

# City of Las Cruces<sup>®</sup>

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 9 Ordinance/Resolution# 15-140

For Meeting of \_\_\_\_\_  
(Ordinance First Reading Date)

For Meeting of February 3, 2015  
(Adoption Date)

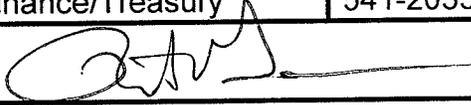
Please check box that applies to this item:

QUASI JUDICIAL       LEGISLATIVE       ADMINISTRATIVE

**TITLE:** A RESOLUTION RELATING TO THE CITY OF LAS CRUCES, NEW MEXICO STATE SHARED GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2015; ESTABLISHING THE DETAILS OF THE BONDS IN ACCORDANCE WITH CITY ORDINANCE NO. O-2739 ADOPTED ON DECEMBER 1, 2014.

**PURPOSE(S) OF ACTION:**

To approve the award of the SSGRT Refunding Revenue Bonds Series 2015.

|   |  |                                  |
|---|--|----------------------------------|
| <b>COUNCIL DISTRICT: N/A</b>                          |  |                                  |
| <b><u>Drafter/Staff Contact:</u></b><br>Mark Krawczyk | <b><u>Department/Section:</u></b><br>Finance/Treasury                                | <b><u>Phone:</u></b><br>541-2035 |
| <b><u>City Manager Signature:</u></b>                 |  |                                  |

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

As of January 7, 2015, refunding the Series 2005 SSGRT Bonds, which financed the construction of City Hall, will generate present value savings in debt services costs of approximately \$1.68 million. This translates into average annual savings of approximately \$110,000 in debt service costs. The refunding is expected to close on March 11, 2015.

**SUPPORT INFORMATION:**

1. Resolution.

**SOURCE OF FUNDING:**

|   |                                   |  |   |
|---|-----------------------------------|--|---|
| <b>Is this action already budgeted?</b>     | Yes                               | <input type="checkbox"/>                                 | See fund summary below  |
|   | No*                               | <input checked="" 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. |   |
| <b>Does this action create any revenue?</b> | Yes                               | <input type="checkbox"/>                                 | Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____. |
|   | No                                | <input checked="" type="checkbox"/>                      | There is no new revenue generated by this action.                                     |

**BUDGET NARRATIVE**

\*A budget adjustment will be prepared after awarding the sale of these bonds and after the sale has closed. The fund associated with the 2005 bonds being refunded will be closed prior to the end of FY15. The budget adjustment will also establish a debt service fund for the new bonds issued during FY15.

**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:**

1. Vote "Yes"; this will approve the Resolution approving/awarding the sale of the SSGRT Refunding Revenue Bonds Series 2015.
2. Vote "No"; this will not approve the Resolution approving/awarding the sale of the SSGRT Refunding Revenue Bonds Series 2015.
3. Vote to "Amend"; this could delay the issuance of the bonds.
4. Vote to "Table"; this could delay the issuance of the bonds with potential adverse effect to the projected savings in debt service costs over the next 20 years.

**REFERENCE INFORMATION:**

N/A

(Continue on additional sheets as required)

RESOLUTION NO. 15-140

**A RESOLUTION RELATING TO THE CITY OF LAS CRUCES, NEW MEXICO STATE SHARED GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2015; ESTABLISHING THE DETAILS OF THE BONDS IN ACCORDANCE WITH CITY ORDINANCE NO. O-2739 ADOPTED ON DECEMBER 1, 2014.**

WHEREAS, unless otherwise defined in this Award Resolution or the context requires otherwise, capitalized terms in this Award Resolution have the same meaning assigned to those terms in Section 1 of City Ordinance No. O-2739 (the "Bond Ordinance") adopted by the City Council of the City of Las Cruces (the "City Council") on December 1, 2014; and

WHEREAS, this Award Resolution is adopted pursuant to the Bond Ordinance in order to approve the terms, sale price and other matters with respect to the Bonds; and

WHEREAS, the City Council has adopted the Bond Ordinance which authorizes the issuance of the Bonds and provides for the adoption of this Award Resolution by the Council to approve specific terms and documents relating to the sale, issuance and delivery of the Bonds, and this Award Resolution is adopted by the City Council for those purposes; and

WHEREAS, it is in the best interests of the City to sell the Bonds to the Purchaser upon the terms as set forth in the Bond Ordinance, the Official Notice of Bond Sale and this Award Resolution; and

WHEREAS, \_\_\_\_\_ (the "Purchaser") has agreed, pursuant to its bid for the Bonds submitted on February 4, 2015, to purchase the Bonds at a purchase price of \$ \_\_\_\_\_; and

WHEREAS, the Preliminary Official Statement, the proposed form of Official Statement, and the form of the Continuing Disclosure Undertaking have been filed with the City Clerk; and

WHEREAS, all required authorizations, consents and approvals of any governmental body, agency or authority in connection with (i) the use and pledge of the Pledged Revenues for the payment of the Bonds, and (ii) the authorization, execution and delivery of the Bonds, which are required to have been obtained by the date on which the Award Resolution is adopted have been or will be obtained prior to the issuance and delivery of the Bonds.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAS CRUCES, NEW MEXICO:

Section 1. Ratification of Prior Actions and Awarding the Bonds. All action previously taken (not inconsistent with the provisions of this Award Resolution or the Bond Ordinance) by the City Council and the officers of the City, directed toward the authorization, pledge, collection and distribution of the Pledged Revenues and the authorization, issuance and sale of the Bonds is

hereby ratified, approved and confirmed, and the Bonds are awarded and sold to the Purchaser, in the aggregate principal amount of \$ \_\_\_\_\_ and at the interest rates as described below:

SERIES 2015 MATURITY SCHEDULE

| <u>Date</u> | <u>Principal</u> | <u>Interest Rate</u> |
|-------------|------------------|----------------------|
| 06/01/2015  | \$               | %                    |
| 06/01/2016  |                  |                      |
| 06/01/2017  |                  |                      |
| 06/01/2018  |                  |                      |
| 06/01/2019  |                  |                      |
| 06/01/2020  |                  |                      |
| 06/01/2021  |                  |                      |
| 06/01/2022  |                  |                      |
| 06/01/2023  |                  |                      |
| 06/01/2024  |                  |                      |
| 06/01/2025  |                  |                      |
| 06/01/2026  |                  |                      |
| 06/01/2027  |                  |                      |
| 06/01/2028  |                  |                      |
| 06/01/2029  |                  |                      |
| 06/01/2030  |                  |                      |
| 06/01/2031  |                  |                      |
| 06/01/2032  |                  |                      |
| 06/01/2033  |                  |                      |
| 06/01/2034  |                  |                      |

Section 2. Findings. The Council declares that it has considered all relevant information and data and makes the following findings:

A. The issuance of the Bonds under the Act to provide funds to defease, refund, pay and redeem the Refunded Bonds for the purpose of achieving interest cost savings, is necessary and in the interest of the public health, safety, and welfare of the residents of the City.

B. The aggregate principal amount of the Bonds is \$ \_\_\_\_\_, which is within the corresponding parameter established for the Bonds in the Bond Ordinance.

C. The net effective interest rate of \_\_\_\_\_% on the Bonds is reasonable under existing and anticipated bond market conditions, is less than the statutory maximum of

12% per annum, and is within the corresponding parameter established for the Bonds in the Bond Ordinance.

D. The Refunding Project will result in net present value savings of \_\_\_%, which is within the corresponding parameter stated in the Bond Ordinance. The City will complete the Refunding Project with a portion of the proceeds of the Bonds together with other funds of the City.

E. The bid of the Purchaser, received at a public sale of the Bonds held on February 4, 2015 was the best bid for the Bonds and is hereby accepted by the City Council.

F. The final terms of the Bonds are within all other parameters established for the Bonds in the Bond Ordinance.

### Section 3. Bond Details.

A. Principal Amount. The Bonds shall be issued in one series in the aggregate principal amount of \$\_\_\_\_\_ to provide funds, together with other available funds of the City, if any, to defray the cost of the Refunding Project and the payment of Expenses incidental thereto and in connection with the issuance of the Bonds.

B. Series Date; Registration. The Bonds shall be dated as of the date of original issuance and delivery (the "Series Date"), and shall be issued in fully registered form only, without coupons, and when issued will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York as registered owner of the Bonds, all as provided in the Bond Ordinance.

C. Interest Payment Date; Interest Rates; Maturities; Price. The Bonds shall bear interest, payable on June 1 and December 1 of each year beginning June 1, 2015 (the "Interest Payment Date"). The interest rates on the Bonds shall be the rates provided in Section 1 herein. The final maturity of Bonds shall be June 1, [2034].

D. Record Date. The Record Date shall be the 15<sup>th</sup> day of the calendar month preceding each scheduled Interest Payment Date.

E. Optional Redemption. The Bonds maturing on or after June 1, 20\_\_ are subject to redemption in whole or in part at any time, at the option of the City, prior to their respective maturities on or after June 1, 20\_\_ at a price equal to the unpaid principal amount of the Bonds to be redeemed, plus accrued interest to the date of the redemption.

Section 4. Accounts and Funds. The City shall establish such Funds and Accounts as required by the Bond Ordinance and the net proceeds from the sale of the Bonds shall be deposited or used as follows:

A. Expenses. An amount necessary, together with other legally available funds of the City, shall be used to pay Expenses.

B. Escrow Deposit. All remaining proceeds derived from the sale of the Bonds shall be deposited promptly upon the receipt thereof and otherwise utilized in accordance with the Escrow Agreement.

Section 5. Approval and Use of Documents. The forms, terms and provisions of the Preliminary Official Statement, the proposed forms of the Official Statement and Continuing Disclosure Undertaking on file with the City Clerk are ratified and approved. The Mayor is authorized and directed to execute and the City Clerk is authorized and directed to affix the seal of the City to and attest where applicable, the final Official Statement and the Continuing Disclosure Undertaking in substantially the forms on file with the City Clerk, or with such changes therein as are not inconsistent with the Bond Ordinance and this Award Resolution and as shall be approved by the Mayor, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions thereof from the form on file with the City Clerk. The officers of the City, including without limitation, the Mayor, City Clerk, Treasurer, Manager and Finance Director ("Authorized Officers") are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Award Resolution, including, without limitation, the distribution of material relating to the Bonds, the printing of the Bonds, the printing, execution and distribution of the Official Statement, the Continuing Disclosure Undertaking, and such other certificates as may be required by the Purchaser or bond counsel.

The use by the Purchaser, in connection with the offering and sale of the Bonds, of: (i) the Preliminary Official Statement is ratified and approved and (ii) the proposed form of the Official Statement is approved.

Section 6. Provisions Relating to Bond Insurance.  
[insert if applicable]

Section 7. Further Authorization. Authorized Officers are hereby authorized to take all necessary action to effect the sale and delivery of the Bonds to the Purchaser, including, without limitation, the execution and the delivery of the Bonds to the Purchaser and the execution and delivery of closing certificates, agreements and instruments necessary or advisable in connection with the issuance and delivery of the Bonds.

Section 8. Bond Ordinance. Except with respect to the terms set forth in this Award Resolution, the Bonds shall be governed by the Bond Ordinance. In the event of any conflict in the terms of this Award Resolution and Bond Ordinance, the terms of the Bond Ordinance shall prevail. The adoption of this Award Resolution, and all procedures undertaken incident thereto, are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Constitution and laws of the state of New Mexico.

Section 9. Repealer Clause. All bylaws, orders and resolutions, or parts thereof, inconsistent with this Award Resolution are repealed to the extent of such inconsistency. This

repealer shall not be construed to revive any bylaw, order or resolution, or part thereof, previously repealed.

Section 10. Effective Date and Publication. This Award Resolution shall be in full force and effect immediately upon adoption and approval by the Council and its execution and approval by the Mayor. A title and general summary of the subject matter contained in this Award Resolution shall be published in substantially the following form after adoption of this Award Resolution.

[Form of Summary of Award Resolution for Publication]

City of Las Cruces, New Mexico

Notice of Adoption of Award 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 City Council of the City of Las Cruces, New Mexico on February 4, 2015, relating to the details of the City's State Shared Gross Receipts Tax Refunding Revenue Bonds, Series 2015 as authorized pursuant to its Ordinance No. O-2739 duly adopted by the City Council on December 1, 2014. Complete copies of the Award Resolution are available for public inspection during the normal and regular business hours of the City Clerk, Las Cruces City Hall, 700 North Main Street Las Cruces, New Mexico.

The title of the Resolution is:

A RESOLUTION RELATING TO THE CITY OF LAS CRUCES, NEW MEXICO STATE SHARED GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2015; ESTABLISHING THE DETAILS OF THE BONDS IN ACCORDANCE WITH CITY ORDINANCE NO. O-2739 ADOPTED ON DECEMBER 1, 2104.

A general summary of the Resolution is:

The Resolution approves the sale of the City of Las Cruces, New Mexico State Shared Gross Receipts Tax Refunding Revenue Bonds, Series 2015, in an aggregate principal of \$\_\_\_\_\_ to \_\_\_\_\_ ("Purchaser") as the best bidder for the Bonds; establishes the principal amounts, maturity dates, interest rates, prices and redemption features of the Bonds; finds that the final terms of the Bonds are within the parameters established for the Bonds in City Ordinance No. O-2739 authorizing the issuance of the Bonds; authorizes Authorized Officers to take all action necessary to complete the issuance and delivery of the Bonds to the Purchaser; approves the Preliminary Official Statement, form of Official Statement and Continuing Disclosure Undertaking; makes covenants and other provisions required in connection with a bond insurance policy; ratifies action previously taken in connection with the Bonds; and repeals all action in conflict with the Ordinance and the Resolution.

[End of Form of Summary for Publication]

DONE AND APPROVED this 3rd day of February, 2015.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Esther Martinez-Carrillo, City Clerk

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

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

VOTE:

Mayor Miyagishima: \_\_\_\_\_

Councilor Silva: \_\_\_\_\_

Councilor Smith: \_\_\_\_\_

Councilor Pedroza: \_\_\_\_\_

Councilor Small: \_\_\_\_\_

Councilor Sorg: \_\_\_\_\_

Councilor Levatino: \_\_\_\_\_

APPROVED AS TO FORM:



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

STATE OF NEW MEXICO            )  
COUNTY OF DOÑA ANA         ) ss.  
CITY OF LAS CRUCES            )

I, Esther Martinez-Carrillo, the duly acting and qualified City Clerk of the City of Las Cruces, New Mexico (the "Governmental Unit"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Council (the "Governing Body"), constituting the governing body of the City had and taken at a duly called special meeting held at the Municipal Offices, 700 North Main Street, Las Cruces, New Mexico, on February 4, 2015, at the hour of 1:00 p.m., insofar as the same relate to the execution and delivery of the proposed Resolution, a copy of which is 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 special meetings of the Governing Body as required by the City's open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 4<sup>th</sup> day of February, 2015.

CITY OF LAS CRUCES, NEW MEXICO

\_\_\_\_\_  
Esther Martinez-Carrillo, City Clerk

[SEAL]