

# TAX INCREMENT DEVELOPMENT DISTRICT BOARD

## TIDD BOARD ACTION AND EXECUTIVE SUMMARY

For Meeting of July 14, 2014

### Resolution No. 15-001

Please check box that applies to this item:

QUASI JUDICIAL

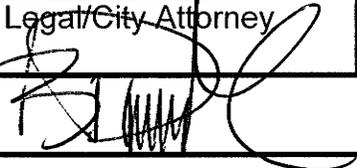
LEGISLATIVE

ADMINISTRATIVE

**TITLE:** A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF LAS CRUCES TAX INCREMENT DEVELOPMENT DISTRICT AUTHORIZING THE ISSUANCE OF A TAXABLE SHORT-TERM TAX INCREMENT REVENUE BOND, SERIES 2014 IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$[5,500,000] TO FINANCE THE ACQUISITION OF AND REIMBURSEMENT FOR CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS, TO BE SECURED BY GROSS RECEIPTS TAX INCREMENT REVENUES GENERATED WITHIN THE DISTRICT; MAKING FINDINGS RELATED TO THE PUBLIC INFRASTRUCTURE IMPROVEMENTS; AUTHORIZING THE PREPARATION, IF NECESSARY, OF A MASTER INDENTURE AND FIRST SUPPLEMENTAL INDENTURE OR OTHER APPROPRIATE INSTRUMENT FOR THE REVIEW AND APPROVAL OF THE NEW MEXICO FINANCE AUTHORITY; PROVIDING THAT THE FINAL TERMS OF THE BOND WILL BE ESTABLISHED IN A SUPPLEMENTAL RESOLUTION OF THE GOVERNING BODY; PROVIDING FOR THE APPROVAL OF A BOND PURCHASE AGREEMENT AND ADDITIONAL INSTRUMENTS AND AGREEMENTS NECESSARY OR CONVENIENT TO THE ISSUANCE, SALE, DELIVERY AND REDEMPTION OF THE BOND IN THE SUPPLEMENTAL RESOLUTION; RATIFYING PRIOR CONSISTENT ACTION; AND REPEALING PRIOR INCONSISTENT ACTION.

#### PURPOSE(S) OF ACTION:

To authorize a bond issuance.

<b><u>Drafter/Staff Contact:</u></b> Monica Campbell	<b><u>Department/Section:</u></b> Legal/City Attorney	<b><u>Phone:</u></b> 541-2128
<b><u>City Manager Signature:</u></b>		

#### BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Governing Body of the Tax Increment Development District intends to fund the planning, design and construction of a downtown civic plaza

**SUPPORT INFORMATION:**

- Resolution.

**SOURCE OF FUNDING:**

Is this action already budgeted?  N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?  N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$_____ for FY_____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

N/A
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**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

**OPTIONS / ALTERNATIVES:**

- Vote "Yes"; this will authorize the issuance of a taxable short-term tax increment revenue bond, Series 2014 in an amount not to exceed \$[5,500,000] for the planning, design and construction of a downtown civic plaza.
- Vote "No"; this means the issuance of the taxable short-term increment revenue bond, Series 2014 is not authorized.
- Vote to "Amend"; this could delay the issuance of the bond.
- Vote to "Table"; this could delay the issuance of the bond which may have an adverse effect on the planning, design and construction of a downtown civic plaza.

**TIDD BOARD RESOLUTION NO. 15-001**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF LAS CRUCES TAX INCREMENT DEVELOPMENT DISTRICT AUTHORIZING THE ISSUANCE OF A TAXABLE SHORT-TERM TAX INCREMENT REVENUE BOND, SERIES 2014 IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$[5,500,000] TO FINANCE THE ACQUISITION OF AND REIMBURSEMENT FOR CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS, TO BE SECURED BY GROSS RECEIPTS TAX INCREMENT REVENUES GENERATED WITHIN THE DISTRICT; MAKING FINDINGS RELATED TO THE PUBLIC INFRASTRUCTURE IMPROVEMENTS; AUTHORIZING THE PREPARATION, IF NECESSARY, OF A MASTER INDENTURE AND FIRST SUPPLEMENTAL INDENTURE OR OTHER APPROPRIATE INSTRUMENT FOR THE REVIEW AND APPROVAL OF THE NEW MEXICO FINANCE AUTHORITY; PROVIDING THAT THE FINAL TERMS OF THE BOND WILL BE ESTABLISHED IN A SUPPLEMENTAL RESOLUTION OF THE GOVERNING BODY; PROVIDING FOR THE APPROVAL OF A BOND PURCHASE AGREEMENT AND ADDITIONAL INSTRUMENTS AND AGREEMENTS NECESSARY OR CONVENIENT TO THE ISSUANCE, SALE, DELIVERY AND REDEMPTION OF THE BOND IN THE SUPPLEMENTAL RESOLUTION; RATIFYING PRIOR CONSISTENT ACTION; AND REPEALING PRIOR INCONSISTENT ACTION.**

The TIDD Board is informed that:

**WHEREAS**, pursuant to Resolution No. 08-102 and Resolution No. 08-243 (together, the "Formation Resolution"), the City of Las Cruces (the "City") pursuant to the Tax Increment for Development Act, Sections 5-15-1 through 5-15-28 NMSA 1978 (the "Act"), approved a tax increment development plan (the "TIDD Plan") and the formation of a Tax Increment Development District as described in the TIDD Plan (the "District"), to be governed by a board (the "Governing Body") consisting of members of the City Council as permitted by Section 5-15-10(B) NMSA 1978 and a nonvoting member of the Doña Ana Board of County Commissioners; and

**WHEREAS**, the District is a political subdivision of the State of New Mexico (the "State"), separate and apart from the City, the County of Doña Ana (the "County") and the State; and

**WHEREAS**, pursuant to Section 5-15-15(B) NMSA 1978 and the Formation Resolution, the City has dedicated 75% of the City's local option gross receipts tax increment revenue and State-shared Gross Receipts Tax Increment Revenue generated within the District (collectively, the "City Gross Receipts Tax Increment Revenue") for the financing, construction, acquisition and dedication of Public Infrastructure (the "Project"), as identified in the TIDD Plan; and

**WHEREAS**, pursuant to 2010 Laws of New Mexico, Chapter 9, Section 1, the Legislature of the State authorized the issuance of bonds for the Project in an amount not to exceed \$8,000,000 in net proceeds, secured by tax increments authorized pursuant to the Act, including 75% of the State gross receipts tax increment revenue generated within the District, as approved by the State Board of Finance by resolution dated December 22, 2008 (together, the "State Appropriation"); and

**WHEREAS**, pursuant to Section 5-15-17(A) NMSA 1978 and the Formation Resolution, the City has dedicated 75% of the *ad valorem* Property Tax increment revenue generated within the District ("Property Tax Increment Revenue"); and

**WHEREAS**, pursuant to Section 5-15-15(C) NMSA 1978 the County has dedicated 75% of the County local option gross receipts tax revenue generated within the District for the Project, as identified in the TIDD Plan; and

**WHEREAS**, the TIDD Plan initially provided for the design and construction of Public Infrastructure Improvements, including the following street improvement projects and estimated costs: Main Street from Griggs to Lohman, including the Roundabout at Bowman Avenue, at a cost of \$1,500,000; Main Street from Las Cruces Avenue to Picacho, including the Roundabout at Lucero, at a cost of approximately \$2,300,000;

Water Street (converting from 1-way to 2-way traffic flow), at a cost of \$1,500,000; Church Street (converting from 1-way to 2-way traffic flow), at a cost of \$1,600,000; Las Cruces Avenue between Church and Alameda, at a cost of \$1,300,000; Griggs Avenue between Church and Alameda, at a cost of \$1,300,000; Organ Avenue between Campo and Main, at a cost of \$350,000; Court Avenue between Church and Water, at a cost of \$400,000; Hadley Avenue between Church and Water, at a cost of \$250,000; and May Avenue between Church and Water, at a cost of \$300,000; and

**WHEREAS**, as permitted by Section 5-15-25(C) of the Act, the TIDD Plan has been amended pursuant to District Resolution 14-002 adopted by the Governing Body on April 14, 2014, as subsequently approved by City Council Resolution 14-174, adopted on April 21, 2014, to include the planning, design and construction of a civic plaza within the District at an estimated cost of \$5,000,000; and

**WHEREAS**, the cost of the foregoing Public Infrastructure Improvements are eligible for financing and reimbursement from proceeds of tax increment revenue bonds under the Act, the Formation Resolution and the TIDD Plan, as amended; and

**WHEREAS**, the City has not previously been reimbursed from proceeds of tax increment revenue bonds issued by the District; and

**WHEREAS**, the Governing Body expects to enter into a bond purchase agreement for purchase of the Bond by the Treasurer of the State of New Mexico or another qualified purchaser (the "Purchaser"); and

**WHEREAS**, the District intends to issue its City of Las Cruces Tax Increment Development District Taxable Short-Term Tax Increment Revenue Bond, Series 2014 (the "Series 2014 Bond"); and

**WHEREAS**, the Governing Body desires to authorize the preparation of an agreement for securing the payment of debt service on the Series 2014 Bond, which may include a master indenture of trust and a first supplemental indenture, a supplemental bond resolution or other appropriate instrument or agreement (the "Security Agreement"), and which shall establish the principal amount, interest rate and provisions for the payment of debt service on the Series 2014 Bond from pledged gross receipts tax increment revenues, following the approval of the Security Agreement by the New Mexico Finance Authority, as provided in the State Appropriation; and

**WHEREAS**, all authorizations required for issuance of the Series 2014 Bond, including the approval of the Security Agreement by the New Mexico Finance Authority, have been obtained or will be obtained prior to issuance and delivery of the Bond; and

**WHEREAS**, it is in the best interest of the District to sell the Series 2014 Bond to the Purchaser at a negotiated sale on the terms set forth herein.

**NOW THEREFORE**, Be it resolved by the Governing Body of the City of Las Cruces Tax Increment Development District:

Section 1. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Governing Body directed toward the Project and the issuance of the Bond for the Project is ratified, approved and confirmed.

Section 2. Acquisition of Public Infrastructure; Findings.

A. The financing or reimbursement of costs of the Project with proceeds of the Series 2014 Bond and the method of financing the Project are consistent with the TIDD Plan, as amended and approved by the Governing Body, and as subsequently approved by the City Council.

B. The Project to be financed with proceeds of the Series 2014 Bond consists of improvements which are "Public Infrastructure" approved by the City for tax increment financing pursuant to the TIDD Plan, as amended.

C. The TIDD Plan, as amended, will not substantially reduce the benefits to be received by any land in the District from the Public Infrastructure on completion of the work to be performed.

D. The issuance of the Series 2014 Bond is necessary and in the interest of the District and the City.

Section 3. Authorization, Form and Detail of Bond.

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all of the members of the Governing Body. Pursuant to the Tax Increment for Development Act, Sections 5-15-1 through 5-15-28 NMSA 1978, the District authorizes its fully registered revenue bond to be designated "City of Las Cruces Tax Increment Development District Taxable Short-term Tax Increment Revenue Bond, Series 2014" in an aggregate principal amount of \$[5,500,000].

B. Details of Bond. The principal of and interest on the Series 2014 Bond shall be payable within 30 days after the date of its delivery to the Purchaser. The Bond shall mature not later than 30 days after the date of issuance of the Bond, in a principal amount not to exceed \$[5,500,000]. The Series 2014 Bond shall bear interest at the rate not to exceed 1.00% per annum, calculated on the basis of a 365-day year. Interest on the Series 2014 Bond shall be includable in gross income for federal tax purposes under the Internal Revenue Code of 1986, as amended.

C. Final Terms and Form of the Bond. The final terms and form of the Series 2014 Bond shall be as set forth in the Security Agreement, which shall be approved as provided in Section 5 of this Resolution.

Section 4. Special Limited Obligations. The Series 2014 Bond and the payment of principal and interest thereon shall be special limited obligations of the District and shall be payable and collectible solely from the City Gross Receipts Tax Increment Revenue, County Gross Receipts Tax Increment Revenue and State Gross Receipts Tax Increment Revenue, which revenue is hereby pledged (the "Pledged Revenues"). Pledged Revenues do not include Property Tax Increment Revenue. The owner or owners of the Series 2014 Bond may not look to any general or other fund of the City, County or State for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor. The Series 2014 Bond shall not constitute an indebtedness or a debt of the City, County, State or the District within the meaning of any constitutional, charter or statutory provision or limitation, nor shall the Series 2014 Bond be considered or held to be a general obligation of the City, County, State or the District, and the Series 2014 Bond shall recite that it is payable and collectible solely out of Pledged Revenues, and that the holders thereof may not look to any general or other District fund for the payment of the principal of and interest on the Series 2014 Bond. Nothing herein shall prevent the District from applying other funds of the District legally available therefor to the payment of the Series 2014 Bond, in its sole discretion.

Section 5. Supplemental Resolution. A form of Security Agreement shall be submitted for the approval of the New Mexico Finance Authority (the "NMFA") and thereafter approved, with such changes as may be required by the NMFA, in a resolution

of the Governing Body (the "Supplemental Resolution"). The Supplemental Resolution shall provide for the final terms of the Series 2014 Bond and its execution, authentication, issuance and delivery. The Supplemental Resolution shall approve, if necessary, the appointment of a trustee in connection with the Series 2014 Bond, and shall also approve the execution and delivery of a bond purchase agreement for the sale of the Series 2014 Bond, and such other agreements and instruments as may be necessary or convenient to accomplish the issuance, delivery and redemption of the Series 2014 Bond and the purposes of this Resolution.

Section 6. Authority to Execute and Deliver Closing Certificates. The presiding officer of the Governing Body and other authorized officers of the District are hereby authorized to execute and deliver such other certificates, instruments and agreements as may be necessary to complete the transaction contemplated in this Resolution, as recommended by the District's financial advisor or bond counsel.

Section 7. Prior Inconsistent Action Repealed. All bylaws, ordinances and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, or resolution, or part thereof, heretofore repealed.

Section 8. Effective Date. This Resolution shall be effective immediately as provided by law.

Section 9. Severability. If any section, paragraph, clause or provision hereof 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 Resolution.

Section 10. 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 Resolution shall be published in substantially the following form:

(Form of Summary of Resolution for Publication)

City of Las Cruces  
Tax Increment Development District  
Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in a resolution, duly adopted and approved by the Governing Body of the City of Las Cruces Tax Increment Development District on July 14, 2014, relating to the authorization and issuance of the District's Taxable Short-term Tax Increment Revenue Bond, Series 2014 (the "Bond"). Complete copies of the Resolution are available for public inspection during the normal and regular business hours of the City Clerk, City Hall 700 North Main Street, Las Cruces, New Mexico.

The title of the Resolution is:

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF LAS CRUCES TAX INCREMENT DEVELOPMENT DISTRICT AUTHORIZING THE ISSUANCE OF A TAXABLE SHORT-TERM TAX INCREMENT REVENUE BOND, SERIES 2014, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$[5,500,000] TO FINANCE THE ACQUISITION OF AND REIMBURSEMENT FOR CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS, TO BE SECURED BY GROSS RECEIPTS TAX INCREMENT REVENUES GENERATED WITHIN THE DISTRICT; MAKING FINDINGS RELATED TO THE PUBLIC INFRASTRUCTURE IMPROVEMENTS; AUTHORIZING THE PREPARATION, IF NECESSARY, OF A MASTER INDENTURE AND FIRST SUPPLEMENTAL INDENTURE OR OTHER APPROPRIATE INSTRUMENT FOR THE REVIEW AND APPROVAL OF THE NEW MEXICO FINANCE AUTHORITY; PROVIDING THAT THE FINAL TERMS OF THE BOND WILL BE ESTABLISHED IN A SUPPLEMENTAL RESOLUTION OF THE GOVERNING BODY; PROVIDING FOR THE APPROVAL OF A BOND PURCHASE AGREEMENT AND ADDITIONAL INSTRUMENTS AND AGREEMENTS NECESSARY OR CONVENIENT TO THE ISSUANCE, SALE, DELIVERY AND REDEMPTION OF THE BOND IN THE SUPPLEMENTAL RESOLUTION; RATIFYING PRIOR CONSISTENT ACTION; AND REPEALING PRIOR INCONSISTENT ACTION.

A general summary of the subject matter contained in the Resolution is set forth in its title. This notice constitutes compliance with § 6-14-6 N.M.S.A. 1978.

(End of Form of Summary of Resolution for Publication)

DONE AND APPROVED on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

APPROVED:

\_\_\_\_\_  
TIDD Chair

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

VOTE:

Chair Miyagishima: \_\_\_\_\_  
Board Member Silva: \_\_\_\_\_  
Board Member Smith: \_\_\_\_\_  
Board Member Pedroza: \_\_\_\_\_  
Board Member Small: \_\_\_\_\_  
Board Member Sorg: \_\_\_\_\_  
Board Member Levatino: \_\_\_\_\_

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney