



Agenda Item Number: 2-7-13.8A

**SANDOVAL COUNTY
BOARD OF COUNTY COMMISSIONERS**

Date of Commission

Meeting: February 7, 2013

Division / Elected

Office: Office of the County Manager

Staff Contact: Phillip Rios, County Manager

Title of Item: Ordinance Repealing Ordinance No. 2-7-13.8A

Action Requested: Motion to Adopt Ordinance No. 2-7-13.8A Repealing Ordinance No. 8-16-12.10B Ratifying Actions Heretofore Taken, Repealing All Action Inconsistent with this Ordinance, and Authorizing the Taking of Other Actions in Connection with the Repeal of County Ordinance No. 8-16-12.10B

Summary: On August 16, 2012, the Commission adopted Ordinance No. 8-16-12.10B authorizing execution and delivery of a Loan Agreement with New Mexico Bank & Trust that would have provided money to refund the 2010 Bonds for AMIkids that matured on October 1. The loan was obtained through New Mexico Finance Authority and not New Mexico Bank & Trust. This ordinance is not needed and I recommend that the Board of County Commission repeal the ordinance.

Attachments:

- Ordinance No. 2-7-13.8A
- Ordinance No. 8-16-12.10B

FISCAL IMPACT

None



Agenda Item Number: 2-7-13.8A

STAFF ANALYSIS SUMMARY

County Manager:	Recommend Board of County Commission approval. PPR 01/28/2013
Initiating Elected Official / Division Director:	N/A
Legal:	N/A
Finance:	No Fiscal Impact-CCH 12/6/12

STATE OF NEW MEXICO
SANDOVAL COUNTY
ORDINANCE NO. 2-7-13.8A

AN ORDINANCE REPEALING COUNTY ORDINANCE NO. 8-16-12.10B; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE REPEAL OF COUNTY ORDINANCE NO. 8-16-12.10B.

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

WHEREAS, on August 16, 2012, the County adopted County Ordinance No. 8-16-12.10B authorizing execution and delivery of a Loan Agreement to New Mexico Bank and Trust to refund the County's then outstanding \$4,400,000 Gross Receipts Tax Bonds, Series 2010 (the "2010 Bonds"), which 2010 Bonds matured on October 1, 2012; and

WHEREAS, the County did not and will not execute or deliver the Loan Agreement authorized by County Ordinance No. 8-16-12.10B because after adoption of such ordinance the County obtained a loan from the New Mexico Finance Authority to refund the 2010 Bonds, pursuant to County Ordinance No. 8-28-12.2; and

WHEREAS, the County desires to repeal County Ordinance No. 8-16-12.10B.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF SANDOVAL COUNTY THAT:

Section 1. Repeal. County Ordinance No. 8-16-12.10B is hereby repealed and of no further force or effect. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 2. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the County kept for that purpose and authenticated by the signatures of the Commission Chairman and County Clerk of the County. This Ordinance shall take immediate effect after passage, in accordance with Section 4-37-9(c), NMSA 1978, as amended.

PASSED, ADOPTED AND APPROVED this 7th day of February, 2013.

BOARD OF COUNTY COMMISSIONERS
OF SANDOVAL COUNTY, NEW MEXICO

Darryl F. Madalena, Chair

ATTEST:

Nora M. Scherzinger, Vice-Chair

Eileen Garbagni, County Clerk

Orlando J. Lucero, Member

Don Chapman, Member

Glenn Walters, Member

EXHIBIT "A"

Meeting Agenda
February 7, 2013
County Commission Meeting

(See attached)

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

I, Eileen Garbagni, the duly acting and qualified County Clerk of the County of Sandoval, New Mexico (the "County"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the County Commission (the "Governing Body"), constituting the governing body of the County had and taken at a duly called regular meeting held at the Sandoval County Administration Building, 1500 Idalia Road, Building D, Bernalillo, New Mexico, on February 7, 2013 at the hour of 6:00 p.m., insofar as the same relate to the repeal of County Ordinance No. 8-16-12.10B, copies of which are set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Such proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at such meeting, as therein shown.

3. Notice of such meeting was given in compliance with the permitted methods of giving notice of regular meetings of the Governing Body as required by the County's open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2013.

COUNTY OF SANDOVAL,
NEW MEXICO

Eileen Garbagni, County Clerk

[SEAL]

**STATE OF NEW MEXICO
SANDOVAL COUNTY
ORDINANCE NO. 8-16-12.10B**

AN ORDINANCE AUTHORIZING A TAXABLE LOAN (THE "LOAN") EVIDENCING A SPECIAL, LIMITED OBLIGATION OF SANDOVAL COUNTY, NEW MEXICO (THE "COUNTY") TO PAY A PRINCIPAL AMOUNT NOT TO EXCEED \$4,400,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSES OF (1) REFUNDING THE SANDOVAL COUNTY, NEW MEXICO \$4,400,000 GROSS RECEIPTS TAX REFUNDING REVENUE BONDS SUBORDINATE SERIES 2010, AND (2) PAYING COSTS OF ISSUANCE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE LOAN SOLELY FROM LEASE RENTAL PAYMENTS PAID TO THE COUNTY BY AMIKIDS SANDOVAL, INC. AND REVENUES DERIVED FROM THE FIRST INCREMENT OF COUNTY GROSS RECEIPTS TAX IMPOSED BY THE COUNTY PURSUANT TO SECTION 7-20E-9 NMSA 1978; PROVIDING THAT THE FORM AND OTHER DETAILS CONCERNING THE LOAN WILL BE APPROVED IN A SUBSEQUENT RESOLUTION; RATIFYING AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ADOPTION OF THE ORDINANCE AND THE EXECUTION AND DELIVERY OF THE LOAN; AND DECLARING AN EMERGENCY.

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

WHEREAS, the County is a legally and regularly created, established, organized and existing county under the general laws of the State; and

WHEREAS, pursuant to Section 7-20E-9 NMSA 1978 and a County Ordinance dated July 13, 1990, as amended by County Ordinance No. 11-27-90, adopted on November 27, 1990 (collectively, the "Tax Ordinance"), the County authorized the first one-eighth increment of county gross receipts tax, imposed on any person engaging in business in the County for the privilege of engaging in business in the County and distributed monthly from the Revenue Division of the New Mexico Taxation and Revenue Department to the County; and

WHEREAS, pursuant to the Lease Agreement conditionally approved by the New Mexico State Board of Finance on July 17, 2012 (the "Lease Agreement"), the County leases certain land and improvements to AMIkids Sandoval, Inc. ("AMIkids") and AMIkids agreed to pay the County rent in an amount necessary to make debt service on debt incurred for the Project; and

WHEREAS, pursuant to Resolution No. 6-17-10.7, adopted on June 17, 2010, the County issued its Gross Receipts Tax Refunding Revenue Bonds Subordinate Series 2010 (the "Refunded Bonds") in the original principal amount of \$4,400,000, currently outstanding in the principal amount of \$4,400,000, maturing October 1, 2012, and payable from and constituting a subordinate lien on the Gross Receipts Tax Revenues; and

WHEREAS, the County expects to take the Loan and execute the Loan Agreement, herein authorized, on or before October 1, 2012 for the purpose of refunding, refinancing, prepaying and discharging the Refunded Bonds; and



WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interests of the County and its residents that the Loan Agreement be executed and delivered and that the financing of the Project take place by executing and delivering the Loan Agreement; and

WHEREAS, the Governing Body has determined pursuant to the Act that it may lawfully pledge the Gross Receipts Tax Revenues and the Rent Revenues for the payment of amounts due under the Loan Agreement; and

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

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

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

WHEREAS, there have been presented to the County and there presently are on file with the County Clerk this Ordinance and the form of the Loan Agreement, which is incorporated by reference and considered to be a part hereof; and

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

WHEREAS, pursuant to the Supplemental Resolution, the Governing Body will approve the final terms and additional details of the Loan and Loan Agreement including, without limitation, the net effective interest rate; and

WHEREAS, the Governing Body hereby determines that there is an urgent need for the Project and that the Project will provide for the public health, peace and safety of the County and its residents; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF SANDOVAL COUNTY THAT:

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

"1999 Bonds" means the Sandoval County, New Mexico Gross Receipts Tax Refunding and Improvement Revenue Bonds, Series 1999 originally issued in the aggregate principal amount of \$4,800,000.

"2007 Bonds" means the Sandoval County, New Mexico Gross Receipts Tax Revenue Bonds, Series 2007 originally issued in the aggregate principal amount of \$10,000,000.

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

"Authorized Officers" means the County Manager, County Finance Director, County Treasurer, and County Clerk of the County.

"Business Day" means any day other than (i) a Saturday or Sunday, (ii) any day on which County offices are authorized or required to remain closed, or (iii) a day on which the New York Stock Exchange is closed.

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

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

"Completion Date" means the date of final payment of the cost of the Project.

"Costs of Issuance" means all costs relating to execution of the Loan, including, without limitation, costs of advertising and publication, costs of preparing the Loan Agreement, fees and expenses of the investment advisor, bond counsel, and other reasonable and necessary fees and costs, including applicable gross receipts taxes, related to the execution of the Loan.

"County" means the County of Sandoval, New Mexico.

"Debt Service Fund" means the Sandoval County, New Mexico 2012 Taxable Loan Debt Service Fund, established in Section 9 herein.

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

"Governing Body" means the County Commission of the County, or any future successor governing body of the County.

"Gross Receipts Tax Revenues" means the amounts of money derived from all of the revenue attributable to the first one-eighth of one percent increment of the County gross receipts tax transferred to the County pursuant to Section 7-1-6.13 NMSA 1978 which County gross receipts taxes are imposed on all persons engaging in business in the County pursuant to Ordinance No. 11-27-90 adopted and approved on November 27, 1990, and as authorized by Sections 7-20E-1 through 7-20E-11 NMSA 1978, (1) which taxes equal, subject to the exemptions specified in Section 7-20E-5 NMSA 1978 and the

exemptions and deductions referred to in Section 7-20E-7 NMSA 1978, one-eighth of one percent of the gross receipts of all persons engaging in business in the County for the privilege of engaging in business in the County, (2) which amounts are collected and, after any deductions for administrative costs, any additional administrative fee and any disbursements for tax credits, refunds and the payment of interest applicable to such gross receipts tax and subject to any increase or decrease pursuant to Section 7-1-6.15 NMSA 1978, are distributed monthly (together with the balance of the County's gross receipts tax) by the Revenue Division of the Taxation and Revenue Department of the State of New Mexico to the County pursuant to Sections 7-1-6.13 NMSA 1978 (provided that "Pledged Gross Receipts Tax Revenues" does not include and the County is not pledging to the Bonds any of such County gross receipts received pursuant to such Sections 7-1-6.13, 7-1-6.16 and 7-1-6.47 NMSA 1978, which exceeds the aforesaid, and does not include any gross receipts tax revenues received pursuant to any other statute).

"Gross Receipts Tax Revenue Fund" means the Sandoval County Gross Receipts Tax Revenue Fund previously established pursuant to County Ordinance No. 99-03-04.6B and continued in Section 9 herein.

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

"Insured Bank" means any federally or state-chartered savings and loan association or federally or state-chartered commercial bank, the deposits of which are insured by the Federal Deposit Insurance Corporation and which has, or is the lead bank of a parent holding company which has (i) unsecured, uninsured and unguaranteed obligations which are rated AA or better by Fitch and S&P or (ii) combined capital, surplus and undivided profits of not less than \$10,000,000.

"Lease Agreement" means the Lease Agreement conditionally approved by the New Mexico State Board of Finance on July 17, 2012 by and between the County and AMIkids Sandoval, Inc., pursuant to which the County leases certain land and improvements to AMIkids Sandoval, Inc. and AMIkids Sandoval, Inc. pays rent to the County.

"Loan" means the funds to be loaned to the County by NMBT pursuant to the Loan Agreement.

"Loan Agreement" means the Loan Agreement dated the Closing Date between NMBT and the County that provides for the financing of the Project and requires payments by the County to NMBT.

"Loan Agreement Payment" means, collectively, the Principal Component and the Interest Component to be paid by the County as payment of the Loan Agreement as shown on Exhibit "B" thereto.

"Loan Agreement Payment Date" means each date a payment is due on the Loan Agreement as shown on Exhibit "B" thereto.

"Loan Agreement Principal Amount" means the original principal amount of the Loan Agreement as shown on the Term Sheet.

"NMBT" means New Mexico Bank and Trust.

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

"Ordinance" means this Ordinance No. 8-16-12.10B as adopted by the Governing Body on August 16, 2012 approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement, as amended from time to time.

"Pledged Revenues" means the Gross Receipts Tax Revenues and the Rent Revenues.

"Pledged Revenue Funds" means collectively the Gross Receipts Tax Revenue Fund and the Rent Revenue Fund, created herein.

"Project" means the refunding, refinancing, discharging and paying the Refunded Bonds and payment of related professional fees as described in the Term Sheet.

"Refunded Bonds" means the 2010 Bonds maturing on October 1, 2012.

"Refunded Bond Requirements" means the principal of and the interest on (i.e., all debt service requirements for) the Refunded Bonds to and including their maturity date.

"Refunding Account" means the Sandoval County 2012 Taxable Loan Refunding Account, established by Section 9 herein.

"Rent Revenues" means the rent paid by AMIkids Sandoval, Inc. to the County pursuant to the Lease Agreement.

"Rent Revenue Fund" means the Sandoval County 2012 Taxable Loan Rent Revenue Fund, established by Section 9 herein.

"Reserve Fund" means the Sandoval County 2012 Taxable Loan Reserve Fund, established by Section 9 herein.

"Reserve Requirement" means a minimum amount to be deposited in Reserve Fund as established in the Supplemental Resolution.

"State" means the State of New Mexico.

"Superior Obligations" means the 1999 Bonds and the 2007 Bonds.

"Supplemental Resolution" means the resolution supplementing this Ordinance subsequently adopted by the Governing Body approving the final terms and details of the Loan and Loan Agreement, including, without limitation, the net effective interest rates and other terms of the Loan.

"Term Sheet" means Exhibit "A" to the Loan Agreement.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the County directed toward the Project and the

execution and delivery of the Loan Agreement, be, and the same hereby are, ratified, approved and confirmed, including, without limitation, the publication in the *Albuquerque Journal*, a newspaper of general circulation in the County, of Notice of Intent to consider this ordinance for adoption.

Section 3. Authorization of the Project and the Loan Agreement. The Project and the method of financing the Project through execution and delivery of the Loan Agreement are hereby authorized and ordered. The Project is for the benefit of the County.

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

A. The Project is needed to meet the needs of the County and its residents and the issuance, execution, and delivery of the Loan Agreement is necessary or advisable.

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

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

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

E. The Project and the execution and delivery of the Loan Agreement pursuant to the Act to provide funds for the financing of the Project are necessary and in the interest of the public health, safety and welfare of the residents of the County and the Project will result in debt service savings and other economies for the County.

F. The County will finance the Project with the net proceeds of the Loan.

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

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

Section 5. Loan Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the County and completing the Project, it is hereby declared necessary that the County, pursuant to the Act, execute and deliver the Loan Agreement, evidencing a special, limited obligation of the County to pay the principal amount not to exceed \$4,400,000, and the execution and delivery of the Loan Agreement is hereby authorized. The County shall use the proceeds of the Loan to finance the Project.

B. Detail. The Loan shall be in an original aggregate principal amount not to exceed \$4,400,000, shall be payable in installments of principal due on the dates designated in Exhibit "B" to the Loan Agreement and bear interest payable on the dates and at the rates designated in Exhibit "B" to the Loan Agreement. The Loan shall be issued at interest rates not to exceed twelve percent (12%) per annum, with such net effective interest rates as shall be approved by and set forth in the Supplemental Resolution.

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

Section 7. Special Limited Obligation. The Loan Agreement shall be secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues. The Loan Agreement, together with interest thereon and other obligations of the County thereunder, shall be a special, limited obligation of the County, payable solely from the Pledged Revenues as provided in this Ordinance and the Loan Agreement and shall not constitute a general obligation of the County or the State, and the holders of the Loan Agreement may not look to any general or other fund of the County for payment of the obligations thereunder. Nothing contained in this Ordinance nor in the Loan Agreement, nor any other instruments, shall be construed as obligating the County (except with respect to the application of the Pledged Revenues), as incurring a pecuniary liability or a charge upon the general credit of the County or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power. Nothing herein shall prevent the County from applying other funds of the County legally available therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

Section 8. Disposition of Proceeds. Except as herein otherwise specifically provided, the proceeds derived from the Loan shall be used and paid solely for the valid costs of the Refunding.

A. Reserve Fund. Upon execution and delivery of the Loan, the County shall deposit Loan proceeds or other funds available therefore in the Reserve Fund in an amount equal to the Reserve Requirement.

B. Costs of Issuance. Upon execution and delivery of the Loan, an amount necessary to pay Costs of Issuance shall be used for payment of the Costs of Issuance in compliance with applicable law.

C. Refunding. Upon execution and delivery of the Loan, any remaining Loan proceeds after funding the Reserve Fund and payment of Costs of Issuance, shall be deposited promptly upon receipt thereof in the Refunding Account.

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

Section 9. Funds and Account. The County hereby creates, or continues, as the case may be, the following special and separate funds and account, which shall be under the control of the County:

A. Pledged Revenue Funds.

(1) Rent Revenue Fund. The Sandoval County 2012 Taxable Loan Rent Revenue Fund to be maintained by the County, into which the County shall deposit the rent payments made by AMIkids Sandoval, Inc. pursuant to the Lease Agreement, is hereby created.

(2) Gross Receipts Tax Revenue Fund. The Sandoval County Gross Receipts Tax Revenue Fund, into which the County deposits the Gross Receipts Tax Revenues, is hereby continued.

B. Reserve Fund. The Sandoval County 2012 Taxable Loan Reserve Fund to be maintained by the County is hereby created.

C. Debt Service Fund. The Sandoval County 2012 Taxable Loan Debt Service Fund to be maintained by the County is hereby created.

D. Refunding Account. The Sandoval County 2012 Taxable Loan Refunding Account to be maintained by the County is hereby created.

Section 10. Deposit of Pledged Revenues and Flow of Funds.

A. Pledged Revenue Funds. So long as the Loan is outstanding either as to principal or interest, or both, the County shall credit Pledged Rent Revenues and Pledged Gross Receipts Tax Revenues to the appropriate Pledged Revenue Fund, and the following payments shall be made monthly from the Pledged Revenues:

(1) Rent Revenue Fund. First, as a first charge on the Pledged Rent Revenues, the amount to be established in the Supplemental Resolution shall be withdrawn monthly from the Rent Revenue Fund and shall be concurrently credited to the Debt Service Fund to make payments due on the Loan Agreement:

(2) Gross Receipts Tax Revenue Fund. Second, but subject to and after withdrawals necessary to pay any debt service requirements on the Superior Obligations now outstanding or hereafter issued, or to fund any reserve account as required by the terms of any ordinance or resolution authorizing the issuance of Superior Obligations, amounts shall be withdrawn from the Gross Receipts Tax Revenue Fund and

credited to the Debt Service Fund, but only to the extent the withdrawals authorized by the preceding paragraph 10.A(1) are insufficient to make the required payments then due on the Loan Agreement:

B. Credit. In making the deposits required to be made into the Debt Service Fund, if there are any amounts then on deposit in the Debt Service Fund available for the purpose for which such deposit is to be made, the amount of the deposit to be made pursuant to paragraph 10.A above shall be reduced by the amount available in such fund and available for such purpose.

C. Transfer of Money out of Debt Service Fund. Each payment of principal and interest becoming due on the Loan shall be transferred from the Debt Service Fund to NMBT on the due date of such payment, or the next succeeding Business Day if any due date is not a Business Day.

D. Reserve Fund. Immediately upon the execution and delivery of the Loan, a deposit in an amount equal to the Reserve Requirement will be made into the Reserve Fund from proceeds of the Loan or other available funds. Amounts on deposit in the Pledged Revenue Funds, after making the deposits into the Debt Service Fund and the debt service funds for Superior Obligations required by Paragraphs A and C of this Section, may also be used by the County pursuant to this Paragraph D to make deposits into the Reserve Fund if required to meet the Reserve Requirement. No payment need be made into the Reserve Fund so long as the moneys therein shall equal not less than the Reserve Requirement. The moneys in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in Paragraphs E and F of this Section, only to prevent deficiencies in the payment of the principal of and interest on the Loan resulting from failure to deposit into the Debt Service Fund sufficient funds to pay the principal and interest as the same become due.

E. Termination Upon Deposits to Maturity. No payment need be made into the Debt Service Fund, the Reserve Fund, or both, if the moneys in the Debt Service Fund and Reserve Fund total a sum at least equal to the entire amount of the Loan then outstanding, both as to principal and interest to their respective maturities, and both accrued and not accrued, in which case, moneys in said funds in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue and any moneys in excess thereof in said funds and any other moneys derived from the Pledged Revenues may be used in any lawful manner determined by the County.

F. Defraying Delinquencies in the Debt Service Fund and Reserve Fund. If, on any Payment Date, the amount on deposit in the Debt Service Fund is insufficient to make the payments of principal and interest then due on the Loan, then an amount shall be paid into the Debt Service Fund on such date from the Reserve Fund equal to the difference between the amount on deposit in the Debt Service Fund and the full amount to be paid on such date. The money so used shall be replaced in the Reserve Fund from the first Pledged Revenues thereafter received that are not required to be deposited in the Debt Service Fund or in debt service funds for Superior Obligations or Parity Obligations. The moneys in the Reserve Fund shall be used solely and only for the purpose of paying the principal of and the interest on the Loan; provided, however, that any moneys at any time in excess of the Reserve Requirement in the Reserve Fund may be withdrawn therefrom and applied as set forth in Paragraph H of this Section.

G. Subordinate Bonds. After making the payments or deposits hereinabove required to be made pursuant to the preceding paragraphs of this Section, the County may use any amounts remaining in the Pledged Revenue Funds for the payment of debt service and related expenses on subordinate bonds or other subordinate obligations payable from Pledged Revenues hereafter issued by the County.

H. Use of Surplus Pledged 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 County may from time to time determine.

Section 11. General Administration of Funds. The funds designated in Section 10 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. Each account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the designated purpose. Payments shall be made into the proper 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. Nothing in this Ordinance shall prevent the County from establishing one or more bank accounts in an Insured Bank or Banks for all the funds required by this Ordinance or shall prevent the combination of such funds and accounts with any other bank account or accounts for other funds and accounts of the County.

B. Investment of Moneys. Moneys in any fund or account not immediately needed may be invested in any investment permitted by law. The obligations so purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund or account, and any loss resulting from such investment shall be charged to such fund or account. The County Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

Section 12. Lien on Pledged Revenues. Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged, and the County grants a security interest therein, for the payment of the principal, interest, and any other amounts due under the Loan Agreement, subject to the uses thereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable subordinate lien on the Pledged Gross Receipts Tax Revenues subordinate to the lien thereon of the Superior Obligations. The Loan Agreement constitutes an irrevocable first lien on the Pledged Rent Revenues.

Section 13. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement, and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance and the Loan Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance and the Loan Agreement, including but not

limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement, and the publication of the summary of this Ordinance set out in Section 20 of this Ordinance (with such changes, additions and deletions as may be necessary).

Section 14. Emergency. This ordinance is necessary for the preservation of the public health, safety and welfare of the County by reason of the fact that the County is in need of the Refunding and must take prompt action to pay the principal and interest coming due on the Refunded Bonds and because the planned financing option with the New Mexico Finance Authority has been withdrawn. This ordinance is therefore hereby declared to be an emergency measure.

Section 15. Amendment of Ordinance. This Ordinance may be amended by ordinance of the Governing Body without receipt by the County of any additional consideration, but only with the prior written consent of NMBT.

Section 16. Ordinance Irrepealable. After the Loan Agreement has been executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.

Section 17. Severability Clause. If any Section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 18. Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 19. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the County kept for that purpose, authenticated by the signatures of the Commission Chairman and County Clerk of the County, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 20 below) shall be published in a newspaper which is of general circulation in the County, and this Ordinance shall take immediate effect after passage, in accordance with Section 4-37-9(c), NMSA 1978, as amended.

Section 20. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

County of Sandoval, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 8-16-12.10B duly adopted and approved by the Governing Body of the County of Sandoval, New Mexico, on August 16, 2012. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the County Clerk, 1500 Idalia Road, Building D, Bernalillo, New Mexico.

The title of the Ordinance is:

STATE OF NEW MEXICO
SANDOVAL COUNTY
ORDINANCE NO. 8-16-12.10B

AN ORDINANCE AUTHORIZING A TAXABLE LOAN (THE "LOAN") EVIDENCING A SPECIAL, LIMITED OBLIGATION OF SANDOVAL COUNTY, NEW MEXICO (THE "COUNTY") TO PAY A PRINCIPAL AMOUNT NOT TO EXCEED \$4,400,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSES OF (1) REFUNDING THE SANDOVAL COUNTY, NEW MEXICO \$4,400,000 GROSS RECEIPTS TAX REFUNDING REVENUE BONDS SUBORDINATE SERIES 2010, AND (2) PAYING COSTS OF ISSUANCE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE LOAN SOLELY FROM LEASE RENTAL PAYMENTS PAID TO THE COUNTY BY AMIKIDS SANDOVAL, INC. AND REVENUES DERIVED FROM THE FIRST INCREMENT OF COUNTY GROSS RECEIPTS TAX IMPOSED BY THE COUNTY PURSUANT TO SECTION 7-20E-9 NMSA 1978; PROVIDING THAT THE FORM AND OTHER DETAILS CONCERNING THE LOAN WILL BE APPROVED IN A SUBSEQUENT RESOLUTION; RATIFYING AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ADOPTION OF THE ORDINANCE AND THE EXECUTION AND DELIVERY OF THE LOAN; AND DECLARING AN EMERGENCY.

A general summary of the subject matter of the Ordinance is contained in its title.

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

(End of Form of Summary for Publication)

PASSED, ADOPTED AND APPROVED this 16th day of August, 2012.

BOARD OF COUNTY COMMISSIONERS
OF SANDOVAL COUNTY, NEW MEXICO

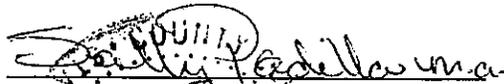


Darryl F. Madalena, Chairman

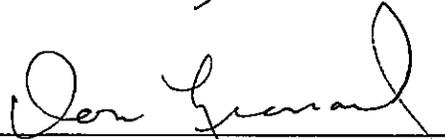
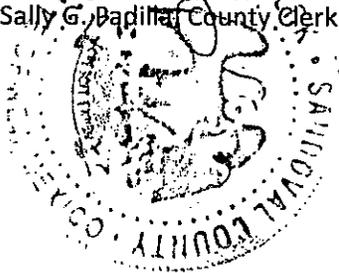


Orlando J. Lucero, Vice-Chairman

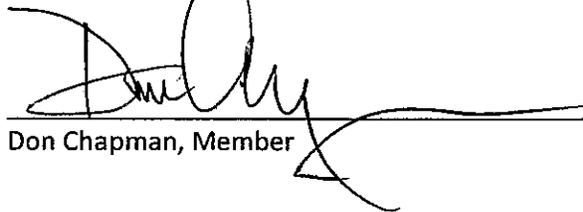
ATTEST:



Sally G. Padilla, County Clerk



Don Leonard, Member



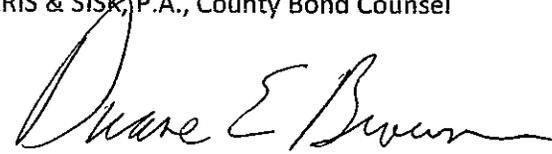
Don Chapman, Member



Glenn Walters, Member

APPROVED AS TO FORM:

MODRALL, HARRIS, ROEHL,
HARRIS & SISK, P.A., County Bond Counsel

By: 

Duane E. Brown

EXHIBIT "A"

Meeting Agenda
August 16, 2012
County Commission Meeting

(See attached)

