City of Las Cruces®
PEOPLE HELPING PEOPLE

TIDD Board Action and Executive Summary

Item #____ Resolution#_____

For Meeting of November 14, 2016
(Adoption Date)

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 2016 IN THE PRINCIPAL AMOUNT OF $2,550,000.00 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; APPROVING THE SALE OF THE BOND TO THE CITY OF LAS CRUCES, NEW MEXICO PURSUANT TO THE TERMS OF A BOND PURCHASE AGREEMENT, AND APPROVING THE FORM OF SUCH AGREEMENT; AUTHORIZING THE FORM OF A SERIES 2 INDENTURE AND ITS SUBMITTAL FOR THE REVIEW AND APPROVAL OF THE NEW MEXICO FINANCE AUTHORITY IN CONNECTION WITH THE ISSUANCE OF THE BOND; PROVIDING FOR THE EXECUTION AND DELIVERY OF ADDITIONAL INSTRUMENTS AND AGREEMENTS NECESSARY OR CONVENIENT TO THE ISSUANCE, SALE, DELIVERY AND REDEMPTION OF THE BOND; PROVIDING FOR REDEMPTION PROCEDURES; RATIFYING PRIOR CONSISTENT ACTION; AND REPEALING PRIOR INCONSISTENT ACTION.**

PURPOSE(S) OF ACTION:

Issuing short-term bonds.

COUNCIL DISTRICT: 1		
Drafter/Staff Contact: Karin Byrum	**Department/Section:** Finance / Treasury	**Phone:** 541-2084
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Tax Increment Development District (TIDD) was created in 2008. The purpose of the TIDD is to generate revenues within a specific area and to use those revenues only within that area for public improvements. The current resolutions adopted by the State Board of Finance and the New Mexico State Legislature list ten street improvement projects within the TIDD area that are eligible

(Continue on additional sheets as required)

for funding with the State (restricted) portion of the TIDD funding. The two specific projects that are being targeted are the two-way conversions of Church Street and Water Street.

The TIDD statute authorizes the State (restricted) portion tax increment revenue only be used to pay debt service on TIDD bonds issued to fund eligible public infrastructure costs, rather than for direct reimbursement of such costs. Additionally, the time allotted by the State Legislature to use the restricted revenues expires on December 31, 2018. In order to comply with the State statute and continue expending funds in a timely manner, the following process will be conducted as was done with the Series 2015 TIDD bonds and as illustrated below:

- Day 1:
  - TIDD issues a 1-day bond with par amount of $2,550,000.00, at 1% per annum (interest is usually taxable to manage transaction costs).
  - Bond purchaser (City) purchases the bond and tenders $2,550,000.00 principal amount to the TIDD to reimburse it for eligible infrastructure costs.
- Day 2:
  - TIDD uses accumulated gross receipts tax increment revenues to pay the City, as bond purchaser, $2,550,000.00 plus one day of interest ($70.00).

The result is the TIDD has $2,550,000.00 available for eligible infrastructure costs and the City is repaid $2,550,070.00 in debt service on the bond.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", City of Las Cruces Tax Increment Development District Taxable Short-Term Tax Increment Revenue Bond Series 2016 Bond Purchase Agreement.

(Continue on additional sheets as required)

SOURCE OF FUNDING:

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

BUDGET NARRATIVE

N/A

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 to issue the taxable short-term tax increment revenue bond in the amount of $2,550,000.00.
2. Vote "No"; this will deny the Resolution to issue the taxable short-term tax increment revenue bond. This will mean that State (restricted) portion of the TIDD funding will not be eligible to be used to construct the proposed street improvements.
3. Vote to "Amend"; this could modify the Resolution and delay the construction of the proposed street improvements.
4. Vote to "Table"; this could prevent funds from the TIDD being used to construct the proposed street improvements.

REFERENCE INFORMATION:

1. N/A

(Continue on additional sheets as required)

City of Las Cruces®
PEOPLE HELPING PEOPLE

TIDD BOARD ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of November 14, 2016 (Adoption Date)

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 2016 IN THE PRINCIPAL AMOUNT OF $2,550,000.00 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; APPROVING THE SALE OF THE BOND TO THE CITY OF LAS CRUCES, NEW MEXICO PURSUANT TO THE TERMS OF A BOND PURCHASE AGREEMENT, AND APPROVING THE FORM OF SUCH AGREEMENT; AUTHORIZING THE FORM OF A SERIES 2 INDENTURE AND ITS SUBMITTAL FOR THE REVIEW AND APPROVAL OF THE NEW MEXICO FINANCE AUTHORITY IN CONNECTION WITH THE ISSUANCE OF THE BOND; PROVIDING FOR THE EXECUTION AND DELIVERY OF ADDITIONAL INSTRUMENTS AND AGREEMENTS NECESSARY OR CONVENIENT TO THE ISSUANCE, SALE, DELIVERY AND REDEMPTION OF THE BOND; PROVIDING FOR REDEMPTION PROCEDURES; RATIFYING PRIOR CONSISTENT ACTION; AND REPEALING PRIOR INCONSISTENT ACTION.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes ☐ No ☒

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	Karin Byrum	541-2084	10/26/16
Department Director	Victoria Trechsel	541-2080	10/26/16
Other			
Assistant City Manager /CAO	[illegible]	541-2042	10/28/16
Management & Budget Manager	Mikela	541-2085	10/26/16
Assistant City Manager/COO	Daniel [illegible]		11/1/16

Rev. 11/17/2014

City Attorney		EXT 2128	1 NOV 2016
City Clerk			

RESOLUTION NO. 17-00_

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 2016 IN THE PRINCIPAL AMOUNT OF $2,550,000 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; APPROVING THE SALE OF THE BOND TO THE CITY OF LAS CRUCES, NEW MEXICO PURSUANT TO THE TERMS OF A BOND PURCHASE AGREEMENT, AND APPROVING THE FORM OF SUCH AGREEMENT; AUTHORIZING THE FORM OF A SERIES 2 INDENTURE AND ITS SUBMITTAL FOR THE REVIEW AND APPROVAL OF THE NEW MEXICO FINANCE AUTHORITY IN CONNECTION WITH THE ISSUANCE OF THE BOND; PROVIDING FOR THE EXECUTION AND DELIVERY OF ADDITIONAL INSTRUMENTS AND AGREEMENTS NECESSARY OR CONVENIENT TO THE ISSUANCE, SALE, DELIVERY AND REDEMPTION OF THE BOND; PROVIDING FOR REDEMPTION PROCEDURES; 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, and following presentation by the New Mexico Finance Authority ("NMFA") of the proposed issuance of bonds secured by state gross receipts tax increment generated within the District as provided in Section 5-15-21(A) and (B) NMSA 1978, 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 (collectively, the "Street Projects"); 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 (the "Civic Plaza"); and

WHEREAS, the Street Projects are eligible for financing as public infrastructure improvements from proceeds of tax increment revenue bonds under the Act, the Formation Resolution and the TIDD Plan, as amended; and

WHEREAS, the City has previously been reimbursed from proceeds of the District's $4,800,000 Taxable Short-Term Tax Increment Development District Revenue Bond, Series 2015 (the "Series 2015 Bond"), which Series 2015 Bond was issued pursuant to a Master Indenture of Trust dated as of December 1, 2014 by and between the District and BOKF, NA dba Bank of Albuquerque, as Trustee (the "Master Indenture") as supplemented and amended by a Series 1 Indenture of Trust by and between the District and the Trustee; and

WHEREAS, the District intends to issue its City of Las Cruces Tax Increment Development District Taxable Short-Term Tax Increment Revenue Bond, Series 2016 (the "2016 Bond") in the principal amount of $2,550,000; and

WHEREAS, in connection with this Resolution, a form of bond purchase agreement (the "Bond Purchase Agreement") proposed to be entered into by and between the Governing Body

and the City has been presented to the Governing Body, pursuant to which the District will sell and the City (as purchaser, the "Purchaser") will purchase the 2016 Bond; and

WHEREAS, in connection with this Resolution, a form of Series 2 Indenture (the "Series 2 Indenture"), pursuant to which the 2016 Bond will be issued and the payment of debt service thereon will be secured, has been presented to the Governing Body; and

WHEREAS, it is in the best interest of the District to sell the 2016 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 Street Projects is ratified, approved and confirmed.

Section 2. Repeal. All action heretofore taken which is inconsistent with the provisions of this Resolution by the Governing Body is hereby repealed.

Section 3. Acquisition of Public Infrastructure; Findings.

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

B. The Street Projects to be financed with proceeds of the 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 performed.

D. The issuance of the 2016 Bond is necessary and in the interest of the District and the City.

Section 4. 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 2016" in an aggregate principal amount of $2,550,000.

B. Details of Bond. The principal of and interest on the Bond shall be payable within 30 days after the date of its delivery to the Purchaser. The Bond shall be redeemed and shall mature not sooner than one day and not later than 30 days after the date of issuance of the Bond, in a principal amount of $2,550,000.00. The 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 Bond shall be includable in gross income for federal tax purposes under the Internal Revenue Code of 1986, as amended.

C. Form of Bond. The Bond shall be issued and delivered in substantially the following form:

[Form of Bond]

No. R-1 $2,550,000

UNITED STATES OF AMERICA
STATE OF NEW MEXICO

CITY OF LAS CRUCES TAX INCREMENT DEVELOPMENT DISTRICT
TAXABLE SHORT-TERM TAX INCREMENT REVENUE BOND
SERIES 2016

Maximum Maturity Date	Interest Rate	Original Issue Date
30 days after Date of Issuance	1.00% per annum	December __, 2016

REGISTERED OWNER: CITY OF LAS CRUCES, NEW MEXICO

PRINCIPAL AMOUNT: TWO MILLION FIVE HUNDRED AND FIFTY THOUSAND DOLLARS

The City of Las Cruces Tax Increment Development District, (the "District"), for value received hereby promises to pay to the Registered Owner specified above, or registered assigns, solely from the special funds provided therefor, as hereinafter set forth, on the Maturity Date specified above (unless called for earlier redemption), the Principal Amount specified above and to pay solely from such special funds interest hereon at the Interest Rate determined as herein provided from the date of authentication, if authenticated on the Maturity Date to which interest has been paid or duly provided for, or from the last preceding Interest Payment Date to which interest has been paid or duly provided for (or the Original Issue Date specified above if no interest thereon has been paid or duly provided for) in all other cases. The amount of interest so payable on any Interest Payment Date shall be computed on the basis of a 365-day year. If, upon presentation at or after maturity, payment of this Bond is not made as herein provided, interest shall continue at the same rate (but without compounding of interest) until the Principal Amount is paid in full. The principal or Redemption Price of and the final interest payment on this Bond are payable to the owner hereof as shown on the registration books maintained by the District, as Registrar, upon maturity and upon presentation and surrender at the principal office of the

District, as Paying Agent. The principal or Redemption Price of and interest on this Bond shall be payable in any currency of the United States of America which on the date of payment is legal tender for the payment of public and private debts. Interest accrued hereon will be paid to the owner hereof, as shown on the registration books kept by the Trustee at the close of business on the Maturity Date by wire transfer to a bank within the continental United States as directed by such owner, upon presentation and surrender of this Bond at the principal office of the Paying Agent.

AUTHORITY AND PURPOSE

This Bond is an authorized Bond of the City of Las Cruces Tax Increment Development District, designated the City of Las Cruces Tax Increment Development District Taxable Short-Term Revenue Bond, Series 2016, in the aggregate principal amount of $2,5500,000 (the Bond"). The Bond is issued by the District pursuant to Sections 5-15-1 *et seq.* NMSA 1978, as amended. The Bond is also issued pursuant to (i) Resolution 17-00_ adopted by the Board of Directors of the District (the "Board") on [November 14, 2016] (the "Bond Resolution"). The Bond is issued in full compliance with all of the provisions of the Tax Increment for Development Act, Sections 5-15-1, *et seq.*, NMSA 1978, as amended. This recital is conclusive evidence of the validity of the Bond and the regularity of their issuance.

The Bond is issued for the purpose of providing funds to finance certain costs of public infrastructure improvements and to pay certain costs of issuance associated with the Bond.

SECURITY

The Bond is a special limited obligation of the District, equally and ratably secured by and payable solely from the moneys and revenues pledged therefor pursuant to the Bond Resolution ("Pledged Revenues), and that the holders of the Bond may not look to any general or other District fund for the payment of the principal of and interest on the Bond. The Bond is not an obligation, debt or liability of the State, and the State shall not be liable on the Bond. The Bond does not constitute or create a general obligation or other indebtedness of the State, the City of Las Cruces, Doña Ana County or any governmental unit within the meaning of any constitutional or statutory debt limitation. The principal of and interest on the Bond does not constitute or give rise to a pecuniary liability on the part of the members, directors and officers of the District. No breach of any pledge, obligation or agreement of the District will impose a pecuniary liability or a charge upon the general credit or taxing power of the State or any political subdivision of the State.

The Bond is fully registered (*i.e.*, registered as to payment of both principal and interest), and is issuable in the denomination of $2,550,000.

INTEREST ON THE BOND

The Bond shall mature, on the date and in the aggregate principal amount, and shall bear interest, payable at maturity, at the rate per annum set forth below:

Maximum Maturity Date	Principal Amount	Interest Rate
Not later than 30 days after the Issue Date	$2,550,000	1.00%

GENERAL PROVISIONS

Every privilege of registration, transfer, discharge from registration, or conversion hereinabove provided shall be exercised only in accordance with and subject to the terms and provisions of the Bond Resolution.

To the extent and in the respects permitted by the Bond Resolution, the provisions of the Bond Resolution or any instrument amendatory thereof or supplemental thereto may be amended or otherwise modified by action of the District taken in the manner and subject to the conditions and exceptions prescribed in the Bond Resolution. The pledge of revenues and other obligations of the Authority under the Bond Resolution may be discharged at maturity of the Bond upon the making of provision for the payment thereof on the terms and conditions set forth in the Bond Resolution.

Reference is made to the Bond Resolution, and to any and all modifications and amendments thereof, for an additional description of the nature and extent of the security for the Bond, the funds and accounts or revenues pledged, the nature and extent and manner of enforcement of the pledge, the rights and remedies of the owner of the Bond with respect thereto, the terms and conditions upon which the Bond is issued, and a statement of rights, duties, immunities and obligations of the District and other rights and remedies of the owner of the Bond.

This Bond is subject to the conditions, and the owner hereof by accepting the same agrees with the obligor that (a) the delivery of this Bond to any transferee as registered owner shall vest title in this Bond in such transferee to the same extent for all purposes as would the delivery under like circumstances of any negotiable instrument payable to a registered owner; (b) the obligor and any agent of the obligor may treat the registered owner of this Bond as the absolute owner hereof for all purposes and shall not be affected by any notice to the contrary; (c) the debt service requirements of this Bond shall be paid, and this Bond is transferable, free from and without regard to any equities between the obligor and the original or any intermediate registered owner hereof or any setoffs or cross-claims; and (d) the surrender to the obligor or to any agent of the obligor of this Bond shall be a good discharge to the obligor for the same.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the proper officers of the District in the issuance of this Bond; that it is issued pursuant to and in strict conformity with the Constitution and laws of the State; and that this Bond does not contravene any constitutional or statutory limitation.

No recourse shall be had for the payment of the principal or interest of this Bond or for any claim based thereon, or otherwise, against any individual officer or other agent of the State, past, present or future, either directly or indirectly or otherwise, whether by virtue of any

constitution, statute, or rule of law, or by the enforcement of any penalty, or otherwise, all such liability, if any, being by the acceptance of this Bond and as a part of the consideration of its issuance specially waived and released.

IN WITNESS WHEREOF, the City of Las Cruces Tax Increment Development District has caused this Bond to be signed and executed in the name of the District, and upon its behalf by the manual or facsimile signature of its Chairperson and to be subscribed and executed by the manual or facsimile signature of the Secretary; all as of the Original Issue Date specified above.

BOARD OF DIRECTORS OF THE
CITY OF LAS CRUCES TAX INCREMENT
DEVELOPMENT DISTRICT

By: _____
Chairperson

ATTEST:

_____
Clerk

[End of Form of Bond]

Section 5. Issuance and Sale of Bond; Approval of Series 2 Indenture and Bond Purchase Agreement.

A. Issuance pursuant to the Series 2 Indenture. The issuance of the 2016 Bond pursuant to the Series 2 Indenture is hereby approved. The Series 2 Indenture, in substantially the form presented in connection with this Resolution, is hereby approved. The Chairman of the Board is hereby authorized and directed to execute and deliver the Bond Purchase Agreement, with such modifications as are necessary or appropriate to carry out the terms of this Resolution, including, without limitation, such changes as may be required in order to obtain approval of the Series 2 Indenture by the New Mexico Finance Authority.

B. Sale of Bond; Approval of Bond Purchase Agreement. The sale of the 2016 Bond to the Purchaser pursuant to the Bond Purchase Agreement is hereby approved. The Bond Purchase Agreement, in substantially the form presented in connection with this Resolution, is hereby approved. The Chairman of the Board is hereby authorized and directed to execute and deliver the Bond Purchase Agreement, with such modifications as are necessary or appropriate to carry out the terms of this Resolution.

Section 6. Special Limited Obligations. The 2016 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 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 2016 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 2016 Bond be considered or held to be a general obligation of the City, County, State or the District, and the 2016 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 Bond. Nothing herein shall prevent the District from applying other funds of the District legally available therefor to the payment of the Series 2016 Bond, in its sole discretion.

Section 7. Closing Documents. The Chairman of the Board is hereby authorized and directed to execute and deliver such other agreements, instruments and certificates as may be necessary or convenient to accomplish the issuance, delivery and redemption of the 2016 Bond and the purposes of this Resolution.

Section 8. Bond Purchase and Redemption Procedures. Upon purchase of the 2016 Bond, the Purchase Price thereof shall be credited to the construction or acquisition fund of the District. Upon redemption of the Bond, the redemption price (consisting of the principal amount of the Bond and interest accrued to the date of redemption shall be credited to the account of the Purchaser. Not less than one day and not more than 30 days after the delivery of the Bond to the

Purchaser, the District shall redeem the 2016 Bond by crediting the purchase price of the Bond plus interest accrued to the Redemption Date to the account of the Purchaser.

Section 9. Effective Date. This Resolution shall be effective immediately as provided by law.

Section 10. 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 11. 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 November 14, 2016, relating to the issuance, sale, delivery and redemption of the District's Taxable Short-term Tax Increment Revenue Bond, Series 2016 (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:

RESOLUTION NO. 17-00

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 2016 IN THE PRINCIPAL AMOUNT OF $2,550,000 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; APPROVING THE SALE OF THE BOND TO THE CITY OF LAS CRUCES, NEW MEXICO PURSUANT TO THE TERMS OF A BOND PURCHASE AGREEMENT, AND APPROVING THE FORM OF SUCH AGREEMENT; AUTHORIZING THE FORM OF A SERIES 2 INDENTURE AND ITS SUBMITTAL FOR THE REVIEW AND APPROVAL OF THE NEW MEXICO FINANCE AUTHORITY IN CONNECTION WITH THE ISSUANCE OF THE BOND; PROVIDING FOR THE EXECUTION AND DELIVERY OF ADDITIONAL INSTRUMENTS AND AGREEMENTS NECESSARY OR CONVENIENT TO THE ISSUANCE, SALE, DELIVERY AND REDEMPTION OF THE BOND;

PROVIDING FOR REDEMPTION PROCEDURES; RATIFYING PRIOR CONSISTENT ACTION; AND REPEALING PRIOR INCONSISTENT ACTION.

A general summary of the subject matter contained in the Ordinance 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)

APPROVED AND ADOPTED this 14th day of November, 2016.

GOVERNING BODY OF THE
CITY OF LAS CRUCES TAX
INCREMENT DEVELOPMENT DISTRICT

By: _____
Ken Miyagishima,
Chair

ATTEST:

By: _____
Linda Lewis, City Clerk

VOTE:
Chair Miyagishima: _____
Member Gandara: _____
Member Smith: _____
Member Pedroza: _____
Member Eakman: _____
Member Sorg: _____
Member Levatino: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT "A"

$2,550,000
CITY OF LAS CRUCES TAX INCREMENT DEVELOPMENT DISTRICT
TAXABLE SHORT-TERM TAX INCREMENT REVENUE BOND
SERIES 2016

BOND PURCHASE AGREEMENT

December ___, 2016

Chairperson, Board of Directors
City of Las Cruces Tax Increment Development District
Las Cruces, New Mexico

The City of Las Cruces, New Mexico (the "Purchaser") enters into this Bond Purchase Agreement (the "Agreement") with the City of Las Cruces Tax Increment Development District (the "District") to purchase the City of Las Cruces Tax Increment Development District Taxable Short-Term Tax Increment Revenue Bond, Series 2016 in the principal amount of $2,550,000 (the "Bond"). The Bond is issued pursuant to Sections 5-15-1 *et seq*. NMSA 1978, and Resolution 17-___ of the Board authorizing the issuance sale and delivery of the Bond (the "Bond Resolution"). Capitalized terms in this Agreement have the same definitions as set forth in the Bond Resolution unless the context clearly requires otherwise.

1. Purchase, Sale and Delivery of the Bond.

A. On the basis of the representations, warranties and agreements contained in this Agreement, the Bond Resolution and the Bond, and subject to the terms and conditions set forth herein and therein, the District agrees to sell to the Purchaser, and the Purchaser agrees to purchase from the District the Bond at a purchase price equal to 100% of the principal amount thereof. The Bond shall be in the principal amount of $2,550,000, shall bear interest at the rate of 1% per annum, calculated on the basis of a 365-day year, and shall mature in not less than one day, and not more than 30 days after the date of delivery of the Bond to the Purchaser.

B. The date of delivery of and payment for the Bond is referred to in subparagraph C below in this Agreement as the "Closing Date." The Bond shall be delivered to the Purchaser in typewritten form on the Closing Date upon receipt of the purchase price for the Bond by the District (which may be credited to the District's project construction fund), and a copy of the Bond shall be available for examination by the Purchaser prior to the Closing Date.

C. The parties hereto understand and agree that the Closing Date will occur on or about December 21, 2016 or another mutually agreeable date.

2. Financing Requirements. On or prior to the Closing Date, the Purchaser shall have received duly executed copies of the Bond Resolution and this Agreement. The

Bond shall be a special obligation of the District and be payable solely from gross receipts tax increment revenue as provided in the Bond Resolution.

3. Representations and Warranties of the District.

A. District duly organized and validly existing. The District was duly formed and validly exists under the Tax Increment for Development Act, Sections 5-15-1 through 5-15-28 NMSA 1978, Resolution No. 08-102 and Resolution No. 08-243 (together, the "Formation Resolution") of the City of Las Cruces (collectively, the "Act"). The District is authorized to enter into this Agreement and to take the actions contemplated hereby and in the Bond Resolution.

B. The District is authorized to issue the Bond for the purpose of providing funds pay costs of public infrastructure within or otherwise benefitting the real property within the District, and to provide costs of issuance of the Bond (the "Project"). The District has the power to enter into the transactions contemplated by, and to carry out its obligations under the Act, the Bond Resolution and this Agreement. The Chairman of the Board has duly executed the Bond Resolution, which is valid and enforceable against the District, which authorize the execution and delivery of this Agreement and the execution, issuance, sale and delivery of the Bond.

C. The Bond Resolution and this Agreement constitute legal, valid and binding agreements of the District, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights. The Bond, when issued, delivered and paid for, in accordance with the Bond Resolution and this Agreement, will constitute a legal, valid and binding obligation of the District entitled to the benefits of the Bond Resolution and this Agreement, and will be enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights.

D. The proceeds of the Bond will be used by the District only for the Street Projects described in the Bond Resolution. The distribution and use of proceeds of the Bond will be in compliance with the provisions of the Bond Resolution.

E. There is no litigation or proceeding pending or, to the knowledge of the undersigned official of the District, after due inquiry, threatened, in any way affecting the existence of the District, or seeking to restrain or to enjoin the issuance, sale or delivery of the Bond, or in any way contesting or affecting the validity or enforceability of the Bond, the Bond Resolution or this Agreement, or contesting the powers of the District or its authority with respect to the Bond, the Bond Resolution or this Agreement.

F. The issuance, sale and delivery of the Bond, the execution and delivery of this Agreement and compliance with the obligations on the part of the District contained in this Agreement and in the Bond do not conflict with or constitute a breach or default under any administrative regulation, judgment, decree, loan agreement, indenture, note, bond, resolution, agreement or other instrument to which the District is a party or to which the District, or any of its properties or other assets, is otherwise subject.

G. Statements contained in any certificate of the District provided to the Purchaser pursuant to this Agreement or in connection with the delivery of the Bond and delivered to the Purchaser shall be deemed representations and warranties by the District to the Purchaser.

4. Conditions of Closing. The District's obligation to sell and the Purchaser's obligations under this Agreement to purchase and pay for the Bond shall be subject to the following conditions:

A. The District shall have performed its obligations and agreements to be performed under this Agreement at or before the Closing Date, and the representations and warranties of the District contained in this Agreement shall be accurate as of the date of this Agreement and as of the Closing Date.

B. The Bond Resolution, this Agreement and the Bond shall have been duly authorized and executed by the District and the Purchaser and shall be in full force and effect.

C. On the Closing Date, the Purchaser shall receive:

(1) An opinion approving the legality and enforceability of the Bond from Modrall, Sperling, Roehl, Harris & Sisk, P.A. ("Bond Counsel") delivered to the Purchaser.

(2) A certificate, dated the Closing Date, of an authorized officer of the District to the effect that each of the representations and warranties of the District set forth in this Agreement is true, accurate and complete as of the Closing Date.

(3) Such additional certificates, opinions or other documents as Bond Counsel may reasonably require to evidence the satisfaction, as of the Closing Date, of the conditions then to be satisfied in connection with the transactions contemplated by the Bond Resolution and this Agreement.

D. All matters relating to this Agreement, the Bond, the sale of the Bond to the Purchaser, the Bond Resolution and the consummation of the transactions contemplated by this Agreement and the Bond Resolution shall be mutually satisfactory to and approved by the District and Purchaser.

E. No order, decree or injunction of any court of competent jurisdiction, nor any order, ruling, regulation or administrative proceeding by any governmental body or board, shall have been issued or commenced with the purpose or effect of prohibiting the issuance or sale of the Bond.

If the District is unable to satisfy the conditions to the obligations of the Purchaser contained in this Agreement, or if the obligations of the Purchaser are terminated for any reason permitted by this Agreement, this Agreement may be terminated and neither the Purchaser nor the District shall have any further obligations under this Agreement. Payment by the Purchaser to the District of the purchase price of the Bond shall be conclusive evidence that all of the conditions set forth in this section have been satisfied or waived by the Purchaser.

5. Representations and Warranties of the Purchaser.

A. The Purchaser represents and warrants that it is authorized to purchase the Bond.

B. In connection with the purchase of the Bond, the Purchaser acknowledges that no offering document or prospectus has been prepared with respect to the sale of the Bond to the Purchaser, and that the Purchaser is buying the Bond in a private placement by the District to the Purchaser. The Purchaser has reviewed such information as it deems relevant in making its decision to purchase the Bond.

C. The Purchaser acknowledges that the Bond will not be listed on any securities exchanges and that no trading market now exists in the Bond, and none may exist in the future.

D. The Purchaser is purchasing the Bond for its own account (and not on behalf of another) and will not resell the Bond.

E. The sale of the Bond is not subject to the requirements of Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. Part 240, § 240.15c2-12) and the District will not deliver a continuing disclosure undertaking in connection with the Bond.

6. The Purchaser's Right to Cancel. The Purchaser shall have the right in its sole discretion to cancel its obligations under this Agreement to purchase the Bond by notifying the District in writing of its election to do so between the date hereof and the Closing Date, if any of the following events occur prior to the Closing:

A. Legislation shall be enacted, or actively considered for enactment by the Congress, with an effective date on or prior to the date of Closing, or a decision by a court of the United States of America shall be rendered, or a ruling or regulation by the SEC or other governmental agency having jurisdiction over the subject matter shall be made, the effect of which is that (i) the Bond is not exempt from the registration,

qualification or other requirements of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and then in effect, or (ii) the Resolution is not exempt from the registration, qualification or other requirements of the Trust Indenture Act of 1939, as amended and then in effect;

B. A stop order, ruling or regulation by the SEC shall be issued or made, the effect of which is that the sale of the Bond, as contemplated herein, is in violation of any provision of the Securities Act of 1933, as amended and as then in effect, the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect;

C. There shall exist any fact or there shall occur any event which, in the sole judgment of the Purchaser, either (i) makes untrue or incorrect in any material respect any statement or information provided by the District to the Purchaser in connection with the sale of the Bond by the District to the Purchaser or (ii) is not reflected in statements or information provided by the District to the Purchaser in connection with the sale of the Bond by the District to the Purchaser but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect;

D. There shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the sole judgment of the Purchaser, impractical or inadvisable to proceed with the purchase of the Bond;

E. Trading in the District's outstanding securities shall have been suspended by the SEC or trading in securities generally on the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on such Exchange;

F. A banking moratorium shall have been declared either by Federal, New York or State authorities; or

G. Any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance, sale or delivery of the Bond or in any way contesting or affecting any authority for or the validity of the Bond, this Agreement, the Bond Resolution,, the existence or powers of the District, or any of the transactions described herein.

7. Representations and Agreements to Survive Delivery. All representations, warranties and agreements of the District and the Purchaser shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the District or the Purchaser, and shall survive the delivery of the Bond to the Purchaser.

8. Payment of Expenses. The District shall pay the expenses incurred by it, Bond Counsel and its financial advisor relating to the preparation, issuance, delivery and sale of the Bond.

9. Parties in Interest. This Agreement is solely for the benefit of the Purchaser and the District and their respective successors and no other person, partnership, association or corporation shall acquire or have any right under or by virtue of this Agreement. This Agreement may not be assigned by the District or the Purchaser.

10. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of New Mexico.

11. Limitation of Liability. Notwithstanding anything in this Agreement to the contrary, no officer or employee of the District or the Purchaser shall have any personal liability as a result of any failure by the District or the Purchaser to perform its obligations hereunder.

12. Counterparts. This Agreement may be executed in one or more counterparts.

Please sign and return a duplicate original of this Agreement to the Purchaser. Upon your signing and delivering this Agreement, it will constitute a binding agreement.

CITY OF LAS CRUCES, NEW MEXICO

By: _____
Victoria Fredrick,
City Finance Director

Accepted and confirmed
as of December ___, 2016:

BOARD OF DIRECTORS OF THE
CITY OF LAS CRUCES TAX INCREMENT
DEVELOPMENT DISTRICT

By: _____
Ken Miyagishima, Chairperson