

**TOWN OF SILVER CITY, NEW MEXICO  
RESOLUTION NO. 2011-35**

**RELATING TO THE TOWN OF SILVER CITY, NEW MEXICO GROSS RECEIPT TAX IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2011A & B; ESTABLISHING THE EXACT AGGREGATE PRINCIPAL AMOUNT OF THE BONDS OF \$6,400,000, MATURITY DATES, RATES OF INTEREST, REDEMPTION FEATURES AND PRICE WITH RESPECT TO SUCH BONDS IN ACCORDANCE WITH TOWN ORDINANCE NO. 1184 ADOPTED ON SEPTEMBER 13, 2011; APPROVING DISCLOSURE AND OTHER DOCUMENTS RELATING TO THE BONDS; AND RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH.**

**WHEREAS**, unless otherwise defined in this Resolution (hereinafter the “Sale Resolution”) or the context requires otherwise, capitalized terms in this Sale Resolution have the same meaning assigned to those terms in Section 1 of Town Ordinance No. 1184 (the “Bond Ordinance” and together with the Sale Resolution, the “Bond Legislation”) adopted by the Town Council (the “Council”) on September 13, 2011; and

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

**WHEREAS**, it is in the best interests of the Town to sell the Bonds to the Purchaser upon the terms as set forth in the Bond Legislation and the Bond Purchase Agreement; and

**WHEREAS**, George K. Baum & Company has agreed to purchase the Bonds at a purchase price of \$6,372,212.80 (representing the par amount of the Bonds less an underwriter's discount of \$80,000.00, plus a net premium of \$52,212.80) and has presented a final Bond Purchase Agreement to the Council setting out the terms with respect to the purchase and sale of the Bonds for approval by the Council in connection with adoption of this Sale Resolution; and

**WHEREAS**, the Preliminary Official Statement, the proposed form of Official Statement, the Bond Purchase Agreement and the form of the Continuing Disclosure Undertaking are on deposit with the Town and are presented to the Council; 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 Sale Resolution is adopted have been or will have been obtained;

**BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE TOWN OF SILVER CITY, NEW MEXICO:**

Section 1. Ratification of Prior Actions and Awarding the Bonds. All action previously taken (not inconsistent with the provisions of this Sale Resolution or the Bond Ordinance) by the Council and the officers of the Town, directed toward the authorization, pledge, collection and distribution of the Pledged Revenues and the authorization, issuance and sale of the Bonds is ratified, approved and confirmed, and the Bonds are awarded to George K. Baum & Company, at the interest rates as described below:

SERIES 2011 MATURITY SCHEDULE

MATURITY			MATURITY		
<u>(JUNE 1)</u>	<u>PRINCIPAL</u>	<u>INTEREST</u>	<u>(JUNE 1)</u>	<u>PRINCIPAL</u>	<u>INTEREST</u>
2012	\$450,000	2.000%	2020	\$235,000	3.250%
2013	460,000	2.000%	2021	245,000	3.000%
2014	420,000	2.000%	2022	250,000	3.250%
2015	230,000	2.000%	2023	260,000	3.250%
2016	235,000	2.250%	2024	270,000	3.375%
2017	240,000	3.000%	2025	275,000	3.500%
2018	340,000	2.750%	2029*	1,210,000	4.000%
2019	230,000	3.000%	2032*	1,050,000	4.250%

\*Term bond subject to mandatory sinking fund redemption.

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 refund the outstanding Refunded Bonds is necessary and in the interest of the public health, safety, morals and welfare of the residents of the Town.

B. The net effective interest rate of 3.7346% on the Bonds is reasonable under existing and anticipated bond market conditions.

C. The Town will complete the Refunding Project with a portion of the proceeds of the Bonds together with other funds of the Town.

D. It is economically feasible to defray, in part, the cost of the Improvement Project by the issuance of the Bonds.

Section 3. Bond Details.

A. Principal Amount. The Bonds shall be issued in two series in the aggregate principal amount of \$6,400,000 to provide funds, together with other available funds of the Town, if any, to finance the Refunding Project, Improvement Project and to pay Expenses relating to 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, 2012 (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, 2032.

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

E. Optional Redemption. The Bonds maturing on or after June 1, 2022 are subject to redemption in whole or in part at any time, at the option of the Town, prior to their respective maturities on or after June 1, 2021 at a price equal to the unpaid principal amount of the Bonds to be redeemed, plus accrued interest to the date of the redemption.

F. Mandatory Sinking Fund Redemption. The Bonds maturing on June 1, 2029 and June 1, 2032 are also subject to mandatory sinking fund redemption on June 1 in each of the years and principal amounts stated below at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of Bonds so specified, the Town shall cause to be deposited in the Debt Service Fund a sum which is sufficient to redeem (after credit as provided below) the following principal amounts of such Bonds plus accrued interest to the sinking fund redemption date:

The Bonds maturing on June 1, 2029, will be subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date on June 1, in the years and in the principal amounts stated below:

<u>Year</u>	<u>Amount</u>
2026	\$285,000
2027	295,000
2028	310,000
2029*	320,000

\*Maturity Date

The Bonds maturing on June 1, 2032, will be subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date on June 1, in the years and in the principal amounts stated below:

<u>Year</u>	<u>Amount</u>
2030	\$335,000
2031	350,000
2032	365,000

\*Maturity Date

(1) Not more than 70 days nor less than 40 days prior to each sinking fund redemption date, the Registrar shall proceed to select for redemption (by lot in such manner as the Registrar may determine) from all outstanding Bonds of the applicable maturity subject to sinking fund redemption, a principal amount of Bonds equal to the aggregate principal amount of Bonds redeemable with the required sinking fund payment, shall call such Bonds or portions thereof (\$5,000 or any integral multiple thereof) for such redemption on such sinking fund redemption date, and shall give notice of such call.

(2) At the option of the Town to be exercised by delivery of a written certificate to the Registrar on or before the seventieth day next preceding any sinking fund redemption date, it may (i) deliver to the Registrar for cancellation Bonds maturing on June 1, 2029 and June 1, 2032, as applicable, as being subject to mandatory sinking fund redemption in an aggregate principal amount desired by the Town or (ii) specify a principal amount of Bonds, maturing on June 1, 2029 and June 1, 2032, as applicable, as being subject to mandatory sinking fund redemption, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Registrar at the request of the Town and not theretofore applied as a credit against any sinking fund redemption obligation for any Bonds maturing on the same date. Each Bond so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Town on such sinking fund redemption date for the Bonds and any excess over such amount shall be credited against the next succeeding sinking fund obligation, if any, for the Bonds of such maturity in chronological order. In the event the Town shall avail itself of the provisions of clause (i) of the first sentence of this paragraph, the certificate required by the first sentence of this paragraph shall be accompanied by the Bonds or portions thereof to be canceled.

Section 4. Parameters of Resolution. The net effective interest rate on the Bonds is less than 12% per annum. The maturity dates of the Bonds do not exceed fifty years. All other terms and conditions relating to the Bonds and the sale of the Bonds to the Purchaser set forth in this Sale Resolution are within the parameters established by the Bond Ordinance.

Section 5. Accounts and Funds. The Town 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. The accrued interest of \$-0- received on the date of delivery of the Bonds shall be deposited into the Bond Fund.
- B. \$5,000,000 shall be deposited in the Acquisition Fund for the Improvement Project.
- C. \$818,786.49 shall be deposited into the Refunding Account which shall complete the Refunding Project.
- D. \$473,762.50 shall be deposited into the Reserve Fund and will constitute the required Reserve Fund deposit.
- E. \$79,663.81 shall be deposited with the Town to pay Expenses.

Section 6. Approval and Use of Documents. The forms, terms and provisions of the Preliminary Official Statement and the Bond Purchase Agreement, and the proposed forms of the Official Statement and Continuing Disclosure Undertaking are on file with the Town Clerk and presented to the Council are ratified and approved. The Mayor is authorized and directed to execute and the Town Clerk is authorized and directed to affix the seal of the Town to and attest where applicable, the Bond Purchase Agreement, the Official Statement and the Continuing Disclosure Undertaking in substantially the forms presented at this meeting, or with such changes therein as are not inconsistent with the Bond Legislation 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 presented to the Council. The officers of the Town, including without limitation, the Mayor, Manager and Clerk be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Sale Resolution, including, without limiting the generality of the foregoing, the distribution of material relating to the Bonds, the printing of the Bonds, the printing, execution and distribution of the Official Statement, and the execution of the Bond Purchase Agreement, 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 7. Reserve Fund. The Reserve Fund for the Bonds shall be funded in an amount required by the Bond Legislation consistent with requirements under the Code. Section 19(E) of the Bond Ordinance is amended to provide as follows:

Immediately upon delivery of the Bonds, \$473,762.50, representing an amount equal to the Reserve Fund requirement, shall be deposited into and credited to the Town of Silver City Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2011, Reserve Fund (the "Reserve Fund") so that the Reserve Fund Requirement is accumulated upon delivery of the Bonds. The moneys and/or reserve fund insurance policy, if any, in the Reserve Fund are irrevocably and exclusively pledged to payment of the Bonds.

Second and subordinate to the payments required above and concurrently with the payments required for any monthly reserve fund payments for Parity Obligations, there shall be credited monthly to the Reserve Fund, from the Pledged Revenues,

such cash amount or amounts, if any, or a reserve fund insurance policy in a sufficient amount, or both, as are necessary to maintain the Reserve Fund as a continuing reserve in an amount not less than the Reserve Fund requirement to meet possible deficiencies in the Bond Fund. The moneys and a reserve fund insurance policy, if any, in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided, only to prevent deficiencies in the payment of the principal of and interest on the Bonds hereby authorized resulting from the failure to credit to the Bond Fund sufficient funds to pay the principal and interest as the same become due and payable. Cash amounts in the Reserve Fund which together with the amount of a reserve fund insurance policy, as applicable, are in excess of the Reserve Fund requirement shall be withdrawn from the Reserve Fund and deposited into the Bond Fund (including investment income therefrom) and shall be used to pay the principal of or interest on the Bonds or any obligations refunding the Bonds, subject only to the provisions of the Bond Ordinance.

Any reserve fund insurance policy shall be held by the Paying Agent. In the event of a draw upon a reserve fund insurance policy, the Paying Agent shall deliver a demand for payment in substantially the form required by the reserve fund insurance policy issuer to be delivered to the reserve fund insurance policy issuer at least 3 days prior to the date on which the funds are required. In the event there is cash in the Reserve Fund at the time of a draw from a reserve fund insurance policy, such cash (including any investments) shall be drawn down completely before any demand is made on the reserve fund insurance policy. If the Reserve Fund contains reserve fund insurance policies from more than one reserve fund insurance policy issuer, any draw shall be on a pro-rata basis from both. After such a draw, any available Pledged Revenues, concurrently and on a parity with the payments in described in the paragraph above, and the payments required to replenish the reserve fund for any additional Parity Obligations, shall be used first to reimburse each reserve fund insurance policy issuer for such payment of principal of and interest on the Bonds pursuant to the terms of the applicable agreement so as to reinstate each reserve fund insurance policy and thereafter to replenish any cash in the Reserve Fund.

Section 8. Sale of the Bonds. The Bonds are hereby sold to George K. Baum & Company in accordance with the Bond Purchase Agreement at the total purchase price for the Bonds as set forth in the preambles of this Sale Resolution.

Section 9. Further Authorization. The Mayor and Town Clerk are hereby authorized to take all necessary action to effect the sale of the Bonds to the Purchaser, including but not limited to, the execution of the Bond Purchase Agreement and the execution and the delivery of the Bonds to the Purchaser.

Section 10. Bond Ordinance. Except with respect to the terms set forth in this Sale Resolution, the Bonds are governed by the Bond Ordinance. In the event of any conflict in the terms of this Sale Resolution and Bond Ordinance, the terms of the Bond Ordinance shall prevail. The adoption of this 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 11. Repealer Clause. All bylaws, orders and resolutions, or parts thereof, inconsistent with this Sale 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 12. Effective Date and Publication. This Sale 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 Sale Resolution shall be published in substantially the following form after adoption of this Sale Resolution.

[Form of Summary of Sale Resolution for Publication]

Town of Silver City, New Mexico

Notice of Adoption of Sale Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Town Resolution No. 2011-35 duly adopted and approved by the Silver City Town Council on October 25, 2011, relating to the details of the Town's Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2011A & B as authorized pursuant to its Ordinance No. 1184 duly adopted by the Council on September 13, 2011. Complete copies of the Sale Resolution are available for public inspection during the normal and regular business hours of the Town Clerk, 101 West Broadway, Silver City, New Mexico.

The title of the Resolution is:

RELATING TO THE TOWN OF SILVER CITY, NEW MEXICO GROSS RECEIPT TAX IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2011A & B; ESTABLISHING THE EXACT AGGREGATE PRINCIPAL AMOUNT OF THE BONDS OF \$6,400,000, MATURITY DATES, RATES OF INTEREST, REDEMPTION FEATURES AND PRICE WITH RESPECT TO SUCH BONDS IN ACCORDANCE WITH TOWN ORDINANCE NO. 1184 ADOPTED ON SEPTEMBER 13, 2011; APPROVING DISCLOSURE AND OTHER DOCUMENTS RELATING TO THE BONDS; AND RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH.

The title sets forth a general summary of the subject matter contained in the Resolution.

[End of Form of Summary for Publication]



Councilor Morones moved adoption of the foregoing resolution, duly seconded by Councilor Bettison.

The motion to adopt said resolution, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye:	Councilor Michael S. Morones Councilor Jose A. Ray, Jr. Councilor Jamie K. Thomson Councilor Cynthia Ann Bettison
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Those Voting Nay:	None.
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Those Absent:	None.
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Four (4) Councilors having voted in favor of said motion, the Mayor declared said motion carried and said resolution adopted, whereupon the Mayor and Town Clerk signed the resolution upon the records of the minutes of the Council.



STATE OF NEW MEXICO            )  
COUNTY OF GRANT                ) ss  
TOWN OF SILVER CITY            )

I, Ann L. Mackie, Town Clerk of the Town of Silver City, New Mexico (the "Town"), certify:

1. The foregoing pages constitute a full and correct copy of the record of the proceedings taken by the Town Council (the "Council") of the Town at a regular meeting thereof held on October 25, 2011 so far as said minutes relate to an ordinance, a copy of which is therein set forth (the "Ordinance"). The Ordinance has been duly authenticated by the signatures of the Mayor of the Town and me as Town Clerk, sealed with the corporate seal of said Town.

2. Notice of such meeting of October 25, 2011, was given by publishing a notice of meeting in the *Silver City Daily Press* on October \_\_, 2011. In addition, notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Council as required by the open meetings standards then in effect, *i.e.*, the Town's Open Meetings Resolution.

3. The Mayor and members of the Council were present at said meeting, and the members of the Council voted on the passage of such resolution as set forth in such record of proceedings.

4. The resolution was published in the *Silver City Daily Press*, a newspaper that maintains an office in and is of general circulation within said Town, on October \_\_, 2011.

5. No other business concerning the resolution was taken at said meeting.

DATED: November 11, 2011.

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Ann L. Mackie, Town Clerk