exchange, any or all of the persons whose manual or facsimile signatures appear thereon shall have to ceased to fill their respective offices.

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

Section 10. Registration, Transfer, Exchange, Replacement and Cancellation.

A. Registration Books; Transfer and Exchange. Books for the registration and transfer of the Notes shall be kept by the Registrar. Upon the surrender for transfer of any Notes at the office of the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver in the name of the transferee or transferees a new Note or Notes of a like aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. Notes may be exchanged at office of the Registrar for an equal aggregate principal amount of Notes of the same maturity of other authorized denominations. The Registrar shall authenticate and deliver a Note or Notes that the Owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Notes as herein provided shall be without charge to the Owner or any transferee, but the Registrar may require the payment by the Owner of any Note requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

B. When Transfer or Exchange Not Required. The Registrar shall not be required: (i) to transfer or exchange all or a portion of any Note subject to prior redemption during the period of 15 days next preceding the mailing of notice to the Owners calling any Notes for prior redemption pursuant to Section 7; or (ii) to transfer or exchange all or a portion of a Note after the mailing to registered owners of notice calling such Note or portion thereof for prior redemption.

C. Payment to Registered Owners. The person in whose name any Note shall be registered on the registration books kept by the Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes except as may otherwise be provided with respect to payment of interest as is provided in Section 6(B), and payment of or on account of either principal or interest on any Note shall be made only to or upon the written order of the Owner thereof or the Owner's legal representative, but such registration may be changed upon transfer of such Note 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 Note to the extent of the sum or sums so paid.

D. Replacement Notes. If any Note is lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it may reasonably require, authenticate and deliver a replacement Note or Notes of a like aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Note has matured, the Paying Agent may pay such Note in lieu of replacement.

E. Delivery of Note Certificates to Registrar. The officers of the Town are authorized to deliver to the Registrar fully executed but unauthenticated Notes in such quantities as may be convenient to be held in custody by the Registrar pending use as herein provided.

F. Cancellation of Notes. Whenever any Note is surrendered to the Paying Agent or Registrar upon payment thereof, or for transfer, exchange or replacement as provided herein, such Note shall be promptly cancelled by the Paying Agent or the Registrar, as the case may be, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or the Registrar, as the case may be, to the Town.

Section 11. [Reserved].

Section 12. Special Obligations. All of the Notes, together with the interest accruing thereon, shall be payable and collectible solely out of the Pledged Revenues, which are irrevocably so pledged. The registered owner or owners thereof may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor; and the Notes shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of the Town; and each of the Notes shall recite that it is payable and collectible solely from the Pledged Revenues, which are so pledged, and that the Owner thereof may not look to any general or other fund for the payment of principal and interest on, and prior redemption premium due in connection with, the Notes.

Section 13. Forms of Notes, Certificate of Authentication and Assignment. The Notes and the related Certificate of Authentication and Form of Assignment shall be in substantially the following forms:

(Form of Note)

UNITED STATES OF AMERICA  
STATE OF NEW MEXICO  
TOWN OF SILVER CITY

No. R-\_\_\_\_ \$\_\_\_\_\_

GROSS RECEIPTS TAX  
IMPROVEMENT REVENUE NOTES  
SERIES 2014A

| <u>Interest Rate</u> | <u>Maturity Date</u> | <u>Series Date</u> |
|----------------------|----------------------|--------------------|
| ____% per annum      | June 1, 20__         | _____, 2014        |

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The Town of Silver City, New Mexico (the "Town"), for value received, promises to pay upon presentation and surrender of this note, solely from the special funds provided therefor as hereinafter set forth, to the registered owner named above, or registered assigns, on the Maturity Date specified above (unless this note, if subject to prior redemption, shall have been called for prior redemption in which case on such redemption date), upon the presentation and surrender hereof at the office of the Manager/Finance Director (or successor in function) of the Town (the "Paying Agent"), the Principal Amount stated above, in lawful money of the United States of America, and to pay to the registered owner hereof as of the Regular Record Date (being the 15th day of the calendar month preceding each regularly scheduled interest payment date as defined in Ordinance No. 1228, adopted on June 10, 2014, as supplemented by Resolution No. \_\_\_\_\_, adopted on June \_\_, 2014 (which authorizes this note and which is referred to herein collectively as the "Ordinance"), by check or draft mailed to such registered owner, on or before each interest payment date as hereinafter provided (or, if such interest payment date is not a business day, on or before the next succeeding business day without accruing any additional interest), at his address as it last appears on the Regular Record Date on the registration books kept for that purpose by the Manager/Finance Director (or successor in function) of the Town as registrar for the Notes (the "Registrar") or by such other arrangement as may be agreed to by the Paying Agent and the registered owner hereof, interest on said sum in lawful money of the United States of America from the Series Date specified above or the most recent interest payment date to which interest has been fully paid or duly provided for in full (as more fully provided in the Ordinance) until maturity at the per annum Interest Rate specified above, payable on December 1, 2014 and semiannually thereafter on June 1 and December 1 in each year. Any such interest not so timely paid or duly provided for shall cease to be payable to the registered owner as of the Regular Record Date and shall be payable to the registered owner as of a Special Record Date (as defined in the Ordinance), as further provided in the Ordinance. If upon presentation and surrender to the Paying Agent at or after maturity or on a designated prior redemption date on which the Town may have exercised its right to prior redeem this note pursuant to the Ordinance, payment of this note is not made as herein provided, interest hereon shall continue at the rate herein designated until the principal hereof is paid in full.

The Notes of the series of which this note is a part (the "Notes") maturing on or after June 1, 20\_\_ are subject to prior redemption at the option of the Town in one or more units of principal of \$1,000 on and after June 1, 20\_\_, in whole or in part at any time in such order of maturities as the Town may determine (and by lot if less than all of the Notes of such maturity is called, such selection by lot to be made by the Registrar in such manner as it shall consider appropriate and fair), for the principal amount of each \$5,000 unit so redeemed, accrued interest thereon to the redemption date. Redemption shall be made upon prior notice mailed to each registered owner of each note selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Ordinance.

The Notes are fully registered (i.e., registered as to payment of both principal and interest), and are issuable in the denomination of \$1,000 or any denomination which is an integral multiple of \$1,000 (provided that no note may be in a denomination which exceeds the principal coming due on any maturity date and no individual note shall be issued for more than one maturity).

This note is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration books kept by the Registrar upon surrender of this note together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered note of authorized denomination or denominations of the same aggregate principal amount and maturity shall be issued to the transferee in exchange for this note, subject to such terms and conditions as set forth in the Ordinance. The Town, the Paying Agent and the Registrar may deem and treat the person in whose name this note is registered as the absolute owner hereof for the purpose of making payment and for all other purposes.

This note is one of a series of Notes designated "Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenue Notes, Series 2014" of like tenor and date, except as to interest rate, number and maturity, authorized for the purpose to (1) acquire, construct, purchase, furnish, equip, rehabilitate, beautify, make additions to or make improvements to capital projects for the Town, including but not limited to public safety equipment and recreation facilities, and (2) pay costs of issuance of the Notes.

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

This note does not constitute indebtedness of the Town within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the Town, and is payable and collectible solely from the Pledged Revenues. The "Pledged Revenues" are (1) the revenues from the State gross receipts tax derived pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted monthly by the Revenue Division of the Taxation and Revenue Department of the State to the Town as authorized by Sections 7-1-6.1 and 7-1-6.4 NMSA 1978, and which remittances as of the date of adoption of the Ordinance are equal to one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported to the Town for the month for which such remittance is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the Town under applicable law, such additional amounts shall be included as revenues pledged pursuant to the Ordinance; and provided further that the amount of revenues pledged pursuant to the Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the Town as set forth above, or (ii) the maximum amount at any time provided hereinafter to be remitted to the Town under applicable law; and provided further, the Town intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Ordinance. State-Shared Gross Receipts Tax Revenues also includes (i) the portion of the gross receipts tax distribution to the Town to be made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax Revenues set forth in the sentence above that would have been remitted to the Town but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978 and (ii) any similar distributions made to the Town in lieu of State-Shared Gross Receipts Tax Revenues, but State-Shared Gross Receipts Tax Revenues do not include any similar distributions in lieu of any municipal local option gross receipts tax revenues.

The Notes are equitably and ratably secured by a lien on the Pledged Revenues; and the Notes constitute an irrevocable and first lien (but not necessarily an exclusively first lien) upon

the Pledged Revenues. Additional obligations may be issued and made payable from the Pledged Revenues and having a lien thereon inferior and junior to the lien, or, subject to designated conditions, having a lien thereon on a parity with the lien of the Notes of the series of which this note is a part, in accordance with the provisions of the Ordinance.

The Town covenants and agrees with the registered owner of this note and with each and every person who may become the registered owner hereof that it shall keep and perform all of the covenants of the Ordinance.

This note is subject to the conditions, and every registered owner hereof by accepting the same agrees with the obligor and every subsequent registered owner hereof that the principal of and the interest on this note shall be paid, and this note is transferable, free from, and without regard to any equities between the obligor and the original or any intermediate registered owner hereof for any set-offs or cross-claims.

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

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

IN WITNESS WHEREOF, the Town of Silver City, New Mexico has caused this note to be signed, subscribed, and executed, and attested with the manual or facsimile signatures of the Mayor and the Town Clerk, respectively; has caused its corporate seal to be affixed hereon, all as of the Series Date.

TOWN OF SILVER CITY, NEW MEXICO

By \_\_\_\_\_  
Mayor

(SEAL)

ATTEST

By \_\_\_\_\_  
Town Clerk

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

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

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

MANAGER/FINANCE DIRECTOR (OR  
SUCCESSOR IN FUNCTION) OF THE TOWN  
OF SILVER CITY, NEW MEXICO, as Registrar

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

(End of Form of Certificate of Authentication)

(Form of Assignment)

ASSIGNMENT

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

Signature Guaranteed:

Name and Address of Transferee:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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

Social Security Number or  
Other Tax Identification Number: \_\_\_\_\_

(End of Form of Assignment)

(End of Form of Note)



Section 14. Delivery of Notes and Initial Registration. When the Notes have been duly executed, authenticated, registered and sold, the Town shall deliver them to the Purchaser on receipt of the agreed purchase price.

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

A. Accrued Interest. Upon the sale of the Notes, all moneys received as accrued interest, if any, shall be deposited into the Debt Service Fund, to apply on the payment of interest next due on the Notes.

B. Acquisition Fund. An amount necessary from the Notes, together with other legally available funds of the Town, shall be deposited for the payment of the costs of the Project.

C. Expenses. To the extent not paid by the Purchaser, an amount necessary, together with other legally available funds of the Town, shall be used to pay Expenses for the Notes, from Note proceeds.

D. Additional Deposit. Upon the issuance and sale of the Notes, the Town Manager/Finance Director shall cause legally available moneys to be deposited in the Acquisition Fund in such amount as he determines shall be necessary to assure that the amount of the Acquisition Fund will be sufficient to pay the costs of the Project.

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

Section 16. Use of Proceeds. Except as otherwise specifically provided in this Ordinance, the proceeds derived from the sale of the Notes shall be used and paid solely for the purposes of the Project and including any costs relating to the issuance of the Notes.

Section 17. Purchaser Not Responsible. The validity of the Notes is neither dependent on nor affected by the validity or regularity of any proceedings related to the completion of the Project. Neither the Purchaser nor any subsequent Owner of any Notes shall in any manner be responsible for the application or disposal by the Town or by any officer or any employee or other agent of the Town of the moneys derived from the sale of the Notes or of any other moneys designated in this Ordinance.

Section 18. Funds and Accounts. The Town hereby creates or continues the following special and separate funds:

A. Acquisition Fund. The “Town of Silver City, New Mexico Gross Receipts

Tax Improvement Revenue Notes, Series 2014, Acquisition Fund” to be maintained by the Town.

B. State-Shared Gross Receipts Tax Income Fund. The “Town of Silver City, New Mexico Sales Tax Income Fund” to be maintained by the Town.

C. Debt Service Fund. The “Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenue Notes, Series 2014, Debt Service Fund” to be maintained by the Town.

D. Reserve Fund. The “Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenue Notes, Series 2014, Reserve Fund” to be maintained by the Town.

Section 19. Deposit of Pledged Revenues and Flow of Funds.

A. Income Funds. So long as any of the Notes are outstanding either as to principal or interest, or both, the Town shall credit all Pledged Revenues to the State-Shared Gross Receipts Tax Income Fund. The following payments shall be made from the Income Funds.

B. Debt Service Fund.

(i) As a first charge on the State-Shared Gross Receipts Tax Income Fund, the following amounts shall be withdrawn from the State-Shared Gross Receipts Tax Income Fund and shall be credited to the Debt Service Fund:

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

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

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

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

E. Reserve Fund. No deposit shall be required in the Reserve Fund so long as the Pledged Revenues in each Fiscal Year equal or exceed 200% of the maximum annual principal and interest coming due in any subsequent Fiscal Year on all outstanding Parity Obligations. If the Pledged Revenues in any Fiscal Year are insufficient to meet the test set forth in the preceding sentence, the Town shall begin making substantially equal monthly deposits in the Reserve Fund from the first legally available Pledged Revenues so that after 24 months an amount equal to the Minimum Reserve will be held in the Reserve Fund. After funding the Reserve Fund in an amount equal to the Minimum Reserve, no additional payments need be made into the Reserve Fund so long as the moneys therein shall equal not less than the Minimum Reserve. The moneys in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in paragraph (K) of this Section, only to prevent deficiencies in the payment of the principal of and interest on the Notes resulting from failure to deposit into the Debt Service Fund sufficient funds to pay the principal and interest as the same accrue.

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

G. Payment of Parity Obligations. Concurrently with the payment of the Pledged Revenues required by paragraphs (B), (E) and (F) of this Section, any amounts on deposit in the State-Shared Gross Receipts Tax Income Fund shall be used by the Town for the payment of principal of, interest on and debt service reserve fund deposits relating to Parity Obligations, payable from the State-Shared Gross Receipts Tax Revenues, as the same accrue. If funds on deposit in the State-Shared Gross Receipts Tax Income Fund are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund

deposits relating to the Notes and any other outstanding Parity Obligations, then the available and applicable funds in the State-Shared Gross Receipts Tax Income Fund will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Obligations, for the payment of principal of and interest on all series of outstanding Parity Obligations and, second, to the extent of remaining available funds in the State-Shared Gross Receipts Tax Income Fund, on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Obligations, for the required debt service reserve fund deposits for all series of outstanding Parity Obligations.

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

I. Payment for Subordinate State-Shared Gross Receipts Tax Obligations. Subsequent to the payments required by paragraphs (B), (E), (F) and (G) of this Section, any balance remaining in the State-Shared Gross Receipts Tax Income Fund, after making the payments hereinabove provided, shall be used by the Town for the payment of interest on and the principal of additional obligations, if any, hereafter authorized to be issued and payable from the State-Shared Gross Receipts Tax Revenues with a lien on the State-Shared Gross Receipts Tax Revenues junior or subordinate to the lien thereon of the Notes (provided that such payments may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional obligations).

J. Payment from Other Sources. Notwithstanding any other provisions of this Ordinance, the Town may, in its sole discretion, choose to apply other legally available funds to the payment of the Notes.

K. Surplus Revenues. After making all the payments hereinabove required to be made by this Section, the remaining Pledged Revenues, if any, may be applied to any other lawful purpose, as the Town may from time to time determine.

Section 20. General Administration of Funds. The funds designated in Section 18 shall be administered and invested as follows:

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

each Interest Payment Date, moneys sufficient to pay interest and principal then due on the Notes shall be transferred to the Paying Agent. Nothing in this Ordinance shall prevent the Town from establishing one or more bank accounts in an Insured Bank or Banks for all the funds required by this Ordinance or shall prevent the combination of such funds and accounts with any other bank account or accounts or investments for other funds and accounts of the Town.

B. Investment of Moneys. Moneys in the Reserve Fund shall be invested in accordance with paragraph (C) of this Section 20 and moneys in any other fund or account not immediately needed may be invested in any Permitted Investment allowed by the laws of the State. 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 Town Manager/Finance Director 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.

C. Reserve Fund. Moneys, if any, in the Reserve Fund may be invested only in Permitted Investments with a maturity not greater than five years. The Town shall annually, on or about June 1 of each year, commencing on the first June 1 succeeding funding of the Reserve Fund, value the Reserve Fund on the basis of the current fair market value of deposits and investments credited to the Reserve Fund. If, upon any valuation, the value of the Reserve Fund exceeds the Minimum Reserve, the excess amount shall be withdrawn and deposited into the Debt Service Fund; if the value is less than the applicable requirement, the Town shall replenish such amounts from the first Pledged Revenues thereafter received not required to be otherwise applied or other monies legally available therefor.

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

If moneys have been withdrawn from the Reserve Fund constituting all or a portion of the Reserve Fund, and deposited into the Debt Service Fund to prevent a default on the Notes, then the Town will pay, from Pledged Revenues or other monies legally available therefor, the full amount so withdrawn as shall be required to restore the Reserve Fund to the Minimum Reserve and to pay such interest, if any. Such repayment shall be made as required by paragraph (F) of Section 19.

Section 21. First Lien on Pledged Revenues. The Notes constitute an irrevocable and first lien on the Pledged Revenues.

Section 22. Additional Notes and Other Obligations Payable from State-Shared Gross Receipts Tax Revenues.

A. Limitations upon Issuance of Parity Obligations. Nothing in this Ordinance shall be construed in such a manner as to prevent the issuance by the Town of additional Notes or other obligations payable from the State-Shared Gross Receipts Tax Revenues and constituting a lien upon the State-Shared Gross Receipts Tax Revenues on a parity with, but not prior or superior to, the lien of the Notes, nor to prevent the issuance of Notes or other obligations refunding all or a part of the Notes herein authorized, provided, however, that before any such additional Parity Obligations are issued including those parity lien refunding Notes and other parity lien refunding obligations which refund subordinate lien Notes and other subordinate lien obligations, but not including parity lien refunding Notes and other parity lien refunding obligations which refund outstanding Parity Obligations as permitted by Section 23:

(i) the Town is then current in all of the accumulations required to be made in the Debt Service Fund and Reserve Fund (if any) pursuant to Section 19; and

(ii) the State-Shared Gross Receipts Tax Revenues received by the Town for the Fiscal Year immediately preceding the date of issuance of such additional Parity Obligations shall have been sufficient to pay an amount representing at least 200% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then Outstanding Notes, all other than outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding any reserves therefor); provided that if such additional Parity Obligations are issued as variable rate obligations, the highest interest rate allowed by the instruments authorizing such additional Parity Obligations shall be used in making such calculation.

B. Certification or Opinion Regarding State-Shared Gross Receipts Tax Revenues. A written certificate or opinion by the Town Manager/Finance Director that the State-Shared Gross Receipts Tax Revenues are sufficient to pay the required amounts under the test in paragraph (A) of this Section, shall conclusively determine the right of the Town to issue additional Parity Obligations. The Town Manager/Finance Director may utilize the results of any annual audit to the extent it covers the applicable period.

C. Subordinate Obligations Permitted. Nothing in this Ordinance contained shall be construed in such a manner as to prevent the issuance by the Town of additional Notes or other obligations payable from the State-Shared Gross Receipts Tax Revenues and constituting a lien upon the State-Shared Gross Receipts Tax Revenues subordinate, inferior and junior to the lien on the Notes.

D. Superior Obligations Prohibited. Nothing herein contained shall be construed so as to permit the Town to issue Notes or other obligations payable from the State-Shared Gross Receipts Tax Revenues having a lien thereon prior and superior to the Notes.

Section 23. Refunding Notes. The provisions of Section 22 are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time after the Notes,

or any part thereof, shall have been issued and remain outstanding, the Town shall find it desirable to refund any outstanding Notes or other outstanding obligations payable from the State-Shared Gross Receipts Tax Revenues, such Notes or other obligations, or any part thereof, may be refunded (but only with the consent of the registered owner or owners thereof, unless the Notes or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the Town's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the State-Shared Gross Receipts Tax Revenues is changed (except as provided in Sections 22(C) or 22(D)).

B. Limitations upon Issuance of Parity Refunding Obligations. No refunding Notes or other refunding obligations payable from the State-Shared Gross Receipts Tax Revenues shall be issued on a parity with the Notes, unless:

(i) The lien on the State-Shared Gross Receipts Tax Revenues of the outstanding obligations so refunded is on a parity with the lien thereon of the Notes; or

(ii) The refunding Notes or other refunding obligations are issued in compliance with Section 22(A).

C. Refunding Part of an Issue. The refunding Notes or other obligations so issued shall enjoy complete equality of lien with the portion of any Notes or other obligations of the same issue which is not refunded, if any there be; and the registered owner or owners of such refunding Notes or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the registered owner or owners of the Notes or other obligations of the same issue refunded thereby.

D. Limitations upon Issuance of any Refunding Obligations. Any refunding Notes or other refunding obligations payable from the State-Shared Gross Receipts Tax Revenues shall be issued with such details as the Town may by ordinance provide, but without any impairment of any contractual obligations imposed upon the Town by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, without limitation, the Notes). If only a part of the outstanding Notes and any other outstanding obligations of any issue or issues payable from the State-Shared Gross Receipts Tax Revenues is refunded, then such obligations may not be refunded without the consent of the registered owner or owners of the unrefunded portion of such obligations, unless:

(i) The refunding Notes or other refunding obligations do not increase any aggregate annual principal and interest requirements evidenced by such refunding obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations; or

(ii) The refunding Notes or other refunding obligations are issued in compliance with Section 22(A); or

(iii) The lien on the State-Shared Gross Receipts Tax Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded

Section 24. Equality of Notes. No Note shall be entitled to any priority over another in the application of the Pledged Revenues, regardless of the time or times of their issuance, it being the intention of the Council that there shall be no priority among the Notes regardless of the fact that they may be actually issued and delivered at different times.

Section 25. Protective Covenants. The Town covenants and agrees with each and every registered owner of the Notes that, so long as any of the Notes remains Outstanding:

A. Use of Note Proceeds. The Town, with the proceeds derived from the sale of the Notes, shall proceed without delay to carry out the Project as herein provided.

B. Payment of Notes. The Town shall promptly pay the principal of and the interest of every Note at the place, on the dates and in the manner specified herein and in the Notes according to the true intent and meaning hereof. Such principal and interest are payable solely from the Pledged Revenues; provided that nothing herein shall prevent the Town, in its discretion, from paying such principal and interest from any other legally available funds.

C. Records. The Town shall keep books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.

D. Audits. The Town shall, within 270 days following the close of each Fiscal Year, cause an audit of such books and accounts related to the Pledged Revenues to be made by an Independent Accountant unless the audit cannot be conducted within 270 days following the close of each Fiscal Year because the State Auditor or other authority of the State with superintending control of the audit directs that the audit be made by a designated auditor under different time deadlines or by the State Auditor's office and staff, in which case, the Town will use its best efforts to have the audit completed as soon as possible following the close of the Fiscal Year.

E. Extending Interest Payments. In order to prevent any accumulation of claims for interest after maturity the Town shall not directly or indirectly, extend or assent to the extension of the time for payment of any claim for interest on any of the Notes, and it shall not directly or indirectly be a party to or approve any arrangement for such extension or for the purpose of keeping alive any of said interest and in case 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 of this Ordinance except subject to the prior payment in full of the principal of all Notes then outstanding, and of matured interest on such Notes the payment of which not been extended.

F. Performing Duties. The Town shall faithfully and punctually perform all duties with respect to the Notes required by Constitution and laws of the State of New Mexico, and ordinances and resolutions of the Town, including but not limited to the proper segregation of the Pledged Revenues and their application to the respective funds and accounts.

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



H. Duty with Respect to Pledged Revenues. If the statutes or any ordinance which materially affects the Pledged Revenues or any part of such ordinances shall ever be held to be invalid or unenforceable, the Town shall immediately take any action necessary to produce sufficient Pledged Revenues to comply with the contracted obligations of this Ordinance, except as is provided in Section 25(I).

I. Impairment of Contract. Any law or ordinance or resolution of the Town in any manner affecting the Pledged Revenues or the Notes, or otherwise appertaining thereto, shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Notes Outstanding, unless the consent of the required percentage of the Owners of the then Outstanding Notes is obtained pursuant to Section 34.

J. Town's Existence. The Town shall maintain its corporate identity and existence unless another political subdivision by operation of law succeeds to the duties, privileges, powers, liabilities, disabilities, immunities and rights of the Town, and is obligated by law to receive and distribute the Pledged Revenues in place of the Town, without affecting to any substantial degree the privileges and rights of any Owner.

K. Tax Covenant. The Town shall not take any action or omit to take any action with respect to the Series 2014A Tax-Exempt Notes, the proceeds thereof, any other funds of the Town or any facilities financed with the proceeds of the Series 2014A Tax-Exempt Notes if such action or omission: (i) would cause the interest on the Series 2014A Notes to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Code; or (ii) would cause interest on the Series 2014A Notes to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Code in calculating corporate alternative minimum taxable income. This Section 25(K) shall remain in full force and effect notwithstanding the payment in full or defeasance of the Series 2014A Tax-Exempt Notes until the date on which all obligations of the Town in fulfilling the above covenant under the Code have been met.

Section 26. Defeasance. When all principal, any applicable prior redemption premium, and interest in connection with the Notes have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Notes shall no longer be deemed to be Outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment as to any Note when the Council has placed in escrow and in trust with a commercial bank located within or without the State and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may initially be invested) to meet all requirements of principal, interest and any applicable prior redemption premium as the same become due to its maturity or designated redemption date as of which the Town shall have exercised or obligated itself to exercise its option to call such Note. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Council and such bank at the time of the creation of the escrow or the Federal Securities shall be subject to the redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. Federal Securities within the meaning of this Section 26 shall include only direct obligations of, or obligations the principal of and interest on which are unconditionally

guaranteed by, the United States of America and which are not callable prior to maturity by the issuer of such obligations.

Section 27. Delegated Powers. The officers of the Town be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limiting the generality of the foregoing, the publication of the summary of publication set out in Section 37 of this Ordinance (with such changes, additions and deletions as they may determine), the distribution of material relating to the Notes, the printing of the Notes, the printing, execution and distribution of such certificates as may be required by the Purchaser or bond counsel.

Section 28. Events of Default. Each of the following events is an “Event of Default”:

A. Nonpayment of Principal. Any payment of the principal of any of the Notes is not made when due and payable, either at maturity, upon acceleration, by proceedings for prior redemption, or otherwise.

B. Nonpayment of Interest. Any payment of any installment of interest on the Notes is not made when the same becomes due and payable or within 30 days thereafter.

C. Default of any Provision. Any failure by the Town to observe or perform any covenant, condition or agreement on its part to be observed or performed (other than as referred to in Section 28(A) or Section 28(B)), which failure continues for a period of 60 days after written notice specifying the failure and requesting that it be remedied has been given to the Town by the Owners of 25% in principal amount of the Notes then Outstanding.

D. Bankruptcy or Insolvency of Town. (1) The Town shall (a) apply for or consent to the appointment of or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the Town or of all or a substantial part of its property, (b) commence a voluntary case under the Federal Bankruptcy Code, or (c) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, or reorganization or (2) a proceeding or case shall be commenced, without application or consent of the Town, in any court of competent jurisdiction seeking (a) the liquidation, reorganization, dissolution, winding-up or adjustment of debts of the Town, (b) appointment of a trustee, receiver, custodian, liquidator or the like of the Town or of all or a substantial part of its assets, or (c) similar relief in respect of the Town under any law relating to bankruptcy, insolvency, reorganization, winding-up or adjustment of debts.

Section 29. Remedies upon Default. Upon the occurrence and during the continuance of any Event of Default, the Owners of not less than 25% in principal amount of the Notes then Outstanding, including but not limited to a trustee or trustees therefor, may proceed against the Town, the Council, and its agents, officers and employees to protect and enforce the rights of any Owner under this Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for specific performance of any covenant or agreement contained herein or in an award or execution of any power herein granted for the enforcement of any power, legal or equitable remedy as such Owners may deem most effectual to protect and enforce the rights aforesaid, or thereby to enjoin

any act or thing which may be unlawful or in violation of any right of any registered owner, or to require the Council to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Notes then Outstanding. The failure of any Owner so to proceed shall not relieve the Town or any of its officers, agents or employees of any liability for failure to perform any duty. Each right or privilege of any Owner (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege thereof.

Section 30. Duties upon Default. Upon the occurrence and during the continuance of any Event of Default, the Town shall do and perform all proper acts on behalf of and for the Owners to protect and preserve the security created for the payment of the principal of and interest on the Notes promptly as the same become due. In the event the Town fails or refuses to proceed as provided in this Section 30, the registered Owners of not less than 25% in principal amount of the Notes then Outstanding, after demand in writing, may proceed to protect and enforce the rights of the Owners as hereinabove provided.

Section 31. Federal Tax Matters.

A. Qualified Tax-Exempt Obligations. The Series 2014A Tax-Exempt Notes are hereby designated as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code. The Town has no “subordinate entities” with authority to issue tax-exempt obligations within the meaning of that Section of the Code. In that connection, the Council hereby covenants that the Council in or during the calendar year in which the Series 2014A Tax-Exempt Notes are issued, (i) will not designate as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code tax-exempt obligations, including the Series 2014A Tax-Exempt Notes, in an aggregate principal amount in excess of ten million dollars and (ii) will not issue tax-exempt obligations within the meaning of Section 265(b)(4) of the Code, including the Series 2014A Tax-Exempt Notes and any qualified 501(c)(3) bonds as defined in Section 145 of the Code (but excluding obligations, other than qualified 501(c)(3) bonds, that are private activity bonds as defined in Section 141 of the Code), in an aggregate principal amount exceeding ten million dollars.

B. Tax Compliance. The Town (a) will take or cause to be taken such actions which may be required of it for the interest on the Series 2014A Tax-Exempt Notes 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 exclusion, and that it or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Series 2014A Tax-Exempt Notes 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 from the Rebate Fund, if required, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Mayor and other appropriate officers are hereby authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, if any, as may be required or appropriate to assure such exclusion of that interest.

C. Rebate Fund. In furtherance of the covenants set forth in the preceding paragraph, the Town hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund (the “Rebate Fund”). Money and investments in the Rebate Fund shall not be used for the payment of the Series 2014A Tax-Exempt Notes and amounts credited to the Rebate Fund shall be free and clear under any pledge under this Ordinance. Money in the Rebate Fund shall be invested pursuant to the procedure that in a manner provided in Section 20 for investment of money, and all amounts on deposit in the Rebate Fund shall be held by the Town, or a designated trustee, in trust, to the extent required to pay rebatable arbitrage to the United States of America. The Town shall unconditionally be entitled to accept and rely upon the recommendation, advice, calculation and opinion of an accounting firm or other person or firm with knowledge of or experience in advising with respect to the provisions of the Code relating to rebatable arbitrage. The Town shall remit all rebate installments and the final rebate payment to the United States of America as required by the provisions of the Code. Any moneys remaining in the Rebate Fund after redemption and payment of all the Series 2014A Tax-Exempt Notes and payment and satisfaction of any rebatable arbitrage shall be withdrawn and remitted to the Town.

Section 32. Severability. If any section, paragraph, clause or provision shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 33. Repealer Clause. All ordinances or resolutions or parts of ordinances or resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution or part of any ordinance or resolution heretofore repealed.

Section 34. Amendment. This Ordinance may be amended without the consent of the holder of any Note to cure any ambiguity, or to cure, correct or supplement any defect or inconsistent provision contained herein, to add to the covenants and agreements in this Ordinance for the protection or benefit of the Owners, to subject to this Ordinance additional revenues, properties or collateral, to comply with the provisions of the Code, or to comply with any rule or regulation of the Securities and Exchange Commission relating to the Notes. Except as provided above, this Ordinance may be amended or supplemented by ordinance adopted by the Council in accordance with the laws of the State, without receipt by the Town of any additional consideration but with the written consent of the Owners of 75% of the Notes Outstanding at the time of the adoption of such amendatory or supplemental ordinance; provided, however, that no such ordinance (without the consent of the registered owners of all of the Notes authorized by this Ordinance and outstanding at the time of adoption of such amendatory or supplemental ordinance) shall have the effect of permitting:

- (i) An extension of the maturity of any Note; or
- (ii) A reduction in the principal amount of any Note, the rate of interest thereon or the prior redemption premium due in connection therewith; or
- (iii) The creation of a lien upon or pledge of Pledged Revenues ranking prior to the lien or pledge created by this Ordinance; or

(iv) A reduction of the principal amount of Notes required for consent to such amendatory or supplemental ordinance; or

(v) The establishment of priorities as between Notes issued and outstanding under the provisions of this Ordinance; or

(vi) The modification of or otherwise affecting the rights of the registered owners of less than all of the Notes then outstanding.

Notwithstanding the foregoing, prior to the issuance of the Notes, this Ordinance may be amended by resolution of the Town Council to cure, correct or supplement any defect or inconsistent provision contained herein.

Section 35. Payment Due on Other than Business Days. In any case where the date of payment of principal, premium, if any, or interest on the Notes or the date fixed for redemption of any Notes, or the date for performing any act or exercising any right, shall be a day other than a business day, then payment of interest or principal and premium, if any, or the performance of such act or exercise of such right need not be made on such date but may be made on the next succeeding business day with the same force and effect as if it had been made on the date scheduled for such payment, performance, or exercise.

Section 36. Ordinance Irrepealable. After any of the Notes are issued, this Ordinance shall be and remain irrepealable until the Notes and interest thereon shall be fully paid, cancelled and discharged as therein provided, or have been deemed paid as provided in Section 26.

Section 37. Publication of Ordinance. The following notice shall be published one time in the *Silver City Daily Press*, being a legal newspaper published and of general circulation in the Town, as soon as is practicable following the adoption hereof:

(Form of Notice of Adoption)

TOWN OF SILVER CITY, NEW MEXICO  
NOTICE OF ADOPTION OF ORDINANCE NO. 1228

Notice is given of the adoption by the Town Council of the Town of Silver City, New Mexico of its Ordinance No. 1228 on June 10, 2014, relating to Town of Silver City, New Mexico Gross Receipts Tax Improvement Revenue Notes, Series 2014. The title of the Ordinance is:

AUTHORIZING THE ISSUANCE OF THE TOWN OF SILVER CITY, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE NOTES, SERIES 2014 IN TWO SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,500,000 FOR THE PURPOSE TO (1) FINANCE ACQUISITION AND CONSTRUCTION OF CERTAIN CAPITAL IMPROVEMENTS FOR THE BENEFIT OF THE TOWN AND ITS RESIDENTS, INCLUDING BUT NOT LIMITED TO, PUBLIC SAFETY EQUIPMENT AND PUBLIC RECREATION FACILITIES, AND (2) PAY COSTS OF ISSUANCE OF THE SERIES 2014 NOTES; PROVIDING THAT

THE SERIES 2014 NOTES WILL BE PAYABLE AND COLLECTIBLE FROM AND SECURED BY A PLEDGE OF (1) THE GROSS RECEIPTS TAX DISTRIBUTED TO THE TOWN PURSUANT TO SECTION 7-1-6.4 NMSA 1978, AS AMENDED (THE "STATE-SHARED GROSS RECEIPTS TAX"); PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM SAID TAX PROCEEDS; PROVIDING THAT CERTAIN TERMS OF THE NOTES WILL BE PROVIDED IN A SUBSEQUENT RESOLUTION; PRESCRIBING OTHER DETAILS CONCERNING THE NOTES AND TAX PROCEEDS, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND THE FORM, TERMS, CONDITIONS AND MANNER OF EXECUTION OF THE NOTES; RATIFYING ALL ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ORDINANCES IN CONFLICT HEREWITH.

The title sets forth a general summary of the subject matter contained in the ordinance.

Complete copies of the ordinance are on file in the Office of the Town Clerk and are available for inspection and/or purchase during regular office hours. This Notice constitutes compliance with Sections 6-14-4 through 6-14-7 NMSA 1978.

(End of Form of Notice of Adoption)

Section 38. Interested Parties. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Town, the Registrar, the Paying Agent, the Purchaser, and the registered owners of the Notes, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof.

Section 39. Limitation on Town's Liability. NOTWITHSTANDING ANY PROVISION OF THIS ORDINANCE TO THE CONTRARY, THE OBLIGATIONS OF THE TOWN UNDER THIS ORDINANCE ARE SPECIAL, LIMITED OBLIGATIONS OF THE TOWN PAYABLE SOLELY FROM THE PLEDGED REVENUES AND CERTAIN PROCEEDS OF THE SALE OF THE NOTES. NEITHER THE FAITH AND CREDIT, NOR THE TAXING POWER OF THE STATE OF NEW MEXICO OR ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE TOWN, IS PLEDGED TO THE PAYMENT OR PERFORMANCE OF SUCH OBLIGATIONS. NO AGREEMENTS OR PROVISIONS CONTAINED IN THIS ORDINANCE OR ANY OTHER DOCUMENT OR INSTRUMENT RELATED TO THE NOTES SHALL GIVE RISE TO ANY PECUNIARY LIABILITY OF THE TOWN, ITS OFFICERS, ITS EMPLOYEES OR MEMBERS OF ITS GOVERNING BODY OR CONSTITUTE A CHARGE AGAINST THE TOWN'S GENERAL CREDIT, OR OBLIGATE THE TOWN FINANCIALLY IN ANY WAY, EXCEPT WITH RESPECT TO THE PLEDGED REVENUES, AND THEIR APPLICATION AS PROVIDED IN THIS ORDINANCE. NO FAILURE OF THE TOWN TO COMPLY WITH ANY TERMS, COVENANTS OR AGREEMENTS IN THIS ORDINANCE OR IN ANY OTHER DOCUMENT OR INSTRUMENT RELATED TO THE NOTES SHALL SUBJECT THE TOWN, ITS OFFICERS, ITS EMPLOYEES OR MEMBERS OF ITS GOVERNING BODY TO

ANY PECUNIARY CHARGE OR LIABILITY EXCEPT TO THE EXTENT THAT THE SAME CAN BE PAID OR RECOVERED FROM THE PLEDGED REVENUES AND CERTAIN PROCEEDS OF THE SALE OF THE NOTES.

Section 40. Governing Law. All rights and obligations of the parties with respect to the Notes and this Ordinance shall be construed, enforced, and interpreted according to the laws of the State. Venue with regard to any action relating to the Notes or this Ordinance shall be in federal or state district court located in the State.

[Signature Page Follows]

PASSED AND ADOPTED THIS 10<sup>TH</sup> DAY OF JUNE, 2014 BY A VOTE OF \_\_\_\_  
FOR AND \_\_\_\_ AGAINST.

TOWN OF SILVER CITY, NEW MEXICO

\_\_\_\_\_  
Michael Shawn Morones, Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Ann L. Mackie, Town Clerk



Councilor \_\_\_\_\_ then moved that the ordinance as filed with the Town Clerk at this meeting be passed and adopted. Councilor \_\_\_\_\_ seconded the motion.

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

Those Voting Yea:

Those Voting Nay:

Those Absent:

The Mayor thereupon declared that at least three-fourths of all the members of that Council having voted in favor thereof, the motion was carried and the ordinance duly passed and adopted.

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

TOWN OF SILVER CITY, NEW MEXICO

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Michael Shawn Morones, Mayor

(SEAL)

Attest:

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Ann L. Mackie, Town Clerk

**TOWN OF SILVER CITY, NEW MEXICO**  
**GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS**  
**SERIES 2014**

**FINANCING SCHEDULE#**

| MAY 2014 |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
| S        | M  | T  | W  | T  | F  | S  |
|          |    |    |    | 1  | 2  | 3  |
| 4        | 5  | 6  | 7  | 8  | 9  | 10 |
| 11       | 12 | 13 | 14 | 15 | 16 | 17 |
| 18       | 19 | 20 | 21 | 22 | 23 | 24 |
| 25       | 26 | 27 | 28 | 29 | 30 | 31 |
|          |    |    |    |    |    |    |

| JUNE 2014 |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|
| S         | M  | T  | W  | T  | F  | S  |
| 1         | 2  | 3  | 4  | 5  | 6  | 7  |
| 8         | 9  | 10 | 11 | 12 | 13 | 14 |
| 15        | 16 | 17 | 18 | 19 | 20 | 21 |
| 22        | 23 | 24 | 25 | 26 | 27 | 28 |
| 29        | 30 |    |    |    |    |    |
|           |    |    |    |    |    |    |

| JULY 2014 |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|
| S         | M  | T  | W  | T  | F  | S  |
|           |    | 1  | 2  | 3  | 4  | 5  |
| 6         | 7  | 8  | 9  | 10 | 11 | 12 |
| 13        | 14 | 15 | 16 | 17 | 18 | 19 |
| 20        | 21 | 22 | 23 | 24 | 25 | 26 |
| 27        | 28 | 29 | 30 | 31 |    |    |
|           |    |    |    |    |    |    |

| DATE                       | ACTION  | RESPONSIBLE PARTIES |
|----------------------------|---|---------------------|
| Wednesday,<br>May 7, 2014  | Distribute Financing Schedule and Draft Parameters Bond Ordinance   | Modrall             |
| Tuesday,<br>May 13, 2014   | First Reading of Parameters Bond Ordinance  | Town                |
| Wednesday,<br>May 14, 2014 | Submit Notice of Meeting and Intent to Adopt Parameters Bonds Ordinance to the <i>Silver City Daily Press</i> for publication on Friday, May 16, 2014 | Modrall             |
| Friday,<br>May 16, 2014    | Publish Notice of Meeting and Intent to Adopt Parameters Ordinance in the <i>Silver City Daily Press</i>  |                     |

| DATE                        | ACTION  | RESPONSIBLE PARTIES |
|-----------------------------|---|---------------------|
| Friday,<br>May 16, 2014     | Comments due on Parameters Ordinance  | All                 |
| Wednesday,<br>May 21, 2014  | Distribute Revised Version of Parameters Bond Ordinance   | Modrall             |
| Tuesday,<br>June 10, 2014   | Town Council Considers and Adopts Parameters Bond Ordinance   | Town                |
| Wednesday,<br>June 11, 2014 | Submit Notice of Adoption of Parameters Bond Ordinance for Publication in the <i>Silver City Daily Press</i>                | Town<br>Modrall     |
| Friday,<br>June 13, 2014    | Publish Notice of Adoption of Parameters Bond Ordinance in the <i>Silver City Daily Press</i>                               |                     |
| Friday,<br>June 13, 2014    | Distribute Draft of Sale Resolution   | Modrall             |
| Wednesday, June 18          | Distribute Final Sale Resolution to Town  | Modrall             |
| Tuesday, June 24, 2014      | Sale Resolution Adopted by Town Council/BPA Signed  | Town                |
| Wednesday,<br>June 25, 2014 | Submit Notice of Adoption of Sale Resolution to the <i>Silver City Daily Press</i> for Publication on Friday, June 27, 2014 | Modrall             |
| Monday<br>June 30, 2014     | 30-Day Limitation of Action Period Expires  |                     |
| Friday,<br>June 27, 2014    | Distribute Closing Documents  | Modrall             |

| <b>DATE</b>                | <b>ACTION</b>                                       | <b>RESPONSIBLE PARTIES</b> |
|----------------------------|---|----------------------------|
| Wednesday,<br>July 2, 2014 | Comments due on Closing Documents                   | All                        |
| Tuesday,<br>July 8, 2014   | Pre-closing/Document Signing Session in Silver City | All                        |
| Tuesday,<br>July 15, 2014  | Closing   | All                        |

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Town of Silver City, New Mexico  
Notice of Meeting, Public Hearing  
and Intent to Adopt Ordinance

The Town of Silver City, New Mexico, hereby gives notice of a regular Town Council meeting for Tuesday, June 10, 2014, at 6:00 p.m., at the Grant County Administration Center, 1400 Highway 180 East, Silver City, New Mexico. At such meeting, the Town Council will consider for adoption the ordinance described below. Complete copies of the proposed ordinance are available for public inspection during the normal and regular business hours of the Town Clerk, Silver City, New Mexico.

The title of the Ordinance is:

ORDINANCE NO. 1228

AUTHORIZING THE ISSUANCE OF THE TOWN OF SILVER CITY, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE NOTES, SERIES 2014 IN TWO SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,500,000 FOR THE PURPOSE TO (1) FINANCE ACQUISITION AND CONSTRUCTION OF CERTAIN CAPITAL IMPROVEMENTS FOR THE BENEFIT OF THE TOWN AND ITS RESIDENTS, INCLUDING BUT NOT LIMITED TO, PUBLIC SAFETY EQUIPMENT AND PUBLIC RECREATION FACILITIES, AND (2) PAY COSTS OF ISSUANCE OF THE SERIES 2014 NOTES; PROVIDING THAT THE SERIES 2014 NOTES WILL BE PAYABLE AND COLLECTIBLE FROM AND SECURED BY A PLEDGE OF (1) THE GROSS RECEIPTS TAX DISTRIBUTED TO THE TOWN PURSUANT TO SECTION 7-1-6.4 NMSA 1978, AS AMENDED (THE "STATE-SHARED GROSS RECEIPTS TAX"); PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM SAID TAX PROCEEDS; PROVIDING THAT CERTAIN TERMS OF THE NOTES WILL BE PROVIDED IN A SUBSEQUENT RESOLUTION; PRESCRIBING OTHER DETAILS CONCERNING THE NOTES AND TAX PROCEEDS, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND THE FORM, TERMS, CONDITIONS AND MANNER OF EXECUTION OF THE NOTES; RATIFYING ALL ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ORDINANCES IN CONFLICT HEREWITH.

The title sets forth a general summary of the subject matter contained in the Ordinance. This notice constitutes compliance with Section 3-17-3 NMSA 1978.