

INCORPORATED COUNTY OF LOS ALAMOS RESOLUTION NO. 19-05

A RESOLUTION RELATING TO THE NATURAL GAS SUPPLY AGREEMENT BETWEEN THE INCORPORATED COUNTY OF LOS ALAMOS AND THE NEW MEXICO MUNICIPAL ENERGY ACQUISITION AUTHORITY, AS AMENDED BY A FIRST AMENDMENT; AUTHORIZING ACTION NECESSARY OR ADVISABLE TO OBTAIN A GAS DISCOUNT PURSUANT TO THE SUPPLY AGREEMENT, AS AMENDED, INCLUDING THE EXECUTION AND DELIVERY OF CERTIFICATES AND AGREEMENTS RELATING TO THE FOREGOING; RATIFYING, APPROVING AND CONFIRMING PRIOR ACTION TAKEN RELATED TO THE FOREGOING; AND REPEALING ACTION INCONSISTENT HEREWITH

WHEREAS, the Incorporated County of Los Alamos ("County") is an incorporated county organized and existing pursuant to the laws of the State of New Mexico ("State"); and

WHEREAS, the County, through its Department of Public Utilities, owns and operates a natural gas distribution utility system ("Gas Utility") that supplies gas to customers of the Gas Utility within the boundaries of, or in proximity to, County; and

WHEREAS, the County, in November 2009 and in resolution number 08-19, entered into a natural gas supply agreement ("Gas Supply Agreement") for the County's Gas Utility with the New Mexico Municipal Energy Acquisition Authority ("Authority"), a joint powers authority organized pursuant State law for the purpose of financing and acquiring long-term natural gas supplies for its public body member and contract purchasers, including the County; and

WHEREAS, on July 8, 2014, the County Council approved by resolution, Resolution No. 14-11, the first amendment to the Gas Supply Agreement ("Amended Gas Supply Agreement"); and

WHEREAS, the natural gas deliveries made by the Authority to County pursuant to the Amended Gas Supply Agreement were financed with proceeds of the Authority's Gas Supply Revenue Bonds, Series 2014 ("2014 Bonds"); and

WHEREAS, the Authority's 2014 Bonds are subject to mandatory redemption on August 1, 2019, and must be refinanced in order to enable the Authority to continue to deliver natural gas to County at a discount pursuant to the Amended Gas Supply Agreement; and

WHEREAS, the Amended Gas Supply Agreement provides that County may elect to have all or a portion of its Daily Contract Quantities (as defined in the Amended Gas Supply Agreement) remarketed for the remaining term in the event that the Available Discount, as defined in the Amended Gas Supply Agreement, is less than the Minimum Discount of THIRTY-SEVEN CENTS (\$0.37) per MMBtu (a "Remarketing Election"); and

WHEREAS, the amount of discount that shall be available through the refunding and refinancing of the 2014 Bonds (the "2019 Refunding Transaction") is a function of the pricing and

final terms of the 2019 Refunding Bonds under the bond market conditions in effect on the day of pricing of the 2019 Refunding Bonds and shall be determined at the time that the 2019 Refunding Bonds are sold to Royal Bank of Canada ("Gas Supplier"); and

WHEREAS, the available discount will be increased by extending term of the Amended Gas Supply Agreement for up to an additional 10 years and providing for the delivery of additional volumes of natural gas through the issuance by the Authority of bonds to finance the prepayment for those additional volumes (the "2019 New Money Transaction" and, together with the 2019 Refunding Transaction, the "2019 Transaction"); and

WHEREAS, the 2019 Refunding Transaction cannot proceed if County makes a Remarketing Election; and

WHEREAS, in connection with the 2019 Refunding Transaction, it shall be necessary for authorized officer of County to execute and deliver certain closing certificates and agreements, including but not necessarily limited to, a general County certificate and a continuing disclosure certificate or agreement, and such other certificates and agreements that may be necessary or appropriate to County's participation with the Authority, including such certificates and agreements which may be reasonably requested in connection with the Bonds issued by the Authority ("Closing Documentation"); and

WHEREAS, the Authority retained the Majors Group as its Municipal Advisor in connection with the issuance of the 2014 Bonds, and has retained the Majors Group for the 2019 Refunding Transaction; and

WHEREAS, the Council desires to authorize the execution, delivery and performance by County of the Closing Documentation; and

WHEREAS, it is in the best interest of County and its residents that County not make a Remarketing Election if the conditions specified in Section 3 of this Resolution are satisfied.

NOW, THEREFORE, be it resolved by the County Council that:

Section 1. Determination of Best Interest of Los Alamos Gas Utility. The County Council finds and hereby determines that it is in the best interest of County and its Gas Utility customers for the County to continue to obtain a discount to its natural gas costs, and that terminating deliveries of natural gas from the Authority by making a Remarketing Election is not in the best interest of County if the discount is reasonable based on current market conditions.

Section 2. Delegation of Authority to Effect the 2019 Refunding Transaction. The Utilities Manager is hereby authorized and directed to take all action necessary or appropriate under the Amended Gas Supply Agreement and in connection with the Remarketing Election, to effectuate the 2019 Refunding Transaction, including, without limiting the generality of the

foregoing, the execution of the Closing Documentation, subject to the provisions of Section 3 of this Resolution.

Section 3. No Remarketing Election upon Satisfaction of Condition. The County will not make a Remarketing Election if, at the time that the final terms of the 2019 Refunding Transaction are established, the Majors Group, as Municipal Advisor to the Authority, provides a written opinion, addressed to the Authority and County (which may include the other member-local governments of the Authority), certifying that the new discount amount is comparable to the highest discount reasonably achievable under then-current market conditions and is otherwise in the best interests of the Authority and County as such interests are understood by the Majors Group.

Section 4. Ratification. All prior action of County and the respective officers, agents or employees of County taken in connection with the Closing Documentation is hereby ratified, approved and confirmed, except to the extent that such action is inconsistent with the provisions of this Resolution or the authorization contained herein to execute and deliver the Closing Documentation.

Section 5. Severability. If any section, paragraph, clause or provision of this resolution 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 resolution.

Section 6. Repealer. All resolutions or parts, thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution, or part thereof, heretofore repealed.

Section 7. Limited Obligations. All financial obligations incurred hereunder are limited to revenues of County's Gas Utility.

Section 8. Effective Date. This Resolution shall be effective immediately upon adoption by the County Council.

PASSED AND ADOPTED this _____ day of May, 2019.

**COUNCIL OF THE INCORPORATED COUNTY
OF LOS ALAMOS, NEW MEXICO**

**Sara C. Scott,
Council Chair**

ATTEST: (Seal)

**Naomi D. Maestas,
Los Alamos County Clerk**