

**\$40,579,243.00**  
**State of New Mexico**  
**Severance Tax Bonds**  
**Series 2004SA**

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**2004-2005 Special Capital Outlay**  
**Chapter 126, Laws of 2004**  
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The Local School Board of the Gadsden School District (hereinafter referred to as the "Board"), as an Agency Recipient of the Public School Capital Outlay of the State of New Mexico (the "Agency"), certifies as follows with respect to the Bonds identified above (the "Bonds"). The Bonds are being issued on the date hereof by the State of New Mexico, acting through the State Board of Finance (the "Issuer") and are dated June 29, 2004.

A. Certain Definitions. As used in this Certificate:

"Code" means the Internal Revenue Code of 1986, the regulations (whether proposed, temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section means that Section of the Code, including such applicable regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"Debt Service" means principal of and interest on the bonds.

"Higher Yielding Investments" means any Investment Property that produces a Yield over the term of the Bonds that is Materially Higher than the Yield on the Bonds.

"Investment Proceeds" means earnings (and earnings on earnings) derived by the Issuer from investments in Investment Property of Proceeds (other than Sinking Fund Proceeds), excluding those earnings that, within one year of receipt, are spent or commingled for purposes of accounting for expenditures with substantial tax or other substantial revenues from operations of the Issuer. Investment Proceeds are increased by any profits and decreased (if necessary below zero) by any losses on such investments.

"Investment Property" means "investment property" as defined in Section 148(b)(2), including any security (within the meaning of Section 165(g)(2)(A) or (B), any obligation, any annuity contract or any investment-type property. Investment Property does not include a Tax-Exempt Bond, except a Tax-Exempt Bond which is a "specified private activity bond" as defined in Section 57(A)(5)(C) of the Code, the interest on which is an item of tax preference for purpose of the alternative minimum tax imposed on individuals and corporations.

"Issuance Costs" means any financial, legal, administrative and other fees or costs incurred in connection with the issuance of the Bonds and to be paid or reimbursed by the Issuer from the Sale Proceeds.

"Issuance Date" means the date hereof, being the date of physical delivery of the Bonds by the Issuer in exchange for the purchase price of the Bonds.

"Issue Price" means the initial offering price (including accrued interest and premium, if any) at which the Bonds were offered to the public (excluding bond houses, brokers and other intermediaries) and at which price, or less, a substantial amount of the Bonds was sold to the public (other than to bond houses, brokers and other intermediaries).

"Materially Higher," with respect to investments of Sinking Fund Proceeds, means higher than the Yield on the Bonds and, for all other purposes of this Certificate, means more than one eighth of one percentage point higher than the Yield on the Bonds.

"Original Proceeds" means the Sale Proceeds less Issuance Costs.

"Private Person" means any natural person or any artificial person, including a corporation, partnership, trust or other entity, that is not a governmental unit and that is not acting solely and directly as an officer or employee of or on behalf of the Issuer or another governmental unit.

"Proceeds" means all Sale Proceeds, Original Proceeds, Investment Proceeds and Sinking Fund Proceeds of the Bonds.

"Sale Proceeds" means the portion of the Issue Price received by the Issuer upon the sale of the Bonds (net of any underwriter's discount or placement agent fee withheld from the Issue Price).

"Sinking Fund Proceeds" means amounts treated as proceeds of the Bonds under the Code because they are accumulated in a sinking fund to pay Debt Service within the meaning of Treasury Regulations 1.103-13(g).

"Tax-Exempt Bond" means any obligation, or issue of obligations, the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150, and includes any investment treated as a "tax-exempt bond" for the applicable purpose of Section 148.

"Yield" has the meaning assigned to it for purposes of Section 148, and means that discount rate that, when used in computing the present worth of all payments of principal and interest to be paid on an obligation, produces an amount equal to (i) the Issue Price in the case of the Bonds, or (ii) the purchase price for yield purposes in the case of Investment Property in which Proceeds of the Bonds are invested is computed on a basis consistent with the computation of Yield on the Bonds.

The terms "bonds," "governmental unit," "loan," "private business use," "net

proceeds" and other terms relating to Code provisions used but not defined in this Certificate shall have the meanings given to them for purposes of Sections 103, 141, 148 and 150 unless the context indicates another meaning. Unless otherwise indicated, reference to a paragraph means that paragraph of this Certificate.

B. Governmental Purpose and Use.

1. The Bonds are being issued on the date hereof for the purpose of making grants or interest-bearing loans to various recipients acting under the jurisdiction and supervision of certain State agencies and departments (including the Agency) to finance certain projects specified in Chapter 126 laws of 2004 including the projects of the recipients of the Proceeds from the Agency (the "Agency Recipients") as set forth in Exhibit A attached hereto (the "Agency Projects") and as contained in Exhibit A to the Resolution duly passed by the State Board of Finance on June 29, 2004 (the "Resolution").

2. No more than five percent of the Agency Projects and the Proceeds to be distributed to the Agency Recipients as set forth in the Resolution (the "Distributed Amount") will be used directly or indirectly (i) for any private business use other than use in the same manner as use by the general public, or (ii) to make or finance loans to any Private Person.

3. Neither the Agency nor any of the Agency Recipients has entered into or will enter into any contract (i) whereby any Private Person will be a lessee or tenant of any portion of the Agency Projects or manage any operation of or within the Agency Projects, or (ii) that provides any Private Person with all or any designated portion of the output or services or the Agency Projects unlike contracts for the general public use of or services from the Agency Projects or any system of which it is a part, or (iii) that obligates any Private Person to take, or to take or pay for, all or any designated portion of the services or output of the Agency Projects.

4. No portion of any of the Agency Projects is so situated as to be useful only or predominantly (i) to one or a few Private Persons in their businesses, or (ii) to the customers or other business visitors of one or a few Private Persons.

5. The foregoing covenants in this paragraph B need not be complied with if and to the extent that the Issuer receives an opinion of nationally recognized bond counsel that such noncompliance will not adversely affect the exclusion of interest on the Bonds from gross income for federal income for federal income tax purposes.

C. Arbitrage Matters. The following are reasonable expectations of the Agency regarding the amount and use of all of the Distributed Amount and the facts and estimates on which those expectations are based, all as of the Issuance Date. To the best of the knowledge, information and belief of the undersigned, the expectations of the Agency as stated herein are reasonable, and there are no facts, estimates or circumstances that would materially change the conclusions stated below.

1. Distributed Amount. The Distributed Amount is the amount of \$40,579,243.00. The Distributed Amount, together with reasonably expected Investment Proceeds attributable thereto, are not reasonable expected to exceed the amount necessary to finance the costs of the Agency Projects as set forth in the Legislation and

the Resolution, taking into account reasonable and necessary contingencies, and to pay Debt Service.

2. Use of Distributed Amount. The Distributed Amount will be deposited in a series of project accounts as set forth in the Resolution ("Project Accounts") and used promptly upon withdrawal from such Project Accounts by the Agency Recipients to pay the costs of the Agency Projects and will not be invested by the Agency Recipients. No portion of the Distributed Amount will be used to pay, refund, renew, roll over, retire or replace any Tax-Exempt Bonds previously issued by the State or by the Agency or Agency Recipients. Any expenditures prior to the Issuance Date that are to be reimbursed from the Distributed Amount were made subsequent to June 29, 2004 in anticipation and with the reasonable official intent, supported by objective evidence, of the issuance of the Bonds and the reimbursement of such expenditures from the Distributed Amount. The intent to reimburse was consistent with the Agency's budgetary and financial circumstances.

3. Temporary Periods. The Distributed Amount deposited in the Project Accounts may be invested by the Issuer in Higher Yielding Investments for a temporary period until expended by the Agency Recipients on the Agency Projects or the date that is three years after the Issuance Date, whichever occurs first, the following tests being satisfied:

a. Commencement. The Agency Recipients have entered into, or will within six months of the date hereof enter into, substantial binding obligations relating to the Agency Projects calling for the expenditure of the lesser of \$100,000 or 2-1/2% of that part of the total costs of the Agency Projects listed in Exhibit A attached hereto.

b. Due Diligence. After substantial binding obligations to acquire or commence the Agency Projects are or have been incurred, work on or acquisition of the Agency Projects will proceed with due diligence to completion.

c. Expenditure. At least 85% of the Distributed Amount will be used to pay costs of the Agency Projects prior to the date that is three years after the Issuance Date.

4. Disposition of Projects. The Agency has no knowledge that any of the Agency Recipients intends to sell or otherwise dispose of the Projects of any portion thereof.

To the best of the knowledge, information and belief of the undersigned, all expectations stated in this Certificate are reasonable, and there are no other facts, estimates or circumstances that would or could materially change the statements made in this Certificate.

IN WITNESS WHEREOF, THE LOCAL SCHOOL BOARD ATTESTED HEREIN has caused this Certificate, duly adopted at a meeting of the local school board, to be executed by its officers this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BY: \_\_\_\_\_  
Local Board President

Attest:

\_\_\_\_\_  
Local Board Secretary

Project #

04-0365

04-1922

04-2537

04-2538