

AGENDA ITEM FOR THE MEETING OF THE
BOARD OF COUNTY COMMISSIONERS, TULSA COUNTY
JULY 6, 2015

CONSIDER AND TAKE ACTION ON A RESOLUTION RELATING TO A
PROJECTS AGREEMENT DATED JULY 6, 2015, BETWEEN THE COUNTY
AND THE TULSA COUNTY PUBLIC FACILITIES AUTHORITY.

PROJECTS AGREEMENT

THIS AGREEMENT is made and entered into and effective as of the 6th day of July, 2015, by and between the **TULSA COUNTY PUBLIC FACILITIES AUTHORITY**, an Oklahoma public trust (hereinafter called the "**Authority**"), created pursuant to the laws of the State of Oklahoma (particularly, but not exclusively, Title 60, Oklahoma Statutes 2011, Sections 176 to 180.3, inclusive, and the Oklahoma Trust Act), and the **BOARD OF COUNTY COMMISSIONERS OF TULSA COUNTY, OKLAHOMA** (hereinafter called the "**County**").

W I T N E S S E T H :

WHEREAS, the Authority operates and maintains the Tulsa State Fairgrounds (the "Tulsa State Fairgrounds") located in Tulsa County, Oklahoma pursuant to a Lease Agreement, dated as of February 22, 1983, as amended, by and between the Authority and the County (the "Lease Agreement"); and

WHEREAS, the Authority has heretofore issued its \$21,500,000 Capital Improvement Revenue Bonds, Series 1999 (the A1999 Bonds@) pursuant to a Bond Indenture dated as of December 1, 1992, as supplemented by a Series 1999 First Supplemental Bond Indenture dated as of December 1, 1999 (collectively the "Original Indenture"); and

WHEREAS, in order to refinance the 1999 Bonds and achieve interest cost and other savings, and to provide funds for the renovation, construction, furnishing and equipping of capital facilities and improvements at the Fairgrounds the Authority has heretofore issued its Tulsa County Public Facilities Authority Capital Improvement and Refunding Revenue Bonds, Series 2005, in the original principal amount of \$27,805,000 (the "2005 Bonds"); and

WHEREAS, in order to refinance the 2005 Bonds and achieve interest cost and other savings the Authority has determined to issue its Tulsa County Public Facilities Authority Capital Improvement Refunding Revenue Bonds, Series 2015 (the "Bonds"), in the aggregate principal amount of not to exceed \$22,000,000 pursuant to the Original Indenture and a supplemental bond indenture (the "Supplemental Indenture" and, together with the Original Indenture, the "Indenture") between the Authority and BOKF, NA dba Bank of Oklahoma; and

WHEREAS, the County pursuant to a Resolution adopted February 18, 1999, as amended by an Amendment to Resolution adopted December 6, 1999 as further amended and restated by an Amended and Restated Resolution adopted July 7, 2003, and as further amended and restated by an Amended and Restated Resolution adopted December 13, 2004 (collectively the "Original Resolution"), is levying an excise tax of five-twelfths of one percent commencing July 1, 1999, and continuing thereafter and reducing to one-quarter of one percent on October 1, 2006, on the storage, use or other consumption of tangible personal property used, stored or consumed within Tulsa County in accordance with Title 19, Oklahoma Statutes 2011, Section 1411, as amended, for the purpose of making capital improvements at Expo Square, as more fully set forth in such Original Resolution (the "Original Excise Tax"); and

WHEREAS, the County pursuant to a Resolution adopted October 20, 2003, as amended and restated by an Amended and Restated Resolution adopted December 13, 2004 (collectively the "2003 Resolution" and, together with the Original Resolution, the "Resolution"), is levying an excise tax of six tenths of one percent commencing January 1, 2004, and continuing thereafter until January 1, 2017, on the storage, use or other consumption of tangible personal property used, stored or consumed within Tulsa County in accordance with Title 19, Oklahoma Statutes 2011, Section 1411, as amended, for the purpose of making capital improvements at Expo Square, as more fully set forth in such 2003 Resolution (the "2004 Excise Tax", and, together with the Original Excise Tax, the "Excise Tax"); and

WHEREAS, in order to secure the payment of the Bonds the County has determined to enter into this Agreement; and

WHEREAS, all things required to be done to make this Agreement a valid and binding agreement by and between the County and the Authority have been done, happened and performed.

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS
HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:**

1. **Issuance of Bonds by the Authority.** The Authority agrees, within a reasonable time after execution of this Agreement, to issue the Bonds and to proceed to refund the 2005 Bonds with the proceeds of the Bonds.

2. **Project Payments.** The County agrees, subject to availability and appropriation of funds, to transfer, as received, and hereby appropriates to the Authority all proceeds of the Excise Tax and to otherwise make payments from available funds (hereinafter referred to as the "Project Payments") (i) on or before the 1st day of each month, beginning August 1, 2015, with respect to the Excise Tax payments, and (ii) on or before the 5th day preceding any Interest Payment Date (as defined in the Indenture) and any date that principal of the Bonds is due (whether upon the scheduled due date, upon redemption, purchase or acceleration or otherwise), with respect to payments from other available funds, and any other dates as determined by the Authority, to the Trustee on behalf of the Authority to be used as provided in the Indenture. All such Project Payments shall not be subject to set-off or counterclaim by the County and shall be used as set forth in the Indenture and shall be in such amounts as are necessary for the payment when due (whether upon the scheduled due date, upon redemption, purchase, or acceleration, or otherwise) of (a) principal of and interest on the Bonds coming due at such time, and (b) all other amounts due under the Indenture (including amounts owed the Insurer thereunder). In any case where the date fixed for any payment from the County to the Trustee on behalf of the Authority shall not be a Business Day (as defined in the Indenture), then such payment may be made on the next succeeding Business Day. In the event that Project Payments are not deposited in the Authority's debt service fund when due, the Trustee on behalf of the Authority shall give written notice of such failure to deposit to the Authority and to the County, and the County will have five calendar days to deposit such funds. Failure to deposit such funds within such five calendar day period shall constitute an event of default hereunder. Upon the occurrence of such an event of default hereunder and so long as such event of default remains uncured the County agrees that none of the annual Tulsa State Fair nor any of the activities which have been or otherwise would be held at the Pavillion or Exposition Center will be held at any location other than the Fairgrounds within Tulsa County.

3. **County Not Obligated Beyond Its Fiscal Year.** It is hereby acknowledged that under applicable Oklahoma law, the County may not become obligated beyond its fiscal year (July 1 through June 30) and therefore, the covenants made herein by the County shall be on a year-to-year basis. Payment of the Project Payments as set out herein is subject to availability of funds and annual appropriation thereof by the County. The Bonds issued by the Authority shall in no way be or become an obligation of the County. In connection with any such appropriation, the County covenants to include any such amounts in its budget for such fiscal year and to do all things necessary to lawfully appropriate such funds to the Authority.

4. **No Default; Financial Statements.** The County is not in default in the performance, observance or fulfillment of any material obligation, covenant or condition contained in any material agreement or instrument to which the County is a party or by which the County or any of its property is bound or in any of the obligations, covenants or conditions contained in this Agreement.

The financial statements of the County as and for the period ended June 30, 2014, supplied to the Authority fairly present the financial status and operating results of the County as of such date and for the period covered thereby and there has not been any material adverse change in the financial condition of the County since such date; and to the best knowledge of the County, the Annual Report of the County dated June 30, 2014, heretofore delivered to the Authority does not contain any untrue statement of a material fact and does not omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading.

The County hereby agrees to supply to the Authority, and any holder of the Bonds who requests the same, the comprehensive annual financial report and other financial statements prepared by the County no later than December 1 annually, and such other financial information of the County as the Authority may from time to time reasonably request.

5. **Third Party Beneficiary Contract.** It is understood and agreed that this Agreement is a third party beneficiary contract for the benefit of the owners of the Bonds and may be pledged and assigned by the Authority as security for the Bonds to be issued pursuant to the Indenture.

6. **Term.** The primary term of this Agreement shall be for a term commencing on the effective date of this Agreement and terminating on June 30, 2016. The County may, at its option, renew this Agreement for successive one (1) year terms commencing on July 1, 2016, and on each successive July 1 thereafter, until payment or provision for payment has been made for all Bonds by taking such official action as may be required by law to effect such renewal on or before July 20 of such year. Each such renewal term shall be upon all of the terms, conditions and provisions herein contained. A copy of the official action effecting each such renewal shall be delivered to the Authority within ten (10) days after the taking thereof.

7. **Notices.** Any notice or other communication required or permitted hereunder shall be sufficiently given if delivered personally or sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as listed below, or to such other address as the party concerned may substitute by written notice to the other:

If to the Authority:

Tulsa County Public Facilities Authority
Tulsa County Administration Building
Tulsa, Oklahoma 74103

If to Tulsa County:

Board of County Commissioners
Tulsa County Administrative Building
Tulsa, Oklahoma 74103

8. **Applicable Law.** It is the intention of the parties that the laws of the State of Oklahoma shall govern the validity of this Agreement, the construction of its terms and interpretation of the rights and duties of the parties.

9. **Amendment of Agreement.** No amendment or modification hereof shall be deemed valid unless first reduced to writing and signed and dated by both parties hereto and unless written consent of the Insurer and Bondholders has been obtained as more fully set forth in the Indenture. Fully executed copies of this Agreement shall be deemed for all purposes as duplicate originals.

10. **Partial Invalidity of Agreement.** Should any section, clause or provision of this Agreement be invalid or void for any reason, such invalid or void section, clause or provision shall not affect the whole of this instrument, but the balance of the provisions hereof shall remain in full force and effect.

11. **Section Headings Not Controlling.** The headings of the several sections of this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this Agreement.

12. **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns. The County hereby acknowledges that this Agreement will be pledged to the Trustee for the holders of the Bonds, and the County consents to such pledge.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first above written.

**BOARD OF COUNTY COMMISSIONERS OF
TULSA COUNTY**

ATTEST:

By: _____
Chairman

County Clerk

(SEAL)

**TULSA COUNTY PUBLIC FACILITIES
AUTHORITY,
a public trust**

ATTEST:

By: _____
Chairman of Trustees

Secretary of Trustees

(SEAL)

RESOLUTION

WHEREAS, the Board of County Commissioners of Tulsa County, Oklahoma (hereinafter called the "County"), and the Tulsa County Public Facilities Authority, an Oklahoma public trust (hereinafter called the "Authority"), entered into a certain Projects Agreement, dated October 1, 2005, whereby the County agrees to make payments to the Authority in amounts sufficient to pay when due principal and interest on the Authority's Capital Improvement Revenue and Refunding Bonds, Series 2005 (the "2005 Bonds"), as therein provided; and

WHEREAS, in order to refinance the 2005 Bonds and achieve interest cost and other savings the Authority has determined to issue its Tulsa County Public Facilities Authority Capital Improvement Refunding Revenue Bonds, Series 2015 (the "2015 Bonds"), in the aggregate principal amount of not to exceed \$22,000,000; and

WHEREAS, there has been presented to this meeting a form of Projects Agreement (the "2015 Projects Agreement"), between the Authority and the County relating to the 2015 Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF TULSA COUNTY, OKLAHOMA:

SECTION 1. The form of 2015 Projects Agreement presented to this meeting be, and the same hereby is, approved, and the Chairman of the Board of County Commissioners of Tulsa County, Oklahoma, and County Clerk or any Deputy County Clerk of Tulsa County, Oklahoma be, and they hereby are, authorized, directed and empowered to execute and deliver in the name and on behalf of the Authority the 2015 Projects Agreement in said form and containing substantially the terms and provisions therein contained, with such additions or modifications as shall be approved by the officers executing the 2015 Projects Agreement, the execution thereof by such officers being conclusive evidence of such approval.

SECTION 2. The Chairman of the Board of County Commissioners of Tulsa County, Oklahoma, and the County Clerk or any Deputy County Clerk of Tulsa County, Oklahoma be, and they hereby are, authorized and empowered for and on behalf of the County, to execute and deliver such further agreements and documents and to take such action as such officer or officers may deem necessary or desirable in order to carry out and perform the 2015 Projects Agreement, as the same may be amended, and to effect the purposes thereof and to consummate the transactions contemplated by the 2015 Projects Agreement.

Adopted this 6th day of July, 2015.

ATTEST:

Chairman

County Clerk

(SEAL)

