



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 11, 2016
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – April 27, 2016
9. PRESENTATIONS
10. CONSENT CALENDAR

CITY CLERK'S OFFICE

DATE 5/11/16 TIME 4:20

SERVED BY _____

RECEIVED BY Melissa Bjes

- a) Request for Final Approval of the Sale of 1,182 Square Feet of City-Owned Easement Rights Located at the Northwest Corner of 4684 Wagon Road Adjacent to the Wagon Road Right-of-Way by Tracy Northington, Agent for Wagon Road Investments, LLC. (Matthew O'Reilly)
- b) Request for Approval of Agreement – New Software System to Streamline and Support the Management of the CVB and Convention Center (RFP #16/03/P); iDSS. (Randy Randall)
 - (1) Request for Approval of Budget Adjustment in the Amount of \$10,600.
- c) Request for Approval of Procurement Under State Price Agreement and Professional Services Agreement – Annual Testing and Software Subscription Renewal for ITT Department; RiskSense, Inc. (Caryn Fiorina)
- d) Request for Approval of Grant Award – Pre-Teen and Teen (10-17) Independent Transit and Mobility Plan; New Mexico Department of Transportation. (Mark Tibbetts)
 - (1) Request for Approval of Budget Increase in the Amount of \$24,000 (Federal) and \$6,000 (Local Match).



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- e) Request for Approval of Grant Award and Sub-Grant Agreement – 2015 Emergency Management Performance Grant Program Per-Diem; New Mexico Department of Homeland Security. (David Silver)

(1) Request for Approval of Budget Increase in the Amount of \$53,250 (Local Match) and \$106,500 (Federal).

- f) Request for Approval of Procurement of State of New Mexico Audit Contract – Financial & Compliance Auditing Services for Fiscal Year Ending June 30, 2016 (RFP #14/38/P). (Teresita Garcia)

- g) CONSIDERATION OF RESOLUTION NO. 2016-____. (Councilor Rivera)
A Resolution Directing the City of Santa Fe Fire Department to Waive EMT Standby Fees for the Santa Fe Summer Series and Fall Fun Series Equestrian Events at the Equicenter de Santa Fe and Authorizing the Payment of said Fees from a Portion of the Lodgers Tax Dedicated for Public Safety Overtime Costs. (Chief Litzenberg and Randy Randall)

Fiscal Impact – Yes - FY 16/17 – (\$31,850); FY 17/18 – (\$15,925)

The City Will Waive the Full Cost of Having EMTs on Standby for the Summer and Fall Series' at the Equicenter de Santa Fe in 2016. The City Will then Waive 50% of Costs in 2017 and 25% of Costs in 2018.

- h) CONSIDERATION OF RESOLUTION NO. 2016-____. (Councilor Rivera)
Request for Approval of a Resolution Supporting the Party on the Pitch Soccer Tournament to be Held at the Santa Fe Downs May 21-22, 2016. (Jesse Guillen)

- i) CONSIDERATION OF RESOLUTION NO. 2016-____. (Councilor Maestas)
A Resolution Endorsing the North Central Regional Transit District's FY 2017 Budget Proposal, Approving the FY 2017 City of Santa Fe Regional Transit Plan and Directing Staff to Submit the City of Santa Fe Regional Transit Plan for FY 2017 to the North Central Regional Transit District Board of Directors for Consideration and Approval. (Isaac Pino and Thomas Martinez)

The NCRTD's Approved FY 2017 Budget Includes \$993,300.00 Allocated to the City of Santa Fe for Expenditure on Regional Transit Services on Behalf of the NCRTD. These Services Will be Delivered by Santa Fe Trails as Indicated in the City of Santa Fe's Regional Transit Service Plan. Included in the Resolution is Agreement for City of Santa Fe to Pay \$25,000 for Pilot Mountain Run. This Money Will be Deducted from Amount Billed to NCRTD from the Santa Fe Trails on the First Quarter Invoice.



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- j) Request for Approval of Findings of Fact and Conclusions of Law for the Appeal of the Historic Districts Review Board's Decision on January 26, 2016, Concerning Contributing Historic Property Located at 1379 Canyon Road in the Downtown & Eastside Historic District as Case #H-15-100. Kurt A. Sommer and Eric Enfield, Agents for Dean and Allyson Rogers, Request that the Governing Body Rescind the Conditional Approval to Install a Vehicular Gate with Fenestration; Case #2016-10. (Kelley Brennan)
- k) Pursuant to Resolution No. 2015-15, Update on the Parking Fee at the Sandoval Parking Garage for Events at the Lensic Performing Arts Center. (Noel Correia) **(Informational Only)**
- l) Request to Publish Notice of Public Hearing on June 8, 2016:
Bill No. 2016-23: An Ordinance Repealing a Municipal Capital Outlay Gross Receipts Tax. (Councilor Dominguez and Councilor Maestas) (Oscar Rodriguez)
- 11. Request for Approval of Appointment of Municipal Court Pro Tem Judges Pursuant to §2-3.4(C): Ann Yalman, Anthony Tupler, Paul Biderman and Stephen Pfeffer. (Judge Virginia Vigil)
- 12. Request to Publish Notice of Public Hearing on June 8, 2016:
 - a) **Bill No. 2016-25:** An Ordinance Authorizing the Execution and Delivery of a Loan Agreement and Intercept Agreement by and Between the City of Santa Fe, New Mexico (the "Governmental Unit") and the New Mexico Finance Authority, Evidencing a Special, Limited Obligation of the Governmental Unit to Pay a Principal Amount of \$917,815 for the Purpose of Acquiring Fire Protection Equipment for its Fire Department and Paying a Loan Processing Fee; Providing for the Payment of the Principal and Interest Due Under the Loan Agreement Solely from the Distribution of Fire Protection Fund Revenues Distributed by the State Treasurer to the Governmental Unit Pursuant to Section 59A-53-7 NMSA 1978; Providing for the Distribution of Fire Protection Fund Revenues to be Redirected by the State Treasurer to the New Mexico Finance Authority or its Assigns for the Payment of Principal and Interest Due on the Loan Agreement Pursuant to an Intercept Agreement; Approving the Form and Terms of, and Other Details Concerning the Loan Agreement and Intercept Agreement; Setting the Maximum Interest Rate of the Loan; Ratifying Actions Heretofore Taken; Repealing all Action Inconsistent with this Ordinance; and Authorizing the Taking of Other Actions in Connection with the Execution and Delivery of the Loan Agreement and Intercept Agreement. (Councilor Rivera) (Oscar Rodriguez)



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- b) **Bill No. 2016-24:** An Ordinance Relating to the Sale and Consumption of Alcohol on City Property; Amending Subsection 23-6.2 SFCC 1987 to Authorize the Sale and Consumption of Beer and Wine on the Top Level of the Sandoval Parking Garage for the Sunset Party on June 30, 2016. (Mayor Gonzales) (Noel Correria)
- c) **Bill No. 2016-26:** An Ordinance Amending Subsection 18-1.4 to Include Businesses Selling Goods Represented as Native American Within the Native American Arts or Crafts District; and Creating a New Subsection 18-5.29 to Establish the Native American Arts or Crafts District, and Establishing Regulations for Sale of Native American Arts or Crafts Within the District. (Mayor Gonzales, Councilor Ives and Councilor Lindell) (Debra Garcia)

13. MATTERS FROM THE CITY MANAGER

14. MATTERS FROM THE CITY ATTORNEY

Executive Session:

In Accordance with the New Mexico Open Meetings Act §§10-15-1(H)(7) and (8) NMSA 1978, Discussion Regarding Threatened or Pending Litigation in Which the City of Santa Fe is a Participant, Including, without Limitation, Mediation Under the Dispute Resolution Provision of the Facilities Operations and Procedures Agreement Between the City of Santa Fe, Santa Fe County and Others and Litigation Concerning BDD Diversion Structure Issues; and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the City of Santa Fe, Including, without Limitation, Disposition of Certain City-Owned Lands in the Vicinity of Alto Street and Lease for Property Located at 1730 Llano Street. (Kelley Brennan)

15. MATTERS FROM THE CITY CLERK

16. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
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D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

- Historic Districts Review Board

H. PUBLIC HEARINGS:

- 1) Request from Sanbusco 2015, LLC. for a Transfer of Ownership of Canopy License #1362, with Package Sales, from Trigild, Inc. to Sanbusco 2015, LLC. This License is Currently Located at Cost Plus World Market, 550-560 Montezuma Avenue. If Approved, this License Will be Placed in Suspension and Will Not Operate at this Location. (Yolanda Y. Vigil)
- 2) Request from Lucia's & Jalapeños Restaurant, LLC for a Restaurant (Beer and Wine) Liquor License, with On-Premise Consumption Only, to be located at Lucia's & Jalapeño's Restaurant, LLC, 2411 Cerrillos Road. (Yolanda Y. Vigil)
- 3) Request from Sub Rosa Cellars Inc. for the Following: (Yolanda Y. Vigil)
 - a) Restaurant (Beer and Wine) Liquor License, with On-Premise Consumption and a Patio, to be Located at Rowley Farmhouse Ales, 1405 Maclovía Street; and
 - b) Small Brewers License, with On-Premise Consumption, Package Sales and with a Patio, to be Located at Rowley Farmhouse Ales, 1405 Maclovía Street.
- 4) Request from Taos Brewing Company, LLC for a Small Brewer Off-Site License, with On-Premise Consumption, Package Sales and a Patio, to be Located at the Burger Stand at Burro Alley, 207 W. San Francisco Street. (Yolanda Y. Vigil)
- 5) Request from Parallel Studios for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Beer and Wine at El Museo Cultural, 555 Camino de la Familia, Which is Within 300 Feet of Tierra Encantada Charter School @ Alvord, 551 Alarid Street. The Request is for the Currents 2016: Santa Fe International New Media Festival Which Will be Held on June 10 and June 11, 2016, with Alcohol Service from 6:00 p.m. to 11:30 p.m. (Yolanda Y. Vigil)



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- 6) Request from Manitou Galleries for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Wine at Manitou Galleries, 225 Canyon Road, Which is Within 300 Feet of the Cathedral Basilica of St. Francis of Assisi, 131 Cathedral Place and the New Mexico School for the Arts, 275 East Alameda Street. The Request is for the Douglas Aagard and Paul Rhymer Opening, Which Will be Held on May 20, 2016, with Alcohol Service from 5:00 p.m. to 7:30 p.m. (Yolanda Y. Vigil)
- 7) Request from Joe Wade Fine Art for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Wine at Joe Wade Fine Art, 102 East Water Street, Which is Within 300 Feet of The Church of Antioch at Santa Fe, 207 Old Santa Fe Trail. The Request is for the Following Events, with Alcohol Service from 5:00 p.m. to 8:00 p.m. on June 11, 2016 and from 5:00 p.m. to 7:00 p.m. on the Remaining Dates: (Yolanda Y. Vigil)
 - June 11, 2016 – ArtSmart Edible Art Tour
 - July 1, 2016 – Jon Oteri Solo Exhibition Opening Reception
 - August 19, 2016 – Annual Indian Market Exhibition Opening Reception
 - August 26, 2016 – Roger Williams Exhibition Opening Reception
 - September 16, 2016 – Manfred Rapp Exhibition Opening Reception
- 8) Request from Meow Wolf for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Beer and Wine at Meow Wolf, 1352 Rufina Circle, Which is Within 300 Feet of La Petite Academy, 1361 Rufina Circle. The Request is for the Following Events, with Alcohol Service from 6:00 p.m. to 1:00 a.m.: (Yolanda Y. Vigil)
 - May 19, 2016 – MIX Santa Fe
 - May 25, 2016 -- STRFKR
- 9) Request from the Santa Fe Green Chamber for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Beer at El Museo Cultural, 555 Camino de la Familia, Which is Within 300 Feet of Tierra Encantada Charter School @ Alvord, 551 Alarid Street. The Request is for the Santa Fe Green Festival Which will be Held on May 14, 2016, with Alcohol Service from 12:00 p.m. to 4:00 p.m. (Yolanda Y. Vigil)



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- 10) Request for Approval of Affordable Housing Draft 2016-2017 Annual Action Plan. (Margaret Ambrosino)
 - a) Request for Approval of Professional Services Agreements – FY 2016-2017 Community Development Block Grant (CDBG) Allocation in the Amount of \$412,408.
 - b) Request for Approval of FY 2016-2017 CDBG Grant Administration in the Amount of \$100,000.
- 11) CONSIDERATION OF BILL NO. 2016-18: ADOPTION OF ORDINANCE NO. 2016-____. (Mayor Gonzales and Councilor Maestas)

An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Water Utility System Refunding Revenue Bonds, Series 2016 in an Aggregate Principal Amount [~~Not to Exceed \$75,000,000~~] of \$39,870,000 for the Purpose of Defraying the Cost of Refunding, Paying, Defeasing, Discharging, and/or Restructuring Certain Outstanding Water Utility System/Capital Outlay Gross Receipts Tax Obligations of the City; Providing that the Bonds Will be Payable and Collectible from the Net Revenues of the City's Water Utility System; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement and Escrow Agreement; Approving Certain Other Agreements and Documents in Connection With the Bonds and the Outstanding Refunded or Restructured Water Utility System/Capital Outlay Gross Receipts Tax Obligations; Ratifying Action Previously Taken in Connection With the Bonds; Amending and Restating Ordinance No. 2006-47; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Oscar Rodriguez)

 - a) Request for Approval of Budget Adjustment Request in the Amount of \$17,000,000 to Realign Cash in Water as Part of the Issuance of the 2016 Water Utility System Refunding Revenue.
- 12) CONSIDERATION OF BILL NO. 2016-17: ADOPTION OF ORDINANCE NO. 2016-____. (Councilor Maestas, Mayor Gonzales and Councilor Ives)

An Ordinance Amending Section 14-6.2 of the Land Use Development Code to Remove Certain Limitations on Short-Term Rental Dwelling Units; Amending the Fee Schedule for a Short-Term Rental Permit; and Requiring that Permit Holders Pay All Applicable Taxes or be Subject to Certain Penalties. (Randy Randall and Lisa Martinez) **(Postponed at the April 27, 2016 Governing Body Meeting)**



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REGULAR MEETING OF
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- a) **CONSIDERATION OF RESOLUTION NO. 2016-____. (Councilor Maestas, Mayor Gonzales and Councilor Ives)**
A Resolution Establishing the Number of Short-Term Rental Permits the City of Santa Fe Land Use Department May Issue. (Randy Randall and Lisa Martinez) **(Postponed at the April 27, 2016 Governing Body Meeting)**

I. ADJOURN

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.

NOTE: New Mexico law requires the following administrative procedures be followed when conducting "quasi-judicial" hearings. In a "quasi-judicial" hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross-examination. Witnesses have the right to have an attorney present at the hearing.

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521.

SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
Wednesday, May 11, 2016

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF CONSENT CALENDAR	Approved	2
CONSENT CALENDAR LISTING		2-4
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – APRIL 13, 2016	Approved	4
PRESENTATIONS	None	4
CONSENT CALENDAR DISCUSSION	No items were pulled for discussion	4
REQUEST FOR APPROVAL OF APPOINTMENT OF MUNICIPAL COURT PRO TEM JUDGES PURSUANT TO §2-3-4(C): ANN YALMAN, ANTHONY TUPLER, PAUL BIDERMAN AND STEPHEN PFEFFER	Approved	4-5
REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON JUNE 8, 2016:		
BILL NO. 2016-25: AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF SANTA FE, NEW MEXICO (THE ‘GOVERNMENTAL UNIT’) AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$917,815 FOR THE PURPOSE OF ACQUIRING FIRE PROTECTION EQUIPMENT FOR ITS FIRE DEPARTMENT AND PAYING A LOAN PROCESSING FEE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST, ETC.		5-7

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
BILL NO. 2016-24: AN ORDINANCE RELATING TO THE SALE AND CONSUMPTION OF ALCOHOL ON CITY PROPERTY; AMENDING SUBSECTION 23-6.2 SFCC 1987, TO AUTHORIZE THE SALE AND CONSUMPTION OF BEER AND WINE ON THE TOP LEVEL OF THE SANDOVAL PARKING GARAGE FOR THE SUNSET PARTY ON JUNE 30, 2016	Approved	5-7
BILL NO. 2016-26: AN ORDINANCE AMENDING SUBSECTION 18-1.4 TO INCLUDE BUSINESSES SELLING GOODS REPRESENTED AS NATIVE AMERICAN WITHIN THE NATIVE AMERICAN ARTS OR CRAFTS DISTRICT; AND CREATING A NEW SUBSECTION 18-5.29 TO ESTABLISH THE NATIVE AMERICAN ARTS OR CRAFTS DISTRICT, AND ESTABLISHING REGULATIONS FOR SALE OF NATIVE AMERICAN ARTS OR CRAFTS WITHIN THE DISTRICT	Approved	5-7
MATTERS FROM THE CITY MANAGER	None	7
<u>MATTERS FROM THE CITY ATTORNEY</u>		
MOTION TO GO INTO EXECUTIVE SESSION	Approved	7
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	8
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	9
PETITIONS FROM THE FLOOR		9-10
<u>APPOINTMENTS</u>		
Historic Districts Review Board	Approved	11
<u>PUBLIC HEARINGS</u>		
REQUEST FROM SANBUSCO 2015, LLC, FOR A TRANSFER OF OWNERSHIP OF CANOPY LICENSE #1352, WITH PACKAGE SALES, FROM TRIGILD, INC., TO SANBUSCO 2015, LLC. THIS LICENSE IS CURRENTLY LOCATED AT COST PLUS WORLD MARKET 550-560 MONTEZUMA AVENUE. IF APPROVED, THIS LICENSE WILL BE PLACED IN SUSPENSION AND WILL NOT OPERATE AT THIS LOCATION	Approved w/conditions	12

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
REQUEST FROM LUCIA'S & JALAPENOS RESTAURANT, LLC FOR A RESTAURANT (BEER AND WINE) LIQUOR LICENSE, WITH ON-PREMISE CONSUMPTION ONLY, TO BE LOCATED AT LUCIA'S & JALAPENO'S RESTAURANT, LLC, 2241 CERRILLOS ROAD	Approved w/conditions	13
<u>REQUEST FROM SUB ROSA CELLARS, INC., FOR THE FOLLOWING:</u>		
RESTAURANT (BEER AND WINE) LIQUOR LICENSE, WITH ON-PREMISE CONSUMPTION AND A PATIO, TO BE LOCATED AT ROWLEY FARMHOUSE ALES, 1405 MACLOVIA STREET; AND	Approved w/conditions	13-15
SMALL BREWERS LICENSE, WITH ON-PREMISE CONSUMPTION, PACKAGE SALES AND WITH A PATIO, TO BE LOCATED AT ROWLEY FARMHOUSE ALES, 1405 MACLOVIA STREET	Approved w/conditions	13-15
REQUEST FROM TAOS BREWING COMPANY, LLC, FOR A SMALL BREWER OFF-SITE LICENSE, WITH ON-PREMISE CONSUMPTION, PACKAGE SALES AND A PATIO, TO BE LOCATED AT THE BURGER STAND AT BURRO ALLEY, 207 W. SAN FRANCISCO STREET	Approved [amended] w/conditions	15
REQUEST FROM PARALLEL STUDIOS FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT EL MUSEO CULTURAL, 555 CAMINO DE LA FAMILIA, WHICH IS WITHIN 300 FEET OF TIERRA ENCANTADA CHARTER SCHOOL @ ALVORD, 551 ALARID STREET. THE REQUEST IS FOR THE CURRENTS 2016: SANTA FE INTERNATIONAL NEW MEDIA FESTIVAL WHICH WILL BE HELD ON JUNE 10 AND JUNE 11, 2016, WITH ALCOHOL SERVICE FROM 6:00 P.M. TO 11:30 P.M.	Approved w/conditions	16

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REQUEST FROM MANITOU GALLERIES FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT MANITOU GALLERIES, 225 CANYON ROAD, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF ST. FRANCIS OF ASSISI, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 EAST ALAMEDA STREET. THE REQUEST IS FOR THE DOUGLAS AAGARD AND PAUL RHYMER OPENING, WHICH WILL B HELD ON MAY 20, 2016, WITH ALCOHOL SERVICE FROM 5:00 P.M. TO 7:30 P.M.

Approved w/conditions

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REQUEST FROM JOE WADE FINE ART FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT JOE WADE FINE ART, 102 EAST WATER STREET, WHICH IS WITHIN 300 FEET OF THE CHURCH OF ANTIOCH AT SANTA FE, 207 OLD SANTA FE TRAIL. THE REQUEST IS FOR THE FOLLOWING EVENTS, WITH ALCOHOL SERVICE FROM 5:00 P.M. TO 8:00 P.M. ON JUNE 11, 2016 AND FROM 5:00 P.M. TO 7:00 P.M. ON THE REMAINING DATES: JUNE 11, 2016 - ARTSMART EDIBLE ART TOUR; JULY 1, 2016 - JON OTERI SOLO EXHIBITION OPENING RECEPTION; AUGUST 19, 2016 - ANNUAL INDIAN MARKET EXHIBITION OPENING RECEPTION; AND SEPTEMBER 16, 2016 – MANFRED RAPP EXHIBITION OPENING RECEPTION

Approved w/conditions

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REQUEST FROM MEOW WOLF FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT MEOW WOLF, 1352 RUFINA CIRCLE, WHICH IS WITHIN 300 FEET OF LA PETITE ACADEMY, 1361 RUFINA CIRCLE. THE REQUEST IS FOR THE FOLLOWING EVENTS, WITH ALCOHOL SERVICE FROM 6:00 P.M. TO 1:00 A.M.: MAY 19, 2016 – MIX SANTA FE; AND MAY 25, 2016 - STRFKR

Approved w/conditions

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<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
REQUEST FROM THE SANTA FE GREEN CHAMBER FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/CONSUMPTION OF BEER AT EL MUSEU CULTURAL, 555 CAMINO DE LA FAMILIA, WHICH IS WITHIN 300 FEET OF TIERRA ENCANTADA CHARTER SCHOOL @ ALVORD, 551 ALARID STREET. THE REQUEST IS FOR THE SANTA FE GREEN FESTIVAL WHICH WILL BE HELD ON MAY 14, 2016 WITH ALCOHOL SERVICE FROM 12:00 P.M. TO 4:00 P.M.	Approved w/conditions	20
REQUEST FOR APPROVAL OF AFFORDABLE HOUSING DRAFT 2016-2017 ANNUAL ACTION PLAN	Approved	20-23
REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENTS – FY 2016-2017 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ALLOCATION IN THE AMOUNT OF \$412,408	Approved	20-23
REQUEST FOR APPROVAL OF FY 2016-2017 CDBG GRANT ADMINISTRATION IN THE AMOUNT OF \$100,000	Approved	20-23

ITEM**ACTION****PAGE**

CONSIDERATION OF BILL NO. 2016-18: ADOPTION OF ORDINANCE NO. 2016-19. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO WATER UTILITY SYSTEM REFUNDING REVENUE BONDS, SERIES 2016 IN AN AGGREGATE PRINCIPAL AMOUNT ~~NOT TO EXCEED \$75,000,000~~ OF \$39,870,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING, DEFEASING, DISCHARGING AND/OR RESTRUCTURING CERTAIN OUTSTANDING WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX OBLIGATIONS OF THE CITY; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE CITY'S WATER UTILITY SYSTEM; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AND ESCROW AGREEMENT; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS AND THE OUTSTANDING REFUNDED OR RESTRUCTURED WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX OBLIGATIONS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; AMENDING AND RESTATING ORDINANCE NO. 2006-47; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS

Approved

23-27

REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT REQUEST IN THE AMOUNT OF \$17,000,000 TO REALIGN CASH IN WATER AS PART OF THE ISSUANCE OF THE 2016 WATER UTILITY SYSTEM REFUNDING REVENUE

Approved

23-27

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CONSIDERATION OF BILL NO. 2016-17: ADOPTION OF ORDINANCE NO. 2016-19. AN ORDINANCE AMENDING SECTION 14-6.2 OF THE LAND USE DEVELOPMENT CODE TO REMOVE CERTAIN LIMITATIONS ON SHORT- TERM RENTAL DWELLING UNITS; AMENDING THE FEE SCHEDULE FOR A SHORT-TERM RENTAL PERMIT; AND REQUIRING THAT PERMIT HOLDERS PAY ALL APPLICABLE TAXES OR BE SUBJECT TO CERTAIN PENALTIES	Approved [amended]	27-58
CONSIDERATION OF RESOLUTION NO. 2016-39. A RESOLUTION ESTABLISHING THE NUMBER OF SHORT TERM RENTAL PERMITS THE CITY OF SANTA FE LAND USE DEPARTMENT MAY ISSUE	Approved	27-58
MATTERS FROM THE CITY CLERK	Information/discussion	58
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	58-60
ADJOURN		61

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
May 11, 2016**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Javier M. Gonzales, on Wednesday, May 11, 2016, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor Javier M. Gonzales
Councilor Signe I. Lindell, Mayor Pro-Tem
Councilor Carmichael A. Dominguez
Councilor Mike Harris
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera
Councilor Renee Villarreal

Members Excused

Councilor Peter N. Ives
Councilor Ronald S. Trujillo

Others Attending

Brian K. Snyder, City Manager
Kelley Brennan, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

6. APPROVAL OF AGENDA

MOTION: Councilor Harris moved, seconded by Councilor Maestas, to approve the agenda as presented.

VOTE: The motion was approved on a voice vote with Mayor Gonzales, and Councilors Dominguez, Harris, Lindell, Maestas, Rivera and Villarreal voting in favor of the motion and none against.

7. APPROVAL OF CONSENT CALENDAR

MOTION: Councilor Dominguez moved, seconded by Councilor Maestas, to approve the following Consent Calendar, as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera, and Councilor Villarreal.

Against: None.

10. CONSENT CALENDAR

An amendment sheet to Item #10(i), submitted by City staff, is incorporated herewith to these minutes as Exhibit "1."

- a) **REQUEST FOR FINAL APPROVAL OF THE SALE OF 1,182 SQUARE FEET OF CITY-OWNED EASEMENT RIGHTS LOCATED AT THE NORTHWEST CORNER OF 4684 WAGON ROAD ADJACENT TO THE WAGON ROAD RIGHT-OF-WAY BY TRACY NORTHINGTON, AGENT FOR WAGON ROAD INVESTMENTS, LLC. (MATTHEW O'REILLY)**
- b) **REQUEST FOR APPROVAL OF AGREEMENT – NEW SOFTWARE SYSTEM TO STREAMLINE AND SUPPORT THE MANAGEMENT OF THE CVB AND CONVENTION CENTER (RFP #16/03/P); iDSS. (RANDY RANDALL)**
 - (1) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT IN THE AMOUNT OF \$10,600.**
- c) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICING AGREEMENT AND PROFESSIONAL SERVICES AGREEMENT – ANNUAL TESTING AND SOFTWARE SUBSCRIPTION RENEWAL FOR ITT DEPARTMENT; RISKSENSE, INC. (CARYN FIORINA)**
- d) **REQUEST FOR APPROVAL OF GRANT AWARD – PRE-TEEN AND TEEN (10-17) INDEPENDENT TRANSIT AND MOBILITY PLAN; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (MARK TIBBETTS)**
 - (1) **REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$24,000 (FEDERAL) AND \$6,000 (LOCAL MATCH).**

- e) **REQUEST FOR APPROVAL OF GRANT AWARD AND SUB-GRANT AGREEMENT – 2015 EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM PER-DIEM; NEW MEXICO DEPARTMENT OF HOMELAND SECURITY. (DAVID SILVER)**
 - (1) **REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$53,250 (LOCAL MATCH) AND \$106,500 (FEDERAL).**
- f) **REQUEST FOR APPROVAL OF PROCUREMENT OF STATE OF NEW MEXICO AUDIT CONTRACT – FINANCIAL & COMPLIANCE AUDITING SERVICES FOR FISCAL YEAR ENDING JUNE 30, 2016 (RFP #14/38/P). (TERESITA GARCIA)**
- g) **CONSIDERATION OF RESOLUTION NO. 2016-36 (COUNCILOR RIVERA). A RESOLUTION DIRECTING THE CITY OF SANTA FE FIRE DEPARTMENT TO WAIVE EMT STANDBY FEES FOR THE SANTA FE SUMMER SERIES AND FALL FUN SERIES EQUESTRIAN EVENTS AT THE EQUICENTER DE SANTA FE AND AUTHORIZING THE PAYMENT OF SAID FEES FROM A PORTION OF THE LODGERS' TAX DEDICATED FOR PUBLIC SAFETY OVERTIME COSTS. (CHIEF LITZENBERG AND RANDY RANDALL). Fiscal impact – yes. FY 16/17 - \$31,850; FY 17/18 - \$15,295. The city will waive the full cost of having EMTs on standby for the Summer and Fall Series' at the Equicenter de Santa Fe in 2016. The City will then waive 50% of costs in 2017 and 25% of costs in 2018.**
- h) **CONSIDERATION OF RESOLUTION NO. 2016-37 (COUNCILOR RIVERA). REQUEST FOR APPROVAL OF A RESOLUTION SUPPORTING THE PARTY ON THE PITCH SOCCER TOURNAMENT TO BE HELD AT THE SANTA FE DOWNS MAY 21-22, 2016. (JESSE GUILLEN)**
- i) **CONSIDERATION OF RESOLUTION NO. 2016-38 (COUNCILOR MAESTAS). A RESOLUTION ENDORSING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT'S FY 2017 BUDGET PROPOSAL, APPROVING THE FY 2017 CITY OF SANTA FE REGIONAL TRANSIT PLAN AND DIRECTING STAFF TO SUBMIT THE CITY OF SANTA FE REGIONAL TRANSIT PLAN FOR FY 2017 TO THE NORTH CENTRAL REGIONAL TRANSIT PLAN FOR FY 2017, TO THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT BOARD OF DIRECTORS FOR CONSIDERATION AND APPROVAL. (ISAAC PINO AND THOMAS MARTINEZ) The NCRTD's approved FY 2017 budget includes \$993,300 allocated to the City of Santa Fe for expenditure on regional transit services on behalf of the NCRTD. These services will be delivered by Santa Fe Trails as indicated in the City of Santa Fe's Regional Transit Service Plan. Included in the Resolution is agreement for City of Santa Fe to pay \$25,000 for pilot Mountain Run. This money will be deducted from amount billed to NCRTD from the Santa Fe Trails on the first quarter invoice.**

- j) **REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE APPEAL OF THE HISTORIC DISTRICTS REVIEW BOARD'S DECISION ON JANUARY 26, 2016, CONCERNING CONTRIBUTING HISTORIC PROPERTY LOCATED AT 1379 CANYON ROAD IN THE DOWNTOWN & EASTSIDE HISTORIC DISTRICT AS CASE #H-15-100. KURT A. SOMMER AND ERIC ENFIELD, AGENTS FOR DEAN AND ALLYSON ROGERS, REQUEST THAT THE GOVERNING BODY RESCIND THE CONDITIONAL APPROVAL TO INSTALL A VEHICULAR GATE WITH FENESTRATION; CASE #2016-10. (KELLEY BRENNAN)**
- k) **PURSUANT TO RESOLUTION NO. 2015-15, UPDATE ON THE PARKING FEE AT THE SANDOVAL PARKING GARAGE FOR EVENTS AT THE LENSIC PERFORMING ARTS CENTER. (NOEL CORREIA) (Informational Only)**
- l) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON JUNE 8, 2016: BILL NO. 2016-23: AN ORDINANCE REPEALING A MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS TAX (COUNCILOR DOMINGUEZ AND COUNCILOR MAESTAS). (OSCAR RODRIGUEZ)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – APRIL 13, 2016.

MOTION: Councilor Dominguez moved, seconded by Councilor Lindell, to approve the minutes of the Regular City Council meeting of April 13, 2016, as presented.

VOTE: The motion was approved unanimously on a voice vote with Mayor Gonzales and Councilors Dominguez, Harris, Lindell, Maestas, Rivera and Villarreal, voting in favor of the motion and none against.

9. PRESENTATIONS

There were no presentations.

CONSENT CALENDAR DISCUSSION

No items were pulled from consent for discussion.

11. REQUEST FOR APPROVAL OF APPOINTMENT OF MUNICIPAL COURT PRO TEM JUDGES PURSUANT TO §2-3-4(C): ANN YALMAN, ANTHONY TUPLER, PAUL BIDERMAN AND STEPHEN PFEFFER. (JUDGE VIRGINIA VIGIL)

MOTION: Councilor Dominguez moved, seconded by Councilor Rivera, to approve this request.

DISCUSSION: Councilor Maestas said Paul Biderman serves on the Ethics and Campaign Review Board [ECRB], and said he is about to be under contract with the City. He asked if Mr. Biderman can continue to serve on the ECRB as a contractor with the City.

Kelly Brennan, City Attorney, said, "This has been true in the past and he has recused himself when there is a contract."

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera, and Councilor Villarreal.

12. REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON JUNE 8, 2016:

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, May 9, 2016, with regard to Item #12(b), is incorporated herewith to these minutes as Exhibit "2."

A copy of a map of the *City of Santa Fe Native American Arts or Drafts District*, with regard to Item 12(c), is incorporated herewith to these minutes as Exhibit "3."

A copy of an amendment sheet regarding Item 12(c), is incorporated herewith to these minutes as Exhibit "4."

- A) BILL NO. 2016-25: AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF SANTA FE, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$917,815 FOR THE PURPOSE OF ACQUIRING FIRE PROTECTION EQUIPMENT FOR ITS FIRE DEPARTMENT AND PAYING A LOAN PROCESSING FEE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTION OF FIRE PROTECTION FUND REVENUES DISTRIBUTED BY THE STATE TREASURER TO THE GOVERNMENTAL UNIT, PURSUANT TO SECTION 59A-53-7 NMSA 1978; PROVIDING FOR THE DISTRIBUTION OF FIRE PROTECTION FUND REVENUES TO BE REDIRECTED BY THE STATE TREASURER TO THE NEW MEXICO FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL**

ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT. (COUNCILOR RIVERA). (OSCAR RODRIGUEZ)

- b) BILL NO. 2016-24: AN ORDINANCE RELATING TO THE SALE AND CONSUMPTION OF ALCOHOL ON CITY PROPERTY; AMENDING SUBSECTION 23-6.2 SFCC 1987, TO AUTHORIZE THE SALE AND CONSUMPTION OF BEER AND WINE ON THE TOP LEVEL OF THE SANDOVAL PARKING GARAGE FOR THE SUNSET PARTY ON JUNE 30, 2016 (MAYOR GONZALES). (NOEL CORREIA)**
- c) BILL NO. 2016-26: AN ORDINANCE AMENDING SUBSECTION 18-1.4 TO INCLUDE BUSINESSES SELLING GOODS REPRESENTED AS NATIVE AMERICAN WITHIN THE NATIVE AMERICAN ARTS OR CRAFTS DISTRICT; AND CREATING A NEW SUBSECTION 18-5.29 TO ESTABLISH THE NATIVE AMERICAN ARTS OR CRAFTS DISTRICT, AND ESTABLISHING REGULATIONS FOR SALE OF NATIVE AMERICAN ARTS OR CRAFTS WITHIN THE DISTRICT (MAYOR GONZALES, COUNCILOR IVES AND COUNCILOR LINDELL). (DEBRA GARCIA)**

Yolanda Vigil, City Clerk, noted Items 12 (a), (b) and (c) can be considered together if the Governing Body would like.

MOTION: Councilor Lindell moved, seconded by Councilor Maestas, to approve the Request to Publish Items 12(a), (b) and (c).

DISCUSSION: Councilor Maestas said in the caption of Item 12(c) there is reference that there will be regulations in conjunction with the Ordinance, and asked it that will come later.

Mayor Gonzales said yes, it should be coming as part of the bill, noting currently it is moving through the Committee process. He said if it isn't in its final stage when the public hearings are held, he will ask for a postponement.

Councilor Maestas asked, as this bill moves forward, that staff include the map, noting it wasn't included in the packet.

Ms. Vigil noted it was a handout on their desks.

Councilor Villarreal asked to be added as a cosponsor to Item 12(c)

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera, and Councilor Villarreal.

Against: None

13. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

14. MATTERS FROM THE CITY ATTORNEY.

EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §§10-15-1(H)(7) AND (8) NMSA 1978, DISCUSSION REGARDING THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, INCLUDING, WITHOUT LIMITATION, MEDIATION UNDER THE DISPUTE RESOLUTION PROVISION OF THE FACILITIES OPERATIONS AND PROCEDURES AGREEMENT BETWEEN THE CITY OF SANTA FE, SANTA FE COUNTY AND OTHERS, AND LITIGATION CONCERNING BDD DIVERSION STRUCTURE ISSUES; AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE CITY OF SANTA FE, INCLUDING, WITHOUT LIMITATION, DISPOSAL OF CERTAIN CITY-OWNED LANDS IN THE VICINITY OF ALTO STREET AND LEASE FOR PROPERTY LOCATED AT 1730 LLANO STREET. (KELLEY BRENNAN)

MOTION: Councilor Rivera moved, seconded by Councilor Maestas, that the Council go into Executive Session to discuss the matters listed on the Agenda in accordance with the recommendation of the City Attorney.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

The Council went into Executive Session at 5:10 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 7:10 p.m. Councilor Rivera moved, seconded by Councilor Harris, that the City Council come out of Executive Session and stating for the record that the discussion in Executive Session was limited to the matters noted on the Agenda.

VOTE: The motion was approved on a voice vote with Mayor Pro-Tem Lindell, Councilors Dominguez, Harris, Maestas, Rivera and Villarreal voting in favor of the motion, no one voting against, and Mayor Gonzales absent for the vote.

END OF AFTERNOON SESSION AT APPROXIMATELY 7:10 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Pro-Tem Signe Lindell, at approximately 7:10 p.m. Roll call indicated the presence of a quorum as follows:

Members Present

Mayor Javier M. Gonzales
Councilor Signe I. Lindell, Mayor Pro-Tem
Councilor Carmichael A. Dominguez
Councilor Mike Harris
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera
Councilor Renee Villarreal

Members Excused

Councilor Peter N. Ives
Councilor Ronald S. Trujillo

Others Attending

Brian K. Snyder, City Manager
Kelley Brennan, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

F. PETITIONS FROM THE FLOOR

A copy of a petition containing approximately 48 signatures finding that the berm at West Santa Fe Avenue and Galisteo Street to be a nuisance and setting out the reasons, is incorporated herewith to these minutes as Exhibit "5."

Mayor Pro-Tem Lindell gave each person two minutes to petition the Governing Body.

**VERBATIM TRANSCRIPT
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F
CITY COUNCIL MEETING
May 11, 2016**

Mayor Pro-Tem Lindell gave each person 2 minutes to speak

STEFANIE BENINATO: Stefanie Beninato, P.O. Box 1601, Santa Fe. New Mexico. So I'm here tonight because I was pretty excited there is \$1.8 million in the Storm Drain Fund, because the intersection at West Santa Fe Avenue and Galisteo Street, that's where we need improvement. It has been flooding since the 1970's. And the City has documentation in its own files that show that. It's my property in 02, and then my house in 2011. You have an Engineer's Report that is an actual Storm Drain Engineer's Report telling you what you need to have to do at the intersection to actually make it a viable, non-flooding intersection. And I'm asking that you look at that recommendation and that be one of the projects that you approve under the \$1.8. I'm also willing to speak out of turn for the people on Agua Fria Street near Sanbusco, because they too have said that since then this going in there's flooding on Agua Street and because of speed bumps it doesn't drain properly. So again, I would ask that maybe that \$1.8 million, some of that go to that problem as well. Although these may not be major improvements, I think some smaller projects need to happen. And in our neighborhood again, we have really few storm drains compared to many other parts of the town. We are at the bottom of the hill, and again historically there has been flooding in that intersection and we really need something done. And as I told you in my email, doing something about that intersection is not an admission of liability. You can improve it. I can say see the City improved it, it must have been a problem. So I again, ask you to do the right thing and improve that intersection. Thank you."

MAYOR PRO-TEM

LINDELL: Thank you Stefanie.

STEFANIE BENINATO: Oh, let me put this into the record. I did email each of you this about an hour ago, so you should get it, but I will give it to City Clerk, City Lawyer and the Stenographer. Thank you.

I certify that this is a true and accurate transcript of the requested portion of Petitions from the Floor, Item #F, City Council Meeting, May 16, 2016.


Melessia Helberg, Council Stenographer

G. APPOINTMENTS

Historic Districts Review Board

Mayor Pro-Tem Lindell, on behalf of Mayor Gonzales made the following appointments to the Historic Districts Review Board:

Meghan Bayer (Historian) – Reappointment – term ending 01/2018;
Jennifer A. Biedscheid (At-Large) – Reappointment – term ending 01/2018; and
William Powell (At-Large) – Reappointment - term ending 01/2018.

MOTION: Councilor Dominguez moved, seconded by Councilor Rivera, to approve the appointment of Meghan Bayer (Historian).

VOTE: The motion was approved unanimously on a voice vote with Mayor Pro-Tem Lindell and Councilors Dominguez, Harris, Maestas, Rivera and Villarreal voting in favor of the motion, none voting against and Mayor Gonzales absent for the vote.

MOTION: Councilor Maestas moved, seconded by Councilor Harris, to approve the appointment of Jennifer A. Biedscheid (At-Large).

VOTE: The motion was approved unanimously on a voice vote with Mayor Pro-Tem Lindell and Councilors Dominguez, Harris, Maestas, Rivera and Villarreal voting in favor of the motion, none voting against and Mayor Gonzales absent for the vote.

MOTION: Councilor Dominguez moved, seconded by Councilor Villarreal, to approve the appointment of William Powell (At-Large).

VOTE: The motion was approved unanimously on a voice vote with Mayor Pro-Tem Lindell and Councilors Dominguez, Harris, Maestas, Rivera and Villarreal voting in favor of the motion, none voting against and Mayor Gonzales absent for the vote.

H. PUBLIC HEARINGS

- 1) REQUEST FROM SANBUSCO 2015, LLC, FOR A TRANSFER OF OWNERSHIP OF CANOPY LICENSE #1352, WITH PACKAGE SALES, FROM TRIGILD, INC., TO SANBUSCO 2015, LLC. THIS LICENSE IS CURRENTLY LOCATED AT COST PLUS WORLD MARKET 550-560 MONTEZUMA AVENUE. IF APPROVED, THIS LICENSE WILL BE PLACED IN SUSPENSION AND WILL NOT OPERATE AT THIS LOCATION. (YOLANDA Y. VIGIL)**

A Memorandum dated May 5, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, is in the Council packet.

Public Hearing

Charlotte Heatherington, Cuddy & McCarthy, 1770 Old Pecos Trail, attorney for Sanbusco 2015, LLC, was sworn. She said she is in attendance requesting the City to approve the transfer of the license.

Stephanie Beninato, P.O. Box 1601, was sworn, said she is just going to point out once for this hearing, and it will go for the next 8 hearings, that 9 of 12 action items tonight involve liquor and alcohol. She would like the Council to petition the State to approve liquor licenses withing 300 feet of a school or church, because it always get approved any way. She said, just to save time and be more efficient she would urge the Council to get some changes in State law so they don't have to spend 9 of 12 items on alcohol.

The Public Hearing was Closed

MOTION: Councilor Dominguez moved, seconded by Councilor Harris, to approve the request for a transfer of ownership of Canopy License #1362, with package sales, from Trigild, Inc., to Sanbusco 2015 LLC., with all conditions of approval as recommended by staff.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

Absent for the vote: Mayor Gonzales

- 2) **REQUEST FROM LUCIA'S & JALAPENOS RESTAURANT, LLC FOR A RESTAURANT (BEER AND WINE) LIQUOR LICENSE, WITH ON-PREMISE CONSUMPTION ONLY, TO BE LOCATED AT LUCIA'S & JALAPENO'S RESTAURANT, LLC, 2241 CERRILLOS ROAD. (YOLANDA Y. VIGIL)**

A Memorandum dated May 5, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, regarding this matter, is in the Council packet.

Public Hearing

There was no one speaking to this request.

The Public Hearing Was Closed

MOTION: Councilor Harris moved, seconded by Councilor Villarreal, to approve the request by Lucia & Jalapenos Restaurant, LLC, for a Restaurant Liquor License (beer and wine only), with on premise consumption only, to be located at Lucia's & Jalapeno's Restaurant, 2411 Cerrillos Road, with all conditions of approval as recommended by staff.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

Absent for the vote: Mayor Gonzales

- 3) **REQUEST FROM SUB ROSA CELLARS, INC., FOR THE FOLLOWING:**
- a) **RESTAURANT (BEER AND WINE) LIQUOR LICENSE, WITH ON-PREMISE CONSUMPTION AND A PATIO, TO BE LOCATED AT ROWLEY FARMHOUSE ALES, 1405 MACLOVIA STREET; AND**
 - b) **SMALL BREWERS LICENSE, WITH ON-PREMISE CONSUMPTION, PACKAGE SALES AND WITH A PATIO, TO BE LOCATED AT ROWLEY FARMHOUSE SALES, 1405 MACLOVIA STREET**
(YOLANDA Y. VIGIL)

Items 3(a) and 3(b) were combined for purposes of discussion, but were voted upon separately

A Memorandum dated May 6, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, regarding this matter, is in the Council packet.

Public Hearing

John Rowley, 8 Fortuna Road, Eldorado 87508 was sworn. Mr. Rowley said they hope to bring a new style of beer to Santa Fe which is sorely lacking, which are Cezanne's and Farmhouse Ales with mixed fermentation base, and are very very tasty. They hope everybody will come out and have a good time. Responding to the Mayor Pro-Tem, Mr. Rowley said it is a new business.

Jeffrey Caplan, 2912 Pasaje del Herrera, Santa Fe was sworn. Mr. Caplan had no further remarks.

The Public Hearing was Closed

Ms. Vigil said, "Regarding both licenses, because they haven't completed construction and are still doing the remodel, so as a condition of approval they will be required to obtain all necessary permits and licenses, comply with all Fire, Building and Land Use Code requirements, and fully enclose the proposed patio area.

MOTION: Councilor Maestas moved, seconded by Councilor Harris, to approve the request for a Restaurant Liquor License, beer and wine only, on premise consumption only, with a patio, to be located at Rowley Farmhouse Ales, 1405 Maclovía Street, with all conditions of approval as requested by staff.

Mayor Gonzales arrived at the meeting

DISCUSSION: Councilor Dominguez said he is in support of this request. He asked Ms. Vigil if she said the building has not been constructed.

Ms. Vigil said the building is existing, they're doing an interior remodeling, there is no patio right now. She believes the tenants are still there.

Mr. Rowley said they have vacated the premises.

Councilor Dominguez said then you've invested money in the remodeling for the use and Mr. Rowley said yes.

Councilor Dominguez said it seems to him we are going to have to come up with a policy to make sure people don't spend money on these remodels/building permits and other stuff, without getting this kind of approval first, because it's putting the cart before the horse. He said he thinks this is an okay application.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

MOTION: Councilor Maestas moved, seconded by Councilor Villarreal, to approve the request for a Small Brewers License, with on premise consumption only, with a patio, to be located at Rowley Farmhouse Ales, 1405 Maclovía Street, with all conditions of approval as requested by staff.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

- 4) **REQUEST FROM TAOS BREWING COMPANY, LLC, FOR A SMALL BREWER OFF-SITE LICENSE, WITH ON-PREMISE CONSUMPTION, PACKAGE SALES AND A PATIO, TO BE LOCATED AT THE BURGER STAND AT BURRO ALLEY, 207 W. SAN FRANCISCO STREET. (YOLANDA Y. VIGIL)**

A Memorandum dated May 5, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, regarding this matter, is in the Council packet.

Public Hearing

There was no one speaking to this request.

The Public Hearing Was Closed

MOTION: Councilor Lindell moved, seconded by Councilor Maestas, to approve the request from Taos Brewing Company, LLC, for a Small Brewer Off-Site License, with on premise consumption, package sales and a patio, to be located at the Burger Stand at Burro Alley, 207 W. San Francisco Street.

FRIENDLY AMENDMENT: Ms. Vigil said she needs to add a condition of approval. She said the business is in the process of completing its remodeling, so as a condition of approval, this business would be required to obtain all necessary permits and licenses, and comply with all Fire, Building and Land Use Code Requirements. She noted there will be a patio, but it will be fully enclosed. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

VOTE: The motion, as amended, was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

- 5) **REQUEST FROM PARALLEL STUDIOS FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT EL MUSEO CULTURAL, 555 CAMINO DE LA FAMILIA, WHICH IS WITHIN 300 FEET OF TIERRA ENCANTADA CHARTER SCHOOL @ ALVORD, 551 ALARID STREET. THE REQUEST IS FOR THE CURRENTS 2016: SANTA FE INTERNATIONAL NEW MEDIA FESTIVAL WHICH WILL BE HELD ON JUNE 10 AND JUNE 11, 2016, WITH ALCOHOL SERVICE FROM 6:00 P.M. TO 11:30 P.M. (YOLANDA Y. VIGIL)**

A Memorandum dated May 5, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, regarding this matter, is in the Council packet, noting the letters in the packet from Carl Gruenier, Santa Fe Public Schools, stating they will refrain from issuing a decision regarding opposition or non-opposition to this request, and a letter of no opposition from Daniel P. Benavidez, Tierra Encantada Charter School at Alvord.

Public Hearing

There was no one speaking to this request.

The Public Hearing Was Closed

MOTION: Councilor Lindell moved, seconded by Councilor Maestas, to grant the waiver of the 300 foot location restriction and approve the dispensing/consumption of beer and wine at El Museo Cultural, for the Currents 2016: Santa Fe International New Media Festival on June 10 and 11, 2016, with alcohol service from 6:00 p.m. to 11:00 p.m., with all conditions recommended by staff.

VOTE: The motion, as amended, was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

- 6) **REQUEST FROM MANITOU GALLERIES FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT MANITOU GALLERIES, 225 CANYON ROAD, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF ST. FRANCIS OF ASSISI, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 EAST ALAMEDA STREET. THE REQUEST IS FOR THE DOUGLAS AAGARD AND PAUL RHYMER OPENING, WHICH WILL B HELD ON MAY 20, 2016, WITH ALCOHOL SERVICE FROM 5:00 P.M. TO 7:30 P.M. (YOLANDA Y. VIGIL)**

A Memorandum dated May 5, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, regarding this matter, is in the Council packet, noting the letters of no opposition in the packet from the Reverend Adam Lee Ortega y Ortiz, The Cathedral Basilica of Saint Francis of Assisi and Cindy Montoya, New Mexico School for the Arts.

Public Hearing

There was no one speaking to this request.

The Public Hearing Was Closed

Councilor Villarreal said 6 other future dates are listed, and asked Ms. Vigil why those weren't listed.

Ms. Vigil said the reason they weren't listed is because they haven't gone through the process of obtaining special permits and haven't gotten the actual lender to submit those, so those will be coming forward at a later date.

Councilor Villarreal asked if that is true even though they got approval from the neighbors.

Ms. Vigil said this is correct, and when they bring it back we will have the same letter with the packet.

MOTION: Councilor Villarreal moved, seconded by Councilor Maestas, to grant the waiver of the 300 foot location restriction and allow the dispensing/consumption of wine at Manitou Galleries, 225 Canyon Road for the Douglas Aagard and Paul Rhymer opening on May 20, 2016, with alcohol service from 5:00 p.m. to 7:30 p.m., with all conditions of approval recommended by staff.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

- 7) **REQUEST FROM JOE WADE FINE ART FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT JOE WADE FINE ART, 102 EAST WATER STREET, WHICH IS WITHIN 300 FEET OF THE CHURCH OF ANTIOCH AT SANTA FE, 207 OLD SANTA FE TRAIL. THE REQUEST IS FOR THE FOLLOWING EVENTS, WITH ALCOHOL SERVICE FROM 5:00 P.M. TO 8:00 P.M. ON JUNE 11, 2016 AND FROM 5:00 P.M. TO 7:00 P.M. ON THE REMAINING DATES: JUNE 11, 2016 - ARTSMART EDIBLE ART TOUR; JULY 1, 2016 - JON OTERI SOLO EXHIBITION OPENING RECEPTION; AUGUST 19, 2016 - ANNUAL INDIAN MARKET EXHIBITION OPENING RECEPTION; AND SEPTEMBER 16, 2016 – MANFRED RAPP EXHIBITION OPENING RECEPTION. (YOLANDA Y. VIGIL)**

A Memorandum dated May 5, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, regarding this matter, is in the Council packet, noting the letter of no opposition in the packet from Reverend Douglas L. Walker, Pastor of the Church of Antioch at Santa Fe.

Public Hearing

Stephanie Beninato, P.O. Box 1601, Santa Fe, was sworn. Ms. Beninato said this is an application for multiple events. She said she is urging the City to work with the Legislature to get rid of the waiver and establish an administrative process to approve it right way, rather than having to bring it to Council, because it takes an enormous amount of time. She said, "For people listening, I begin to feel like that well every gallery and business just wants to be serving alcohol because people will buy a little bit more when they've had something to drink. I don't really understand, well I kind of do understand. But again, do we really need all this alcohol flowing to have commerce in the City of Santa Fe."

The Public Hearing was closed

MOTION: Councilor Lindell moved, seconded by Councilor Harris, to grant the waiver of the 300 foot location restriction, and all the dispensing/consumption of wine at Joe Wade Fine Art, 201 E. Water Street for the following events, with alcohol service from 5:00 p.m. to 8:00 p.m. on June 11, 2016 and from 5:00 p.m. to 7:00 p.m. on the remaining dates:

- June 11, 2016 - Artsmart Edible Art Tour;
- July 1, 2016 - Jon Oteri Solo Exhibition Opening Reception;
- August 19, 2016 - Annual Indian Market Exhibition Opening Reception; and
- September 16, 2016 – Manfred Rapp Exhibition Opening Reception.

with all conditions of approval as recommended by staff.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

- 8) **REQUEST FROM MEOW WOLF FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/CONSUMPTION OF BEER AND WINE AT MEOW WOLF, 1352 RUFINA CIRCLE, WHICH IS WITHIN 300 FEET OF LA PETITE ACADEMY, 1361 RUFINA CIRCLE. THE REQUEST IS FOR THE FOLLOWING EVENTS, WITH ALCOHOL SERVICE FROM 6:00 P.M. TO 1:00 A.M.: MAY 19, 2016 – MIX SANTA FE; AND MAY 25, 2016 - STRFKR. (YOLANDA Y. VIGIL)**

A Memorandum dated May 5, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, regarding this matter, is in the Council packet, noting the letter of no opposition in the packet from Nicole Trujillo, Executive Director of La Petite Academy.

Public Hearing

There was no one speaking to this request.

The Public Hearing Was Closed

Councilor Rivera said Meow Wolf came with a list of requests two meetings ago and some of these seem intertwined with those. He asked if there is a limit on the number of approvals we can give at one time.

Ms. Vigil said, "We do not have anything stating limits. A few years back a Resolution was passed, limiting it to 3-4 different events, and then the Council came back and repealed that. State Alcohol & Gaming is working with Meow Wolf to go ahead and approve these until they get their offsite license. We did receive that in our office, so we'll be hearing on that, I think, the last meeting in June, so you will see all of the June events here and some in July, but they did submit their request to us from Alcohol and Gaming, so that's coming forward."

MOTION: Councilor Rivera moved, seconded by Councilor Lindell, to grant the waiver of the 300 foot location restriction and approve the dispensing/consumption of beer and wine at Meow Wolf, 1352 Rufina Circle, with alcohol service from 6:00 p.m. to 1:00 a.m., for the following events:

- May 19, 2016 - MIX Santa Fe; and
- May 25, 2016 – TRFKR; and

all conditions of approval as recommended by staff.

VOTE: The motion, as amended, was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

- 9) **REQUEST FROM THE SANTA FE GREEN CHAMBER FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/CONSUMPTION OF BEER AT EL MUSEO CULTURAL, 555 CAMINO DE LA FAMILIA, WHICH IS WITHIN 300 FEET OF TIERRA ENCANTADA CHARTER SCHOOL @ ALVORD, 551 ALARID STREET. THE REQUEST IS FOR THE SANTA FE GREEN FESTIVAL WHICH WILL BE HELD ON MAY 14, 2016 WITH ALCOHOL SERVICE FROM 12:00 P.M. TO 4:00 P.M.**

A letter dated May 4, 2016, To Whom It May Concern, from Glenn Schiffbauer, Executive Director, Santa Fe Green Chamber of Commerce regarding this event, is incorporated herewith to these minutes as Exhibit "6."

A Memorandum dated May 5, 2016, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, regarding this matter, is in the Council packet, noting the letters in the packet from Carl Gruenier, Santa Fe Public Schools, stating they will refrain from issuing a decision regarding opposition or non-opposition to this request, and a letter of no opposition from Daniel P. Benavidez, Tierra Encantada Charter School at Alvord.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Maestas moved, seconded by Councilor Lindell, to grant the waiver of the 300 foot location restriction and allow the dispensing/consumption of beer at El Museo Cultural, 555 Camino de la Familia, for the Santa Fe Green Festival on May 14, 2016, with Alcohol Service from 12:00 p.m. to 4:00 p.m., with all conditions of approval as recommended by staff.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

- 10) **REQUEST FOR APPROVAL OF AFFORDABLE HOUSING DRAFT 2016-2017 ANNUAL ACTION PLAN. (MARGARET AMBROSINO)**
- a) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENTS – FY 2016-2017 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ALLOCATION IN THE AMOUNT OF \$412,408.**
 - b) **REQUEST FOR APPROVAL OF FY 2016-2017 CDBG GRANT ADMINISTRATION IN THE AMOUNT OF \$100,000.**

Mayor Gonzales asked Ms. Ambrosino to give a brief overview of this request.

Margaret Ambrosino gave a brief overview from the materials in the packet. Ms. Ambrosino said this is an annual formula grant administered by the U.S. Department of Housing and Urban Development, and we received just over \$500,000 on an annual basis.

Ms. Ambrosino said, "Basically the process is, in December, prior to the start of the fiscal year we publish a notice of funding availability to the community. And in January we hold pre-application meetings with prospective applicants for housing services, public facility improvements and public services. And many of those grant recipients also approach our Children & Youth Division, so they are also funded out of that grant, and really represent the highest priorities of the goals as set forth by HUD's consolidated Plan which was adopted by the City back in 2013 to run through 2017."

Ms. Ambrosino continued, "So this your Annual Action Plan, and the funding recommendations, once the applications were received, were pretty fairly vetted by staff and deliberated with the Community Development Commission, the advisory body on the grant. And we conducted a full day interview with the Applicants for the funding recommendations and professional services agreements that are coming before you that are also represented in the Plan. And that really summarizes the information in the Plan Summary as the 10 contracts that are recommended for funding with the Plan."

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

Councilor Maestas said, "I had some concerns about the high amount of administrative cost, about 20% of the total, but I think Alexandra answered my question. But what I did want to raise, was on page 73 of the packet, page 1 of the letter from Housing and Urban Development. In the last bullet they are offering their assistance to assist in '*redesigning, prioritizing or targeting your program*.' These suite of contracts are very well established and very well known, but it would be nice to get a fresh perspective and assess our prioritization process with the assistance perhaps from HUD. I know that certain staff don't have a lot of confidence in the Albuquerque Office, but is there any way we can go straight to headquarters at HUD and take them up on their offer to assist us. Is that something that is possible."

Ms. Ambrosino said, "That really depends. I think that you raise a very good question, have a very good point. We've actually had those conversations with our Community Planning and Development Representative, who was visiting the City in March, monitoring the grants. She reviewed heavily the administrative costs and found no issues with those. And in terms of... we also, after that review process, discussed fairly in depth our process on how the applications come forth to the program, and how we review those to meet the priorities. And 10 contracts are a lot of contracts to manage, and we did have dialogue about could we do this differently, a little more strategically. We really didn't get into the discussion of funding less contracts or more contracts, but with every professional services agreement comes administrative review, environmental reviews and such."

Ms. Ambrosino continued, "And it really does beg the question of what we fund, how can we sort or target this money to the highest of the high priorities – Affordable Housing, first time down-payment assistance for first time homeowners – how can we target the money toward rental projects. That's a topic of heavy discussion among staff. And the representative tonight talked about that. And I have some confidence that we can revisit that discussion to go straight to the headquarters. Really, that has to flow through their office. They have a desk officer in Washington, D.C. that would handle those inquiries. And to the extent that staff could expedite that or push that up to them more quickly can be touchy.

Councilor Maestas said, "I understand kind of the protocol to go through the Albuquerque Office, before going to the national office. I would just recommend that any assistance that they offer in helping us take a fresh look at prioritizing our programs I think can be helpful. As I look at the contracts.... I support them, right. The need is there which far outweighs the limited funding, but sometimes I think that we're just spending that limited funding so thinly, that perhaps we ought to pick the most impactful program and put most of the money in there. I'm being very hypothetical, but perhaps if their HUD program analysts can help us just to take a fresh look at that."

Councilor Maestas continued, "And then the last thing I had was on page 74, page 2 of the HUD Memo. I don't know if this is boilerplate, but the letter reads, in the middle of the first full paragraph, '*I urge grantees to actively review their policies and procedures governing these programs and to strengthen management practices, particularly with regard to recordkeeping, in order to avoid problems and risk this vital funding.*' Is this something characteristic to our program, or is that kind of a boilerplate that they send to all the recipients of CDBG fund."

Ms. Ambrosino said, "That is a pretty standard letter that is issued from the Deputy Assistant Secretary of HUD, and a common area of abuse management is recordkeeping."

Councilor Maestas asked if they have reviewed our policies and procedures.

Ms. Ambrosino said, "Yes. And we reviewed the policies and procedures and updated them prior to HUD's monitoring visit in March. And they are updated periodically every year."

Councilor Rivera said, "I did not speak with Alexandra about the administrative funds. Can you talk about them a little bit and let us know what they are used for and the importance."

Ms. Ambrosino said, "The administrative funds are spent on a portion of the salaries of the three staff members that work on the Community Development Block Grant, with myself as Program Planner for CDBG, the Contract Administrator also in our department, and the Financial Analyst from the Finance Department. The money also goes toward advertising, various sources, for English and Spanish advertising of annual action plans, or documents such as this that require public review, letting the public know where the document is available for review, the locations, etc.. Spanish translation is not a high expense, but a pretty necessary one. For these documents, we'll start doing summaries in Spanish for all of the public hearings and documents that go out to HUD. This pretty much covers everything. Training, local training..."

Councilor Rivera asked how much is for salaries and how much goes to the other projects.

Ms. Ambrosino said, "I think most of it goes to salaries. I can't offhand pinpoint an exact percentage."

Councilor Rivera said, "I assume the grant allows for this. Is 20% the maximum allowed, or are you allowed to go higher."

Ms. Ambrosino said, "That is a good question. 20% is the maximum, so it is a program where 20% is calculated off the entitlement plus program income. And program income is not money the City receives back. But programs that do home ownership loans, home improvement loans, principally administered through Homewise, those generate program income, so whatever amount is earned in a year, plus entitlement, the 20% is calculated off that."

MOTION: Councilor Villarreal moved, seconded by Councilor Lindell, to approve Items 10, 10(a) and 10(b) as presented.

DISCUSSION: Councilor Villarreal said, "The only thing I would like to add, because I'm Chair of the CDC, is that I was very impressed with the professionalism of the staff and the organization they have, to be able to go through the process of selecting. As my background is in philanthropy, we did this often, grantmaking. And I thought that they really are meeting the standards most people need to follow, just making sure they are doing their due diligence, that they are selecting groups that really do have a need. And we have a great need in the community and it is hard to be able to give small grants when there is a bigger need in the community, like you had mentioned Councilor Maestas. It's really looking at that, but I think from this point of view, we have a gem here, but we don't actually market it. I don't think we really promote what these grants are doing in the community. So I would like us, as a City, to be able to do some kind of press release around this. It's for the greater good, and we're trying to achieve this in other ways, but these are the few grants that we give out, that I think should be recognized in our community."

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera, and Councilor Villarreal.

Against: None.

- 11) **CONSIDERATION OF BILL NO. 2016-18: ADOPTION OF ORDINANCE NO. 2016-19 (MAYOR GONZALES AND COUNCILOR MAESTAS). AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO WATER UTILITY SYSTEM REFUNDING REVENUE BONDS, SERIES 2016 IN AN AGGREGATE PRINCIPAL AMOUNT ~~NOT TO EXCEED \$75,000,000~~ OF \$39,870,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING, DEFEASING, DISCHARGING AND/OR RESTRUCTURING CERTAIN OUTSTANDING WATER**

UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX OBLIGATIONS OF THE CITY; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE CITY'S WATER UTILITY SYSTEM; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AND ESCROW AGREEMENT; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS AND THE OUTSTANDING REFUNDED OR RESTRUCTURED WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX OBLIGATIONS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; AMENDING AND RESTATING ORDINANCE NO. 2006-47; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS. (OSCAR RODRIGUEZ)

- a) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT REQUEST IN THE AMOUNT OF \$17,000,000 TO REALIGN CASH IN WATER AS PART OF THE ISSUANCE OF THE 2016 WATER UTILITY SYSTEM REFUNDING REVENUE.**

A copy of a Summary of \$36,665,000 *Water Utility System Refunding Revenue Bonds, Series 2016*, dated May 11, 2016, is incorporated herewith to these minutes as Exhibit "7."

A copy of *An Abstract of Proceedings*, including a copy of Ordinance No. 2016-19, is incorporated herewith to these minutes as Exhibit "8."

Mr. Rodriguez said with this approval, the Governing Body can put the finishing touches on a very complicated and very consequential restructuring. He said this will close the sale on \$36 million in bonds which will allow us to pay the last remaining debt on the Water Bonds that locks up the gross receipts revenue to the Water Utility, and almost \$8 million of revenue with that, and be able to reprogram those funds to the General Fund to make up "some \$15 million deficit that we hope to close this year as well as our budget." He said after a lot of preparation they went out to market yesterday morning, and the deal we got is profitable for the City in every way. He said if approved, the papers can be signed tonight and we can close the deal. He said the City "went out to market as the best bond deal out there, the highest quality bond deal, because we went out there with a AAA rating, which normally is unattainable for a City of this size, but we were able to do that because we are able to put into the market a much stronger financial profile than we had the day before." He asked the Financial Advisor to go over the deal very quickly [Exhibit "7,"] and then asked the Bond Counsel to go over the main points in the Ordinance so it's clear what we're asking you to approve tonight [Exhibit "8.]"

Mr. Rodriguez introduced Financial Advisor, George Williford, First Southwest, Kathleen Queegen, Modrall Sperling, Bond Counsel, and John Archuleta representing J.K. Baum, which sold the bonds for the City.

George Williford, First Southwest, gave a brief overview of Exhibit "7." Please see Exhibit "7" for specifics of this presentation. He complimented the Governing Body on a well developed and conceived plan with the guidance of Mr. Rodriguez through the whole process.

Public Hearing

Stephanie Beninato, P.O. Box 1601, Santa Fe, said she doesn't understand the details of the refinancing the bonds, but does understand it is freeing up a lot of money and it will help with the budget. She applauds the City to come up with a way to free up money without burdening the citizens of Santa Fe.

The Public Hearing was closed

Mayor Gonzales asked if Mr. Rodriguez if he feels we have enough information to be able to act tonight based on what we have in the packet and what we've heard.

Mr. Rodriguez said, "You have more than enough information in your packet."

Councilor Maestas thanked the entire team, and said he thinks this is a momentous day in the history of the City in terms of the Water Fund. He said we set a goal to make the Water Fund self sufficient and reduce the \$7.8 million subsidy. He said there are many inter-related parts to the Financing Plan, and we're paying \$100 million in bonds backed by the GRTs. It puts us in the position to repeal the GRTs and replace it with a GRT we can use for the General Fund to balance our budget. He reiterated there are debt service savings of \$29 million. He thinks this is an exciting day. He congratulated the entire team, commenting that the vision of this Governing Body to navigate and see this through, and come up with a number of solutions that were very timely. He said this is one of the most exciting evenings he's had since being elected to the Council. He thanked everybody involved in developing this plan. He said this will spend the cash balance to an acceptable level so there are funds to cover capital improvements and the new debt service we will assume from the new revenue bonds. He said, "All in all it's a great day in the City of Santa Fe, so thank you."

Councilor Dominguez said, as Councilor Maestas said, it is important, good news and big news. He thanked the team and the Council as well. He asked Mr. Rodriguez to explain the ratings we've been assigned. He said even 1½ years ago that was one of the measurements being made against the City and its rating and it was all over the news. He asked what we did to get these ratings up.

Mr. Rodriguez said the City of Austin went in to bond recently with a AA rating, and yesterday we went in with AAA, noting we are a much smaller municipality. He said there are lot of intricacies that go into the rating, but the main thing is we were able to go to the market with a stronger profile, we now have a AAA rating and a strong financial profile. He said it's a very extraordinary event for that to have happened. Additionally, the City went forward with a well organized action, with written policies and a plan. It's been a lot of hard work, painstaking work, to change policies and practices, and get out of our deficit. He thinks all of that made a difference, and we went to the market with the highest rating.

Councilor Dominguez said that speaks to the dedication of this Governing Body to make the needed improvements and put in place the needed policies to get us to this point. He said there still is work that needs to be done and we'll continue to do that. He said, "Congratulations to this Governing Body for that and to the public as well for mandating we do things better, is the bottom line."

Councilor Rivera said he received the final Ordinance too late to review all 95 pages. He said he wants assurance from Ms. Brennan, commenting we usually get a document that says approved as to form, signed by the City Attorney, and this email doesn't have that, so he wants assurances that there are no substantial changes.

Ms. Brennan said, "That is correct, usually you do see that, and we just spoke to Kathryn and are going to develop that and include it with the Ordinance, so yes, it is approved as to form, and will be attested to by the Clerk and approved by Oscar."

Councilor Rivera said he assumes since there are no substantial changes, there are no issues with the agenda in the way it was put forth to the public, everything is good with that.

Ms. Brennan said that's correct.

Councilor Harris said he wants clarity, following up on Councilor Dominguez's remarks. He said regarding the rating of the bonds just sold, the analysis would just be on just the Water Department and the condition there. So it looked at all of the City's finances – is it fair to say that.

Mr. Rodriguez said it was primarily the Water Department.

Councilor Harris said, "I thought it went beyond that."

Mr. Rodriguez said it goes beyond that in there are policies that govern how we manage the finances of the Water Division as well as the rest of the City. For example our debt limits and the monthly reporting to you on our finances, which includes the Water Division as well the City. He said, "Those policies are in place and in effect with how we manage everything else. Yes, in that sense they do play into the Water Division."

Councilor Harris asked, for example, if the Resolution establishing best financial practices is a document that would be typical.

Mr. Rodriguez said yes, and "I took great pleasure in sharing that with Standard & Poors and Fitch when we talked to them a possible rating. It was good to say we have a written policy for that, and how to do X, Y and Z and we have a written policy for that as well, as by the way, here's our latest monthly financial report which we are in the custom of providing."

Councilor Harris said he wanted to make sure everybody understood that, which is a critical piece. He said the earlier correspondence he thought was mostly analysis based on the Water Division and the funds there.

Mr. Rodriguez said it is many things, the financial conditions, etc., but it is also the management.

Councilor Maestas said he wanted to "shout out" to the New Mexico Finance Authority [NMFA], because it wasn't just the bonds that were pledged with GRTs, there were two Drinking Water Loans in 2008 and 2013. He said the NMFA was professional enough to change the terms and release the pledge of the GRTs and have the sole pledge be from the Water Division revenues which was critical to making this deal happen. He said, "I wanted to be on the record thanking them for working with our team and really wrapping this up. So, anyway, I just wanted to state that for the record."

MOTION: Councilor Lindell moved, seconded by Councilor Maestas, to adopt Ordinance 2016-19 as amended, and Item 10(a), the request for the approval of budget adjustment in the amount of \$17,000,000.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Villarreal.

Against: None.

12) **CONSIDERATION OF BILL NO. 2016-17: ADOPTION OF ORDINANCE NO. 2016-20 (COUNCILOR MAESTAS, MAYOR GONZALES AND COUNCILOR IVES). AN ORDINANCE AMENDING SECTION 14-6.2 OF THE LAND USE DEVELOPMENT CODE TO REMOVE CERTAIN LIMITATIONS ON SHORT-TERM RENTAL DWELLING UNITS; AMENDING THE FEE SCHEDULE FOR A SHORT-TERM RENTAL PERMIT; AND REQUIRING THAT PERMIT HOLDERS PAY ALL APPLICABLE TAXES OR BE SUBJECT TO CERTAIN PENALTIES. (RANDY RANDALL AND LISA MARTINEZ). (Postponed to the May 11, 2016 Governing Body Meeting)**

a) **CONSIDERATION OF RESOLUTION NO. 2016-39 (COUNCILOR MAESTAS, MAYOR GONZALES AND COUNCILOR IVES). A RESOLUTION ESTABLISHING THE NUMBER OF SHORT TERM RENTAL PERMITS THE CITY OF SANTA FE LAND USE DEPARTMENT MAY ISSUE. (RANDY RANDALL AND LISA MARTINEZ). (Postponed to the May 11, 2016 Governing Body Meeting)**

Items 12 and 12(a) were combined for purposes of presentation, public hearing, discussion, but were voted upon separately.

A copy of a statement for the record by Kurt Hill, Santa Fe Association of Realtors, entered for the record by Kurt Hill, is incorporated herewith to these minutes as Exhibit "9."

A copy of *Some replies to KH's emails*, dated 05/11/16, entered for the record by Karen Heldmeyer, is incorporated herewith to these minutes as Exhibit "10."

A copy of Suggested changes to proposed short-term rental ordinance and resolution and their implementation, entered for the record by Karen Heldmeyer, is incorporated herewith to these minutes as Exhibit "11."

Mayor Gonzales asked Ms. Martinez in her presentation to address both the Ordinance and the Resolution, so the public can hear the staff's report and recommendation on both items before opening the Public Hearing.

Ms. Martinez said they have had a lot of discussions over the past several months with the Governing Body and various Community members, commenting a lot of work has gone into the process to look at possible changes to the Ordinance staff felt would be beneficial to try to create a level playing field in the short term rental industry. There currently are 350 short terms available, and the proposal is to increase that number to 1,000, to cover all of the short term rentals "we know are out there that we have discovered through our own research and social media and various websites." She said they want to create a level playing field to ensure that people can come into compliance, follow all the rules and have equity across the city.

Ms. Martinez continued, saying the proposed Ordinance proposes to increase the number of permits, amends the fee schedule and requires that all permit holders pay all applicable taxes. And those that aren't current permit holders will face certain penalties as well.

Ms. Martinez said the purpose of the Resolution, which accompanies the Ordinance, is to be able to increase the number of permits we may need without necessarily having to go through the process of amending the Ordinance. She said it is not known how many people with short term rentals will come forward, but the hope is that 1,000 permits will be sufficient at this time. However, if we wind up with more, they would like to be able to increase that number if we end up with a flood of permit applications right away, noting there is an estimate of up to 1,200 short term rentals who are operating illegally.

Ms. Martinez said a lot of work has been put into this effort. There have been a number of public hearings, meetings with a variety of organizations and they tried to take the input from those hearings and from individuals who have come forward and gave suggestions, and from the Council members, to incorporate a number of what they feel are positive changes. She said this will be additional work in the future, and it is proposed to implement the new Ordinance, make sure they have the appropriate enforcement, evaluate the entire program and come back to the Council in 18 months with recommendations for any needed changes to enhance the Ordinance and/or the Program.

Mayor Gonzales said it has taken some time to develop the Ordinance and Resolution, noting a lot of work has been done by Ms. Martinez as well as Noah Berke whom he wants to commend for stepping up and doing great work in this area, as well as Randy Randall. He asked Ms. Martinez to give the Governing Body an overview of the number of public hearings and what the staff did to try and get input from the neighborhoods and the property owners prior to tonight, so there is a degree of comfort that all affected parties have participated in the process.

Ms. Martinez said this issue isn't unique to our City, noting cities across the nation are struggling to address all non-compliant short term rentals. She said they began researching on line, and calling cities across the country to find out how they were dealing with this issue. She said they didn't find a whole lot of great suggestions, noting everybody is in the process of working and coming up with solutions. This was the starting point. She said Mr. Berke did some good research in terms of numbers in terms of possible caps, program management and how those might work.

Ms. Martinez continued, saying they began by putting together language for the draft ordinance. They then held public hearings, with approximately 150 people at the first meeting, noting there was great discussion and great ideas coming forward. A second public hearing was held with 75-80 people attending. She said beyond that, staff has reached out to various organizations. She said she and Mr. Randall have spent time with the Santa Fe Realtors Association and some of its subgroups. They have made presentations, reviewed and discussed the details of the Ordinance, as well as discussing their concerns, especially as to whether permits can be transferred under the new Ordinance. She said they have discussed whether all adjacent properties in a given neighborhood should be issued permits, which could turn the neighborhood into a mini-motel row. So, they sorted through a lot of the complex issues.

Ms. Martinez continued, saying they sorted through a lot of complex issues. They also have worked with City Council members and individuals from neighborhood associations with concerns about how many permits would be issued in their neighborhood and the impact on the value of their homes. She said several hundred people have participated in this process over the past several months. She said, "Staff has put a lot of work into this, Mary Ann, Noah and Justin have taken time to research other cities, paying close attention to the public interested in coming forward, and doing what we can to incorporate language into the Ordinance to address those needs." She said they believe they are in a place where we are ready to move forward with the new program, if approved by the Council. They have set up a new website, with a telephone number. She said anything on their website is intended to be interactive so people can apply for permits on line, etc., so they are trying to advance the program in so many ways we haven't done in the past.

Public Hearing

Mayor allowed 2 minutes to each individual to speak to the issue.

Councilor Maestas asked if individuals can incorporate any written comment into the record.

Mayor Gonzales said they can do so, and if individuals exceed their 2 minutes, they can provide the written comments for the record, so it is registered in the minutes.

Speaking to the Issue

Preston Ellsworth, 1412 Cerrillos Road, said he has operated the International Youth Hostel on Cerrillos Road, and has been an Airbnb affiliate for 3 years, commenting he wished they had come along 10 years previously. They have had good experience with Airbnb, and they can market their premium rooms at the Youth Hostel through Airbnb, and it supports their 501(c)(3) educational mission. He said he

really doesn't "have a dog in this hunt," but he is concerned that he sees a lot of stick and no carrot in the proposed Ordinance. He said the owner's ability to do what they want with their own property will be moderated under the Ordinance. He said they should be paying the GRTs, purchasing a business license which is on the books and it should be enforced. He said the involvement of the Lodgers' Tax will be the failing point, unless the Convention & Visitors Bureau is directed by this Governing Body to promote home hosting at the same level it promotes the hotel/motel industry. That would be to promote only those platforms like Airbnb, that are willing to step up, account for their property owners and collect taxes for them. He said the planning group has done a great job of scholarship. He said they found, in many places an escalating spiral of homeowners ignoring or defying the Ordinance, and the local authority having to hire more staff to do it. He said, "It's a zero sum game as we go on. I will be revisiting this in 18 months, and I think everybody will hope we just left this situation with benign neglect. I wish us all good luck."

Former Councilor Karen Heldmeyer, 325 E. Berger, said she thinks they got her email laying out the issues of this topic, and she put the comments she received today on their desks. She said there are similar stories, and we know people who do short term rentals are fine, but a lot aren't, for whatever the reason. She said people have had to move and call attorneys because of the problems. She said under the current law it is very difficult to get enforcement for these kinds of things, noting she sees no change in the new law to make it easier.

Former Councilor Heldmeyer continued, saying there also are land use issues involved as well as those of affordability, because the more short term rentals you have, the less affordability you have in your City. She said there is the issue of the culture of the neighborhood, noting there are streets in District 2 where almost everyone is a second home or a short term rental. The worst example of that is Mr. Dominguez who lived on Johnson Lane, who felt he was defending the empty homes on his street, and was shot and killed by one of our Police officers, "because who would have expected an actual person to be on Johnson Lane."

Former Councilor Heldmeyer said a lot of people from whom she has heard assume this is a done deal. She noted a lot of amendments have been made at the behest of the industry, the Real Estate industry or the Short Term Rental industry.

Former Councilor Heldmeyer said, if it's a done deal, what kinds of changes need to be made to the Ordinance and Resolution, commenting "I understand this is putting lipstick on a pig, but when I was on Council I put a lot of lipstick on a lot of pigs." She noted there is a one-page handout with suggested changes to the Resolution, Ordinance and implementation [Exhibit "11"]. She said, "Don't do this for Airbnb, it should be for the people of Santa Fe, and it should be for all of the people of Santa Fe. And if you can't work it around to get it to be that, then maybe you need to take a little more time and think about what you need to do. Thank you."

Kurt Hill, Chair, Government Affairs Committee, First Vice-President, Santa Fe Realtors Association, said the Realtors have been working earnestly on this for about 2 years. He said they support the Ordinance with one issue – the Ordinance does not codify an existing practice by the City

when a property holding a legal permit is sold to another owner. Mr. Hill read a prepared statement into the record. Please see Exhibit "9," for the complete text of Mr. Hill's statement.

Dena Aqualina, 327 Sanchez St., said she served as President of the Historic Neighborhood Association for several years, and on the City Business & Quality of Life Committee for 8 years. She asked the Governing Body to consider the long term consequences of this Ordinance. She said it's frightening that we are going to go from 350 to what appears to be an unlimited since the Council can continue to increase the number. She lives on a street that is 11 feet wide, with 11 houses, and 2 have been short term rentals for some time and a third is permitted, noting one is across the street from her. She said the people who come and go are fine people, but having someone new every week is not any way to live, and it is more like a motel than a neighborhood. The people who come and go don't know who should be on the street and who should not. It decreases their safety and sense of community. She said it can't be for both short term and affordable housing – they're incompatible. It seems that affordable housing is something the City has said it wants to do. She is concerned about the agreement with Airbnb and that the City won't know where the properties are, or be able to track whether or not they are paying GRTs. She said it took several years to get the first Ordinance in place. She City has a pretty poor track record on enforcement, and she is concerned that will continue. She said she hopes you will consider limiting the density permitted whether by block or a percentage.

Christine McHugh, 1929 San Ildefonso Road, said she is in the Casa Alegre neighborhood in Santa Fe. She has owned her home for two years, and has been an Airbnb host for over a year. Her unit is an attached bedroom converted from a garage in the 1960's, with its own entrance and bathroom. She said when she purchased the house, she had no intent to lease a room to overnight guests. When Airbnb and the economy became a part of the cult culture, she realized the opportunity available and she took advantage of it. She said in the last year, she's had more 60 guests, from Frankford to attend the opera and last week a guest came up from Albuquerque to hear live music at Meow Wolf. She said she knows people don't rent her cozy little room for the resort/spa experience, but they want to have a place to drop their things and visit Santa Fe and spend the money they're saving by staying at her place. She said it is great for the opportunity to meet all these people, steer them to the restaurants and destination and attractions. She has a couple checking in who are here for their son's graduation and staying for a week. She is glad for the opportunity to become a permit holder and can do it legitimately. She said with the GRTs, Lodger's Tax, the application for the permit and annual permit seems a little onerous for an Airbnb owner to manage all of that. Her plea would be to reduce the annual permit cost.

Tom Starke, 2 Laurel Circle, said several of his friends have opened their homes to Airbnb to rent some of their bedrooms. He said these people have lived here for 20-30 years, raised their kids here and are retired. They are struggling to survive on a retirement income in our very expensive City. They have found Airbnb one of the opportunities to make extra money so they can stay and live their retirement years to which they contributed during their working care. He said he is very concerned with the level of the fees, and with the Lodgers' Tax that has individual individuals subsidizing hotels and other organizations and not benefitting from that tax. He is concerned with equity, commenting it seems we are trying to push

out the older people who make less money. It isn't that they don't want fair regulation or pay taxes, they do, but they would like a good framework. He said, "I'm very concerned this Ordinance is too onerous and not equitable for the people who are trying to survive in retirement in our community using these different on-line opportunities."

Sue Deraney, 1120 Paseo Barranca, said she is one of the people about whom Mr. Starke was talking. She has lived here 27 years, and is now on a fixed income and rents a room in her house to pay her property taxes. She said they have doubled since she's owned her property. She said she ran a non-profit in town for many years, but they're being pushed out in a sense. She would like to stay in her home where she raised her son. She said the renters will benefit the City. She has seen a lot of young people who cannot afford a hotel who are using Airbnb because they want to see Santa Fe. She said she sends them to local businesses and restaurants and they spend money here that would be spent on a hotel to do the things they otherwise couldn't do. She thinks it is benefitting the City to have these shared units. It benefits people like her with empty homes who want to meet more people from all over the world.

Steve Gerard, 1402 Cerro Gordo, said he and his partner have Airbnb, and they don't have a bar, loud music or a television, or shops, but they do send people out to shops and small businesses and they come back to visit. He said it allows them to visit our town. He said it isn't a big money-maker and they barely get by. He said, "We would like to keep it going. Thanks."

Judy Klinger, 501 Rio Grande Ave. #D7, said she is concerned about the affordable housing issue, noting she has lived here for 40 years and worked for the City for 34 years. She said over the years, employees have had a hard time finding affordable housing in Santa Fe. She is concerned that increasing short term rentals will take all the units out of the long term rental market, and it will make it that much harder for people to find places to live. People will have to move farther and farther away from the City and she doesn't think that is right. She thinks the City is at cross purposes with itself. It just adopted the draft Affordable Housing Action Plan, and a part of it is to work against barriers to affordable housing, such as land use controls, tax policies affecting the public, etc., etc. She feels we are pushing working families away from downtown, and downtown neighborhoods are becoming totally commercials. The downtown area is becoming a ghetto for rich people and tourists, because families can't afford to live anywhere close to downtown. She said there was an article in the New Mexican today by Daniel Pacheco that studies have been done that 51% of Santa Fe workers live outside of Santa Fe. She thinks it's terrible, and "I hope you do also." The article also mentions that the people who don't live here but work here, aren't spending their money here. They come in to work and then go home and spend it wherever they live. It also mentions a 2007 study by Homewise.

John Penn LaFarge, 647 Old Santa Fe Trail, said he will start by briefly agreeing with the speaker ahead of him in that this Council has said it is concerned about affordable housing, and affordability for young people and artists and people in general. He said, "You are not going to increase affordable housing by making short term housing the most lucrative thing anyone can do with their

property. If you are truly interested in affordable housing, this is not what you are going to do. You are not going to just make it into short term housing and short term rentals because that will drive up and drive out the affordable market. More importantly, you live in neighborhoods. I have lived in my neighborhood all of my life, and the fabric of my neighborhood has been torn apart by second houses, third houses, people who don't live here, rent beds and breakfast. The fabric of our neighborhoods, each of our neighborhoods, depends upon the fabric of that neighborhood being knitted together and kept whole. This Ordinance is going to increase the number of short term rentals, it is going to increase the number of holes in the fabric of every neighborhood into which it goes. The neighborhoods are going to suffer. Your duty as City Councilors, what you signed up to do, is to protect the good of this City. The good of this City is to protect the neighborhoods. If you approve this Ordinance you are approving the destruction and the tearing apart of the fabric of the neighborhoods, and you are not doing your duty. Thank you."

Stefanie Beninato, P.O. Box 1601, said she lives in a downtown neighborhood, and she has neighbors who are second and third *[inaudible]*. There are people who are doing barbershops and all kinds of things are going on in her neighborhood, including short term rentals. She doesn't find the short term rentals to really be problematic. People aren't making a lot of noise and taking up parking spaces, and she really doesn't know where they are. She feels the changes presented to this Ordinance are problematic. She said the numbers are speculative, and about 80% of the people doing short term rentals are complying. She said a lot of those are renting a single room in their home. *[inaudible here]* She thinks the amount being charged is onerous. She said the fees are double what they were which was \$175 which seems reasonable, but they have to pay \$350 every year. Additionally, Airbnb isn't going to be collecting GRTs, they can't do that with the State, so all the City can get really, is the Lodger's Tax and people renting a room in the house aren't subject to Lodger's Tax and asked the actual benefit of this.

Rick Martinez, 727 Mesilla Road, President, Neighborhood Network, said there are short term rentals next to one another which shouldn't happen. There is no percentage of the number of short term rentals that be on one street, and that should be in the Ordinance. He said the Condominium Law was changed years ago to prevent people from turning their one house into two houses, which changed the zoning. He said the short term rentals are adding an additional house, so they are creating a different zoning. He said, for example, if it becomes an R-5, then it's completely changes the neighborhood, and they don't add the extra parking spaces required, they are parking on the streets. He said we need to look at how these short term rentals are creating the neighborhoods in a different way than they should be.

Carla Ciacca, said she has lived in Santa Fe for 35 years, has her own property and a bedroom with its own bath, and she would like to be able to do Airbnb. She said is a school bus driver for the Santa Fe Schools, 74 years old and doesn't know how much longer she will be driving. She would like to have extra income from her bedroom. She said her experiences with Airbnb around the country have been very gracious, very welcoming, excellent experiences, and she doesn't see the impact that some people seem to fearing. It's no different from having a guest in your house. Her experiences last year in New York were

gracious, and she was directed where to go by her host. It was very personable, very lovely and the only way she could afford to be there. She said, "I would really like you to consider allowing me the opportunity. Thank you."

Marilyn Proctor, 2999 Don Quixote, said she has been a Santa Fe resident for 44 years. She said she is the face of the industry as the owner of a property management business for 35 years, and is a licensed Real Estate Broker, and she gets upset at these meetings. She said they follow the law, follow the Ordinance, and attended the many meetings when the Ordinance was adopted in 2007. She said she doesn't agree that the short term rentals will affect affordable housing. The majority of people with short term rentals buy the rental because they love Santa Fe and hope to move here some day. She said long term, unfurnished rentals often generate more revenue than short term rentals, and the fees are non-existing. She said she has not, in her 35 years of experience, seen people racing to town to buy vacation rental because it will make a lot of money. It doesn't happen. Her owners don't have positive cash flow, and when they buy a vacation rental, they are buying furniture, hiring local decorators, hiring gardeners. She said the average age of the guests is about 66 years old.

Christopher Murphy, 2301 Old Arroyo Chamiso, said he has been doing Airbnb for a while, and it is an extremely gratifying experience. He meets people from all over the world who couldn't afford to otherwise. He sends them to local businesses and restaurants, and they say they will come back. They don't spend \$250 on a hotel when they can spend \$50, which is amenable and central. He thinks it should be given all the commendation that it can be.

Lynette Hamby, 1617 Calle de Oriente Norte, said she has been blessed by being one of many Airbnb's across the country. This gives visitors pocket money so they can spend more money in the local businesses. She said she can't imagine fees of \$100 to apply and \$350 every year to keep permits going, when people are grossing \$1,000 to \$2,000 a year for a tiny bedroom. She said these extra fees seem so unreasonable. She thinks less people will be coming to enjoy our City. She said when relatives visit they are glad to have a place to sleep and then go out. She said this is how she sees it happening in the Airbnb community. She wants the Governing Body to consider the fees, and consider an exception for people as they are approaching retirement age to make it easier. She said, "Please don't make it so hard for them to file for permits. People want to do what's right, but they don't always have the computer savvy to do it in a way that many people set things up. Thank you very much."

Elizabeth West said she lives in the South Capitol area, and she has a rental unit there. She just got here from another meeting. She said this is a tricky problem. She said part of her says welcome everybody, and she loves having guests. She doesn't think we can legislate community. We tried to do that with the Ethics Boards, and in relation to how we enter into this town. We're dealing with really interesting conundrums, and she appreciates what you are trying to do. She asked if they have dealt with how much power you will have or not have with Airbnb. [Mayor Gonzales advised the Council doesn't get into question and answers with the public and asked her to feel free to offer a point of view if she likes.]

She said she read something distressing that sounds like a political commentary. She said if the City decides to enter into an agreement with Airbnb & others, she suggested you be very very careful. There is nothing is wrong with making a pile of money but not at our expense. *[Stenographer's Note: Ms. West provided a document to the Mayor, but did not enter it for the record]* Ms. West said has had a renter for 8 years at a rate of \$600, and the renter pays electricity and she pays the water. She feels this is a reasonable deal for a one-bedroom apartment.

Bernice Rose, 1145 Camino San Acacia, said she has a driveway with an easement to the house behind her on a cul-de-sac. She spent last year fighting with two landlords about them not following the rules for having short term rentals. She said her friend (Ms. Bowden) is holding the book that it took to get people to stop allowing that in back of me going all over my property. She said she thought we were over this whole thing, but evidently we're not. She said, "You have a distorted idea of what commerce is and the ruling that these short term rentals are not *[inaudible]* and therefore not subject to any of the real expectations of property rights as used throughout the United States." She said this is one aspect of a legal problem that she would ask the Council to address. She said she would hate to see other people going through this. She is 80 years old, lives alone. There is an issue of responsibility and safety. When you go to a hotel there is a hotel staff, security and people watching all the time. There is no such supervision in any of the short term rental properties.

Suby Bowden said Bernice Rose just hired her as an architect to assist her. She said 'these' are the documents they had to produce to prove to the City the 21 violations where people were just for a day, having wild parties, were verbally abuse, knocked down the fence, etc., etc. She said the City staff is great, but she hears no tie-in connection to raising income for more staff, because we are going to have a great deal more oversight than we have today. She said, as an architect and planner, she reads 5-10 architecture and planning magazines per month, and she has watched the last two years those filled with articles all over the U.S. about Airbnb pushing out affordable rentals from the inner city. She just learned of this hearing this afternoon, but she would be glad to gather those articles and send them to the Governing Body. She said people can say it won't happen, but it will happen. She said the articles are documented from over the United States about losing the affordable centers of towns, especially in tourist towns. She said, "It will help Indian Market, the Folk Market and help people make income, but it dramatically alters the core of cities all over the U.S. to allow this without extreme supervision, and assuring a maintenance of affordable housing in the core district."

The Public Hearing was closed

Councilor Maestas said he realizes it is late and he will be brief. He said he wasn't here when the current Ordinance was adopted, but understands it was quite controversial, and thinks they are sensitive to that. He said they were aware that this economy was growing and expanding, yet there was a cap of 350. He said we all knew what is happening currently, and that our existing Ordinance wasn't consistent with the evolving short term rentals. Therefore we did a very logical and prudent thing to direct staff to do a market assessment. He said numbers were gathered that were inconclusive, but it was abundantly clear there were many, many short term rentals above the cap and not paying fees. He said many people think

this is an effort to bring additional revenues to the City, but that isn't correct. The additional revenues are the consequence of the City updating the current Ordinance to better adapt to a market that has changed vastly.

Councilor Maestas continued, "I want to state for the record, that we did take an initial first step to assess the market. And the conclusions were quite profound that there are a lot of folks out there that are not complying. So I wanted to state that for record, and also state that we don't want to degrade our neighborhoods by approving this. This is something that is already happening and exists out there in our community. We're simply trying to catch up, and so that is what this Ordinance does. It is more adaptable to the market. It's going to address the prolonged non-compliance. And I know one thing, and I also want to state, and you mentioned that earlier Mayor, that this is a sensitive subject. And when we directed staff to make recommendations on the Ordinance after the market assessment, they embarked on a very robust public involvement program. Numerous public hearings were held. There was targeted consultation with key stakeholders in the community. I really think we did a very robust attempt to consult with the public and their feedback on how we can best amend the current law."

Councilor Maestas continued, "We did the initial assessment. I think we did a very good job in terms of public involvement. And also, on the enforcement side, I think we heard very loud and clear, that the City maybe didn't have the best resources to adequately enforce the current Ordinance. And so, I believe the amendments made in the proposed bill, with respect to enforcement, address those concerns. And I think we're very aware that there is going to have to be, if the Ordinance is passed, there is going to be an evaluation in terms of do we have adequate resources to fully enforce this law, with the expanded level of permits allowed. So I think our effort in adapting to this market and addressing the non-compliers, and providing the additional compliance, that will be an iterative process. And I think Lisa mentioned earlier that if things aren't working, we're going to make changes to provide adequate enforcement of the revised Ordinance."

Councilor Maestas continued, "And also, going from 350 to 1,000 as the cap. We're not removing the cap. I think this is another intermediate step, but I think we need to face the fact that the City cannot stop this market. It's changing and our laws need to adapt. And one of the other things, many people spoke about Airbnb and when I was working with staff on the market assessment, I did some research. And there are many cities that are wrestling with this, large cities like Dallas, Texas, Paris an international city that already has a collection agreement with Airbnb. So we're not alone in wrestling with this, and I can understand a lot of concerns about neighborhoods. I believe we do have at least a density check in here where you can't have two permits by adjoining properties, so we do have checks and balances to prevent a proliferation of these permits in a particular neighborhood."

Councilor Maestas continued, "So I think staff already summarized it Mayor, but I just want to reiterate, I think we have to recognize this market is evolving. We took a prudent step. We assessed the market. We did a fantastic job in doing research and reaching out to affected stakeholders and the public at large and getting their feedback. But we can't continue to stick our head in the sand and pretend this isn't happening, that we're having a proliferation of short term rentals far above our cap of 350. And I realize this isn't a perfect piece of legislation. I know certain members may have minor changes, and we can do that. This item has been pending for quite a while. The policy track was quite lengthy and it was

approved, and I believe every single Council committee and advisory committee it was assigned to [approved it]. So again it's not a perfect piece of legislation and if it can be improved we will, but I think the time has come for us to face up to the fact that it exists in our community and address it through this legislation."

Councilor Lindell asked if there are any individuals with more than 6 permits.

Mary Ann Seiderer, Enforcement, Short Term Rentals, said there is only one. She said, "It is a complex on Duran that has 6 permits. The one person has 6 different houses in 6 different areas."

Councilor Lindell asked Ms. Brennan how we define "room" and why is that important in enforcement of the Ordinance.

Ms. Brennan said, "It's important, because the Lodger's Tax is focused on the word 'rooms' and the words 'other accommodations.' And in fact, the enabling statute is somewhat ambiguous and our Ordinance drew from the Statute, but then over the years changes have made that I think make it confusing. We sat at a roundtable of lawyers, we've been talking about this for a long time. And I think we have a definition of rooms and accommodations that will clarify it, and I think we expect to bring forward some amendments to the Lodgers' Tax Ordinance that will align it more perfectly with the State Statute and add some clarifying language."

Councilor Lindell asked, in the proposed Ordinance, if we are defining rooms so that it is bedrooms or rooms within... does a kitchen count as a room.

Ms. Brennan said, "Yes, I believe it does in certain circumstances. Both the Ordinance and the Statute refer to the word 'rooms within or attached to a structure,' and also 'other accommodations.' And so if you have two rooms within or attached, you would not be subject to Lodgers' Tax. If you have more than two rooms within or attached to a premises, then you would be. So in one case we heard of a bedroom with bath that was attached to a house. That would not be subject to a Lodgers' Tax. If there were a bedroom and bath attached to a house, that was rented as exclusive use, plus a casita, that would be two, the casita as a unit of accommodation. And there are other kinds of units of accommodation. And an RV space with water and power would be a unit of accommodation under the Statute. But I think that really it can be clarified and some examples given in a way that will make it a lot less opaque that it is now."

Councilor Lindell said then someone renting part of their house that has a bedroom, kitchen, and a seating area, we are considering 3 rooms so that person will owe tax.

Ms. Brennan said, "If it were 3 rooms within a premise to which the renter, the person renting it has exclusive use, yes."

Councilor Lindell noted there were 2 different bills in the packet and she is going from the Substitute bill, the first in the packet. Councilor Lindell said starting on packet page 6, lines 13 and 14, it provides that *'Dwelling units on non-residentially zoned property pursuant to §14-6-3(6) and §14-6.2(7) are*

not subject to the permit limit imposed by this subsection.' She said she is unclear if we end up being permitted or not permitted in this section.

Ms. Brennan said this could use clarification and perhaps Mr. Randall or Ms. Martinez can explain the intent. She said, "I don't think it's clear that it means permitted as a right or not permitted at all. And in some non-residentially zoned districts there are limitations on who can have a residence. For instance, only the owner of a business that operates on the property can live there or a worker that works in that business can live on the same property. So there are restrictions elsewhere in the Code that may be affected by this.

Ms. Martinez said this was intended to address short term rental units that sit within commercially zoned areas, which is what is meant by non-residential. So in that case they would be in commercial zones and not subject to the permit limits defined in this section.

Councilor Lindell asked if there is sufficient clarity in this paragraph.

Mr. Brennan said, "Councilor, I would say that would be for you to decide. I do have some concern. Although, if under the Zoning Ordinance, only an owner of a business operating on certain kinds of commercial property can be in residence there, or a worker who works in that business, then I don't think they would be able to short term rent it. So if that limitation applied, I think they would not be able to short term rent it because the residential user would not be the owner of the business or a worker. So that would exclude that category. There are other non-residential commercial properties where residential uses are permitted. And in those cases, then they would not be subject to the permit limits, but I believe this would be read as consistent with the rest of the Ordinance."

Councilor Lindell said that's not really clear to her, but she will move on.

Councilor Lindell, referring to packet page 7, lines 18 and 19. She finds this very troubling because it's exactly the kind of thing we don't want to have. The only exception would be for *'condominiums, townhouses, apartment complexes and residential compounds.'* She said this means somebody could buy a fourplex and absolutely operate it as a hotel, is what she is reading. She said she don't think this is what we want to have. She doesn't think we want to have even 10-plexes that are run completely as hotels. She finds this part of the Ordinance very problematic, but she doesn't know the answer.

Councilor Lindell, referring to packet page 7, lines 20-22, said it provides that one bedroom would have 1 parking space, and 2 or more bedrooms 2 parking space. She is requesting an amendment to this language that for 5 or more bedrooms the owner must provide 3 parking spaces.

Councilor Lindell, referring to packet page 8 line 21, said the language provides, "*Should the owner/operator...*" She said, "I guess this is a question for you, Ms. Brennan. We have the term owner/operator kind of throughout this Ordinance. Is it the owner or is it the operator, or can it be both."

Ms. Brennan said, "I think that the expression is being used interchangeably, and I'm not sure, but perhaps Lisa or Randy can speak to that."

Mr. Randall said, "The reason for that is many times an owner will hire an operator to function on their behalf for the rentals, and we want to be sure the liability for the operator to abide by the rules and regulations, including taxes, are followed. So it's really the owner or the operator is intended there."

Councilor Lindell, referring to packet page 9, lines 17-18, which provides, *"..the application shall include the name and phone number of the owner/operator who is available twenty-four hours per day, seven days per week to respond to complaints..."* She asked if it is reasonable to ask that it include both the owner and the operator's phone number to be available.

Mr. Randall said the application provides both names to be provided, so they will have that information, although the owner may decide to have the operator to be the person on call because they're paying a nice fee for that service.

Councilor Lindell thinks the owner should have their number, noting that is referenced on packet page 11, here we talk about the owner/operator being available twenty-four hours per day, seven days per week to respond to complaints. She said on lines 7-11, it says *"Failure to notify neighbors as described is subject to penalties and prosecution pursuant to Subsection 14-6.2(A)(6)(f)."* She asked if these are notifications to neighbors within 200 feet.

Mr. Randall said it is 200 feet.

Councilor Lindell said it seems, procedurally, the neighbors should have access to the phone number of the operator and owner when the notice goes to the neighbors – they should have access to both.

Mr. Randall said he is sure they would, noting it is a public record. He said the intent is to handle many of these kinds of situation in the procedural development.

Councilor Lindell reiterated that it is in the notification to the neighbors. She wants to ensure in the procedural part, which isn't called out in the Ordinance, that it provides the telephone number of the owner and operator be provided to people who live within 200 feet of that resident.

Mr. Randall said that sounds reasonable.

Councilor Maestas said many of Councilor Lindell's comments are on existing language, not proposed for change. He asked if we are opening the entire Ordinance or just the proposed changes, for debate.

Mayor Gonzales said according to the caption of this item, he would assume it would allow amendments to the entire Ordinance. He asked Ms. Brennan if the Ordinance before us tonight is strictly limited to the amendment, or would it allow for changes to the broader ordinance.

Ms. Brennan said, "I'm sorry Mayor. Are you saying that changes not articulated in this amendment. I think probably the changes in this Ordinance are the changes you can address tonight."

Mayor Gonzales said, "Then anything outside the proposed amendment are things we would have to bring back."

Ms. Brennan said yes.

Councilor Lindell, referring to packet page 14, for clarification, on line 16, "When it says Subsection 14-2, it actually means 14-6.2, because if you go to 14-2, it makes no sense whatsoever. So that's just a correction.

Councilor Lindell, referring to packet page 15 [beginning on packet page 14], line 6, said, "I would like to talk about the entire Section (f) under Penalties. Mr. Randall maybe you want to address some of this. I'm talking about the penalties section. Let me be clear. What is the penalty for an operator that takes on a short term rental and rents out the short term rental, represents the rental and the rental does not have a permit. What is the penalty for that operator."

Mr. Randall said that is an enforcement that falls under Ms. Martinez's purview.

Ms. Martinez said we would address this issue through the Business License. We would investigate to see if they had a Business License, and if not, there are penalties that work through that process.

Councilor Lindell said, for example, if she is an agency and you place your short term rental with her, and you don't have a license, but I rent it any way, what is the penalty to me for doing that.

Ms. Martinez said she would have to research that, but she presumes there are fines and penalties through the Finance Department through the Business License Office for not having a business license in place, but she's unsure what that is.

Councilor Lindell said it's not that they wouldn't have a business license in place, it is they are acting as an agent for a short term rental owner without a permit for the short term rental.

Ms. Martinez said yes, but the issue is that to have a permit, they also have to have a business license.

Councilor Lindell wants to know what will happen to the agency that takes on renting a property that they doesn't have a short term rental license.

Ms. Seiderer said she has had this issue twice, and she assumes people will come into compliance. She notifies the property owner and manager. She said, "Usually the person that hires the manager will be that manager, and I send the manager notice of violation. If they don't take care of it within 24 hours, I request a summons for them to go to Court. I have taken people to Court for this. It is then the Judge's decision."

Councilor Lindell asked if anyone has been fined.

Ms. Seiderer said no, they have been requested to comply by the property manager.

Councilor Lindell said we are expanding the net of short term rentals dramatically with an intent to enforce the Ordinance in the future. She is really concerned that a property manager can knowingly represent unlicensed short term rentals and only the only penalty for the management company is...

Ms. Seiderer said, "It has to be due process if I take them to court, because if there is a complaint, the Judge will say what did you do to try to rectify the situation. I've had that happen a couple of times."

Councilor Lindell said, "Just to be clear and I'll ask Ms. Brennan on this, they can be fined \$500 per day, is that correct?"

Ms. Brennan said, "I believe that is a maximum. It's up to the Judge and, fact, the situations that Mary Ann has dealt with are probably typical."

Councilor Lindell, referring to packet page 15, lines 16-17, said she is unsure how this flows into the section of penalties, "*Legally binding private covenants that prohibit the presence of short-term rental units.*"

Ms. Brennan said, "I have the packet page and the line, I'm trying to trace back what this relates to. So that's (g), (e)... I'm sorry it goes several pages back. Okay, (5) is just the general category *Short Term Rental of Dwelling Units – Residentially Zoned Property*. So I'm not sure what this (g) relates to. I think what they're trying to say is this... I'm sorry, we can't regulate it. If there is a restrictive covenant on the property in the deed or in the association bylaws, then they could not get a short term rental permit. I believe that's what it says, I just don't know if it relates back correctly through the Ordinance to a heading."

Councilor Lindell asked if it actually says that.

Ms. Brennan said, "No it doesn't, because you can't tell what it relates to."

Councilor Lindell said she is unsure how to do that, and to continue moving this forward tonight, but that's an important part of the Ordinance that she requested. And the way it is written now, it really doesn't make sense to her. She says perhaps while someone else has the floor, she wants to make it logical before moving it forward. Councilor Lindell said she will yield the floor and asked that she be able to come back with general comments after hearing from other people.

Councilor Dominguez said he thinks Councilor Lindell is correct. He said it is hard to debate a bill that needs more a little bit more organization, and a little more definition, commenting that is what we're doing tonight, but it will be tough if we decide to go that far. He said she made a good call in pointing out the difference between policy and procedure. He would rather have that clarification in the bill and not leave it to the administrative guidelines to make those clarifications.

Councilor Dominguez, referring to packet page 14, lines 8-9, asked the reason it was decided that 15 days that corrective action needed to be completed, as opposed to 30 days or 10 days.

Mr. Randall said it was felt, with the availability of permits and the ease by which one can get a permit by going on line, that it was unreasonable to allow someone to continue to operate illegally for a longer period. It was felt that two weeks was generous amount of time to resolve the issue, assuming it was just an oversight.

Councilor Dominguez said his point is that if it is an oversight, it should be easy to rectify the situation relatively quickly, because this is a situation where the people will not be violating the intent of the Ordinance.

Councilor Dominguez, referring to packet page 14, lines 19-20, it provides, "*A dwelling unit is a short term rental unit that is not permitted under this paragraph is subject to penalties and prosecution and the agent's business license is subject to revocation.*" He asked if you are using agent in same way that you are using operator. He said there are operators you can hire to run the operation, and there are agents, such as real estate agent or broker that is subject to a certain Code of Ethics via the State of New Mexico and have to have a business licence – are you referring to operators or real estate agents."

Mr. Randall said it would be the same as operator. He said that may have been left over from the original Ordinance. It's not trying to specify something different.

Councilor Dominguez said then it doesn't apply to real estate agents.

Mr. Randall said if they were serving as the representative of the property for short term rentals, it would apply to them, but it would be as an operator, not in the function of a real estate agent.

Councilor Dominguez said he knows real estate agents hate to have complaints filed to the State Licensing Bureau. He asked if there is anything in here that would require us to report them to the State if a real estate agent was acting unlawfully.

Mr. Randall said not to his knowledge.

Councilor Dominguez, referring to packet page 15, line 6, which provides, "*If an owner is found guilty of operating a short term rental without a valid permit...*" He asked if that means an owner, operator agent is found guilty.

Mr. Randall said that is true, both the operator and the owner would be notified of the violation. The probable situation, and historically, the properties operated through a management company have been in compliance is very high. The level of compliance currently for management companies is very high.

Councilor Dominguez asked what he means by "is very high."

Mr. Randall said to his knowledge, there have been maybe 1-2 exceptions in the last 6 years. So they are permitted, and most people on waiting list for permits, are on the waiting list because operators have told them they have to get on the waiting list for permit for them to handle their unit. He said, "So yes. Both the operator and the owner would be notified, if they were in violation, operating without a permit. But the liability for the permit falls on the owner, and a lien that might be placed for fines would be a liability of the owner. This is the reason it refers to owner.

Councilor Dominguez said this is intended to make sure that the violation, the \$500 or whatever it is, is the owner's responsibility and not the agent's or anyone else.

Mr. Randall said the ultimate responsibility rests with the owner. He said clearly, we need to work with the agents to make sure that they are. He reiterated that more units are rented without an agent, than with an agent currently.

Councilor Dominguez said then he doesn't have to go through the whole document again. We see here that the owner if found guilty is fined \$500. He asked what happens to an operator that is found guilty.

Mr. Randall said that involves a business license issue, and it seems to him they would lose their license, and would not be allowed to continue to be in the business of short term rentals in violating the City Code.

Councilor Dominguez said then the agent or the operator has to have a business license, but the owner does not.

Mr. Randall said the owner has a business license as well that is included in their permit fee.

Councilor Dominguez said we don't have that same language that applies to the agent or the operator.

Mr. Randall said, "I believe that is correct."

Councilor Dominguez asked the reason.

Ms. Martinez said, "If you go to packet page 13, beginning on lines 17-21, it says, '*An agent who knowingly assists an owner in advertising or renting a dwelling unit as a short-term rental unit that is not permitted under this paragraph \ is subject to penalties and prosecution and the agent's business license is subject to revocation.*'"

Councilor Dominguez said, "We're not necessarily talking about the agent, we're talking about the operator." Councilor Dominguez said it says an agent knowingly assisting the owner, but what we're really saying is the agent/operator knowingly assisting an owner.

Ms. Martinez said, "Yes."

Councilor Villarreal said she has the same concerns as her other colleagues who brought up her concerns, but we didn't get to a solution. She said, "This has been a challenge for a long time, and I appreciate staff taking this on, and I know it's something we need to look at again. Just for the people here who have expressed the issues about neighborhoods, quality of life and what our community fabric is about, I think about the, kind of the historical perspective. I think we missed an opportunity to preserve our downtown and historic neighborhoods and the culture and fabric of it when we created commercial districts that allowed these kinds of things to come into play. I don't think we had the foresight then to think about what the implications would be in commercial districts. There are commercial districts that allow this now, but thinking back then, what we could have done differently. We probably could have done something, and then 2008 was a response to that, looking at a limit."

Councilor Villarreal continued, "And then we're now, as Councilor Maestas said, we're trying to catch up. And unfortunately if we didn't do anything tonight and kept it as is, we would have these same situations that neighborhoods are saying they want to prevent, where have complaints. There are problems with people not in compliance, people who don't care about what they're doing. And what I see are two different things, and I addressed this at one of our Committee meetings, but it was never brought to light of how it could be distinguished. I still think there are two distinguished scenarios. There are owner occupied situations like Airbnb. And some of the short term rentals get into this where the person either lives on the property or in Santa Fe can deal with situations immediately when a problem arises. And then there are people that live in another state, that don't comply, and complaints are never heard because they're not here. I guess I'm curious, did staff ever look at that as a way to separate the two and have almost two different, I don't know if it's scenarios or rules, but you see them as different issues – owner occupied versus non-owner occupied scenarios for short term rentals where you looked at them differently."

Mr. Randall he thinks they did look at that, and there could be the possibility for different rules. The current Occupancy Tax Ordinance would relieve the owner who is occupying his home and rents out a room with a bathroom, from the nuisance of collecting and remitting Lodgers' Tax. They still have to pay the GRTs. But the overall cost of the proper enforcement of this is what set the level of the cost of the fees. And it's really only a fee difference we would be talking about. He said, without regard to whether an owner occupies their home or not, if they don't meet the qualifications for the exclusion, they still have to collect and remit Lodgers' Tax. So it's strictly a fee situation. And staff felt it was better to charge everyone relatively equally, as opposed to some kind of scale based on how much is charged, or whether

they live here or another state, they are still property owners here. This seem to be the simpler and best solution to charge an equal amount at a level that hopefully will cover the cost of proper enforcement.

Councilor Villarreal asked, regarding the fee amounts, if it was based on what fees were being charged, or were you trying to get to a number that would cover the costs of new staff that would be hired to do Code enforcement – how did you arrive at those numbers.

Noah Burke said they took an average of what was done in the past, the type of unit and the average cost of the permits based on past data, and came up with \$325, commenting all fees are lower than they were in the past. However, previously there was no charge for permit in the commercial district. He said the numbers are an average across the board. The \$100 one-time fee to cover Fire and Code Enforcement inspection fees is paid.

Councilor Villarreal asked Ms. Seiderer, based on the different complaints she receives, are there more complaints from properties or areas where the landlord or operator doesn't live in town, versus people that live here, or on the property, or have a property manager – do you see a difference.

Ms. Seiderer said the complaints she gets are the person putting the trash out too early. She said, "This is basically the only complaints I ever get. It's rare I get a noise complaint. I'm on that right away if I do, and it stops immediately."

Councilor Villarreal asked what other regular complaints she receives.

Ms. Seiderer said, "It's pretty much people putting the trash out too early. I'm really not getting that many complaints. And we do send the notices to the people living within 200 feet. They have my number, my email address. Most people know who I am, and they contact me. And they don't really have complaints. They have issues with they don't like having a short term rental next door to them, or they don't like... it's usually just neighbor against neighbor."

Councilor Villarreal, referring to the Fee Schedule on packet page 12, noted the asterisk at the bottom that provides, *'The annual permit fee shall not be prorated for a portion of the year.'* She said, "I don't get that. I keep thinking about this permit. If someone got a permit in November and they paid the full price, do they have to pay another full permit fee in March when the next cycle comes around. How do you all figure that out."

Mr. Berke said, "It's March 15th through March 15th. So if you get a permit in February, they're doing to be paying in March. It's not pro rated. It's just the way it's always been done."

Councilor Villarreal said we did *[inaudible]*, and Mr. Berke said that is correct.

Councilor Villarreal said she has gotten complaints, when a person wants to be in compliance, pay the permit, and then in two months they have to pay again for another year. She said, "I don't get that. I just think if we're going to have an annual permit fee we should do our best to understand that someone paid it with the intention of being in compliance. I think we need to look at that again."

Councilor Villarreal, referring to packet page 7, line 11, regarding a property contiguous to an existing short term rental, which provides there should be no more than 2 short term rentals directly adjoining. She said now you say "adjoining," which to her means they share a wall. She is curious as to how they came to this language.

Mr. Randall said this language was provided by City Legal. It was felt this was the best way to accomplish what she just described.

Councilor Villarreal said that language says, "*sharing a common boundary along a public street frontage*," which doesn't make sense to her, commenting when she hears "adjoining," she thinks of two properties that share a wall. She asked Ms. Brennan how she interprets this.

Ms. Brennan said, "I think that it means next to, on the same street. I think it means next to, not across from. So I think if the property next to you had a permit, you could not, but there could also be one across the street. This doesn't seem to address that, but I do think they mean adjacent."

Councilor Villarreal said, for example, she has an Airbnb and her neighbor wanted to do an Airbnb, they wouldn't be allowed to get a permit to do an Airbnb.

Ms. Brennan said, "If the entrance to their property was on the same street, and you shared a property line."

Mr. Randall said the way this is written, it allows 2 to exist. So one could be next to the other, but there can't be a third one in a row, there has to be a break. And this was in response to the concern of a street becoming a virtual "motel," whereas a unit becomes a short term rental. He said to suggest that we could never have one next to the another probably isn't reasonable, but this was to eliminate multiple units in a row. He said this provision came out of some of the public hearings.

Councilor Villarreal, referring to packet 13, line 14, said the language provides, "*If not renewed by March 15 of each year, the owner/operator may pay a late fee of fifty dollars (\$50)...*" She said if they don't renew by April 15th, it is canceled, should we just assume that is the case.

Mr. Randall said the permits are for a finite period of time, and they would expire, and the reason this is included.

Councilor Villarreal, referring to packet page 15, line 22, which provides, "*Short-term rental of Dwelling units on non-residentially Zoned Property is permitted...and are required to register; pay a one-time \$100 application, inspecting and processing fee...*" She said she is confused that it is in two different sections and it is not consistent. The other one says they're allowed, and this one says they have to pay a one time application fee. She sees as it inconsistent.

Mr. Randall said the first reference to this suggests that a permit would not be required. He said it never has been for short term rentals in commercially zoned areas. He said this suggests they still are required to register. He said this is a new condition of approval. He said the changes are made to be sure we have a full accounting of all short term rentals, whether permitted or the permit is excluded. He said he can't speak for the reason for placement.

Councilor Villarreal said it seems to be in the wrong place.

Councilor Villarreal asked if we decide we want to make any changes in permitting, is a public hearing required for that.

Ms. Brennan said, "I don't believe so. It would be by Resolution and that wouldn't be required, but you could impose it as a condition."

Councilor Villarreal believes any changes we make should require a public hearing, whatever that change might be.

Councilor Rivera said when we started this discussion, Mr. Randall said we would be able to collect Lodgers' Tax from Airbnb, and asked if there has been further discussion and what is the status of that discussion.

Mr. Randall said there has been further discussion, and whether Airbnb would not automatically collect taxes for units that were presumed to be excluded. He said it has been taken for granted in the past, but the Ordinance requires it be applied for and grant. The only difference is how we would know that those exclusions had been granted. Even if an exclusion is entitled, if it isn't granted it can't be taken for granted. This is the only issue he knows.

Councilor Rivera said since an agreement hasn't been signed, if they decide they don't want an assignment with the City, what would be the process to collect those fees.

Mr. Randall said we would deal with each individual owner, as we would do with properties not listed through Airbnb.

Councilor Rivera asked if it is based on the honor system, or are we going to check every week.

Mr. Randall said there are two software programs they are looking at that will do a daily scrape of the internet and will identify all short term rentals in Santa Fe, providing the address and the owners name. He said, "It also lists additions and deletions from the previous day, and if we input the names and addresses of the permit numbers it will tell us those that are permitted and highlight any that aren't permitted. It will eliminate a tremendous amount of labor that we would have had to have done. It's relatively new software, so we are looking at two that we are aware of, and clearly those will be the way we determine where rentals are happening and be able to determine if they are permitted."

Responding to Councilor Rivera, Ms. Martinez said, "Currently we have one staff member who does everything from managing the program to doing the enforcements, reviews the applications that come in and issues the permits. What we are proposing to do, we want to have a total of 3 staff members, two additional FTEs in addition to the one we have. Of the 3, one would be a Manager, the other two would be Code Enforcement. The manager would be part of the Code Enforcement staff, a working manager who also would be in the field."

Councilor Rivera asked how they how enforce complaints at 11:00 p.m. for noise.

Ms. Martinez said if an issue such as noise came at that particular hour, it would have to be handled by the Police Department.

Councilor Rivera asked how we would know there had been a complaint the night before.

Ms. Martinez said that information would have to be reported by the Police to Land Use.

Councilor Rivera how the Police would know it is a short term rental.

Ms. Seiderer said she will respond at 7:00 a.m. the next morning, and they will get a notice of violation. She said the calls typically come from the neighbors, because they get the notice of 200 feet.

Councilor Rivera asked what if a neighbor ix forced to call the Police Department.

Ms. Seiderer said she asks them to call the Police, file a complaint, and the Police will call her and leave a message.

Councilor Rivera said then there is follow-through with the Police Department.

Councilor Rivera said there is defiance of the current Ordinance and the reason we are here. He said when we looked at this several months ago, there were almost 1,000 rentals on Airbnb, so we had about 700 people in violation of the Ordinance we think should comply with the Code – get permits, pay fees and taxes. He said he too is concerned about the culture and the integrity of the neighborhoods, and the reason a review process is built into the Ordinance. He thinks it is a good way for us to come back and look at this to make sure it is working. He said from what he's heard tonight, it appears Airbnb already has a significant percentage of the housing market we have in the City. He said the main goal is to get everybody in compliance. He said, "We will be looking at this very seriously, and I too am very concerned about the culture and the integrity of the neighborhoods and making sure we maintain that. So that's all I have."

Councilor Lindell said in terms of what Councilor Rivera was talking about, that was exactly her point in trying to be sure the neighbors have, as called for in the Ordinance, a phone number for the owner, and the operator if one exists, and will be available 24 hours per day, 7 days a week to respond to complaints regarding the operation and/or occupancy. She would like for the owner and the operator to know.

Councilor Harris asked if the 18 month review period is included in the Ordinance.

Mr. Berke said the 18 month review period is in the Resolution to revisit the Ordinance. He said what you have before you are the exact changes approved by the Council in the Resolution. He said they made those changes, but didn't look at the whole Ordinance, because that isn't what they were directed to do. They were directed to do a study, do a report, bring forward recommendations. He said, "In answer to the question, that was in the original Resolution.

Mr. Harris said when this came before the Finance Committee, he was unhappy. He said the FIR was silent under positive and negative impacts on the businesses and families. He said there is language in here, the positive effects are listed and he thinks those are reasonable – tax compliance, fire compliance, inspections and such. He said we've heard about the negative effects that are listed – *probably continued increase in the number of short-term rentals which could reduce long-term rental availability*, which he thinks is legitimate. He asked an explanation off the second negative effect which states, *"...public recognition of the current short-term rental situation."* He asked what this means.

Mr. Randall said he thinks what is meant is that it was clearly bringing to light that we have 1,200 short term rentals or more that exist under an Ordinance allowing for 350, which he thinks is a negative for the City. He said he guesses the positive is we fix the problem, so that's what the Ordinance needs to do.

Councilor Harris asked, "Do you recognize the potential negative as you've heard some of the public speak to in terms of the effect on the neighborhoods."

Mr. Randall said, "Councilor, I definitely do, but we can't turn the clock back to 2008 or 2006. We have a situation on our hands where there are 1200 units that are operating. And, at least from staff's perspective, to try to put the difference between 350 and 1,250 out of business isn't a reasonable approach to take. In speaking to the people in real estate, they think that would be double stating for that situation. And to just go back... it is clear, and I'm a former lodger. And the lodging community would love to not have short term rentals in Santa Fe. But they do understand they are a way of life now. It's all been changed by the internet growth that's happened. It's amazing. Airbnb didn't exist when our 2008 Ordinance was written."

Mr. Randall continued, "The fact is that we do have 1,250 short term rentals. The fact is that they are already ingrained in the fabric of the neighborhood. And these changes are to try to definitely manage that situation, and have everyone sharing in the expense of marketing Santa Fe, because short term rentals currently benefit from a great deal of marketing that is done for Santa Fe and don't contribute back, the ones that aren't paying Lodgers' Tax. And we don't know, because we can't monitor who they are from a Lodgers' Tax standpoint, we have no way to monitor whether they're paying GRTs which they are required to do, even in the current situation. It's to try to get our arms around the current situation and better manage what we actually have. In 2006 or 2007, when short term rentals were in a growth pattern, I think it took 2-3 years for the 350 permits to be drawn down. But today, I'm convinced that most of the 1,000 will get snapped up right away. Times are different. And I'm very sympathetic to enable that situation, but I don't think we can legislate short term rentals out of our community at this point."

Councilor Harris said, "Well, I'm not convinced that this really has value to our town. This is a difficult one. In my short time, this is as difficult I think as I've seen. But I just really am bothered by.... all the discussions, the mechanics of it, the enforcement, the penalties, the fees, everything else, I think that's pretty well considered. But this subject effect we've heard discussed, I think is much harder to quantify and makes me nervous to tell the truth. Anyway, that's all I have to say, Mr. Mayor. Thank you sir."

Mayor Gonzales asked if the City has any legislative or statutory authority to deny Airbnb's presence in the City of Santa Fe, or to deny the ability for a property owner to want to opt their property for a short period of time.

Ms. Brennan said, "On the lower question, I can say that it is a residential use and permitted in residential districts. And the opinion originally given for this Ordinance was that it could not be prohibited across the board, which is why the decision to regulate and create the number given. As to prohibiting Airbnb, I think that would fall within that category of residential property, and regulation is the response."

Mayor Gonzales said he has heard where cities have tried to deny access to Airbnb, the courts have addressed that issue, and have said they can't do that in terms of the commerce. He said the challenge as a Governing Body is how to effectively provide a regulatory environment in an area where this shared economy is moving ahead of the policies we have in place. He thinks sticking our head in the sand won't solve the problem, or make it go away, or make our neighborhoods safer from transient traffic. He said unfortunately, in some respects, we don't have the ability to deny either the property owner or a company like Airbnb from coming into Santa Fe. We can, however, create a level playing field. Part of the issue tonight, and in the Ordinance, is how we make sure that people who participate in the shared economy and using Airbnb are paying their fair share to the City for providing safety, the quality of life many tourists enjoy in our community.

Mayor Gonzales continued, saying kicking this down the road, and trying to find ways to protect neighborhoods as we know them, will be a continuous challenge. He lives in the South Capitol neighborhood and hears what people are saying about transit traffic, and he is concerned for his own children who are outside playing and wondering who might be in the neighborhood. He said the statements tonight about the impacts on affordable housing are absolutely true. He also knows that we have an affordable housing problem, largely because we haven't been able to find policies to do adequate infill development that would allow for an array of housing options for our community.

Mayor Gonzales continued, "So, I think there are some community impacts as the result of short term rentals we have to address that I don't think we will be able to address in this Ordinance. This Ordinance should be about making sure that we effectively regulate the presence of short term rentals in our community in a way that is fair for all people. And more importantly, we bring it out of the shadows right now. If Randy is correct, and 1,000 to 1,500 homes or places currently are being used under Airbnb, and I did a casual glance tonight, I think there are something like 240 available this weekend. We don't know, nor would we know unless we have an effective regulatory process to bring homeowners out into the open and get a required business license so that the neighborhoods and communities know which homes are being used for short term rentals."

Mayor Gonzales said in thinking of his own neighborhood in South Capitol and the presence of home ownership there and the idea of neighborhood and community, even knowing owners is part of that sense of community. He said, "When out of state owners purchase a home and convert it to a short term rental for the purpose of economic gain, I think that causes disruption to the neighborhood environment." He asked if there has ever been discussion or thought about requiring, through the business license, or limiting the participants to be residents of the City.

Ms. Brennan said, "I do not believe that would be legally tenable. There has been discussion around that point."

Mayor Gonzales asked if consideration was given to limiting the number of days that could qualify for participation in some sort of short term rental program. He said if he wanted to put his house in the short term rental program, if he got a permit, today he could rent it for 365 days of the year. He asked if this is correct.

Ms. Brennan suggested Randy can answer that. She said, "In the prior Ordinance I know you could not rent for more than 17 weeks, and you had to have a 7 day rental period, but I don't know how that works now."

Mayor Gonzales asked if that provision is still in place.

Mr. Randall said, "The restriction of one arrival per week, it didn't require a 7 day rental, it was just one arrival per week, is still in the Ordinance. It is easier to monitor for a neighbor. The 17½ rentals per year, it wasn't a specific number of days, was it was the number of rentals you could have... maybe it was 17½ weeks, I can't remember what it was. That was eliminated because it was totally unenforceable. And it was generally agreed because it was so unenforceable, it wasn't being paid attention to, and we took it out of the Ordinance."

Mayor Gonzales asked if there was contemplation of any notification requirements, or is there, to the neighborhood if there is a schedule for the month of what will be rented, what days will be rented, and some of the requirements on the management issues, so the community is made aware when a home is being used, versus not used.

Mr. Randall said he hasn't heard that before. He said a rental could happen tomorrow or today, and one of the people who spoke earlier said they just had a departure, but now have a new arrival. He said because of the fluid nature of the business, as a former operator, he is unsure it would have any meaning. The problem is you would put out a notice for the next 30 days of who would be in a neighborhood and then it would change the next day, and how often to put out that notice. He said, "I don't think it could be implemented."

Mayor Gonzales asked what was the parameter in determining the size of a fine. He asked if there are State laws creating a maximum fine.

Mr. Randall said it was intended to be big enough to be noticed, but not so big as to be totally outrageous. He said during a public meeting the size of the fine was brought up. And frankly the answer is if you register you won't be fined. It needs to be big enough that it gets peoples' attention.

Mayor Gonzales said even if we have 1,000 permits, it doesn't necessarily cap the home that potentially could be put out for short term rentals.

Mr. Randall said it possibly gets consumed.

Mayor Gonzales asked what happens when that 1,000 allotment is achieved. He asked if we will have the same issue we have tonight where we've hit the cap, we have to expand and there is a further impact on neighborhoods, or will we have a sufficiently strong penalty for people know we're serious about limiting the number of short term rentals so it won't have the long term lasting impact on the neighborhood.

Mr. Randall said the addition of the penalty was to do that. He said the former Ordinance had no structure for a penalty. The only option was to take them to court for being in an illegal business. However, this establishes a penalty that can be onerous and can be enforced, and can be liened against their property. He said by having this penalty, we hope it well. He said it will depend on the size of the surplus, but there will be a waiting list to join. He said with 1,000 permits, there is the potential of a faster turnover than we have with the 250.

Responding to the Mayor, Mr. Randall said there is an initial penalty of \$500, and if the issue isn't cured within two weeks, it is \$250 a day.

Mayor Gonzales asked if there were conversations internally among staff about allocating the fees toward the Affordable Housing Program since it would have a direct impact, or are there limitations on the fees or the GRTs could be used for, for the Council to determine from a policy standpoint.

Mr. Snyder said, "Kelley has spoken previously about fees and taxes. This is a fee, so similar to the bag ordinance fee, the money collected from the fees have to be used on the program itself."

Mayor Gonzales said he is speaking of fees and GRTs not the Lodgers' Tax, noting there are 3 sources of revenues.

Mr. Snyder said, "Correct, the fees that are collected have to be used on the program itself, to pay for advertisement, staffing, enforcement. The GRT is not dedicated. The GRT or Lodgers' Tax is not dedicated to this program, and will go into the General Fund."

Mayor Gonzales said he assumes the Lodgers' Tax would have its own set of requirements on how it can be spent.

Mr. Snyder said yes, there are Statutory requirements.

Mayor Gonzales said, "I will close so we can move to a decision. But I do caution the Council on further delaying and kicking this down the road, in the hope it will be solved. We just have to figure out how to wrap our arms around the presence of the Airbnb's of the world and short term rentals. We just need to work very closely with the neighborhoods to address impacts and how we can protect the quality of life and the identity of the neighborhood, and then use some of the fees, especially GRTs to go toward affordable housing in some way."

Mayor Gonzales continued, saying he believes that what Mr. LaFarge said earlier is fact and not just a statement, that this will impact affordable housing. We need to try to allocate any available revenues to the Affordable Housing Fund.

MOTION: Councilor Maestas moved, seconded by Councilor Harris, to adopt Ordinance No. 2016-20, specifically the Substitute Ordinance in the Council packet.

FRIENDLY AMENDMENT: Councilor Lindell proposed an amendment on packet page 7, line 22, to add "5 or more bedrooms require 3 parking spaces." **THE AMENDMENT FRIENDLY WAS TO THE SECOND BUT NOT TO THE MAKER.**

Councilor Maestas explained it is not friendly because he thinks it will make the bill even more onerous. He said it's no secret that we have a shortage of parking, and by requiring one parking space per bedroom may not even be possible. He said it might also encourage more rooms in a particular unit. He said he thinks it's untenable, commending he would have to know the numbers, but "I just don't think this is going to work very well. I would think the most common scenario is having a two-bedroom situation." He thinks it would be rare to have 3-4-5 bedrooms. He asked staff if they know the numbers.

Mr. Berke said it would conflict with the parking provisions of Chapter 14, when you have houses, and would create a lot of non-conformities and people couldn't review their permit because of lack of parking.

Councilor Maestas reiterated it would make it more onerous, so he can't accept it as a Friendly Amendment.

MOTION: Councilor Lindell moved, seconded by Councilor Villarreal to amend the Ordinance on packet page 7, line 22, to add a provision that if a property has 5 or more bedrooms they must supply 3 parking spaces.

DISCUSSION: Mayor Gonzales said then if they don't have the spaces, based on what Mr. Berke said, they won't be in compliance can't receive a permit. He asked Mr. Randall, based on his experience, if people are staying in 5 rooms how many cars typically would they bring into the City, asking if any analysis has been done.

Mr. Randall said he doesn't think there has been an analysis. He said if someone has a 5-6 bedroom house, it seems unreasonable they wouldn't have 3 parking places. He doesn't see this as a major problem, but if they don't have 3 parking places they can't get a permit and be in the short term rental business. He said in a hotel you get almost one car per room.

VOTE ON THE MOTION TO AMEND: The motion failed on the following Roll Call vote:

For: Mayor Gonzales, Councilor Harris and Councilor Lindell.

Against: Councilor Rivera, Councilor Villarreal, Councilor Dominguez, Councilor Maestas.

FRIENDLY AMENDMENT: Councilor Lindell proposed to amend packet page 15, lines 15-17, to revert to the original language that says *private restrictive covenants, enforceable by those governed by the covenants, may prohibit short term rental units*, striking the rest of line 16 and all of line 17. **THE AMENDMENT WAS FRIENDLY TO THE SECOND.**

DISCUSSION ON FRIENDLY AMENDMENT BY MAKER: Councilor Maestas said he would defer to Ms. Brennan because there is a differentiation between private restrictive covenants and legally binding private covenants, commenting he thinks the clarification came from Ms. Brennan's office.

Ms. Brennan said, "As I read this, I think it's a statement saying that private restrictive covenants are enforceable by those governed by the covenants, and they may prohibit rentals. Whether something is legally binding, I think creates an argument that we have to deal with. I think that the original language puts people on notice and puts the onus on the associations to enforce it, or to have a deed produced that says that you can't. I do think that the original language is preferable."

THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.

CONTINUATION OF DISCUSSION ON THE MOTION AS AMENDED: Councilor Lindell asked Ms. Brennan where in Resolution it talks about changing the number of permits in the future, noting the Resolution changes the number of permits, and asked how they are changed in the future.

Ms. Brennan said, "On packet page 6, line 9, it says, '*The Land Use Director may issue permits in a quantity approved by the Governing Body through adoption for residential units, not otherwise qualifying....*' So that defines the Resolution as the method."

FRIENDLY AMENDMENT: Councilor Lindell would like to amend the motion to add language as follows on packet page 6, Line 11, so that it reads as follows: '... through adoption, after a public hearing, of a resolution for rental units...' **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

CONTINUATION OF DISCUSSION ON THE MOTION AS AMENDED: Councilor Lindell said these are all the amendments she has.

Councilor Villarreal asked if there was something about telephone numbers.

Councilor Lindell said, "That was in and that's procedural, and I certainly made that clear, I think. That is in the section on the owner's phone number being available. Do you have that Mr. Randall."

Mr. Randall said it is on packet page 11, lines 7-9.

FRIENDLY AMENDMENT: Councilor Lindell would like to amend the Ordinance on packet page 11, line 1, so it reads "... number of the ~~owner/operator~~ owner and operator who.....".

DISCUSSION ON THE FRIENDLY AMENDMENT BY MAKER.

Councilor Maestas said this is existing language, but not amended language. He asked Ms. Brennan if she is okay with that.

Ms. Brennan said, "I believe it's okay."

THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.

CONTINUATION OF DISCUSSION ON THE MOTION AS AMENDED: Ms. Brennan said, "I just wanted to say there are a number of grammatical cross references, those kinds of changes, that I will be making that are not material and would typically be made before codification."

FRIENDLY AMENDMENT: Councilor Villarreal proposed to amend the motion to consider pro rating the fee for people who are in compliance, because she doesn't think we should be charging somebody another permit fee when they have already paid for it, on packet page 12 in the table with the annual permit and registration fees at the asterisk at the bottom of the table.

DISCUSSION ON THE FRIENDLY AMENDMENT BY MAKER. Councilor Maestas said this is old language in the existing Ordinance.

Mr. Berke said the language has been in the Ordinance since 2008.

Councilor Villarreal asked if we can change existing language in the Ordinance.

Councilor Maestas said we just did.

Ms. Brennan said, "This is here, and although it is existing, you can change language that is addressed in this amendment."

Councilor Maestas said, "Again, it's existing language. Is there a reason why."

Councilor Villarreal said, "Because we've always done it, is the reason."

Mr. Berke said, "I have no idea why it's there, why it's always been done this way. It was before my time at the City. So I think it was the way it was drafted in 2008. I would guess it would be pretty hard to pro-rate, that would be just a guess."

Ms. Brennan said, "I might say, that to the extent a fee represents the cost of administering the regulation and that a certain amount of that fee is front loaded, in terms of taking in applications, reviewing them, doing the fire inspections and so forth, that in fact, most of the fee money is expended at the front end, I would guess."

Councilor Rivera asked, for example, if he was a renter and he wanted to live in town during the winter months and rent his house for 3 months, could it then be prorated for those 3 months, or would the entire fee apply.

Mr. Randall said, "In that situation, the entire fee should apply. And that would be the problem of having it pro-rated. That one could apply for the permit, use it for 3 months, and as the Counsel suggested, the costs of those fees have been expended, and then you would get the balance pro-rated. I think the March date was picked because it's going into the season.

Ms. Brennan said, "It also coincides with the business license."

Councilor Villarreal said her example was someone that did it in November or in the middle of the year and they pay a fee, noting we do this for business licenses. She doesn't think it is fair that we have permits we don't consider when someone legitimately wants to be in compliance, and we charge them again 2 months later. She said she was hoping staff would have a solution.

THE MOTION WAS NOT FRIENDLY TO THE MAKER.

Councilor Maestas said, "It is carry-over language, and I don't have any insight into the rationale, but I am sure it had something to do with the beginning of the season. This is something we can study and maybe talk to some of the customers to see if they think it is fair and what would be reasonable. I would even doubt that we recover all of the initial services that go into the application with that initial fee. I think we rely on subsequent revenue from the continuation of the permits to really pay for all the services we render. That's why I would be reluctant to pro rate it, but it's something I think we should look at."

Councilor Villarreal said this is a problem we have with all of the permits in the City, and this is one way to do it.

Mayor Gonzales said we may be able to bring that up during the budget session as a policy issue and have that conversation.

Ms. Seiderer said, "We tried to pro rate before and it didn't work. It just didn't work. There was too much confusion. The business office was constantly printing out business licenses and permits, and printing them for people that didn't need them. People were paying at different times, and the business office was messed up and couldn't keep their accounting right for short term rentals. So because everybody in the

City renews their business license between January 1st and March 15th, every business throughout the City, they considered this a business and we did the same things for short term rentals. In the original Ordinance, people were allowed to rent for 2 weeks. If they came to me in November, I would ask them, do you need to rent your property right now because you have to pay the fees. If they were willing to pay the fees, I was willing to take them. I let them know you can rent for 2 weeks without a permit and that worked. And then they paid the fees in January. And I had the neighbors watching."

Councilor Villarreal said with only one person that is probably very hectic, but we have more staff now and she thinks we should use technology more effectively, and there are ways to do it. She said basically we will get people who won't be in compliance until the next year when they have to pay their fees.

Mayor Gonzales asked where we can go currently to see who has permits on line.

Ms. Seiderer said it's not on line. She has a spreadsheet in her office.

Mayor Gonzales asked if it would be difficult to get it on line.

Ms. Seiderer said, "No, we aren't going to have it on line."

Mayor Gonzales said he would like the Council to discuss or entertain a motion about being able to dedicate the General Fund Revenues toward addressing affordable housing. He thinks this does have an impact directly on the issue of affordable housing. He thinks we should take the General Fund revenues and implement them in the fund. And if not, perhaps we can do it during the budget session. He asked if we can address the allocation of this in the budget session without it having to be specifically in this Ordinance.

Mr. Snyder said, "I guess we can address it during the budget session. I'm concerned, because as you know, we get our GRT check two months after the fact, and they are allocated by segment, but I don't think it will be called out as a short term rental segment. So it will be buried in another.... it's going to be a challenge. And not knowing the system and the details of the system because we haven't purchased anything. There may be something we can glean from that, and estimate how much we're bringing in."

Mayor Gonzales said he isn't asking for \$500,000, and perhaps the direction to staff would be to monitor what the economic impact will be and allow for some decision to be made.

Councilor Maestas said, "If I might make a suggestion, it's not a financial one. But we just took action on proposed contracts to use for the CDBG funds. It's based on our 5-year action plan that HUD requires, and I don't think there's any mention of the threat of short term rentals on affordable housing in our action plan. And I would propose that we really amend the Affordable Housing Action Plan and introduce the whole issue and effects of short term rentals. And I think from that policy, maybe we can start identifying some logical funding to address what comes out of that action plan amendment.

Mayor Gonzales said, "I think that's fine. My worry is that once the \$500,000, or whatever amount goes into the General Fund, it's going to get committed very fast into areas outside of it, but I do think that makes some sense."

VOTE: The motion, as amended, was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera, Councilor Villarreal.

Against: None.

MOTION: Councilor Maestas moved, seconded by Councilor Rivera, to adopt Resolution No. 2016-39 as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Lindell, Councilor Maestas, Councilor Rivera, and Councilor Villarreal.

Against: None.

The Governing Body then returned to the Afternoon Agenda

17. COMMUNICATIONS FROM THE CITY CLERK

Yolanda Vigil, City Clerk, said there will be a Special City Council meeting on June 23, 2016, at 4:00 p.m., regarding the sale of bonds and approval has to be done as close as possible to the closing.

Mayor Gonzales asked if a super majority is needed to vote in the affirmative.

Ms. Vigil said yes, it requires a super majority and believes that requires 6 votes.

Councilor Villarreal said she has a Mayor's Youth Advisory Board meeting on that day at 4:30 p.m.

16. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of May 11, 2016, is incorporated herewith to these minutes as Exhibit "12."

Councilor Rivera

Councilor Rivera said a gentleman from Taos dropped his cell phone into one of the storm drains, and a couple of our crews working above and beyond the normally scheduled hours, pulled the grate on the storm drain, and climbed down and got the cell phone for the gentleman. He commended them for that and for going the extra mile to take care of one of our visitors to Santa Fe.

Councilor Rivera introduced a Resolution amending Table 80 (page 77) of the City of Santa Fe *Impact Fee Capital Improvements Plan 2020*, regarding planned major road improvements and adding "Southside Transit Center Loop" as an eligible project to receive "Road" Impact Fees. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "13."

Councilor Villarreal

Councilor Villarreal said she would like to cosponsor Councilor Rivera's Resolution.

Councilor Villarreal introduced an Ordinance relating to the City of Santa Fe Economic Development Plan Ordinance, Article 11-11 SFCC 1987; approving and adopting a local Economic Development Project Participation Agreement between the City of Santa Fe and the Santa Fe Farmers' Market Institute for indoor concession facility improvements, a local economic development project.

Councilor Villarreal said she really wants us to look at the permits, noting we don't have the system in place to be able to pro-rate. She said perhaps we need to move toward technology. However, she doesn't think it is a good excuse to ask people to pay twice because it's not on our schedule, and we can't pro rate it because it requires more work. She would like to bring it up at the budget hearings.

Mr. Snyder said we can work with Finance to explore the roadblocks and what we can do to migrate in that direction, especially if we move forward with the new ERP system as planned, there may be some opportunities. However, prior to that, he believes there is some mechanism to accomplish that and report back to the Governing Body.

Councilor Dominguez

Councilor Dominguez said the Finance Committee Budget Hearings will reconvene tomorrow at 4:00 p.m. to continue the budget discussion. He anticipates a public hearing on Monday, May 16, 2016. He said we should be close to wrapping the budget up, and ready for a recommendation.

Councilor Dominguez said he has been around since 2006 on the short term rentals, and was around when it first came up.

Councilor Dominguez asked to be a cosponsor of Councilor Rivera's bill on Transit.

Mayor Gonzales

Mayor Gonzales, on behalf of Councilor Ives, introduced a Resolution endorsing the naming of a U.S. Navy Submarine as the USS Los Alamos. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "14."

Mayor Gonzales, on behalf of Councilor Trujillo, introduced a Resolution supporting the New Mexico Litter Control and Beautification Act of 1985, which provides public funds in the form of grants for the purpose of enhancing local litter control and beautification programs. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."

Councilor Lindell

Councilor Lindell said she has a quick yes or no question for the City Manager. She asked the City Manager, "Do we have on the table any plan to change the procedures and policies for pesticides in town."

Mr. Snyder said, "No."

Councilor Lindell said, "I just wanted it on the record."

Councilor Harris

Councilor Harris asked the City Manager for an update from the City Manager or Public Works, on the Cerrillos Road reconstruction, noting he knows that it isn't specifically City. He said he has an office on Maclovía, goes through there every day, and his sense is things are going pretty well. He said he has seen no statement from the DOT or Bohannon-Huston similar to what was done prior to construction telling people what to anticipate. He thinks we should, in some fashion, get the word out about where we stand, when it's going to be done, those kinds of things.

Councilor Maestas

Councilor Maestas said we took action tonight on two significant team efforts by the City, paying the bonds and all that was a significant effort. He asked Mr. Snyder to commend all related staff. He said we also acted on the short term ordinance, noting we have been working on this for year, and it required a lot of effort on the part of staff. He asked Mr. Snyder to commend them on a great team effort.

Councilor Maestas asked to cosponsor Councilor Trujillo's bill.

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 11:00 p.m.

Approved by:


Mayor Javier M. Gonzales

ATTESTED TO:


Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Council Stenographer

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2016-23
Capital Outlay GRT Repeal

Mayor and Members of the City Council:

We propose the following amendment(s) to Bill No. 2016-23:

1. On page 1, line 14 *after* "[REPEAL]" *insert* "Contingent upon the issuance of the City of Santa Fe, New Mexico Water Utility System Refunding Revenue Bonds, Series 2016,"

Respectfully submitted,

City Staff

ADOPTED: _____

NOT ADOPTED: _____

DATE: _____

Yolanda Y. Vigil, City Clerk

Exhibit "1"

ITEM #12(b)

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, MAY 9, 2016**

ITEM 13

REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE SALE AND CONSUMPTION OF ALCOHOL ON CITY PROPERTY; AMENDING SUBSECTION 23-6.2 SFCC 1987 TO AUTHORIZE THE SALE AND CONSUMPTION OF BEER AND WINE ON THE TOP LEVEL OF THE SANDOVAL PARKING GARAGE FOR THE SUNSET PARTY ON JUNE 30, 2016 (**MAYOR GONZALES**) (**NOEL CORREIA**)

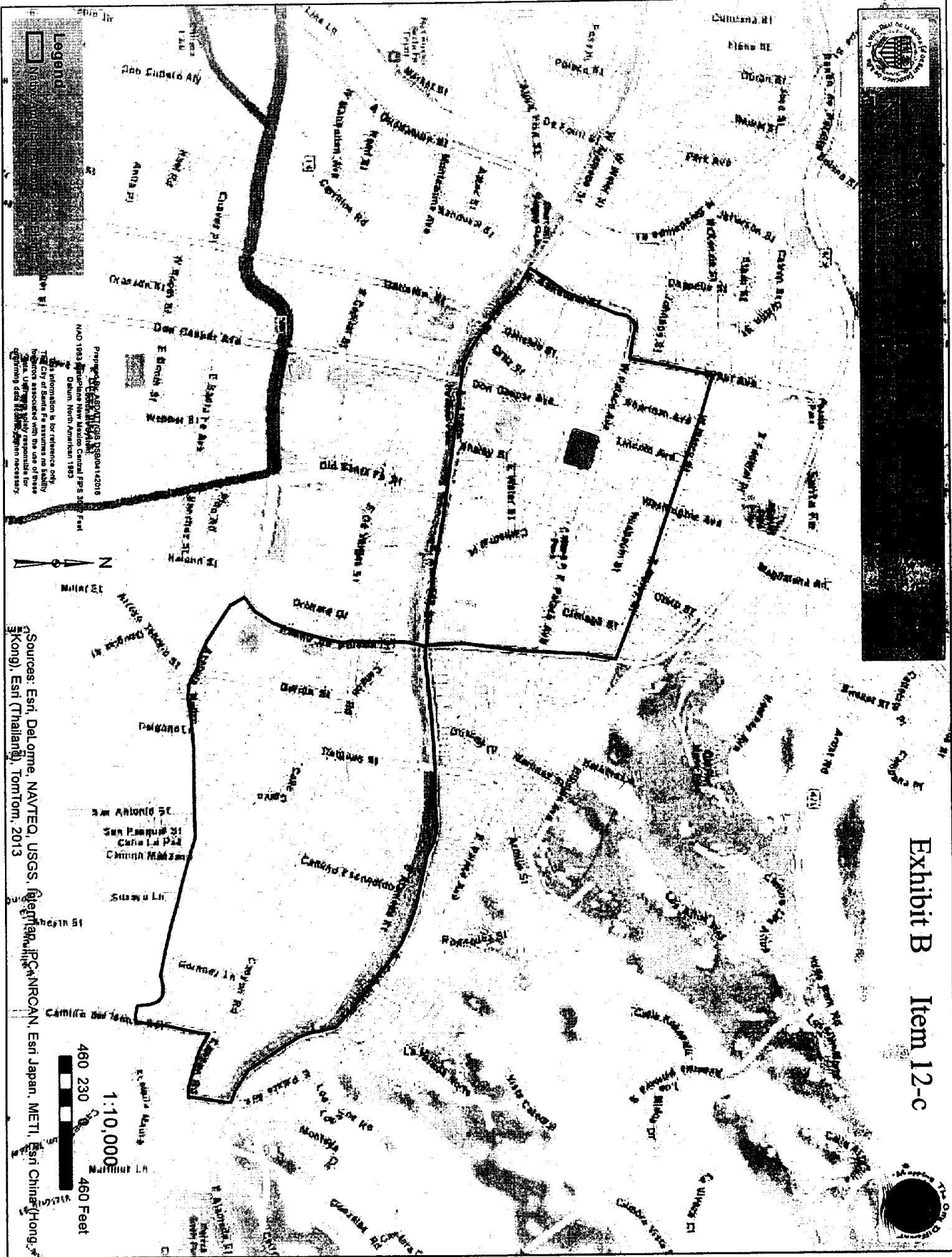
PUBLIC WORKS COMMITTEE ACTION: Approved on consent

FUNDING SOURCE:

SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON IVES	Excused		
COUNCILOR MAESTAS	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	Excused		
COUNCILOR VILLARREAL	X		

Exhibit "2"



CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2016-__
Native American Arts or Crafts District

Mayor and Members of the City Council:

We propose the following amendment(s) to Bill No. 2016-__:

1. On page 3, line 19 *delete* "and" and *insert* in lieu thereof "or"
2. On page 5, line 9 after "item" *insert* "or otherwise claimed to be Native American handmade, however phrased"
3. On page 5, line 14 *delete* "and" and *insert* in lieu thereof "or"

Respectfully submitted,

Signe I. Lindell, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

Yolanda Y. Vigil, City Clerk

We, the undersigned, find the berm at W Santa Fe Ave and Galisteo Street to be a nuisance for the following reasons:

1. It creates an ice pond to the east of the berm that lingers for a long time because it is shaded making use of the intersection hazardous.
2. The berm does not appear to prevent flooding at the intersection since water and debris go over the berm and the berm redirects water up onto sidewalks and clogs the grates North of it.

R. E. JOHNSON
 SIGN NAME ADDRESS DATE
 610 GALISTEO ST 8/9/14

Mary Gutierrez
 SIGN NAME ADDRESS DATE
 605 GALISTEO ST 8/9/2014

MARY ARMISO
 SIGN NAME ADDRESS DATE
 616 1/2 GALISTEO STREET, S.F., N.M. 87505 8/9/14

R. S. Clifford
 SIGN NAME ADDRESS DATE
 616 1/2 GALISTEO STREET, 87505 8-9-14

JAMES V. V. 1
 SIGN NAME ADDRESS DATE
 138 W. Santa Fe Ave 8-11-14

R. P. M. 1
 SIGN NAME ADDRESS DATE
 125 W SANTA FE 8-11-14

Belinda Ornela
 SIGN NAME ADDRESS DATE
 145 W Santa Fe 8-11-14

Michelle (Catalina) 1
 SIGN NAME ADDRESS DATE
 145 West Santa Fe 8-11-14

William Frost
 SIGN NAME ADDRESS DATE
 619 Galisteo & Santa Fe 8-11-14

Jamall Fisher
 SIGN NAME ADDRESS DATE
 619 Galisteo & Santa Fe 8-11-14

Miranda
 SIGN NAME ADDRESS DATE
 138 W Santa Fe Ave 8/11/14

St. James
 SIGN NAME ADDRESS DATE
 616 1/2 GALISTEO ST. 8-25-2014

EXHIBIT "5"

We, the undersigned, find the berm at W Santa Fe Ave and Galisteo Street to be a nuisance for the following reasons:

1. It creates an ice pond to the east of the berm that lingers for a long time because it is shaded making use of the intersection hazardous.
2. The berm does not appear to prevent flooding at the intersection since water and debris go over the berm and the berm redirects water up onto sidewalks and clogs the grates North of it.

Ernesto Barrera 6054 Galisteo 8-25-14

SIGN NAME	ADDRESS	DATE
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Karen B. Barrera	6054 Galisteo	08/25/14
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SIGN NAME	ADDRESS	DATE
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Andrea Amador	613 Galisteo	8/25/14
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SIGN NAME	ADDRESS	DATE
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Christina Hogg	613-A GALISTEO	8/25/14
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SIGN NAME	ADDRESS	DATE
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Chris Nail	613 A GALISTEO ST	8/25/14
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SIGN NAME	ADDRESS	DATE
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Chris Nail	1434 Santa Fe Ave	8-25-14
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SIGN NAME	ADDRESS	DATE
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Sarah B. Barrera	141 W SANTA FE AVE	8/25/14
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SIGN NAME	ADDRESS	DATE
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DARRYA Hughes	120 W. SANTA FE	8-25-14
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SIGN NAME	ADDRESS	DATE
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Darrya P. Hughes	APT A	8-25-14
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SIGN NAME	ADDRESS	DATE
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Darrya Hughes	120 W. S.F. Ave	8/25/14
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SIGN NAME	ADDRESS	DATE
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Andrew Main	APT I	8/25/14
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SIGN NAME	ADDRESS	DATE
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Andrew Main	120 W. Santa Fe Ave	8/25/14
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SIGN NAME	ADDRESS	DATE
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Imron Schuender	420 W Santa Fe Ave # H	8/25/14
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SIGN NAME	ADDRESS	DATE
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Linda Branscomb	120 W. Santa Fe Ave # 6	8/25/14
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SIGN NAME	ADDRESS	DATE
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Goro Keskci	120 W. Santa Fe Ave # 6	8/25-14
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293

We, the undersigned, find the berm at W Santa Fe Ave and Galisteo Street to be a nuisance for the following reasons:

1. It creates an ice pond to the east of the berm that lingers for a long time because it is shaded making use of the intersection hazardous.
2. The berm does not appear to prevent flooding at the intersection since water and debris go over the berm and the berm redirects water up onto sidewalks and clogs the grates North of it.

SHIMON HALEVI

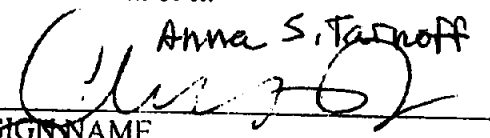
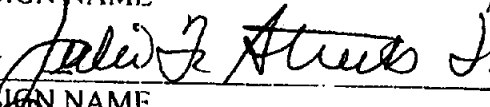
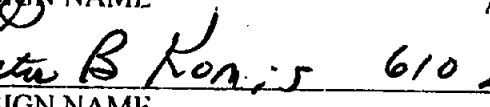
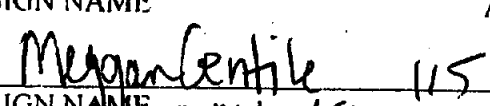
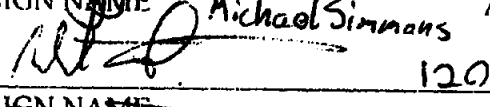
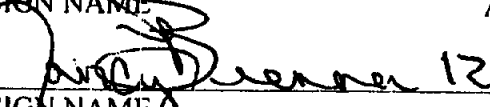
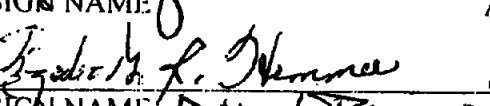
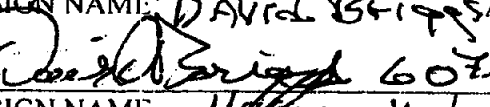
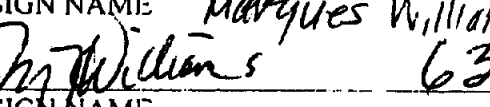
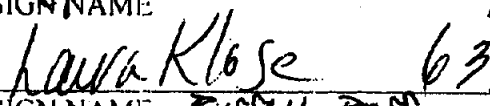
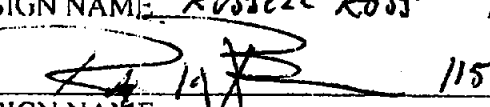
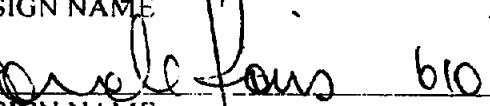
605 GALISTEO 16 Sept 2014

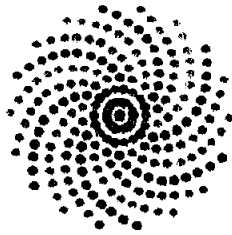
SIGN NAME	ADDRESS	DATE
Angela Bivins	Unit B 123 West Santa Fe Ave	9/16/14
Michelle Meyer	121 W. Santa Fe Ave.	9-16-14
MARCUS GUNZLER	111 E. SANTA FE AVE	9-16-14
Slavica Grosanic	111 E. Santa Fe Ave	9-16-14
FERN Goodman	115 W. Santa Fe J	9-16-14
Will Gethin - Jones	115 W. Santa Fe Ave J	9-18-14
Hideko Amasaki	Unit H 115 W. SF. Ave.	9-16-14
Bryan Orr	Unit F 115 W. Santa Fe Ave	87505
Lori Valdez	Unit A 115 W. Santa Fe Ave	9/16/14
Stephanie Benvenuto	604 Galisteo St	9/16/14
Miran Cadden	604 Galisteo St.	9/21/14

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We, the undersigned, find the berm at W Santa Fe Ave and Galisteo Street to be a nuisance for the following reasons:

1. It creates an ice pond to the east of the berm that lingers for a long time because it is shaded making use of the intersection hazardous.
2. The berm does not appear to prevent flooding at the intersection since water and debris go over the berm and the berm redirects water up onto sidewalks and clogs the grates North of it.

	Anna S. Tarnoff	604 Galisteo St.	9-21-14
SIGN NAME	ADDRESS	DATE	
	Julie Streets		9/21/14
SIGN NAME	ADDRESS	DATE	
	Rita B. Konis	610 Don Gaspar Ave	22 SEP 14
SIGN NAME	ADDRESS	DATE	
	Megan Gentile	115 W Santa Fe Ave #B	9/22/2014
SIGN NAME	ADDRESS	DATE	
	Michael Simmons	120 W Santa Fe Ave #B	9/22/14
SIGN NAME	ADDRESS	DATE	
	David B. Hanner	120 W Santa Fe Ave #D	9/22/14
SIGN NAME	ADDRESS	DATE	
	David B. Hanner	616 1/2 Galisteo St	9-22-14
SIGN NAME	ADDRESS	DATE	
	David B. Hanner	60 1/2 Galisteo	9/22/14
SIGN NAME	ADDRESS	DATE	
	Marques Williams	632 Galisteo	9/22/14
SIGN NAME	ADDRESS	DATE	
	Laura Klose	632 Galisteo	9/22/14
SIGN NAME	ADDRESS	DATE	
	Russell Ross	115 W. Santa Fe Ave. #K	9/23/14
SIGN NAME	ADDRESS	DATE	
	David B. Hanner	610 Don Gaspar Ave.	23 Sept 2014
SIGN NAME	ADDRESS	DATE	



SANTA FE GREEN CHAMBER OF COMMERCE

ITEM #H-9

May 4, 2016

Board of Directors

President

Kim Griego-Kiel

Vice President

Robb Hirsch

Secretary

Andrea Romero

Treasurer

Kim Shanahan

Members

Marc Choyt

Robert Mang

Helene Minot

Karen Paramanandam

Carolyn Parrs

Chris Putnam

To whom it may concern:

On Saturday May 14th the Santa Fe Green Chamber of Commerce is holding its 3rd Annual Santa Fe Green Festival at El Museo Cultural de Santa Fe located at 555 Camino de la Familia. Our event will start at 8:00 a.m. and run until 4:00 p.m. We will have workshops on Green Building, solar and all kinds of green businesses will be presenting their products and services. We expect attendance to be between 300-500 people.

At 12:00 p.m. Bathtub Row Brewing Co-op will begin serving their beer in a fenced-in area that has one entrance from the exhibitor area. The size of this area will accommodate a maximum of 100 people. Bathtub Row Brewing Co-op will be designating one of their certified servers to act as security at the entrance. He will not be serving and will be on security duty for the four hours of beer service.

If you have any questions, please don't hesitate to contact me.

Best regards,

Glenn Schiffbauer
Executive Director

Executive Director

Glenn Schiffbauer

Exhibit "6"

City of Santa Fe



New Mexico

\$36,665,000 Water Utility System Refunding Revenue Bonds, Series 2016

May 11, 2016

The Following Ratings Have Been Assigned:

Standard and Poor's	Fitch
"AAA"	"AA+"

Exhibit "7"



Refunding and Cash Defeasance of Series 2009A&B

- \$17 million cash contributed
 - After redemption of Series 2006D, and contribution of \$17 million to refunding of Series 2009A&B, annual debt service of Water System declines
 - From over \$8.63 million per year to less than \$3.36 million per year
 - Total debt service savings from refunding/defeasance - **\$29,297,683**
 - Releases pledge of capital outlay GRT
-
-



Refunding Savings Summary

FYE	Refunded	Refunding	Savings
30-Jun	Net Debt Service	Debt Service	
2017	\$ 3,183,810	\$ 2,280,289	\$ 903,521
2018	3,182,648	2,280,000	902,648
2019	3,183,598	2,277,500	906,098
2020	3,184,198	2,279,700	904,498
2021	3,183,398	2,278,300	905,098
2022	3,181,898	2,275,500	906,398
2023	3,183,148	2,276,300	906,848
2024	3,181,898	2,280,300	901,598
2025	3,183,148	2,276,550	906,598
2026	4,431,648	2,275,300	2,156,348
2027	4,434,898	2,276,700	2,158,198
2028	4,186,898	2,277,600	1,909,298
2029	4,183,048	2,276,100	1,906,948
2030	4,175,351	2,861,600	1,313,751
2031	4,175,252	2,859,000	1,316,252
2032	4,170,549	2,858,400	1,312,149
2033	4,166,242	2,859,600	1,306,642
2034	4,157,120	2,847,400	1,309,720
2035	4,153,183	2,832,200	1,320,983
2036	4,149,014	2,824,000	1,325,014
2037	4,144,403	2,822,400	1,322,003
2038	4,139,141	2,817,000	1,322,141
2039	3,977,734	2,802,800	1,174,934
	\$ 87,292,222	\$ 57,994,539	\$ 29,297,683
True Interest Cost (TIC) on Refunding Bonds			
Net Present Value Savings			\$ 3,594,760
As a % of Refunded Bonds			6.488%



Sources and Uses

Sources:

Bond Proceeds:

Par Amount	\$ 36,665,000
Premium	5,006,803
	<u>41,671,803</u>

Other Sources of Funds:

Debt Service Reserve Fund	5,430,284
Cash Contribution	17,000,000
	<u>22,430,284</u>

Total Sources

64,102,087

Uses:

Refunding Escrow Deposits:

Cash Deposit	1,026
Open Market Purchases	63,492,975
	<u>63,494,001</u>

Delivery Date Expenses:

Cost of Issuance	322,000
Underwriter's Discount	208,420
Assured Surety Policy (2.70%)	77,263
	<u>607,683</u>

Other Uses of Funds:

Additional Proceeds	402
	<u>402</u>

Total Uses

64,102,087



Tax Exempt Pricing Page

FYE	Amount	Coupons	Yields	Price
2017	\$ 900,000	3.000%	0.600%	102.303
2018	875,000	2.000%	0.700%	102.531
2019	890,000	2.000%	0.840%	103.388
2020	910,000	4.000%	0.920%	111.961
2021	945,000	4.000%	1.030%	114.335
2022	980,000	4.000%	1.170%	116.256
2023	1,020,000	5.000%	1.300%	124.557
2024	1,075,000	5.000%	1.420%	126.867
2025	1,125,000	5.000%	1.540%	128.865
2026	1,180,000	2.000%	1.690%	102.831
2027	1,205,000	2.000%	1.880%	101.085
2028	1,230,000	5.000%	1.900%	128.018
2029	1,290,000	5.000%	1.970%	127.289
2030	1,940,000	4.000%	2.220%	115.832
2031	2,015,000	4.000%	2.310%	114.964
2032	2,095,000	4.000%	2.390%	114.198
2033	2,180,000	4.000%	2.450%	113.629
2034	2,255,000	4.000%	2.510%	113.062
2035	2,330,000	4.000%	2.570%	112.499
2036	2,415,000	4.000%	2.630%	111.939
Term 2039	7,810,000	4.000%	2.750%	110.828
	<u>\$ 36,665,000</u>			C

"C" indicates maturity is priced to the optional call date of 6/1/2026

True Interest Cost (TIC) on Refunding Bonds 2.87%



Summary of Bonds Refunded

Series 2009A						Series 2009B			
Maturity Date	Interest Rate	Par Amount	Call Date	Call Price		Interest Rate ⁽¹⁾	Par Amount	Call Date	Call Price
6/1/2017	3.250%	\$ 805,000							
6/1/2018	3.500%	830,000							
6/1/2019	4.000%	860,000							
6/1/2020	4.000%	895,000	6/1/2019	100					
6/1/2021	5.000%	930,000	6/1/2019	100					
6/1/2022	5.000%	975,000	6/1/2019	100					
6/1/2023	5.000%	1,025,000	6/1/2019	100					
6/1/2024	5.000%	1,075,000	6/1/2019	100					
6/1/2025	5.000%	1,130,000	6/1/2019	100					
6/1/2026	5.000%	2,435,000	6/1/2019	100					
6/1/2027	5.000%	2,560,000	6/1/2019	100					
6/1/2028					6.000%	2,440,000	6/1/2019	100	
6/1/2029					6.000%	2,535,000	6/1/2019	100	
6/1/2030					6.200%	2,630,000	6/1/2019	100	
6/1/2031					6.200%	2,740,000	6/1/2019	100	
6/1/2032					6.200%	2,850,000	6/1/2019	100	
6/1/2033					6.200%	2,965,000	6/1/2019	100	
6/1/2034					6.200%	3,080,000	6/1/2019	100	
6/1/2035					6.200%	3,205,000	6/1/2019	100	
6/1/2036					6.200%	3,335,000	6/1/2019	100	
6/1/2037					6.200%	3,470,000	6/1/2019	100	
6/1/2038					6.200%	3,610,000	6/1/2019	100	
6/1/2039					6.200%	9,030,000	6/1/2019	100	
		\$ 13,520,000				\$ 41,890,000			

⁽¹⁾ Approximate net interest rate after Federal credit = 4.03%



Prior Debt Service of Water System

FYE	Aggregate					
30-Jun	Series 2006D	Series 2008	Series 2009A	Series 2009B	Series 2013	Debt Service
2016	\$ 4,369,594	\$ 926,410	\$ 1,435,313	\$ 1,746,898	\$ 153,194	\$ 8,631,408
2017	4,373,594	926,445	1,436,913	1,746,898	153,194	8,637,043
2018	4,375,594	926,482	1,435,750	1,746,898	153,193	8,637,917
2019	4,375,344	926,518	1,436,700	1,746,898	153,193	8,638,653
2020	4,367,594	926,556	1,437,300	1,746,898	153,193	8,631,540
2021	4,277,344	926,593	1,436,500	1,746,898	153,194	8,540,529
2022	4,273,344	926,632	1,435,000	1,746,898	153,194	8,535,067
2023	4,276,094	926,672	1,436,250	1,746,898	153,193	8,539,107
2024	4,274,156	926,712	1,435,000	1,746,898	153,194	8,535,959
2025	4,274,156	926,753	1,436,250	1,746,898	153,193	8,537,251
2026	-	926,796	2,684,750	1,746,898	153,193	5,511,636
2027	-	926,838	2,688,000	1,746,898	153,193	5,514,929
2028	-	926,882	-	4,186,898	153,193	5,266,973
2029	-	926,927	-	4,183,048	153,193	5,263,168
2030	-	-	-	4,175,350	153,193	4,328,544
2031	-	-	-	4,175,252	153,193	4,328,446
2032	-	-	-	4,170,549	153,194	4,323,743
2033	-	-	-	4,166,242	153,194	4,319,435
2034	-	-	-	4,157,120	153,194	4,310,313
2035	-	-	-	4,153,183	-	4,153,183
2036	-	-	-	4,149,014	-	4,149,014
2037	-	-	-	4,144,403	-	4,144,403
2038	-	-	-	4,139,141	-	4,139,141
2039	-	-	-	4,132,787	-	4,132,787
	<u>\$ 43,236,813</u>	<u>\$ 12,973,216</u>	<u>\$ 19,733,725</u>	<u>\$ 70,895,761</u>	<u>\$ 2,910,677</u>	<u>\$ 149,750,191</u>



Debt Service of Water System After Redemption of 2006D

FYE	Series 2008	Series 2009A	Series 2009B	Series 2013	Aggregate Debt Service
30-Jun					
2016	\$ 926,410	\$ 1,435,313	\$ 1,746,898	\$ 153,194	\$ 4,261,814
2017	926,445	1,436,913	1,746,898	153,194	4,263,449
2018	926,482	1,435,750	1,746,898	153,193	4,262,323
2019	926,518	1,436,700	1,746,898	153,193	4,263,309
2020	926,556	1,437,300	1,746,898	153,193	4,263,947
2021	926,593	1,436,500	1,746,898	153,194	4,263,185
2022	926,632	1,435,000	1,746,898	153,194	4,261,724
2023	926,672	1,436,250	1,746,898	153,193	4,263,013
2024	926,712	1,435,000	1,746,898	153,194	4,261,803
2025	926,753	1,436,250	1,746,898	153,193	4,263,094
2026	926,796	2,684,750	1,746,898	153,193	5,511,636
2027	926,838	2,688,000	1,746,898	153,193	5,514,929
2028	926,882	-	4,186,898	153,193	5,266,973
2029	926,927	-	4,183,048	153,193	5,263,168
2030	-	-	4,175,350	153,193	4,328,544
2031	-	-	4,175,252	153,193	4,328,446
2032	-	-	4,170,549	153,194	4,323,743
2033	-	-	4,166,242	153,194	4,319,435
2034	-	-	4,157,120	153,194	4,310,313
2035	-	-	4,153,183	-	4,153,183
2036	-	-	4,149,014	-	4,149,014
2037	-	-	4,144,403	-	4,144,403
2038	-	-	4,139,141	-	4,139,141
2039	-	-	4,132,787	-	4,132,787
	<u>\$ 12,973,216</u>	<u>\$ 19,733,725</u>	<u>\$ 70,895,761</u>	<u>\$ 2,910,677</u>	<u>\$ 106,513,378</u>

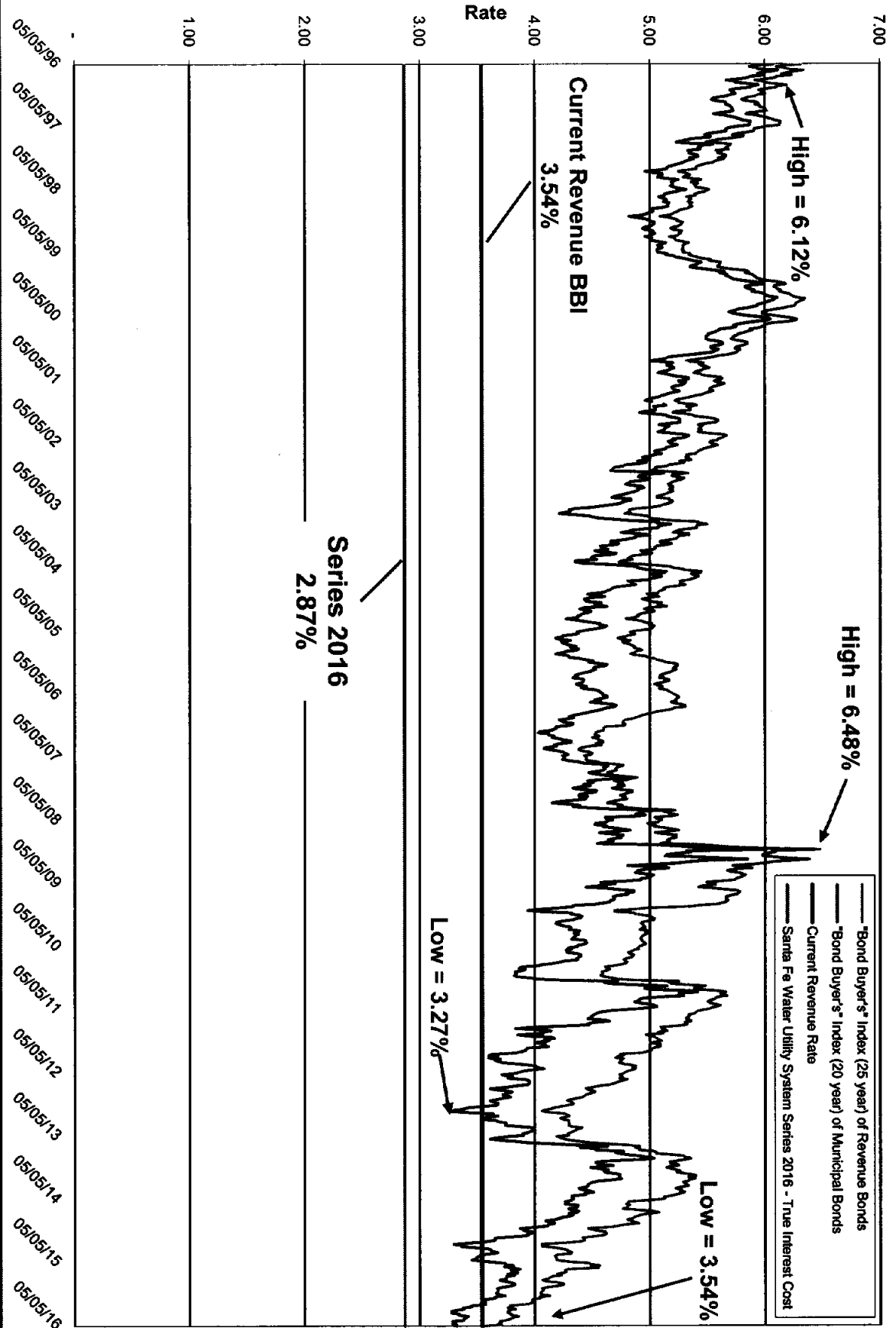


Debt Service of Water System After Refunding/Defeasance of Series 2009A&B

FYE	Series 2008	Series 2013	Series 2016	Aggregate Debt Service
30-Jun				
2016	\$ 926,410	\$ 153,194	\$ -	\$ 1,079,604
2017	926,445	153,194	2,280,289	3,359,928
2018	926,482	153,193	2,280,000	3,359,675
2019	926,518	153,193	2,277,500	3,357,211
2020	926,556	153,193	2,279,700	3,359,449
2021	926,593	153,194	2,278,300	3,358,087
2022	926,632	153,194	2,275,500	3,355,326
2023	926,672	153,193	2,276,300	3,356,165
2024	926,712	153,194	2,280,300	3,360,205
2025	926,753	153,193	2,276,550	3,356,497
2026	926,796	153,193	2,275,300	3,355,289
2027	926,838	153,193	2,276,700	3,356,732
2028	926,882	153,193	2,277,600	3,357,675
2029	926,927	153,193	2,276,100	3,356,220
2030		153,193	2,861,600	3,014,793
2031		153,193	2,859,000	3,012,193
2032		153,194	2,858,400	3,011,594
2033		153,194	2,859,600	3,012,794
2034		153,194	2,847,400	3,000,594
2035			2,832,200	2,832,200
2036			2,824,000	2,824,000
2037			2,822,400	2,822,400
2038			2,817,000	2,817,000
2039			2,802,800	2,802,800
	<u>\$ 12,973,216</u>	<u>\$ 2,910,677</u>	<u>\$ 57,994,539</u>	<u>\$ 73,878,431</u>



City of Santa Fe **Water Utility System Refunding Revenue Bonds, Series 2016**





FIRST SOUTHWEST COMPANY
"Real Property" Index of 25 Business Bonds
 Each Valuation of Five Bonds

The most important guide to be used for the Historical Business Bond Market has been in our time period system number is the "Real Property" 25 Business Bond Index. Published on Thursday of each week, it is the accepted guide of the Historical Bond Industry for business bonds and investments of interest rates in the market. The index is based on 25 year business bonds of 25 issues and from "Year" to "Year" by Moody's Investors Service, Inc. and from "Year" to "Year" by Standard & Poor's Corporation. Bonds in the index include Housing, Transportation, Hospital and Public Utility Credits.

Month	Week	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
January	1	5.16	5.03	4.98	5.00	4.90	4.72	4.60	4.66	5.44	4.93	4.73	4.63	4.30	5.10	4.26	3.78
	2	5.20	4.92	4.82	5.11	4.55	4.66	5.00	4.93	5.69	4.74	4.76	4.24	4.26	5.34	4.06	3.79
	3	5.20	4.94	4.89	5.08	4.55	4.63	5.72	4.91	5.66	4.77	4.22	4.22	5.33	4.06	3.76	
	4	5.17	5.02	4.90	5.15	4.59	4.76	5.82	4.90	5.61	4.71	4.24	4.24	5.28	4.06	3.83	
	5	5.20					4.76	5.89							5.80		
February	1	5.20	4.96	4.86	5.17	4.59	4.72	5.74	4.96	5.63	4.70	4.29	4.29	5.32	4.16	3.78	
	2	5.16	4.85	4.79	5.14	4.53	4.82	5.67	4.96	5.67	4.77	4.30	4.30	5.33	4.23	3.76	
	3	5.14	4.83	4.78	5.09	4.51	4.94	5.70	4.97	5.69	4.74	4.30	4.30	5.37	4.28	3.76	
	4	5.10	4.81	4.93	5.04	4.49	5.22	5.76	4.94	5.57	4.75	4.29	4.29	5.22	4.28	3.76	
	5																
March	1	5.06	4.85	4.86	5.07	4.41	5.11	5.80	4.93	5.56	4.73	4.31	4.31	5.27	4.32	3.79	
	2	5.06	4.75	5.02	5.11	4.39	5.15	5.83	4.92	5.52	4.76	4.31	4.31	5.26	4.31	3.86	
	3	5.17	4.73	4.99	5.08	4.45	5.17	5.81	4.92	5.50	4.83	4.37	4.37	5.20	4.19	3.81	
	4	5.17	4.79	5.04	5.08	4.41	5.24	5.78	4.93	5.52	4.84	4.35	4.35	5.26	4.17	3.76	
	5			5.03	5.14	4.48			4.94	5.56	4.83					3.76	
April	1	5.20	4.91	5.02	5.16	4.50	5.18	5.75	4.96	5.61	4.88	4.33	4.33	5.23	4.18	3.69	
	2	5.19	4.97	4.96	5.16	4.49	5.04	5.74	4.96	5.54	4.85	4.30	4.30	5.18	4.18	3.75	
	3	5.16	4.94	4.94	5.16	4.49	5.04	5.64	4.91	5.54	4.81	4.29	4.29	5.12	4.18	3.68	
	4	5.11	5.28	4.83	5.22	4.45	5.10	5.69	4.81	5.51	4.78	4.29	4.29	5.13	4.22	3.71	
	5		5.28					5.57							4.31		
May	1	5.09	5.32	4.84	5.24	4.45	5.07	5.57	4.89	5.45	4.77	4.19	4.19	5.10	4.47	3.54	
	2	5.01	5.45	4.87	5.24	4.44	5.07	5.66	4.90	5.41	4.75	4.22	4.22	4.97	4.48		
	3	4.88	5.44	4.81	5.24	4.46	4.98	5.62	4.86	5.40	4.75	4.25	4.25	4.81	4.56		
	4	4.82	5.36	4.78	5.22	4.55	4.99	5.53	4.84	5.38	4.76	4.30	4.30	4.81	4.48		
	5	4.82					5.05				4.73	4.39	4.39	4.79			
June	1	4.83	5.39	4.75	5.23	4.60	5.04	5.63	4.81	5.33	4.80	4.47	4.47	4.82	4.55		
	2	4.78	5.42	4.75	5.18	4.77	5.14	5.76	4.82	5.34	4.75	4.62	4.62	4.80	4.28		
	3	4.89	5.40	4.83	5.29	4.74	5.20	5.78	4.86	5.32	4.72	4.81	4.81	4.80	4.26		
	4	4.97	5.37	4.76	5.27	4.71	5.25	5.77	4.85	5.31	4.69	4.91	4.91	4.76	4.27		
	5			4.77	5.31					5.34							
July	1	4.99	5.34	4.82	5.31	4.70	5.14	5.76	4.84	5.36	4.65	4.87	4.87	4.90	4.25		
	2	5.00	5.26	4.84	5.21	4.71	5.04	5.70	4.79	5.30	4.56	4.91	4.91	5.03	4.19		
	3	5.10	5.27	4.87	5.19	4.67	5.11	5.66	4.77	5.32	4.51	4.90	4.90	5.07	4.23		
	4	5.20	5.26	4.86	5.13	4.63	5.23	5.67	4.78	5.32	4.44	5.03	5.03	4.99	4.15		
	5		5.31				5.20	5.66	4.80					4.93	4.13		
August	1	5.42	5.24	4.96	5.06	4.86	5.23	5.68	4.70	5.21	4.66	5.05	5.05	4.89	4.11		
	2	5.42	5.15	4.93	5.02	4.67	5.17	5.66	4.74	5.09	4.50	5.05	5.05	4.86	4.06		
	3	5.36	5.12	4.88	4.97	4.75	5.15	5.62	4.69	5.10	4.52	5.18	5.18	4.85	4.08		
	4	5.41	5.13	4.87	4.91	4.89	5.17	5.59	4.61	5.13	4.45	5.29	5.29	4.80	4.20		
	5	5.40			4.91	4.83											
September	1	5.44	5.09	4.83	4.89	4.81	5.15	5.63	4.63	5.15	4.43	5.35	5.35	4.83	4.25		
	2	5.33	5.07	4.87	4.85	4.80	5.10	5.63	4.63	5.07	4.43	5.31	5.31	4.80	4.25		
	3	5.24	5.01	4.86	4.79	4.76	5.04	5.68	4.63	5.11	4.37	5.24	5.24	4.80	4.18		
	4	5.22	4.97	4.86	4.77	4.73	5.56	5.66	4.58	5.04	4.31	5.17	5.17	4.78	4.10		
	5			5.04					4.59	5.01							
October	1	5.20	5.02	5.06	4.77	4.72	5.09	4.69	4.58	5.04	4.29	5.17	5.17	4.72	4.06		
	2	5.14	5.04	5.13	4.76	4.71	5.07	4.69	4.57	5.07	4.32	5.23	5.23	4.65	4.07		
	3	5.14	4.99	5.13	4.79	4.73	5.08	4.66	4.60	5.07	4.33	5.25	5.25	4.66	4.07		
	4	5.25	4.93	5.21	4.78	4.67	5.05	4.87	4.67	5.10	4.33	5.14	5.14	4.49	4.05		
	5	5.24	4.97				6.09	4.95						4.53	4.05		
November	1	5.23	4.99	5.24	4.61	4.73	6.02	5.01	4.71	5.05	4.29	5.18	5.18	4.61	4.05		
	2	5.17	5.10	5.24	4.69	4.85	5.08	5.02	4.87	5.00	4.23	5.23	5.23	4.62	4.13		
	3	5.09	5.07	5.23	4.69	4.85	5.08	5.04	5.25	5.06	4.17	5.26	5.26	4.62	4.04		
	4	5.09	5.07	5.20	4.69	4.80	6.06	5.03	5.16	5.06	4.14	5.23	5.23	4.58	4.05		
	5																
December	1	5.19	5.15	5.23	4.53	4.74	6.17	4.98	5.18	5.09	4.06	5.30	5.30	4.50	3.98		
	2	5.15	4.99	5.20	4.57	4.70	6.29	4.91	5.32	5.03	4.12	5.17	5.17	4.41	3.97		
	3	5.06	4.95	5.19	4.53	4.76	6.22	4.92	5.48	5.01	4.26	5.40	5.40	4.43	3.97		
	4	5.04	5.00	5.15	4.56	4.80	6.07	4.95	5.42	5.04	4.28	5.33	5.33	4.43	3.97		
	5	5.05	5.04	5.11				4.95	5.38	4.97				4.39	3.93		

Final – May 11, 2016

AN ABSTRACT OF PROCEEDINGS

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

The City Council (the "Council") of the City of Santa Fe (the "City") in the County of Santa Fe, State of New Mexico, met in regular session in full conformity with law and ordinances and rules of the City, at City Hall, being the regular meeting place of the Council, at the hour of 7:00 p.m., on Wednesday, the 11th day of May, 2016.

Upon roll call the following were found to be present, constituting a quorum of the Council:

Mayor:

Members:

Absent:

Exhibit "8"

Thereupon the following proceedings, among others, were had and taken:

PUBLIC HEARINGS

CONSIDERATION OF BILL NO. 2016-__

ADOPTION OF ORDINANCE NO. 2016-__

Issuance of Water Utility System Revenue Refunding Bonds, Series 2016

Oscar Rodriguez, Finance Director, presented Bill No. 2016-__

CITY OF SANTA FE, NEW MEXICO

ORDINANCE NO. 2016-__

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO WATER UTILITY SYSTEM REFUNDING REVENUE BONDS, SERIES 2016 IN AN AGGREGATE PRINCIPAL AMOUNT OF \$36,665,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING, DEFEASING, DISCHARGING, AND/OR RESTRUCTURING CERTAIN OUTSTANDING WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX OBLIGATIONS OF THE CITY; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE CITY'S WATER UTILITY SYSTEM; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AND ESCROW AGREEMENT; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS AND THE OUTSTANDING REFUNDED OR RESTRUCTURED WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX OBLIGATIONS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; AMENDING AND RESTATING ORDINANCE NO. 2006-47; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS.

Capitalized terms used in the following preambles are defined in Article I of this Master Ordinance, unless the context requires otherwise.

WHEREAS, the City is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State and is operating as a home rule city pursuant to Article X, Section 6 of the Constitution of the State and the Charter of the City; and

WHEREAS, the City now owns, operates and maintains a water utility system (the "System"); and

WHEREAS, pursuant to Ordinance No. 2004-50, passed and adopted by the Council on November 10, 2004, and subsequently approved at an election in the City conducted on March 8, 2005, the City imposed a 0.25% Capital Outlay Gross Receipts Tax pursuant to Section 7-19D-12 NMSA 1978, effective as of July 1, 2005 (the "Capital Outlay Gross Receipts Tax Revenues"); and

WHEREAS, the City, pursuant to the Act, intends to issue revenue bonds from time to time to acquire, extend, enlarge, better, repair and otherwise improve or maintain the System; and

WHEREAS, the City pursuant to the Act and Ordinance No. 2006-47 (the "Original Master Ordinance"), passed and adopted by the City Council (the "Council") on August 9, 2006, issued its \$49,790,000 City of Santa Fe, New Mexico, Water Utility System/Capital Outlay Gross Receipts Tax Revenue Refunding Bonds, Series 2006D (the "2006D Bonds") with a first lien (but not an exclusive first lien) on the Net Revenues of the System and the Capital Outlay Gross Receipts Tax Revenues; and

WHEREAS, the City pursuant to the Act, the Original Master Ordinance and Ordinance No. 2008-19, passed and adopted by the Council on April 9, 2008, entered into a \$15,150,000 Taxable Drinking Water Revolving Fund Loan Agreement, by and between the City and the New Mexico Finance Authority, dated May 16, 2008 (the "2008 Loan") with a subordinate lien (but not an exclusive subordinate lien) on the Net Revenues of the System and the Capital Outlay Gross Receipts Tax Revenues; and

WHEREAS, the City pursuant to the Act, the Original Master Ordinance and Ordinance No. 2009-47, passed and adopted by the Council on November 10, 2009, issued its \$18,080,000 Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009A (Tax-Exempt) (the "2009A Bonds") and \$41,890,000 Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009B (Taxable Direct-Payment Build America Bonds) (the "2009B Bonds" and, together with the 2009A Bonds, the "2009 Bonds") with a first lien (but not an exclusive first lien) on the Net Revenues of the System and the Capital Outlay Gross Receipts Tax Revenues on a parity with the 2006D Bonds; and

WHEREAS, the City pursuant to the Act, the Original Master Ordinance and Ordinance No. 2013-13, passed and adopted by the Council on March 27, 2013, entered into a Drinking Water State Revolving Fund Loan and Subsidy Agreement, by and between the City and the New Mexico Finance Authority, in the maximum principal amount of \$5,050,000 dated May 3, 2013 (the "2013 Loan") with a subordinate lien (but not an exclusive subordinate lien) on the Net Revenues of the System and the Capital Outlay Gross Receipts Tax Revenues on a parity with the 2008 Loan; and

WHEREAS, except for the outstanding 2006D Bonds, the 2008 Loan, the 2009 Bonds, and the 2013 Loan, there are no obligations presently outstanding to which Net Revenues of the System and the Capital Outlay Gross Receipts Tax Revenues have previously been pledged by the City; and

WHEREAS, the City has deposited funds with BOKF, NA pursuant to a Deposit Agreement to fully prepay and redeem the 2006D Bonds on June 1, 2016; and

WHEREAS, the City desires to restructure and defease the obligations outstanding pursuant to the Original Master Ordinance and to restate and amend the

Original Master Ordinance to remove the pledge of the Capital Outlay Gross Receipts Tax Revenues and to make other amendments as herein provided;

WHEREAS, the New Mexico Finance Authority has agreed to amend the 2008 Loan (the "2008 Loan Amendment") and the 2013 Loan (the "2013 Loan Amendment") to remove the pledge of and lien on the Capital Outlay Gross Receipts Tax Revenues; and

WHEREAS, the Council hereby determines that issuance of the "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016" (the "Series 2016 Bonds") and the application of certain legally available moneys of the City for the purpose of refunding, refinancing, discharging, paying and defeasing the outstanding 2009 Bonds (the "Refunded Bonds") on and prior to the optional redemption date of June 1, 2019, will eliminate certain restrictive covenants and contractual requirements, will release the pledge of and lien on the Capital Outlay Gross Receipts Tax Revenues, will permit the more effective arrangement of debt service requirements for System Bonds, and will effect other savings and economies, all to the benefit of the City, and consequently will provide for the public health, peace and safety of the City and its residents; and

WHEREAS, the City has determined to pay all principal of, interest on and applicable prior redemption premium due in connection with the Refunded Bonds as the same become due at and prior to their optional prior redemption date, from the proceeds of the Series 2016 Bonds herein authorized and from other legally available sources; and

WHEREAS, the Council hereby determines that the issuance of the Series 2016 Bonds to finance the costs of the Series 2016 Project and the issuance, from time to time, of System Bonds for the purpose of extending, enlarging, bettering, repairing and otherwise improving the System will provide for the public health, peace and safety of the City and its citizens; and

WHEREAS, the City will pledge certain Net Revenues of the System from the operation of the System for the payment of the Series 2016 Bonds and the System Bonds; and

WHEREAS, the Council hereby determines that it is in the best interests of the City that a Reserve Account Insurance Policy (the "2016 Reserve Account Insurance Policy") be acquired from Assured Guaranty Municipal Corp. (the "2016 Reserve Account Insurer") to satisfy the Reserve Requirement for the 2016 Bonds; and

WHEREAS, there have been presented to the Council and there presently are on file with the City Clerk (a) the Bond Purchase Agreement, (b) the Preliminary Official Statement dated May 4, 2016 (the "Preliminary Official Statement") previously distributed by the Purchaser to prospective purchasers of the Bonds, (c) a form of Continuing Disclosure Agreement, (d) a form of Escrow Agreement, and (e) the commitment from the Reserve Account Insurer for the Reserve Fund Insurance Policy to be provided in connection with the Reserve Fund for the Bonds (the "Commitment") and

related Series 2016 Insurance Agreement, each of which documents is incorporated by reference and considered to be a part hereof; and

WHEREAS, the Council has determined that it is necessary and in the best interests of the City and the residents of the City that the Series 2016 Bonds and other System Bonds be authorized and issued in one or more series pursuant to the Act, or any part of the Act, and, except for the terms of the Series 2016 Bonds which are established in this Master Ordinance, that the specific terms of each series of System Bonds be specified in a Supplemental Ordinance within the limitations set forth in this Master Ordinance; and

WHEREAS, additional System Bonds may be issued as Parity Bonds or Subordinated Bonds consistent with the provisions herein.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF SANTA FE:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. *Definitions.* As used in this Master Ordinance and in any Supplemental Ordinance, the following terms have the meanings specified, unless the context clearly requires otherwise:

"*Accreted Value*" means, unless stated otherwise in a Supplemental Ordinance, with respect to an Individual Capital Appreciation Bond, an amount equal to the original principal amount of that Capital Appreciation Bond plus the amount, assuming semiannual compounding of earnings, which would be produced on the investment of such original principal amount, beginning on the dated date of that Individual Capital Appreciation Bond and ending at the Accretion Term Date thereof, at an interest rate which, if continued until the Accretion Term Date, will produce the defined value of an Individual Capital Appreciation Bond at the Accretion Term Date. As of any Valuation Date, the Accreted Value of any Capital Appreciation Bond shall mean the amount set forth for such date in the applicable Supplemental Ordinance. As of any date other than a Valuation Date, the Accreted Value shall mean the sum of (a) the Accreted Value on the preceding Valuation Date and (b) the product of (i) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days between the preceding Valuation Date and the next succeeding Valuation Date, and (ii) the difference between the Accreted Values for such Valuation Dates.

"*Accretion Term Date*" means the maturity date of a Capital Appreciation Bond or the date on which a Capital Appreciation Bond converts to a Current Interest Bond.

"*Acquisition Account*" means an account of the Acquisition Fund to be established for each series of System Bonds issued to fund a Project for the purposes stated in Article XIV.

"*Acquisition Fund*" means the "City of Santa Fe Water Utility System Revenue Bonds Project Acquisition Fund," established in Article XVII.

"*Act*" means Sections 3-31-1 to 3-31-12 NMSA, the Short-Term Interest Rate Act, the powers of the City under authority given by the Charter, the constitution and laws of the State and enactments of the Council relating to the issuance of System Bonds made by resolution or ordinance, including this Master Ordinance and, with respect to a particular series of System Bonds other than the Series 2016 Bonds, the Supplemental Ordinance pertaining to that series.

"*AGM*" means Assured Guaranty Municipal Corp., the Reserve Account Insurer for the Series 2016 Bonds, and its successors.

"*Authenticating Agent*" means the Registrar, or other Fiscal Agent if otherwise designated by the applicable Supplemental Ordinance, required to authenticate a series of System Bonds.

"*Authorized Denominations*" means:

(a) with respect to Current Interest Bonds, denominations of \$5,000 or integral multiples of \$5,000;

(b) with respect to Capital Appreciation Bonds, the original principal amount on an Individual Capital Appreciation Bond of a series of System Bonds or any integral multiple of that amount unless otherwise specified for a series of System Bonds in the applicable Supplemental Ordinance; and

(c) with respect to Variable Rate Bonds, denominations of \$100,000 or integral multiples of \$100,000 unless otherwise specified for a series of System Bonds in the applicable Supplemental Ordinance.

"*Authorized Officer*" means the City's Mayor, Manager, Finance Director and Treasurer, or other officer or employee of the City when designated by a certificate signed by the Mayor of the City from time to time.

"*Balloon Indebtedness*" means, with respect to any series of System Bonds, twenty-five percent (25%) or more of the principal of which matures on the same date or within a Fiscal Year, that portion of such series of System Bonds which matures on such date or within such Fiscal Year; provided, however, that to constitute Balloon Indebtedness the amount of System Bonds of a series maturing on a single date or within a Fiscal Year must equal or exceed 150% of the amount of such series which matures during any preceding Fiscal Year. For purposes of this definition, the principal amount

maturing on any date shall be reduced by the amount of such System Bonds, scheduled to be amortized by prepayment or redemption prior to their stated maturity date.

"Bank" or "Insurer" means any bank, insurance company or other financial institution which provides a Credit Facility or Reserve Account Insurance Policy for a series of System Bonds.

"Bank Bond" means any System Bond purchased and held by or on behalf of a Bank pursuant to a Credit Facility.

"Bank Interest Rate" means the interest rate payable on Bank Bonds as set forth in an applicable Supplemental Ordinance for a series of System Bonds.

"Bond Counsel" means an attorney at law or a firm of attorneys, designated by the City, of nationally recognized standing in matters pertaining to the issuance of bonds by states and their political subdivisions.

"Bond Insurance Policy" means a municipal bond insurance policy issued by a Bond Insurer insuring the payment when due of the principal of and interest on Insured Bonds.

"Bond Insurer" means with respect to Insured Bonds or a Reserve Account Insurance Policy, any insurance company or financial institution issuing a Bond Insurance Policy or Reserve Account Insurance Policy and listed in this Master Ordinance or a Supplemental Ordinance.

"Bond Year" means, unless otherwise specified for a series of System Bonds in the applicable Supplemental Ordinance, the twelve-month period ending on July 1, except that the first Bond Year for each series of System Bonds shall be the period of time from the date of the System Bonds of that series until the next succeeding July 1.

"Business Day" means, for a series of System Bonds, any day during which any Bank, trustee, paying agent, remarketing agent and tender agent for that series, the offices of the City and the New York Stock Exchange are all open for business during normal business hours unless otherwise defined in the Supplemental Ordinance for a series of System Bonds.

"Capital Appreciation Bonds" means the System Bonds described in a Supplemental Ordinance on which the first scheduled date for payment of principal and/or interest is the Accretion Term Date. For the purposes of (a) receiving payment of the redemption price if a Capital Appreciation Bond is redeemed prior to maturity or (b) determining the principal amount of System Bonds held by the owner of a Capital Appreciation Bond in giving any notice, consent, request or demand pursuant to this Master Ordinance, Supplemental Ordinance or Related Documents for any purpose whatsoever, the principal amount of a Capital Appreciation Bond shall be deemed to be its Accreted Value. For the purpose of the definition of Debt Service Requirements, the

Accreted Value of Capital Appreciation Bonds becoming due shall be included in the calculation of accrued and unpaid and accruing interest and principal only from and after the date which is one year prior to the date on which the Accreted Value becomes payable.

"Capital Outlay Gross Receipts Tax Revenues" means (1) the monthly distribution of capital outlay gross receipts tax revenues to the City from the New Mexico Department of Taxation and Revenue pursuant to Sections 7-19D-12 and 7-1-6.15 NMSA 1978, which tax is imposed by City Ordinance No. 2004-50 passed and adopted on November 10, 2004 at a rate of $\frac{1}{4}$ th of one percent of the gross receipts on persons engaging in business in the City and (2) the portion of the gross receipts tax distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, which represents the capital outlay gross receipts tax revenues that would have been remitted to the City but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978 and any similar distributions made to the City in lieu of capital outlay gross receipts tax revenues.

"Charter" means the home rule charter of the City approved by the voters of the City on December 9, 1997, as amended and supplemented.

"City" means the City of Santa Fe in the State of New Mexico.

"Code" means the Internal Revenue Code of 1986, as amended, the federal income tax regulations of the Treasury Department (whether proposed, temporary or final) and any amendments of, or successor provision 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 of the Code in this Master Ordinance means that Section of the Code and such applicable regulations, rulings, announcements, notice, procedures and determinations pertinent to that Section.

"Completion Date" means the date of completion of the acquisition, construction and installation of a Project as certified pursuant to Article XIV.

"Consultant" means any consultant, consulting firm, engineer, architect, engineering firm, financial advisor, investment banker, accountant or accounting firm or other expert independent and not under the domination of the City and which does not have any substantial interest, direct or indirect, with the City and is not connected with the City as an officer or employee, recognized to be well-qualified for work of the character required and retained by the City to perform acts and carry out the duties provided for such consultant in this Master Ordinance.

"Consulting Engineer" means any registered or licensed professional engineer or firm of engineers or Independent Accountant, entitled to practice and practicing as such under the laws of the State, retained and compensated by the City but not in the regular employ of the City; but, as to any construction drawings and specifications prepared for

the System by City employees under the supervision of the City Engineer, this term may include the City Engineer.

"Cost" or "cost" of a Project means the costs of the City properly attributable to the financing, acquisition, construction, modification or improvement of such Project, and all expenses preliminary and incidental thereto incurred by the City in connection therewith and in connection with the issuance of System Bonds to finance such Project, including but not limited to:

- (1) the costs of acquiring, constructing, modifying or improving such Project and placing the same in service;
- (2) the initial or acceptance fee of any Fiscal Agents in connection with the issuance of such System Bonds;
- (3) such amounts, if any, as shall be necessary to reimburse the City in full for advances and payments previously made or costs previously incurred by the City for any item of Cost of such Project;
- (4) the costs of obtaining insurance policies, surety bonds or similar devices with respect to such Project during the period of the acquisition and construction of the Project;
- (5) audit fees and expenses for maintenance of construction records kept with respect to such Project;
- (6) costs of litigation and costs of obtaining permits, licenses and rulings with respect to such Project;
- (7) Expenses in connection with the issuance of such System Bonds;
- (8) the amount, if any, to be deposited into the Acquisition Fund or a Debt Service Account to pay interest on the System Bonds to the Completion Date of the Project and for up to twenty-four months thereafter;
- (9) the amounts, if any, to provide necessary working capital;
- (10) the amount, if any, to be deposited into the Reserve Account to satisfy all or a portion of the Reserve Requirement; and
- (11) any other expenses and costs related to such Project, including the fees and expenses of any Fiscal Agents during the acquisition, construction, modification or improvement of such Project.

"Council" means the governing body in which is vested the legislative power of the City.

"Counsel" means an attorney at law (who may be counsel to the City).

"Credit Facility" or *"Credit Facilities"* means a letter of credit, standby bond purchase agreement, line of credit, Bond Insurance Policy or Reserve Account Insurance Policy, guaranty or similar agreement provided by a Bond Insurer, Bank or Insurer whose policies of insurance or other credit facility would not in and of itself adversely affect the rating on the applicable System Bonds by S&P or by Moody's in effect at the time such credit facility is initially entered into, including any substitute therefor, to provide support to pay the purchase price of, or the payment when due of the principal of and interest on, System Bonds and which is approved in a Supplemental Ordinance for a series of System Bonds.

"Current Interest Bonds" means System Bonds on which interest is payable semiannually or at another regular interval stated in the Supplemental Ordinance for a series of System Bonds and which are not described as Capital Appreciation Bonds in that Supplemental Ordinance.

"Debt Service Account" means an account of the Debt Service Fund to be established for each series of System Bonds into which deposits are to be made for the payment of Debt Service Requirements on that series of System Bonds.

"Debt Service Fund" means the Debt Service Fund established in Article XVII.

"Debt Service Requirements," for any given period, means the sum of: (a) the amount required to pay the interest becoming due on the applicable System Bonds during that period, or to make reimbursements for payments of interest; and (b) the amount required to pay the principal or Accreted Value becoming due on the applicable System Bonds during that period, whether at maturity, the Accreted Term Date or upon mandatory sinking fund redemption dates, or to make reimbursements for payments of that principal or Accreted Value. For purposes of calculating the maximum annual Debt Service Requirements, the following assumptions shall be used:

(a) in determining the principal due in each year, payment shall (unless a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made on System Bonds in accordance with any amortization schedule established by this Master Ordinance, the Supplemental Ordinance or Related Documents setting forth the terms of such System Bonds, including, as a principal payment, the Accreted Value of any Capital Appreciation Bonds maturing or scheduled for redemption in such year; in determining the interest due in each year, interest payable at a fixed rate shall (except to the extent subsection (b), (c), (d), (e) or (f) of this definition applies) be assumed to be made at such fixed rate and on the required payment dates;

(b) if all or any portion or portions of an Outstanding series of System Bonds constitute Balloon Indebtedness, or if all or any portion or portions of a series of System Bonds then proposed to be issued would constitute Balloon Indebtedness, then, for purposes of determining Debt Service Requirements, each

maturity which constitutes Balloon Indebtedness shall, unless provision (c) of this definition then applies to such maturity, be treated as if it were to be amortized over a term of 20 years commencing in the year the stated maturity of such Balloon Indebtedness occurs and with substantially level annual debt service payments; the interest rate used for such computation shall be that rate determined by a Consultant to be a reasonable market rate for 20-year fixed-rate System Bonds issued under this Master Ordinance on the date of such calculation, with no credit enhancement and taking into consideration whether such System Bonds bear interest which is or is not excluded from gross income for federal income tax purposes; with respect to any series of System Bonds only a portion of which constitutes Balloon Indebtedness, the remaining portion shall be treated as described in (a) above or such other provision of this definition as shall be applicable and, with respect to any series or that portion of a series which constitutes Balloon Indebtedness, all payments of principal and interest becoming due prior to the year of the stated maturity of the Balloon Indebtedness shall be treated as described in (a) above or such other provision of this definition as shall be applicable;

(c) any maturity which constitutes Balloon Indebtedness as described in provision (b) of this definition and for which the stated maturity date occurs within 12 months from the date such calculation is made, shall be assumed to become due and payable on the stated maturity date and provision (b) above shall not apply thereto unless there is delivered to the entity making the calculation a certificate of an Authorized Officer stating that the City intends to refinance such maturity and stating the probable terms of such refinancing and that the debt capacity of the City is sufficient to successfully complete such refinancing; upon the receipt of such certificate, such Balloon Indebtedness shall be assumed to be refinanced in accordance with the probable terms set out in such certificate and such terms shall be used for purposes of calculating Debt Service Requirements, provided that such assumption shall not result in an amortization period longer than or an interest rate lower than that which would be assumed under provision (b) above;

(d) if any of the Outstanding series of System Bonds constitute Tender Indebtedness or if System Bonds then proposed to be issued would constitute Tender Indebtedness, then, for purposes of determining Debt Service Requirements, Tender Indebtedness shall be treated as if the principal amount of such System Bonds were to be amortized over a term of 25 years commencing in the year in which such series is first subject to tender and with substantially level annual debt service payments; the interest rate used for such computation shall be that rate determined by a Consultant to be a reasonable market rate for 25-year fixed-rate System Bonds issued under this Master Ordinance on the date of such calculation, with no credit enhancement and taking into consideration whether such System Bonds bear interest which is or is not excluded from gross income for federal income tax purposes; with respect to all principal and interest payments becoming due prior to the year in which such Tender Indebtedness is first subject to tender such payments shall be treated as described in (a) above

unless the interest during that period is subject to fluctuation, in which case the interest becoming due prior to such first tender date shall be determined as provided in (e) or (f) below, as appropriate;

(e) if any Outstanding System Bonds constitute Variable Rate Bonds (except to the extent subsection (b) or (c) relating to Balloon Indebtedness or (d) relating to Tender Indebtedness applies), the interest rate on such System Bonds and the interest rate for funding any Reserve Requirement for such Variable Rate Bonds shall be assumed to be the lesser of the 30-year Revenue Bond Index (published by The Bond Buyer no more than two weeks prior to date of sale), as certified by the City's financial advisor, the Purchaser of the System Bonds or other investment banker, as designated by the City from time to time or the maximum allowable rate permitted under Section 6.03(b)(i) of this Master Ordinance. The prospective computations of interest payable on Variable Rate Bonds relating to the issuance of additional Parity Bonds required by Article XXIV shall be as described in Article XXIV. The prospective computations of interest payable on Variable Rate Bonds required by the Rate Covenant shall be made on the lesser of the maximum short-term rate prevailing in the preceding twelve months or the maximum allowable rate permitted under Section 6.03(b)(i) of this Master Ordinance;

(f) in any computation relating to the issuance of additional System Bonds or the Rate Covenant, there shall be deducted from the computation of the Debt Service Requirements amounts and investments (unless funded by Net Revenues during the applicable period) which are irrevocably committed to make designated payments on System Bonds during the applicable period, including, without limitation, money on deposit in a Debt Service Account for a series of System Bonds, amounts representing capitalized interest for a series of System Bonds and amounts on deposit in an escrow account irrevocably committed to make designated payments on System Bonds during the applicable period;

(g) interest or principal being paid for reimbursements of Debt Service Requirements made pursuant to a Credit Facility, if such obligations rank on a parity with the obligation to pay System Bonds, or if a System Bond is a Bank Bond on the date of computation, shall be considered in the computation of Debt Service Requirements; and

(h) should the City enter into an interest rate swap contract or its equivalent with respect to all or a portion of any series of System Bonds, the amount of interest required to be paid with respect to that series shall be the interest rate paid by the City under its interest rate swap contract, so as to properly reflect the actual savings of the swap. Any termination or similar fees which may become payable by the City pursuant to such swap contract or its equivalent shall not be considered in the computation of Debt Service Requirements. Such swap contract or its equivalent shall be approved by the New Mexico Board of Finance or any other governmental entity if required by State law.

"*Defeasance Obligations*" means to the extent permitted by the laws of the State, for defeasance of the System Bonds pursuant to Article XXXII:

- (a) Cash
- (b) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series--"SLGS")
- (c) Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities
- (d) Resolution Funding Corp. (REFCORP) Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.
- (e) Obligations issued by the following agencies which are backed by the full faith and credit of the U.S.:
 - (i) U.S. Export-Import Bank (Eximbank)
Direct obligations or fully guaranteed certificates of beneficial ownership
 - (ii) Farmers Home Administration (FmHA)
Certificates of beneficial ownership
 - (iii) Federal Financing Bank
 - (iv) General Services Administration
Participation certificates
 - (v) U.S. Maritime Administration
Guaranteed Title XI financing
 - (vi) U.S. Department of Housing and Urban Development (HUD)
Project Notes
Local Authority Bonds
New Communities Debentures - U.S. government guaranteed debentures

U.S. Public Housing Notes and Bonds - U.S. government
guaranteed public housing notes and bonds

"Depository" means The Depository Trust Company, New York, New York, or such other securities depository as may be designated by an officer of the City.

"EMMA" means the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system located on its website at emma.msrb.org.

"Escrow Agent" means BOKF, NA, Albuquerque, New Mexico.

"Escrow Agreement" means the escrow agreement relating to the Series 2016 Project among the City and the Escrow Agent.

"Escrow Fund" means Escrow Fund established in Article XVII.

"Expenses" means the reasonable and necessary fees, costs and expenses incurred by the City with respect to System Bonds and Related Documents, including, without limitation, fees paid to the Credit Facility, Consultant fees, premiums for any Bond Insurance Policy and Reserve Account Insurance Policy, rating agency fees and expenses, the fees, compensation, costs and expenses to be paid to any Fiscal Agent and Escrow Agent and expenses incurred in connection with the sale, issuance, remarketing, payment and administration of any series of System Bonds, including attorneys' fees. Expenses do not include any swap termination payments, payment of or reimbursement for the payment of Debt Service Requirements or premiums on System Bonds.

"Fiscal Agent" means any trustee, paying agent, tender agent, registrar, remarketing agent, Bank, Bond Insurer or other agent employed with respect to the sale, issuance, remarketing, payment, purchase, administration or otherwise in connection with any series of System Bonds.

"Fiscal Agreement" means any remarketing agreement, tender agreement, investment agreement, trust agreement, paying agent agreement, escrow agreement or other document required for the remarketing, purchase, payment, security or administration of any series of System Bonds.

"Fiscal Year" means the twelve-month period beginning on the first day of July of each year and ending on the last day of June of the next succeeding year, or any other twelve-month period which the City or other appropriate authority may establish as the fiscal year for the System.

"Fitch" means Fitch, Inc., a corporation organized and existing under the laws of the State of New York, its successor and their assigns, and, if such corporation shall not provide a rating for a series of System Bonds, "Fitch" shall be deemed to refer to any other nationally recognized securities rating that series of System Bonds.

"*Gross Revenues*" means all income and revenues directly or indirectly derived by the City from the operation and use of the System, or any part of the System, and includes, without limitation, all revenues received by the City, or any municipal corporation or agency succeeding to the rights of the City, from the System and from the sale and use of water or water facilities furnished to the inhabitants in the Service Area. Such term also includes:

(a) All income derived from the investment of any money in the Acquisition Fund, Income Fund, Debt Service Fund, Reserve Fund and Rate Stabilization Fund and from surplus Net Revenues;

(b) Money released from the Rebate Fund to the City;

(c) Money released from the Rate Stabilization Fund to the extent that the amount released is used to pay Operation and Maintenance Expenses or Debt Service Requirements on System Bonds in the year released;

(d) Property insurance proceeds which are not necessary to restore or replace the property lost or damaged and the proceeds of the sale or other disposition of any part of the System; and

(e) Such other amounts that may be designated as Gross Revenues in a Supplemental Ordinance.

Gross Revenues do not include:

(a) any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefor or other capital contributions from any source which are restricted as to use;

(b) gross receipts taxes, other taxes and/or fees collected by the City and remitted to other governmental agencies; and

(c) condemnation proceeds or the proceeds of any insurance policy, except for (d) above and any insurance proceeds derived in respect of loss of use or business interruption.

"*Historic Test Period*" means any period of 12 consecutive months out of the 18 calendar months next preceding the delivery of additional Parity Bonds pursuant to Section 24.02.

"*Income Fund*" means the "City of Santa Fe Water Utility System Gross Income Fund" which is authorized to be continued in Article XVII.

"*Independent Accountant*" means (i) the State Auditor and any accountant working under the supervision and control of the State Auditor, and (ii) any certified

public accountant, registered accountant or firm of accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the City who (a) is, in fact, independent and not under the domination of the City, (b) does not have any substantial interest, direct or indirect, with the City, and (c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or similar audits of the books or records of the City.

"Individual Capital Appreciation Bond" means a Capital Appreciation Bond having an original principal amount which is payable as to principal and interest at the Accretion Term Date of that Capital Appreciation Bond in the amount of \$5,000 or other amount stated in a Supplemental Ordinance.

"Insured Bank" means a bank insured by an agency of the United States.

"Insured Bonds" means a series of System Bonds insured by a Bond Insurance Policy as designated in a Supplemental Ordinance.

"Interest Payment Date" means June 1 and December 1 of each year (or if such day is not a Business Day, then the next succeeding Business Day) unless otherwise stated in a Supplemental Ordinance for a specified series of System Bonds.

"Master Ordinance" means this Ordinance, as amending and restating Ordinance No. 2006-47, and as this Ordinance is amended or supplemented from time to time in accordance with its terms.

"Moody's" means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation does not provide a rating for a series of System Bonds, "Moody's" shall be deemed to refer to any other nationally recognized securities rating organization rating that series of System Bonds.

"NMSA" means New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

"Net Revenues" means Gross Revenues after deducting Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

- (a) legal and overhead expenses of the various City departments directly related and reasonably allocable to the administration of the System;

(b) insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen's compensation insurance, whether or not self-funded;

(c) premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay Debt Service Requirements on System Bonds) for Credit Facilities;

(d) Expenses other than Expenses paid from the proceeds of System Bonds;

(e) the costs of audits of the books and accounts of the System;

(f) amounts required to be deposited in the Rebate Fund;

(g) salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the City's general fund, liabilities incurred by the City as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

"Operation and Maintenance Fund" means the "City of Santa Fe Water Utility System Operation and Maintenance Fund" which is authorized to be continued in Article XVII.

"Outstanding" or *"outstanding"* when used in reference to System Bonds means, on any particular date, the aggregate of all such System Bonds issued and delivered under the applicable Supplemental Ordinance authorizing the issuance of such bonds, except:

(a) those cancelled at or prior to such date or delivered to or acquired by the City at or prior to such date for cancellation;

(b) those which have been paid or are deemed to be paid in accordance with the City ordinance authorizing the issuance of the applicable bonds or otherwise relating thereto, provided that the payment of Insured Bonds with the proceeds of a Bond Insurance Policy shall not result in those Insured Bonds ceasing to be Outstanding;

(c) in the case of Tender Indebtedness, bonds deemed tendered but not yet presented for payment; and

(d) those in lieu of or in exchange or substitution for which other bonds shall have been delivered, unless proof satisfactory is presented to the City and the paying agent for the applicable bonds that any bond for which a new bond was issued or exchanged is held by a bona fide holder or in due course.

As used in this definition, the term "bond" includes System Bonds and any other evidence of a repayment obligation.

"*Owner*" means the registered owner or owners of any System Bond as shown on the registration books for the applicable series of System Bonds maintained by the Registrar for that series.

"*Parity Bonds*" means System Bonds issued with a lien on the Net Revenues on parity with the Series 2016 Bonds.

"*Paying Agent*" means (a) BOKF, NA for the Series 2016 Bonds and (b) the City Finance Director and Treasurer or any trust company, national or state banking association or financial institution qualified to act and appointed as the paying agent for a series of System Bonds in a Supplemental Ordinance or by an Authorized Officer from time to time.

"*Permitted Investments*" means, unless otherwise stated in the applicable Supplemental Ordinance, any of the following which at the time are legal investments for the City for the money to be invested:

(a) Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself);

(i) U.S. Export-Import Bank (Eximbank)

Direct obligations or fully guaranteed certificates of beneficial ownership.

(ii) Farmers Home Administration (FmHA)

Certificates of beneficial ownership

(iii) Federal Financing Bank

(iv) Federal Housing Administration Debentures (FHA)

(v) General Services Administration

Participation certificates

(vi) Governmental National Mortgage Association (GNMA or "Ginnie Mae")

GNMA - guaranteed mortgage-backed bonds

GNMA - guaranteed pass-through obligations

(vii) U.S. Maritime Administration

Guaranteed Title XI financing

(viii) U.S. Department of Housing and Urban Development (HUD)

Project Notes

Local Authority Bonds

New Communities Debentures - U.S. government guaranteed debentures

U.S. Public Housing Notes and Bonds - U.S. government guaranteed public housing notes and bonds

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

(i) Federal Home Loan Bank System

Senior debt obligations

(ii) Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac")

Participation Certificates

Senior debt obligations

(iii) Federal National Mortgage Association (FNMA or "Fannie Mae")

Mortgage-backed securities and senior debt obligations

- (iv) Student Loan Marketing Association (SLMA or "Sallie Mae")

Senior debt obligations

- (v) Resolution Funding Corp. (REFCORP) obligations
- (vi) Farm Credit System

Consolidated systemwide bonds and notes

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAM-G; AAAM; or AAM and if rated by Moody's rated Aaa, Aaa or Aa2.

(e) Certificates of deposit secured at all times by collateral described in paragraphs (a) and/or (b) of this definition. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the Owners, or the City on behalf of the Owners, must have a perfected first security interest in the collateral.

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF.

(g) Investment agreements, including GIC's, acceptable to the Bond Insurer for any applicable series of System Bonds.

(h) Commercial paper rated, at the time of purchase, "Prime - 1" by Moody's and "A-1" or better by S&P.

(i) Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.

(j) Federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of "Prime - 1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P.

(k) Repurchase agreements which provide for the transfer of securities from a dealer bank or securities firm (seller/ borrower) to the City (buyer/lender), and the transfer of cash from the City to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the City in exchange for the securities at a specified date. Repurchase agreements must satisfy the following criteria:

- (i) Repurchase agreements must be between the City and dealer banks or securities firms which are (A) primary dealers on the Federal Reserve reporting dealer list which are rated "A" or better by S&P and Moody's, or (B) banks rated "A" or above by S&P and Moody's;
- (ii) The written repurchase contract must include the following: (A) securities which are acceptable for transfer are (1) Direct U.S. governments, or (2) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA & FHLMC) (B) the collateral must be delivered to the City, Paying Agent (if Paying Agent is not supplying the collateral) or third party acting as agent for the Paying Agent (if the Paying Agent is supplying the collateral) before/simultaneous with payment (i.e., perfection by possession of certificated securities); (C) (1) the securities must be valued weekly, marked-to market at current market price plus accrued interest and (2) the value of collateral must be equal to 104% of the amount of cash transferred by the City to the dealer bank or security firm under the repurchase agreement plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by the City, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%; and
- (iii) a legal opinion must be delivered to the City to the effect that the repurchase agreement meets guidelines under State law for legal investment of public funds.

(l) The State Treasurer's short-term investment fund created pursuant to Section 6-10-10.1, NMSA, and operated, maintained and invested by the State Treasurer.

(m) Such other investments as may be hereafter authorized as legal investments for the City by the legislature of the State under Section 6-10-10, NMSA, a similar statutory provision or the home rule powers of the City.

"Project" means properties (real, personal or mixed), facilities, fixtures and equipment which are acquired, constructed, modified or improved to extend, enlarge, improve, repair, replace or equip the System or any portion thereof, including the payment of working capital expenditures and the acquisition of water, water rights or other commodities necessary for the System or the right to receive deliveries in future of water, water rights or other commodities necessary for the System. Each project shall be designated as a "Project" by the City in a Supplemental Ordinance authorizing the issuance of System Bonds to finance the Cost of such Project.

"*Purchaser*" means George K. Baum & Company and J.P. Morgan Securities LLC with respect to the Series 2016 Bonds and the original purchasers of a series of System Bonds set forth in the Supplemental Ordinance for that series of System Bonds.

"*Rate Covenant*" means the covenant in Section 26.03(b) relating to charging rates for use of the System to pay Debt Service Requirements.

"*Rate Stabilization Fund*" means the Rate Stabilization Fund for System Bonds established in Article XVII.

"*Rebate Fund*" means the Rebate Fund for System Bonds established in Article XVII.

"*Redemption Date*" means June 1, 2018 or such other subsequent date determined by the City on which the Refunded Bonds shall be redeemed.

"*Record Date*" means, unless otherwise stated in a Supplemental Ordinance, (a) with respect to any System Bond with a term or tender period of less than one year, the first Business Day preceding each Interest Payment Date and (b) with respect to any System Bond with a term or tender period of one year or more, the fifteenth day of the calendar month (whether or not a Business Day) preceding each Interest Payment Date.

"*Refunded Bonds*" means the City of Santa Fe, New Mexico, Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009A (Tax-Exempt) maturing on and after June 1, 2019 and the City of Santa Fe, New Mexico Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009B (Taxable Direct-Payment Build America Bonds) maturing on and after June 1, 2019.

"*Registrar*" means (a) BOKF, NA for the Series 2016 Bonds and (b) the City Finance Director and Treasurer or any trust company, national or state banking association or financial institution qualified to act and appointed as the registrar for a series of System Bonds in a Supplemental Ordinance or by an Authorized Officer from time to time.

"*Related Documents*" means the Fiscal Agreements, Credit Facilities, disclosure documents, bond purchase agreements and such other agreements as may be required for one or more series of System Bonds.

"*Replacement Fund*" means the Replacement Fund established in Article XVII.

"*Reserve Account*" means each account of the Reserve Fund established for any series of outstanding System Bonds with a Reserve Requirement.

"*Reserve Account Insurance Policy*" means any policy of insurance, surety bond, letter of credit or other financial instrument issued to the City, the proceeds of which shall

be used to prevent deficiencies in the payment of the principal of or interest on a series of System Bonds resulting from insufficient amounts being on deposit in the Debt Service Account for that series of System Bonds to make the payment of principal of and interest on that series as the same become due. Each Reserve Account Insurance Policy shall comply with the terms set forth herein. If the Reserve Account Insurance Policy is in the form of a surety bond, the surety bond must be from an insurance company experienced in insuring municipal bonds whose policies of insurance would not in and of itself adversely affect the rating on System Bonds by Moody's or by S&P in effect at the time such policy is initially deposited in or credited to the reserve account of the applicable System Bonds or, if the Reserve Account Insurance Policy is in the form of a letter of credit, the letter of credit must be from a bank experienced in providing letters of credit whose letter of credit would not in and of itself adversely affect the rating on System Bonds by Moody's or by S&P in effect at the time such letter of credit is issued.

"Reserve Account Insurer" means any Bond Insurer or Bank which issues a Reserve Account Insurance Policy.

"Reserve Fund" means the Reserve Fund established in Article XVII.

"Reserve Requirement" means for any series of Parity Bonds for which the City chooses to create a reserve account, and, unless otherwise defined in a Supplemental Ordinance for a series of additional Parity Bonds, an amount equal to the lesser of (i) ten percent (10%) of the Outstanding principal amount of the series of additional Parity Bonds, (ii) the maximum annual Debt Service Requirements on the series of additional Parity Bonds or (iii) 125% of average annual Debt Service Requirements on the series of additional Parity Bonds, in each case calculated on the date of initial issuance of the series. The Reserve Requirement for the Series 2016 Bonds, which shall be satisfied with the deposit of the Series 2016 Reserve Account Insurance Policy from AGM, is initially established at \$2,861,600.00.

"Series 2006D Bonds" means the "City of Santa Fe, New Mexico, Water Utility System/Capital Outlay Gross Receipts Tax Revenue Refunding Bonds, Series 2006D" issued on August 9, 2006 in the original par amount of \$49,790,000 and to be redeemed on June 1, 2016.

"Series 2009A Bonds" means the "City of Santa Fe, New Mexico, Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009A (Tax-Exempt)" issued on November 10, 2009 in the original par amount of \$18,080,000.

"Series 2009B Bonds" means the "City of Santa Fe, New Mexico, Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009B (Taxable Direct-Payment Build America Bonds)" issued on November 10, 2009 in the original par amount of \$41,890,000.

"Series 2009 Bonds" means collectively the Series 2009A Bonds and the Series 2009B Bonds.

"*Series 2016 Bonds*" means the "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016" issued pursuant to this Master Ordinance.

"*Series 2016 Debt Service Account*" means the "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016 Debt Service Account", created in Section 17.02.

"*Series 2016 Escrow Account*" means the "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016 Escrow Account," created in Section 17.02.

"*Series 2016 Insurance Agreement*" means the Insurance Agreement by and between the City and Assured Guaranty Municipal Corp. as the Reserve Account Insurer for the 2016 Bonds.

"*Series 2016 Interest Account*" means the interest sub-account of the Series 2016 Debt Service Account.

"*Series 2016 Principal Account*" means the principal sub-account of the Series 2016 Debt Service Account.

"*Series 2016 Project*" means refinancing, paying, discharging and defeasing the outstanding principal amount of the Refunded Bonds including the payment of Expenses.

"*Series 2016 Rebate Account*" means the account for the deposit of certain amounts that are required to be rebated to the United States Government designated as the "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016 Rebate Account," created in Section 17.02.

"*Series 2016 Reserve Account*" means the "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016 Reserve Account", created in Section 17.04.

"*Service Area*" means the customer service area that the City serves through the System.

"*Short-Term Interest Rate Act*" means Sections 6-18-1 to 6-18-16 NMSA, as amended and supplemented.

"*S&P*" means Standard & Poor's Ratings Group, a division of the McGraw-Hill Companies, Inc., its successors and assigns, and, if such entity shall not provide a rating for a series of System Bonds, "S&P" shall be deemed to refer to any other nationally recognized securities rating organization rating that series of System Bonds.

"*State*" means the State of New Mexico.

"*Subordinated Bonds*" means all bonds and other obligations of the City hereafter issued with a lien on the Net Revenues subordinate to the lien of Parity Bonds on the Net Revenues.

"*Supplemental Ordinance*" means, except with respect to the Series 2016 Bonds which are authorized and issued pursuant to the terms of this Master Ordinance, an ordinance and all resolutions, amendments and supplements relating thereto of the Council adopted prior to the initial issuance and delivery of each series of System Bonds, authorizing the issuance of a series of System Bonds, the sale and administration thereof and approving specific terms with respect to that series of System Bonds.

"*System*" means the municipally owned public utility designated as the City's water utility system consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City through purchase, condemnation, construction or otherwise, including all expansions, extensions, enlargements and improvements of or to the water utility system, and used in connection therewith or relating thereto, and any other related activity or enterprise of the City designated by the Council as part of the water utility system, whether situated within or without the limits of the City.

"*System Bonds*" means the Series 2016 Bonds, additional Parity Bonds, Subordinated Bonds and other similar obligations payable solely or primarily from Net Revenues which may from time to time be issued pursuant to this Master Ordinance.

"*Tender Indebtedness*" means any System Bonds or portions of System Bonds a feature of which is an option, on the part of the Owners, or an obligation, under the terms of such System Bonds, to tender all or a portion of such System Bonds to the City or to any Fiscal Agent or other fiduciary or agent or Credit Provider for payment or purchase and requiring that such Bonds or portions of Bonds be purchased if properly presented.

"*2008 Loan*" means the Taxable Drinking Water Revolving Fund Loan Agreement, by and between the City and the New Mexico Finance Authority, dated May 16, 2008 in the original par amount of \$15,150,000.

"*2013 Loan*" means the Drinking Water State Revolving Fund Loan and Subsidy Agreement, by and between the City and the New Mexico Finance Authority, dated May 3, 2013 in the maximum principal amount of \$5,050,000.

"*Valuation Date*" means, unless stated otherwise in a Supplemental Ordinance, each June 1 and December 1 while Capital Appreciation Bonds are Outstanding, being the dates on which the Accreted Value of Individual Capital Appreciation Bonds are listed in the applicable Supplemental Ordinance.

"*Variable Rate Bonds*" means System Bonds, including Bank Bonds, and reimbursement obligations pursuant to an advance or draw on a Credit Facility made to

pay Debt Service Requirements on System Bonds the interest rate on which is subject to change from time to time.

Section 1.02. **Rules of Construction.** For purposes of this Master Ordinance and any Supplemental Ordinance, unless otherwise expressly provided or unless the context requires otherwise:

(a) Unless otherwise stated in this Master Ordinance or a Supplemental Ordinance, all references in this Master Ordinance or the Supplemental Ordinance to designated Articles and other sections are to the designated Article and other section of this Master Ordinance or Supplemental Ordinance, as applicable.

(b) The words "herein," "hereof," "hereunder" and "herewith" and other words of similar import refer to this Master Ordinance or Supplemental Ordinance, as applicable, as a whole and not to any particular Article or section.

(c) All accounting terms not otherwise defined in this Master Ordinance or a Supplemental Ordinance have the meanings assigned to them in accordance with generally accepted accounting principles.

(d) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(e) The headings used in this Master Ordinance and any Supplemental Ordinance are for convenience of reference only and shall not define or limit the provisions of this Master Ordinance or Supplemental Ordinance.

(f) Terms in the singular include the plural and vice versa.

ARTICLE II

RATIFICATION

All action previously taken (not inconsistent with the provisions of this Master Ordinance) by the Council and the officers of the City, directed toward the authorization, issuance and sale of the System Bonds is ratified, approved and confirmed.

ARTICLE III

FINDINGS

The Council declares that it has considered all relevant information and data and makes the following findings:

(a) **Benefit to Public.** The issuance of the System Bonds from time to time under the Act in one or more series and the issuance of the Series 2016

Bonds to refund and defease the Refunded Bonds is necessary and in the interest of the public health, safety and welfare of the residents of the City.

(b) *Short-Term Interest Rate Act.* Prior to the issuance of a series of System Bonds governed by the Short-Term Interest Rate Act, appropriate findings shall be made by the Council in a Supplemental Ordinance as required by the Short-Term Interest Rate Act.

ARTICLE IV

WATER UTILITIES

The municipal water facilities shall constitute a municipally owned water utility (i.e., the System shall be operated and maintained as such).

ARTICLE V

AUTHORIZATION OF SERIES 2016 PROJECT AND EXPENSES

Section 5.01. *Series 2016 Project.* The Series 2016 Project, and the payment of Expenses, are authorized and approved. The Refunded Bonds shall be defeased by depositing into the Escrow Fund, on or about the date of delivery of the Series 2016 Bonds, proceeds of the Series 2016 Bonds sufficient to pay the principal and interest on the Refunded Bonds until the Redemption Date and to pay the redemption price of the Refunded Bonds on the Redemption Date.

Section 5.02. *Debt Service Reserve.* The funding of a Reserve Account with System Bond proceeds, Net Revenues or a Reserve Account Insurance Policy in the amount of the Reserve Requirement, if any, for each series of System Bonds is hereby authorized and approved.

ARTICLE VI

SYSTEM BONDS; SERIES 2016 BONDS

Section 6.01. *Authorization of System Bonds.* This Master Ordinance has been adopted by the affirmative vote of a majority of all of the members of the Council. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the citizens of the City, refunding the Refunded Bonds and financing the Costs of and acquiring, constructing and improving one or more Projects, it is necessary that the City issue, and the City is hereby authorized to issue, pursuant to the Act, its negotiable, fully registered System Bonds in one or more series to be designated "City of Santa Fe, New Mexico Water Utility System Revenue Bonds" with appropriate series and other designations.

Section 6.02. *Series 2016 Bonds.* There is hereby authorized a series of System Bonds designated as the "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016."

Section 6.03. *Details of System Bonds.*

(a) *General.* System Bonds shall be issued as fully registered bonds, in Authorized Denominations and numbered with such prefixes or other distinguishing designations as the Registrar may determine necessary or appropriate to distinguish one System Bond of a series from another. Each series of System Bonds shall be dated, have such principal amounts and have such maturity dates (no later than 50 years, or other shorter period of time permitted by law when a series of System Bonds is originally issued, from the date of issuance of that series) as set forth in this Master Ordinance or the applicable Supplemental Ordinance for that series.

(b) *Interest.* Interest on System Bonds shall be payable at the rates set forth in this Master Ordinance or the applicable Supplemental Ordinance and may be payable on a variable rate bonds or on a fixed rate basis. The interest on each series of System Bonds shall be payable on each Interest Payment Date for that series. System Bonds may be issued as Current Interest Bonds or Capital Appreciation Bonds as set forth in this Master Ordinance or the applicable Supplemental Ordinance or Related Documents in compliance, however, with any applicable limitations established by this Master Ordinance.

Unless otherwise stated in a Supplemental Ordinance, each series of System Bonds shall bear interest from the most recent date to which interest has been paid or provided for or if no interest has been paid or provided for from the date of the applicable System Bonds until maturity or until redeemed if called for redemption prior to maturity. Unless otherwise stated in a Supplemental Ordinance, interest on System Bonds will be computed on the basis of a 360-day year consisting of twelve 30-day months. If, upon presentation at maturity or for prior redemption, payment of the principal amount or Accreted Value of any System Bond is not made as required by this Master Ordinance, interest on the unpaid principal amount or Accreted Value of such System Bond shall continue to accrue at the interest rate stated or described in that System Bond until the principal amount or Accreted Value of that System Bond is paid in full.

Unless otherwise stated in a Supplemental Ordinance of the City adopted by the Council after the date on which this Master Ordinance is adopted:

(i) The maximum interest rate and the maximum net effective interest rate on System Bonds issued and delivered on any given date which are governed by the Short-Term Interest Rate Act shall be 20% per annum in the case of Bank Bonds and 15% per annum in the case of other System Bonds. Prior to the issuance of any System Bonds governed by the Short-Term Interest Rate Act the Council, pursuant to a Supplemental

Ordinance, shall make the findings required by the Short-Term Interest Rate Act.

(ii) The maximum net effective interest rate on System Bonds issued and delivered on any given date which are not governed by the Short-Term Interest Rate Act shall be 12% per annum unless the State Board of Finance approves a higher net effective interest rate in which case the maximum net effective interest rate shall be that approved by the State Board of Finance.

(iii) The maximum interest rate and net effective interest rate payable to a Bank pursuant to its Credit Facility shall be 20% per annum.

(iv) Any other method of determining an interest rate or cost on System Bonds other than net effective interest rate as used in (ii) and (iii) above may be used in lieu of that term as set forth in the Supplemental Ordinance for a series of System Bonds, if permitted by law.

(v) Notwithstanding the right of the City to state maximum interest rates and maximum net effective interest rates other than those set forth in (i) and (iii) above, upon issuance of any Variable Rate Bonds or Tender Indebtedness, the Supplemental Ordinance authorizing issuance of Variable Rate Bonds or Tender Indebtedness shall specify a maximum interest rate payable on Variable Rate Bonds or Tender Indebtedness and the maximum interest rate payable to a Bank or Credit Facility related to such Variable Rate Bonds or Tender Indebtedness.

(c) *Priority on Net Revenues.* All System Bonds shall be payable from Net Revenues. After the issuance of the Series 2016 Bonds, additional System Bonds may be issued as Parity Bonds by complying with the requirements for the issuance of additional Parity Bonds set forth in Section 24.02 or Article XXV, as applicable, or as Subordinated Bonds. Subordinated Bonds may be converted to Parity Bonds by the City at any time by resolution or ordinance of the Council upon satisfaction of the conditions for issuing additional Parity Bonds set forth in Section 24.02.

(d) *Multiple Modes and Terms.* The System Bonds may be issued in one or more modes with one or more terms for each mode and may be converted from one mode and term to another as provided in the applicable Supplemental Ordinance and Related Documents. The term for any mode shall not terminate later than the final maturity date of the applicable series of System Bonds. System Bonds may be subject to optional and mandatory tender for purchase as set forth in the applicable Supplemental Ordinance and Related Documents.

The Supplemental Ordinance or Related Documents shall provide the method, if any, of converting from one mode to another mode. Except as otherwise provided in the applicable Supplemental Ordinance, System Bonds

which bear interest at a fixed rate per annum to their maturity date shall not be converted to Variable Rate Bonds. The interest rate on Variable Rate Bonds and the interest rate on System Bonds being converted from Variable Rate Bonds to a fixed rate or from one fixed rate mode or term to another fixed rate mode or term shall be determined as set forth in the applicable Supplemental Ordinance or Related Documents.

(e) *Credit Facility.* The City may enter into or obtain a Credit Facility providing for the purchase of, securing or providing for the payment of the principal of and interest on, one or more series, or part of a series, of System Bonds. While any Parity Bonds are subject to optional or mandatory tender by Owners, the City shall have in effect a Credit Facility providing for the payment of the purchase price of Parity Bonds subject to tender which are not remarketed or purchased by the City. Requirements and procedures for any optional or mandatory tender of System Bonds shall be set forth in the applicable Supplemental Ordinance and Related Documents.

The terms of any Credit Facility shall be approved by the applicable Supplemental Ordinance or another Council ordinance relating to the applicable System Bonds. Each Credit Facility shall include an index or formula to determine the Bank Interest Rate or other rate of interest to be charged by the Bank, if applicable. The collateral securing payment by the City of its obligations to a Bank shall be limited to the collateral described in Article X.

(f) *Other Related Documents.* The City may enter into other Related Documents relating to the sale, issuance, delivery, remarketing, purchase, registration or other administration of the System Bonds and pay reasonable fees and expenses to the Fiscal Agents charged with the administration of the System Bonds and Related Documents.

(g) *Interest Rate Swap Contracts.* The City may enter into interest rate swap contracts with respect to a series of System Bonds. The interest rate swap contracts shall be in compliance with the applicable Supplemental Ordinance and the laws of the State governing interest rate swap contracts. Any termination payment payable by the City with respect to an interest rate swap contract will be subordinate to the payment of debt service on Parity Bonds.

Section 6.04. *Securities Depository.* One or more series of System Bonds may be issued, in whole or in part, in book-entry form with no physical distribution of bond certificates made to the public. A Depository will act as securities depository for System Bonds issued in book-entry form. A single certificate for each maturity date of those System Bonds will be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the System Bonds in Authorized Denominations, with transfers of ownership effected on the books of the Depository and its participants ("Participants"). As a condition to delivery of any series of System Bonds in book-entry form, the Purchaser of that series will, immediately after acceptance of delivery thereof, deposit the System Bond certificates with the Depository, registered in

the name of the Depository or its nominee. Principal, premium, if any, and interest will be paid to the Depository or its nominee as the registered Owner of System Bonds in book-entry form. The transfer of principal and interest payments to Participants will be the responsibility of the Depository; the transfer of principal and interest payments to the beneficial owners of System Bonds ("Beneficial Owners") by Participants will be the responsibility of such Participants and other nominees of Beneficial Owners maintaining a relationship with Participants ("Indirect Participants"). The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.

If (a) a series of System Bonds are not eligible for the services of the Depository, (b) the Depository determines to discontinue providing its services with respect to that series of System Bonds or (c) the City determines that a continuation of the system of book-entry transfers through the Depository ceases to be beneficial to the City or the Owners of a series of System Bonds, the City will either identify another Depository or System Bond certificates for that series will be delivered to Beneficial Owners or their nominees and the Beneficial Owners or their nominees, upon authentication of the System Bonds and registration of those System Bonds in the Beneficial Owners' or nominees' names, will become the Owners of that series of System Bonds for all purposes. In that event, the City shall mail an appropriate notice to the Depository for notification to Participants, Indirect Participants and Beneficial Owners of the substitute Depository or the issuance of System Bond Certificates to Beneficial Owners or their nominees, as applicable.

Authorized Officers are authorized to sign agreements with Depositories relating to the matters set forth in this Section 6.04.

The terms of this Section 6.04 may be changed with respect to a series of System Bonds by the Supplemental Ordinance relating to those System Bonds.

Section 6.05. *Redemption.*

(a) Each series of System Bonds may be subject to optional, mandatory sinking fund and/or extraordinary redemption, in whole or in part, upon the conditions, on the dates and upon payment of the redemption prices set forth in this Master Ordinance, the Supplemental Ordinance or Related Documents for that series.

(b) At its option, to be exercised on or before the 45th day next preceding any mandatory sinking fund redemption date, the City may irrevocably elect to (i) deliver to the Paying Agent for cancellation System Bonds of the same series, interest terms and maturity in any aggregate principal amount or Accreted Value and/or (ii) receive a credit in respect to its sinking fund redemption obligation for any System Bonds of the same series, interest terms and maturity which, prior to said date, have been redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation.

Each System Bond delivered or previously redeemed shall be credited by the Paying Agent as directed by the City at the principal amount or Accreted Value thereof in Authorized Denominations against the amounts required to be paid by the City on the designated mandatory sinking fund redemption date and the principal amount or Accreted Value of System Bonds to be redeemed by operation of such sinking fund on such date shall be reduced by that principal amount.

(c) If less than all of a series of System Bonds subject to redemption are to be redeemed at any one time, the System Bonds of that series to be redeemed, other than System Bonds redeemed pursuant to mandatory sinking fund redemption provisions, shall be selected by the Registrar in the manner determined by the City or as otherwise set forth in the applicable Supplemental Ordinance. However, if less than all System Bonds of a series of a given maturity are redeemed, the System Bonds to be redeemed within that maturity shall be selected by lot in such manner as determined by the Registrar. Part of a System Bond may be redeemed if the amount of that System Bond which remains outstanding is also in an Authorized Denomination.

(d) Notice of redemption of System Bonds shall be given by the Registrar by sending a copy of such notice by first-class, postage prepaid mail not less than 30 days prior to the redemption date to the Owner of each System Bond, or portion thereof, to be redeemed at the address shown as of the fifth day prior to the mailing of notice on the registration books kept by the Registrar. Unless waived by the Registrar, the City shall give the Registrar notice of System Bonds to be called for optional or extraordinary redemption at least fifteen (15) days prior to the date that the Registrar is required to give Owners notice of redemption specifying the System Bonds and the principal amount or Accreted Value thereof to be called for redemption and the applicable redemption date. System Bonds to be called for mandatory sinking fund redemption shall be called for redemption by the Registrar without the necessity of any notice to the Registrar from the City. If the City has not designated the System Bonds to be called for redemption on the dates specified above, the Registrar shall select the System Bonds to be redeemed by lot. Neither the City's failure to give such notice, the Registrar's failure to give such notice to the registered Owner of any System Bonds, or any defect therein, nor the failure of the Depository to notify a Participant or any Participant or Indirect Participant to notify a Beneficial Owner of any such redemption, shall affect the validity of the proceedings for the redemption of any System Bonds for which proper notice was given. Notices shall specify the series, number or numbers and maturity date or dates of the System Bonds to be redeemed (if less than all System Bonds of a series are to be redeemed), the principal amounts or Accreted Value of any System Bonds to be redeemed in part, the date fixed for redemption, and shall further state that on such redemption date there will become and be due and payable upon each System Bond or part thereof to be redeemed at the office of the Paying Agent the principal amount or Accreted Value, as applicable, thereof to be redeemed plus accrued interest, if any, to the redemption date and the stipulated premium, if any, and that from and after such

date, interest will cease to accrue on those System Bonds. In addition to the foregoing notice, the notice of redemption given by the Registrar shall include such additional information, and the Registrar shall comply with any other terms regarding redemption, as are required by any applicable agreement with a Depository.

Notice having been given in the manner provided above, the System Bonds or part thereof called for redemption shall become due and payable on the redemption date designated and, if an amount of money sufficient to redeem all System Bonds called for redemption shall be on deposit with the Paying Agent on the redemption date, the System Bonds or part thereof to be redeemed shall not be deemed to be Outstanding and shall cease to bear or accrue interest from and after such redemption date. Upon presentation of a System Bond to be redeemed at the office of the Paying Agent on or after the redemption date, or, so long as the book-entry system is used for determining beneficial ownership of System Bonds, upon satisfaction of the terms of any other arrangement between the Paying Agent and the Depository, the Paying Agent will pay such System Bond or portion thereof called for redemption.

The Registrar shall also send a copy of the notice of redemption by certified mail or by overnight delivery to each Depository and to EMMA. Failure to provide notice to any Depository or EMMA shall not affect the validity of proceedings for the redemption of System Bonds.

(e) If money or Defeasance Obligations sufficient to pay the redemption price of the System Bonds to be called for redemption are not on deposit with the Paying Agent prior to the giving of notice of redemption pursuant to paragraph (d) of this Section, such notice shall state such System Bonds will be redeemed in whole or in part on the redemption date in a principal amount equal to that part of the redemption price received by the Paying Agent on the applicable redemption date. If the full amount of the redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those System Bonds for which the redemption price is on deposit with the Paying Agent. If all System Bonds called for redemption cannot be redeemed, the System Bonds to be redeemed shall be selected in a manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice of redemption was given, that such money was not received and the information required by paragraph (d) of this Section. In that event, the Registrar shall promptly return to the Owners thereof the System Bonds or certificates which it has received evidencing the part thereof which have not been redeemed.

(f) The terms of this Section 6.05 may be changed with respect to a series of System Bonds by the Supplemental Ordinance relating to those System Bonds.

Section 6.06. *Payment of System Bonds.* The principal of and premium, if any, on Current Interest Bonds and the Accreted Value of Capital Appreciation Bonds shall be payable upon presentation and surrender of the System Bonds at the principal office of the Paying Agent at or after their maturity or prior redemption dates. However, if the book-entry system is in effect for a series of System Bonds, an Authorized Officer and the Depository may make other arrangements for the payment of the principal of or Accreted Value and premium, if any, on those System Bonds. Interest on Current Interest Bonds shall be payable by check or draft mailed to the Owners (or by such other arrangement as may be mutually agreed to by the Paying Agent and an Owner) on or before each Interest Payment Date (or if such Interest Payment Date is not a business day, on the next succeeding business day). However, an Owner of Current Interest Bonds with a principal amount of \$1,000,000 or more may request interest payments on those System Bonds to be transmitted by wire transfer to an account of the Owner maintained with a commercial bank located within the United States of America if the Owner provides deposit or transfer instructions to the Paying Agent not less than five Business Days prior to the applicable Record Date. The Owner shall be deemed to be that person or entity shown on the registration books for the applicable series of System Bonds maintained by the Registrar at the address appearing in the registration books at the close of business on the applicable Record Date. Interest which is not timely paid or provided for shall cease to be payable to the Owners of the applicable Current Interest Bonds (or of one or more predecessor Current Interest Bonds) as of the Record Date, but shall be payable to the Owners of those Current Interest Bonds (or of one or more predecessor Current Interest Bonds) at the close of business on a special record date for the payment of the overdue interest. The special record date shall be fixed by the Paying Agent and Registrar whenever moneys become available for payment of the overdue interest and notice of the special record date shall be given, by first-class mail, to the Owners of such Current Interest Bonds not less than ten days prior to that date. Payment shall be made in the coin or currency of the United States of America that is at the time of payment legal tender for the payment of public and private debts. If the principal amount or Accreted Value of any System Bond presented for payment remains unpaid at maturity, the unpaid principal or Accreted Value shall bear interest at the rate designated in that System Bond. Interest on Capital Appreciation Bonds shall not compound after the Accretion Term Date. Payments of System Bonds shall be made without deduction for exchange or collection charges. Changes may be made with respect to the payment of principal of, premium, if any, Accreted Value and interest on a series of System Bonds by the Supplemental Ordinance relating to that series of System Bonds.

Section 6.07. *Registration, Transfer, Exchange and Ownership of System Bonds.*

(a) The City shall cause books for registration, transfer and exchange of each series of System Bonds to be kept at the principal office of the Registrar. Upon surrender for transfer or exchange of any System Bond at the principal office of the Registrar duly endorsed by the Owner or its attorney duly authorized in writing, or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and properly executed, the City

shall execute and the Registrar shall authenticate and deliver in the name of the transferee or Owner, as appropriate, a new System Bond or Bonds of the same series, maturity, interest terms and same aggregate principal amount in Authorized Denominations. Current Interest Bonds may be exchanged and transferred only for other Current Interest Bonds. Capital Appreciation Bonds may be exchanged or transferred only for other Capital Appreciation Bonds.

(b) The person in whose name any System Bond is registered shall be deemed and regarded as its absolute Owner for all purposes, except as may otherwise be provided with respect to the payment of interest on Current Interest Bonds in Section 6.06. Payment of either the principal of or interest on any System Bond shall be made only to or upon the order of its Owner or its legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability on System Bonds to the extent of the amount paid.

(c) If any System Bond is lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of that System Bond if mutilated, and the evidence, information or indemnity which the Registrar may reasonably require, authenticate and deliver a replacement System Bond or Bonds of the same series, aggregate principal amount or Accreted Value, maturity and interest terms, bearing a number or numbers not then outstanding. Current Interest Bonds may be replaced only with other Current Interest Bonds. Capital Appreciation Bonds may be replaced only with Capital Appreciation Bonds. If any lost, stolen, destroyed or mutilated System Bond has matured or been called for redemption, the Registrar may direct the Paying Agent to pay that System Bond in lieu of replacement.

(d) Exchanges and transfers of System Bonds shall be made without charge to the Owner or any transferee except that the Registrar may make a charge sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to that transfer or exchange.

(e) Except for any System Bond which may be and is tendered for purchase, the Registrar shall not be required to transfer or exchange (i) any System Bond of a series during the five-day period preceding the mailing of notice calling System Bonds of that series for redemption and (b) any System Bond called for redemption.

Section 6.08. *Details of Series 2016 Bonds.*

(a) *Authorization and Necessity.* For the purposes set forth in this Master Ordinance, to protect the public health, safety and welfare of the residents of the City, it is hereby declared necessary that the City, pursuant to the Act, issue its negotiable, fully registered Series 2016 Bonds to be designated "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016", in the aggregate principal amount of \$36,665,000 to defray the cost of refunding the Refunded Bonds. The Series 2016 Bonds shall be payable, as to principal and

interest and any prior redemption premium, solely from Net Revenues and also, with respect to interest payments on the Series 2016 Bonds, from accrued interest, if any, from the initial sale of the Series 2016 Bonds.

(b) *Details.* The Series 2016 Bonds shall be dated the date of issuance, issued only as fully registered bonds in Authorized Denominations and numbered consecutively with such prefixes or other distinguishing designations as the Registrar may determine necessary or appropriate to distinguish one Series 2016 Bond from another. The Series 2016 Bonds shall bear interest until maturity from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from the date of the Series 2016 Bonds, payable on December 1, 2016 and semiannually thereafter on June 1 and December 1 in each year. The Series 2016 Bonds shall bear interest at the rates per annum and shall mature on June 1 in the years and principal amounts as follows:

<u>Years</u> <u>Maturing</u>	<u>Amounts</u> <u>Maturing</u>	<u>Interest Rates</u> <u>(Per Annum)</u>
2017	\$900,000	3.00%
2018	875,000	2.00%
2019	890,000	2.00%
2020	910,000	4.00%
2021	945,000	4.00%
2022	980,000	4.00%
2023	1,020,000	5.00%
2024	1,075,000	5.00%
2025	1,125,000	5.00%
2026	1,180,000	2.00%
2027	1,205,000	2.00%
2028	1,230,000	5.00%
2029	1,290,000	5.00%
2030	1,940,000	4.00%
2031	2,015,000	4.00%
2032	2,095,000	4.00%
2033	2,180,000	4.00%
2034	2,255,000	4.00%
2035	2,330,000	4.00%
2036	2,415,000	4.00%
2039*	7,810,000	4.00%

*Term Bond Subject to Mandatory Redemption

The proceeds of the Series 2016 Bonds shall be allocated to refunding the Refunded Bonds, the Series 2016 Debt Service Account, and the payment of Expenses all as provided in Section 17.11 hereof.

The Council hereby finds and declares that the net effective interest rate on the Bonds does not exceed the maximum rate of twelve percent (12%) per annum permitted by the laws of the State.

Section 6.09. *Optional Prior Redemption of Series 2016 Bonds.* The Series 2016 Bonds maturing on and after June 1, 2027 are subject to redemption prior to maturity, at the option of the City, in whole or in part, in Authorized Denominations, on June 1, 2026 and on any date thereafter in such order of maturities as the City may determine or, if the City has not designated the maturities of the Series 2016 Bonds to be redeemed, in inverse order of maturities (and by lot if less than all of the Bonds of any maturity is called, such selection by lot to be made by the Registrar). Series 2016 Bonds shall be redeemed pursuant to this paragraph (a) at the redemption prices equal to 100% of the principal amount of the Series 2016 Bonds to be redeemed plus accrued interest, if any to the redemption date.

Section 6.10. *Mandatory Sinking Fund Redemption of Series 2016 Bonds.* The Series 2016 Bonds maturing on June 1, 2039 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 Series 2016 Bonds so specified, the City shall cause to be deposited in the Series 2016 Debt Service Account a sum which is sufficient to redeem (after credit as provided below) the following principal amounts of such Series 2016 Bonds plus accrued interest to the sinking fund redemption date:

<u>Year</u>	<u>Amount</u>
2037	\$2,510,000
2038	2,605,000
2039*	2,695,000

*Maturity Date

Not more than seventy (70) days nor less than forty (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.

At the option of the City 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, 2039, as being subject to mandatory sinking fund redemption, in an aggregate principal amount desired by the City or (ii) specify a principal amount of Bonds, maturing on June 1, 2039,

as being subject to mandatory sinking fund redemption, which prior to such date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Registrar at the request of the City 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 City 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 City 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.

ARTICLE VII

FILING OF SIGNATURES

Prior to the execution of any System Bond pursuant to Sections 6-9-1 to 6-9-6 NMSA, the Mayor and City Clerk may each file with the New Mexico Secretary of State his or her manual signature certified by him or her under oath; provided that filing shall not be necessary for any officer where any previous filing may have legal application to the applicable System Bonds.

ARTICLE VIII

EXECUTION AND CUSTODY OF SYSTEM BONDS

Section 8.01. *Execution.* The System Bonds shall be signed with the facsimile of the signature, or the manual signature, of the Mayor and the manual or facsimile signature of the City Clerk. There shall be placed on each System Bond the printed, engraved, stamped or otherwise placed facsimile or imprint of the City's corporate seal. System Bonds when authenticated and bearing the manual or facsimile signatures of the officers in office at the time of their signing shall be valid and binding obligations of the City, notwithstanding that before delivery of those System Bonds, any or all of the persons who executed those System Bonds shall have ceased to fill their respective offices. The Mayor and City Clerk, at the time of the execution of the System Bonds and the signature certificate, each may adopt as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office if such facsimile signature appears upon any of the System Bonds or certificates pertaining to the System Bonds.

Section 8.02. *Custody.* The Authenticating Agent or its designee shall hold in custody all System Bonds signed and attested by the Mayor and City Clerk until ready for delivery to the purchaser, transferee or Owner. The City shall, from time to time, at the written request of the Authenticating Agent, provide the Authenticating Agent an adequate supply of System Bonds.

Section 8.03. *Authentication.* No System Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Authenticating Agent. The Authenticating Agent's certificate of authentication shall be deemed to have been duly executed if manually signed by an authorized officer of the Authenticating Agent, but it shall not be necessary that the same officer sign the certificate of authentication on all System Bonds of a series.

ARTICLE IX

NEGOTIABILITY; PREFERENCE

Except as otherwise stated in this Master Ordinance or a Supplemental Ordinance, System Bonds shall be fully negotiable and shall have all the qualities of negotiable paper and the Owners shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the State's Uniform Commercial Code-Investment Securities. Except as otherwise set forth in this Master Ordinance, a Supplemental Ordinance or Related Documents, System Bonds of a series shall in all respects be equally and ratably secured, without preference, priority or distinction on account of the dates or the actual times of the issuance or maturities of the System Bonds of that series.

ARTICLE X

SPECIAL LIMITED OBLIGATIONS

All of the System Bonds and all payments of principal of, premium, if any, Accreted Value and interest on System Bonds, the purchase price of System Bonds and the fees, costs, expenses and other obligations of the City under the Related Documents, together with the interest accruing thereon, including obligations owed to any Credit Facility provider shall be special limited obligations of the City and shall be payable, collectible and reimbursable solely from Net Revenues, System Bond proceeds and the earnings thereon. However, the City may, subject to the provisions of the Act, in its sole discretion, by Supplemental Ordinance, pledge special fund revenues in addition to Net Revenues, other than ad valorem property tax revenues, to the payment of any series of System Bonds. Owners, the Bond Insurer, the Bank and obligees under the Related Documents may not look to any general or other municipal fund for the payment of the principal of, premium, if any, Accreted Value or interest on such obligations or such fees, costs and expenses, except the designated special funds specifically pledged for that series of System Bonds as set forth in or permitted by this Section. Notwithstanding the foregoing, the City may, in its sole discretion, use any other funds legally available to the City, without having pledged such funds, for the payment of System Bonds. Neither the System Bonds, the Related Documents, nor such costs, fees and expenses of the City shall constitute an indebtedness of the City within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or held to be general obligations of the City, and each of the System Bonds shall recite that it is payable and collectible solely out of Net Revenues, the proceeds of that series of System Bonds and other specified revenues if pledged by a Supplemental Ordinance, the income

from which is so pledged, and that the Owners may not look to any general or other municipal fund for the payment of the principal of, premium, if any, Accreted Value or interest on the System Bonds.

ARTICLE XI

SALE AND REMARKETING OF SYSTEM BONDS

Section 11.01. *Sale of System Bonds.* Each series of System Bonds shall be sold at a public sale or at a negotiated sale in accordance with a bond purchase agreement to the Purchaser. System Bonds delivered shall be sold at an underwriters' discount, including expenses and fees of the Purchaser and an original issue discount, if any, in accordance with the terms of the Supplemental Ordinance for such series. After the System Bonds of a series have been duly executed and authenticated and, upon receipt of the purchase price for that series, that series of System Bonds shall be delivered to the Purchaser by an Authorized Officer in accordance with the applicable bond purchase agreement. However, if a series of System Bonds is in book-entry form, those System Bonds shall be delivered to the Depository.

Section 11.02. *Sale of Series 2016 Bonds.* The Series 2016 Bonds are hereby sold to the Purchaser in accordance with a bond purchase agreement between the City and the Purchaser (the "Series 2016 Bond Purchase Agreement") at the purchase price set forth therein.

ARTICLE XII

FORMS OF SYSTEM BONDS

Section 12.01. *Forms of System Bonds.* The forms of each series of System Bonds shall be substantially as set forth in the Supplemental Ordinance for that series, with such terms and provisions as are not inconsistent with this Master Ordinance.

Section 12.02. *Form of Series 2016 Bonds.* The form of the Series 2016 Bonds shall be substantially as set forth below:

(Form of Series 2016 Bond)

UNITED STATES OF AMERICA
STATE OF NEW MEXICO
COUNTY OF SANTA FE

No. _____

\$ _____

CITY OF SANTA FE, NEW MEXICO
WATER UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2016

INTEREST RATE	MATURITY DATE	SERIES DATE	CUSIP
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_____ % per annum June 1, _____

June __, 2016

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The City of Santa Fe (herein "City"), in the County of Santa Fe and State of New Mexico, for value received, hereby promises to pay upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, to the registered owner named above, or registered assigns, on the Maturity Date specified above (unless this bond, if subject to prior redemption, shall have been called for prior redemption in which case on such redemption date), upon the presentation and surrender hereof at the office of BOKF, NA, Albuquerque, New Mexico, or its successor (herein the "Paying Agent"), the Principal Amount stated above, in coin or currency of the United States of America, and to pay to the registered owner hereof as of the Regular Record Date, being the 15th day of the calendar month (whether or not a business day) preceding each regularly scheduled interest payment date as defined in Ordinance No. ____, adopted May 11, 2016, which authorizes this bond (the "Bond Ordinance"), by check or draft mailed to such registered owner, on or before each interest payment date as hereinafter provided (or, if such interest payment date is not a business day, on the next succeeding business day), at his address as it last appears on the Regular Record Date on the registration books kept for that purpose by BOKF, NA, Albuquerque, New Mexico, as registrar (i.e., transfer agent) for the bonds, or its successor (herein the "Registrar"), interest on said sum in coin or currency of the United States of America from the Series Date specified above or the most recent interest payment date to which interest has been fully paid or duly provided for in full (as more fully provided in the Bond Ordinance) until maturity at the per annum Interest Rate specified above, payable on December 1, 2016 and semiannually thereafter on June 1 and December 1 in each year. An owner of bonds with a principal amount of \$1,000,000 or more may request interest payments on the bonds to be transmitted by wire transfer to an account of the owner maintained with a commercial bank located within the United States of America if the owner provides deposit or transfer instructions to the Paying Agent not less than five days prior to the applicable record date. Any such interest not so timely paid or duly provided for shall cease to be payable to the registered owner as of the Regular Record Date but shall be payable to the registered owner at the close of business as of a special record date, as further provided in the Bond Ordinance. If the principal amount of this bond remains unpaid after presentation and surrender at maturity, interest hereon shall continue at the rate herein designated until the principal hereof is paid in full. If the Bonds are issued in book-entry only form, an authorized officer of the City and the applicable securities depository ("Depository") may make other arrangements for the payments on the Bonds.

The bonds of the series of which this bond is a part maturing on and after June 1, 2027, are subject to redemption prior to maturity at the City's option in one or more units of principal of \$5,000 on June 1, 2026 and on any date thereafter in whole or in part, at any time, in such order of maturities as the City may determine or, if the City has not designated the bonds to be redeemed, in inverse order of maturities (and by lot if less

than all of the Bonds of any maturity is called, such selection by lot to be made by the Registrar), for the principal amount of each \$5,000 unit of principal so redeemed, at the redemption prices equal to 100% of the bonds or portions thereof to be redeemed plus accrued interest to the redemption date, if any. Redemption shall be made upon mailed notice to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

The bonds of the series of which this is one are fully registered (i.e., registered as to payment of both principal and interest), and are issuable in the denomination of \$5,000 or any denomination which is an integral multiple of \$5,000. Upon surrender for transfer or exchange of any of such bonds at the principal office of the Registrar duly endorsed by the owner or its attorney duly authorized in writing or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and properly executed, such bond may be transferred or exchanged for an equal aggregate principal amount of such bonds of the same maturity of other authorized denominations, subject to such terms and conditions as set forth in the Bond Ordinance.

The City and the Registrar and Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes, except as may otherwise be provided with respect to the payment of interest.

This bond is one of a series of bonds designated "City of Santa Fe, New Mexico Water Utility System Revenue Refunding Bonds, Series 2016," of like tenor and date, except as to interest rate, number and maturity, authorized for the purposes of refunding and defeasing the City's outstanding Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009A (Tax-Exempt) and the City's outstanding Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009B (Taxable Direct-Payment Build America Bonds) related to the City's water utility system (the "System"), as set forth in the Bond Ordinance.

This bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of New Mexico.

This bond does not constitute an indebtedness of the City within the meaning of any constitutional, charter or statutory provision or limitation, shall not be considered or be held to be a general obligation of the City, and is payable and collectible solely out of the City's Net Revenues (as defined in the Bond Ordinance) of the System pursuant to the pledge made by and as defined in the Bond Ordinance, which revenues are so pledged; and the holder of this bond may not look to any general or other municipal fund for the payment of the principal of, premium, if any, or interest on this obligation, except the special funds pledged therefor. For a description of the funds, the nature and extent of the security afforded thereby for the payment of the principal of and interest on the bonds, and other details concerning the bonds, reference is made to the Bond Ordinance. The bonds of the series of which this bond is one are equally and ratably secured by a lien

on the Net Revenues; the bonds of the series of which this bond is one constitute an irrevocable lien, but not necessarily an exclusive lien, upon the Net Revenues. System bonds, in addition to the series of which this bond is one, may be issued for System purposes and made payable from the Net Revenues having a lien thereon inferior and junior to the lien or, subject to designated conditions, having a lien thereon on a parity with the lien of the bonds of the series of which this bond is one, in accordance with the provisions of the Bond Ordinance.

The City covenants and agrees with the registered owner of this bond and with each and every person who may become the registered owner hereof that it will keep and perform all of the covenants of the Bond Ordinance.

This bond is subject to the conditions, and every registered owner hereof by accepting the same agrees with the obligor and every subsequent registered owner hereof, that the principal of and the interest on 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 for any setoffs or cross-claims.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the City Council and officers of the City in the issuance of this bond; and that it is issued pursuant to and in strict conformity with the Constitution and laws of the State of New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the certificate of authentication herein.

IN WITNESS WHEREOF, the City of Santa Fe has caused this bond to be signed, subscribed, and executed and attested with the signatures of its Mayor and its City Clerk, respectively; and has caused its corporate seal to be affixed on this bond, all as of the Series Date.

(SEAL)

MAYOR

Attest:

CITY CLERK

(Form of Registrar's Certificate of Authentication)

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This is one of the bonds described in the within-mentioned Bond Ordinance, and this bond has been duly registered on the registration books kept by the undersigned as Registrar for such Bonds.

BOKF, NA
as Registrar

By: _____
Authorized officer

(End of Form of Registrar's Certificate of Authentication)

(Form of Assignment)

ASSIGNMENT

For value received, _____
hereby sells, assigns and transfers unto _____ the within bond and hereby
irrevocably constitutes and appoints _____ attorney, to transfer the
same on the books of the Registrar, with full power of substitution in the premises.

Signature Guaranteed: _____
Name and Address of Transferee

Dated: _____ Social Security Number or other
Tax Identification Number

(End of Form of Assignment)

(End of Form of Series 2016 Bond)

ARTICLE XIII

PERIOD OF SYSTEM'S USEFULNESS

The period of usefulness of the projects funded with the proceeds of the Refunded Bonds is in excess of the final maturity date of the Series 2016 Bonds.

ARTICLE XIV

USE OF PROCEEDS; PROJECT COMPLETION; PURCHASERS NOT RESPONSIBLE

Section 14.01. *Proceeds, Project Completion.*

(a) Proceeds from the sale of the Series 2016 Bond shall be deposited as provided in Section 17.11. Proceeds from the sale of a series of System Bonds shall be deposited as follows:

(i) The proceeds of a series of System Bonds designated for the payment of interest on that series may be deposited in the Acquisition Account or the Debt Service Account for that series of System Bonds (if such System Bonds are Parity Bonds) or comparable accounts established by Supplemental Ordinance for a series of Subordinated Bonds. Money on deposit in an Acquisition Account for the payment of interest on a series of System Bonds shall be transferred to the Debt Service Account for that series (or comparable account for a series of Subordinated Bonds) in the amounts, and prior to the due dates, of the interest payments to be made on that series of System Bonds.

(ii) Proceeds of a series of System Bonds may be used to satisfy all or part of the Reserve Requirement for that series of System Bonds by depositing proceeds of that series in the Reserve Account for that series (if such System Bonds have a Reserve Account and Reserve Requirement) or comparable account established by Supplemental Ordinance for a series of Subordinated Bonds.

(iii) If System Bonds are issued to refund Outstanding System Bonds, proceeds from the sale of the refunding System Bonds shall be deposited in an escrow fund or account established for the payment of the System Bonds to be refunded, may be used to pay Expenses relating to the refunding or the refunded System Bonds, and for such other purposes relating to the refunding or incidental to the issuance or administration of the refunding System Bonds as are permitted in this Master Ordinance or the applicable Supplemental Ordinance.

(iv) The balance of the proceeds shall be deposited in the Acquisition Account established for that series and applied to the Project

for which that series was issued, for the payment of Expenses of or relating to System Bonds and for any other purpose related to the Project or incidental to the issuance or administration of System Bonds permitted in this Master Ordinance or applicable Supplemental Ordinance. Earnings on amounts on deposit in an Acquisition Account may be used to pay costs of the Project or, with the prior approval from Bond Counsel, Debt Service Requirements on the System Bonds for which the Acquisition Account was established.

(b) The Completion Date for the part of the Project financed by the issuance of a series of System Bonds shall be evidenced by a certificate signed by the director of the System or other City official responsible for the System stating that the part of the Project being funded by that series of System Bonds has been completed. As soon as practicable, and in any event not more than 60 days after the Completion Date of the part of the Project for which a series of System Bonds was issued, any balance remaining in the Acquisition Account established for that part of the Project (other than any amount retained by the City for costs of that part of the Project not then due and payable) shall be used by the City for the payment of the principal of or interest next coming due on the System Bonds issued to finance that part of the Project or as otherwise provided in the applicable Supplemental Ordinance.

Section 14.02. *Purchasers Not Responsible For Use of Proceeds.* Purchasers of System Bonds shall not be responsible for the application or use by the City of the proceeds of System Bonds.

ARTICLE XV

SUFFICIENCY OF ESCROW

The proceeds of refunding System Bonds, together with any other money of the City available to pay principal of, premium, if any, and interest on System Bonds being refunded, deposited in an escrow fund or account established to refund outstanding System Bonds shall be sufficient to pay when due the principal of, premium, if any, and interest on the System Bonds to be refunded. The escrow agent shall invest the money on deposit in the escrow fund or account as permitted in the Supplemental Ordinance and the escrow agreement pertaining to the refunding System Bonds. The investment obligations held by the escrow agent shall mature at such times as are necessary to insure the prompt payment of the principal of, premium, if any, and interest on the System Bonds to be refunded as they become due and such obligations shall not permit the redemption thereof at the option of the issuer of such obligations.

ARTICLE XVI

APPROVAL AND USE OF DOCUMENTS

Section 16.01. *Council Approval.* Prior to the issuance of any series of System Bonds, documents necessary for the award of such series of System Bonds to the best bidder therefore at a public sale, the private placement of such series of System Bonds or a bond purchase agreement, and a preliminary disclosure document or form of final disclosure document and, to the extent applicable to a series of System Bonds, an escrow agreement, Credit Facility or trust agreement, with terms which are not inconsistent with the terms of this Master Ordinance and the applicable Supplemental Ordinance, shall be submitted to the Council for approval or ratification. Other Related Documents with terms which are consistent with this Master Ordinance and Supplemental Ordinance may be approved by an Authorized Officer. An Authorized Officer may consent to any changes in Related Documents as are not inconsistent with this Master Ordinance and applicable Supplemental Ordinance. With respect to any series of System Bonds, an Authorized Officer is:

(a) authorized to execute a bond purchase agreement, subject to either prior approval or effective upon ratification by the Council, with terms of the applicable System Bonds and of the sale to the Purchaser of the System Bonds within the parameters set forth in this Master Ordinance and any applicable Supplemental Ordinance; and

(b) if applicable, authorized to execute and deliver such documents as may be required for tax compliance purposes and to enable the Purchaser to comply with applicable securities law requirements; and

(c) authorized and directed to execute and deliver, either in printed or electronic format, disclosure documents, Related Documents and other documents to which the City is a party or which the City is required to execute and any extension of or changes or amendments thereto or any substitutions therefor approved by the Authorized Officer substantially in the form presented to the Council, if applicable, and which are not inconsistent with this Master Ordinance and any applicable Supplemental Ordinance. The execution of a Related Document by an Authorized Officer, or any extensions thereof or substitutions therefor, in its final form shall constitute conclusive evidence of the Authorized Officer's approval of that Related Document and compliance with this Section. The City Clerk is authorized to fix the seal of the City to and to attest any Related Documents, as required.

Section 16.02. *Further Acts.* From and after the adoption of this Master Ordinance, the officers, agents, attorneys and employees of the City are authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of this Master Ordinance, any Supplemental Ordinance and any Related Document.

Section 16.03. *Use of Disclosure Documents.* The Purchaser of each series of System Bonds is authorized to use the disclosure documents relating to that series of System Bonds in connection with the offering and sale of that series.

Section 16.04. *Approval of Related Documents for the Series 2016 Bonds; Authority of Authorized Officers.* The form, terms and provisions of the Series 2016 Bond Purchase Agreement between the City and the Purchaser, a continuing disclosure undertaking within the meaning of Securities and Exchange Commission Rule 15c-2(12)(b)(5) (the "Series 2016 Continuing Disclosure Undertaking"), a preliminary official statement dated May 4, 2016 (the "Series 2016 Preliminary Official Statement"), a final official statement dated May 11, 2016 (the "Series 2016 Official Statement"), the Amendment to the 2008 Loan Agreement, the Amendment to the 2013 Loan Agreement, the Series 2016 Insurance Agreement and an Escrow Agreement between the City and the Escrow Agent, in the forms presented at this meeting, are in all respects approved, authorized and confirmed. The Authorized Officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Master Ordinance, including, without limiting the generality of the foregoing, the refunding, redemption and prepayment of the Refunded Bonds in accordance with their terms (including the deposit and use of other legally available funds of the City for refunding, redemption and prepayment of the Refunded Bonds), the distribution of material relating to the Series 2016 Bonds, the printing, execution and distribution of the Series 2016 Official Statement, with such changes therein not inconsistent with this Master Ordinance as the Authorized Officers of the City deem necessary or desirable, and the execution of the Series 2016 Bond Purchase Agreement, the Series 2016 Continuing Disclosure Undertaking, the Series 2016 Insurance Agreement and such other certificates and agreements as may be required by the purchasers of the Series 2016 Bonds or Bond Counsel. The use and distribution of the Series 2016 Preliminary Official Statement and the Series 2016 Official Statement in connection with the sale of the Series 2016 Bonds to the public are hereby ratified, authorized, approved and acknowledged.

ARTICLE XVII

FUNDS AND ACCOUNTS

Section 17.01. *Income Fund.* The City shall continue the Income Fund as a separate, distinct and segregated fund. As long as any System Bonds are Outstanding, all Gross Revenues shall continue to be set aside and credited to the Income Fund.

Section 17.02. *Acquisition Fund.* The Acquisition Fund is established as a separate and distinct fund of the City to be maintained and controlled by the City or its designee. The City shall establish a separate Acquisition Account in the Acquisition Fund for each series of System Bonds which finance a Project and may establish separate subaccounts in any such account for the payment of capitalized interest and for other purposes permitted by this Master Ordinance or the applicable Supplemental Ordinance.

Section 17.03. **Debt Service Fund.** The City shall continue the Debt Service Fund as a separate and distinct fund of the City to be maintained and controlled by the City or its designee for the payment of the Debt Service Requirements on Parity Bonds and, if applicable, proceeds of Parity Bonds to be used for the payment of Parity Bonds. The City shall establish a separate Debt Service Account in the Debt Service Fund for each series of Outstanding Parity Bonds and may establish separate subaccounts in any such account for each series of Outstanding Parity Bonds. The City hereby establishes the Series 2016 Debt Service Account, the Series 2016 Interest Account, and the Series 2016 Principal Account.

Section 17.04. **Reserve Fund.** The City shall continue the Reserve Fund as a separate and distinct fund to be maintained and controlled by the City or its designee for the purposes described in Section 18.03. The City shall establish a separate Reserve Account in the Reserve Fund for each series of Parity Bonds for which there is a Reserve Requirement. The City hereby establishes the Series 2016 Reserve Account.

Section 17.05. **Escrow Fund.** The Escrow Fund is established as a separate and distinct fund of the City to be maintained and controlled by the Escrow Agent or its designee. The City hereby establishes the Series 2016 Escrow Account.

Section 17.06. **Subordinate Lien Funds and Accounts.** The City may establish separate and distinct funds and accounts to be maintained and controlled by the City or its designee to pay Debt Service Requirements on, and to fund Reserve Accounts for, Subordinated Bonds.

Section 17.07. **Rebate Fund.** The City shall continue the Rebate Fund as a special and separate fund to be maintained and controlled by the City or its designee. The City shall, to the extent that rebate payments may be required to be made pursuant to Section 148(f) of the Code, establish within the Rebate Fund a separate account for each series of System Bonds. The City hereby establishes the Series 2016 Rebate Account.

Section 17.08. **Replacement Fund.** The City shall continue the Replacement Fund as a special and separate fund to be maintained and controlled by the City or its designee for the purposes described in Section 18.06.

Section 17.09. **Rate Stabilization Fund.** The City shall continue the Rate Stabilization Fund as a special and separate fund to be maintained and controlled by the City or its designee for the purposes described in Section 18.07.

Section 17.10. **Operation and Maintenance Fund.** The City shall continue the Operation and Maintenance Fund as a special and separate fund to be maintained and controlled by the City or its designee for the purposes described in Section 18.01.

Section 17.11. **Other Funds.** Other funds and accounts relating to any series of System Bonds, including escrow funds and accounts if System Bonds are to be refunded,

may be established by the Council or an officer of the City to be controlled and maintained by the City or its designee.

Section 17.12. *Deposit of Proceeds of Series 2016 Bonds.* On the date of issuance and delivery of the Series 2016 Bonds, the net proceeds from the sale of the Series 2016 Bonds (after payment of underwriter's discount, original issue discount and Expenses) and other amounts stated in this Section shall be deposited or used as follows:

(a) \$41,063,717.08 of proceeds of the Series 2016 Bonds together with \$5,430,283.98 from the debt service reserve funds from the Refunded Bonds and \$17,000,000.00 from other legally available funds of the City shall be deposited with the Escrow Agent in the Series 2016 Escrow Account pursuant to the Escrow Agreement used to pay the interest on and the principal and redemption price of the Refunded Bonds.

(b) \$322,000 of proceeds of the Series 2016 Bonds shall be used to pay Expenses, and \$77,263.20 shall be paid for the Reserve Account Insurance Policy acquired through the Reserve Account Insurer for the Series 2016 Reserve Account.

(c) \$402.27 of the proceeds shall be deposited in the Series 2016 Debt Service Account.

The City Finance Director and Treasurer may approve variations in the amounts to be deposited, transferred and used as set forth in Paragraphs (a) (b), and (c) of this Section as necessary or desirable.

ARTICLE XVIII

ADMINISTRATION OF INCOME FUND AND OTHER FUNDS AND ACCOUNTS

Section 18.01. *Use of Gross Revenues.* As long as any System Bonds are Outstanding, all Gross Revenues shall be deposited in the Income Fund and transferred from that Fund to the following funds and accounts or for payment of the following amounts in the order listed:

(a) *Operation and Maintenance Expenses.* A sufficient amount of Gross Revenues shall be set aside each month into the Operation and Maintenance Fund to be used to pay the current Operation and Maintenance Expenses as they become due.

(b) *Debt Service Accounts for Parity Bonds.* Net Revenues shall be transferred to the Debt Service Account established for the Series 2016 Bonds and each series of Outstanding Parity Bonds in approximately equal amounts each month to provide an amount sufficient to pay Debt Service Requirements on the Series 2016 and such series of Parity Bonds as they become due.

(c) *Reserve Account.* Net Revenues shall be transferred to the Reserve Account for each series of Parity Bonds with a Reserve Requirement each month to the extent that deposits are required to be made as a result of any draws on a Reserve Account Insurance Policy or deficiency in the Reserve Requirement for a series of Parity Bonds.

(d) *Subordinated Bonds.* Net Revenues shall be transferred to such funds and accounts as may be established by Supplemental Ordinance with respect to one or more series of Subordinated Bonds and used to pay Debt Service Requirements on Subordinated Bonds and to fund any Reserve Requirement for Subordinated Bonds.

(e) *Replacement Fund.* At the option of the City, Net Revenues may be transferred to the Replacement Fund to be used for the purposes stated in Section 18.06.

(f) *Rate Stabilization Fund.* At the option of the City, Net Revenues may be transferred to the Rate Stabilization Fund to be used for the purposes stated in Section 18.07.

(g) *Surplus Net Revenues.* Net Revenues shall be retained in the Income Fund or used for any other lawful System purpose including, but not limited to, redeeming or purchasing System Bonds or paying costs and expenses of the City relating to the administration of System Bonds but shall not be transferred to the general fund of the City except for Operation and Maintenance Expenses owed by the System to the City and except for taxes, payments in lieu of taxes, franchise fees, surcharges, assessments and other municipal or governmental charges of the City lawfully levied or assessed upon the System.

(h) *Accumulation of Revenues.* Gross Revenues need not be retained for any use or in any fund or account described in this Section 18.01 in excess of the Gross Revenues required for any current use or deposit. For the purposes of this subparagraph, the term current shall mean the month during which the Net Revenues are being distributed and the immediately following period until the next payment date for Debt Service Requirements on System Bonds.

Section 18.02. *Debt Service Fund.* Net Revenues shall be transferred in approximately equal amounts each month to each Debt Service Account sufficient to pay when due the Debt Service Requirements on each series of Parity Bonds.

(a) Except as stated in Section 18.04 or required by the Supplemental Ordinance relating to a series of Parity Bonds, approximately equal monthly deposits of Net Revenues shall be made to each Debt Service Account beginning six months before each Interest Payment Date for the Series 2016 Bonds and any Parity Bonds in order to make the next payment of interest on each such System Bond when due. However, if the first Interest Payment Date for a series of System Bonds is less than seven months after the date of the original issuance of

that series of System Bonds, equal monthly deposits of Net Revenues before the first Interest Payment Date shall begin in the first full month following the date of issuance of that series of System Bonds.

(b) Except as stated in Section 18.04 or as required by the Supplemental Ordinance relating to a series of System Bonds, substantially equal monthly deposits of Net Revenues shall be made to each Debt Service Account beginning 12 months before each principal or Accreted Value payment date for the Series 2016 Bonds and any Parity Bonds in order to make the next scheduled payment of principal or Accreted Value on each such System Bond when due whether at maturity on a mandatory sinking fund redemption date or other Accretion Term Date. However, if the first principal payment date for a series of System Bonds is less than thirteen months after the date of the original issuance of that series of System Bonds, equal monthly deposits of Net Revenues before the first principal payment date shall begin in the first full month following the date of issuance of that series of System Bonds. Principal payments include scheduled payments at maturity, by mandatory sinking fund installment or otherwise scheduled payments of principal. Accreted Value payments include scheduled payments on the Accretion Term Date, if any, and as otherwise stated in the applicable Supplemental Ordinance.

If in the month immediately preceding any payment date for the Series 2016 Bonds and any series of Parity Bonds, the City determines that there are not sufficient funds accumulated in a Debt Service Account to pay the amount becoming due on such series of System Bonds on the payment date, the City shall promptly deposit any available Net Revenues in that Debt Service Account in an amount equal to the deficiency. If, prior to any payment date for a series of System Bonds, there has accumulated in the applicable Debt Service Account the entire amount necessary to pay the amount becoming due on those System Bonds on that payment date, no additional Net Revenues need be deposited in that Debt Service Account prior to that payment date. In making the determinations permitted by this paragraph, the City may take into account the amount on deposit in any other fund or account or escrow relating to the applicable series of System Bonds irrevocably set aside for the next payment of those System Bonds.

Unless otherwise stated in the Supplemental Ordinance relating to any series of Parity Bonds, amounts deposited in any Debt Service Account shall be applied first to the payment of interest and then to pay or satisfy any sinking fund requirements for the payment of principal.

Except as provided in Section 18.04, money in a Debt Service Account shall be used only to pay the Debt Service Requirements on the Series 2016 Bonds and any series of System Bonds for which the Debt Service Account was created. Transfers of amounts equal to the Debt Service Requirements shall be made by the City on a timely basis to the appropriate Fiscal Agent.

Any amount owed by the City to a Bond Insurer for payment of Debt Service Requirements on the Series 2016 Bonds or Insured Bonds of a series of Parity Bonds pursuant to a Bond Insurance Policy shall be paid from Net Revenues with the same priority as other payments of Debt Service Requirements on that series of Parity Bonds.

Section 18.03. **Reserve Account.** As provided in a Supplemental Ordinance, the City may establish a separate Reserve Account in the Reserve Fund for each series of Parity Bonds for which there is a Reserve Requirement. The City has determined to establish a Reserve Account for the Series 2016 Bonds as provided herein to be initially funded with a Reserve Account Insurance Policy as provided herein. Each Reserve Account may be funded with the proceeds of the applicable series of Parity Bonds, a Reserve Account Insurance Policy, Net Revenues or any combination thereof. A Reserve Account Insurance Policy may be substituted for an equivalent amount of cash in a Reserve Account.

No payments need be made into a Reserve Account, if created, as long as the sum of the money in that Reserve Account and the insurance in effect under any Reserve Account Insurance Policy for the applicable series of Parity Bonds is equal to or greater than the Reserve Requirement for that series of System Bonds and all proceeds of the Reserve Account Insurance Policy used to pay Debt Service Requirement have been repaid. Money in each Reserve Account shall be accumulated and maintained as a continuing reserve to be used, except as provided in this Section 18.03 and Section 18.04, only to prevent deficiencies in the payment of the principal of, Accreted Value or interest on the series of Parity Bonds for which the Reserve Account was established and to reimburse the Insurer under any applicable Reserve Account Insurance Policy.

If the amount on deposit in the Debt Service Account for a series of Parity Bonds on a payment date for that series of System Bonds and available Net Revenues are not enough to pay the amount becoming due on that series on that date, an amount equal to the deficiency shall be transferred from the applicable Reserve Account to the Debt Service Account for that series of Parity Bonds. If the amount of money on deposit in the Reserve Account is not sufficient to make up the deficiency in the Debt Service Account for that series of Parity Bonds when due, a demand for payment shall be made on any applicable Reserve Account Insurance Policy.

A sum equal to the amount in such other Reserve Account and the proceeds of a Reserve Account Insurance Policy used to pay Debt Service Requirements on a series of Parity Bonds plus interest, if any, owed on amounts advanced pursuant to a Reserve Account Insurance Policy shall be deposited in that Reserve Account from the first Net Revenues received by the City which are not required by Section 18.01 to be used for another purpose. The amount received shall first be used to reimburse the Reserve Account Insurer for amounts paid under the Reserve Account Insurance Policy used to pay Debt Service Requirements, second to pay interest or fees owed to a Reserve Account Insurer in connection with amounts advanced pursuant to a Reserve Account Insurance Policy, and third to replace amounts of money drawn from the Reserve

Account. Any interest or fees due to a Reserve Account Insurer shall be subordinate to any amounts required to be paid for the benefit of the Owners of the series of Parity Bonds. The priority for the use of money deposited in a Reserve Account for a series of System Bonds may be changed by the Supplemental Ordinance for that Series or in Section 21.15 hereof.

If all proceeds drawn on a Reserve Account Insurance Policy and accrued interest thereon for a series of Parity Bonds have been reimbursed and paid, any amount on deposit in the Reserve Account relating to that series of System Bonds in excess of the Reserve Requirement for that series (taking into consideration the amount of insurance available under any applicable Reserve Account Insurance Policy) may be withdrawn at any time from the Reserve Account and deposited in the Replacement Fund. However, any excess which represents original proceeds of a series of Outstanding System Bonds or interest thereon shall first be used to pay Debt Service Requirements on that series of System Bonds or costs of the Project for which that series of System Bonds was issued.

If a Reserve Account Insurance Policy is used to satisfy the Reserve Requirement for a series of Parity Bonds, the City shall give notice thereof to each rating agency providing a rating for that series of System Bonds.

Section 18.04. ***Termination Upon Deposits to Maturity.*** No payments need be made into the Debt Service Account or Reserve Account for a series of Parity Bonds if the sum of the amounts in that Debt Service Account and Reserve Account (without regard for the coverage available under any Reserve Account Insurance Policy) is not less than the Debt Service Requirements due and to become due on and before the final maturity date of that series of Parity Bonds, both accrued and not accrued, and all proceeds paid under any Reserve Account Insurance Policy and Bond Insurance Policy for that series of Parity Bonds have been reimbursed and all amounts owed to the providers of such policies have been paid in full. Unless otherwise provided in the Supplemental Ordinance applicable to a series of Parity Bonds, the money retained in those two accounts shall be used only to pay the Debt Service Requirements on that series of System Bonds when due except that any money on deposit in any such Debt Service Account which is not necessary to pay such Debt Service Requirements shall be used as surplus Net Revenues and any money on deposit in any such Reserve Account which is not necessary to pay such Debt Service Requirements (other than proceeds of Outstanding Parity Bonds) shall be deposited in the Replacement Fund.

Section 18.05. ***Subordinated Bonds.*** Net Revenues shall be used as required by the applicable ordinances of the Council authorizing the issuance of Subordinated Bonds, the payment of Debt Service Requirements thereof and the funding of reserves for Subordinated Bonds. Subordinated Bonds shall have the order of priority with respect to other Subordinated Bonds as set forth in the Supplemental Ordinances authorizing the issuance of Subordinated Bonds.

Section 18.06. ***Replacement Fund.*** In addition to Net Revenues, the City shall deposit in the Replacement Fund, all money released from a Reserve Account for a series

of System Bonds in excess of the Reserve Requirement for that series pursuant to Section 18.03, except for any such excess which is designated for another System purpose by resolution or ordinance of the Council or which is proceeds of Outstanding System Bonds, together with such other moneys from other sources as may be designated by the Council.

While any System Bonds are outstanding, money on deposit in the Replacement Fund shall be used only (i) for replacement costs and capital improvements to the System, (ii) for extraordinary charges relating to the financing or refinancing of the System, and (iii) to purchase or otherwise defease, or provide for the defeasance of, Outstanding System Bonds.

Section 18.07. ***Rate Stabilization Fund.*** Money on deposit in the Rate Stabilization Fund may be withdrawn at any time and used for any purpose for which Gross Revenues may be used. If deposits to the Rate Stabilization Fund are made by the City from sources of legally available moneys other than Gross Revenues, then such deposits shall be excluded from computations required pursuant to Article XXIV and Section 26.03 of this Master Ordinance.

Section 18.08. ***Pro Rata Deposits.*** If the amount of Net Revenues available for deposit in the Debt Service Fund is not sufficient to pay the entire amount required to be deposited in the Debt Service Accounts and/or Reserve Accounts, the Net Revenues available shall be deposited first in the Debt Service Accounts and then in the Reserve Accounts, in each case, pro rata based upon the amount required to be deposited in each Account to the total Net Revenues available for deposit.

Reimbursements owed to a Bond Insurer, Reserve Account Insurer or provider of another Credit Facility for amounts used to pay Debt Service Requirements on a series of System Bonds shall be paid on the same pro rata basis and with the same priority as are amounts to be deposited in the Debt Service Account or Reserve Account, as applicable, with respect to the applicable series of Parity Bonds (or comparable accounts with respect to a series of Subordinated Bonds).

Section 18.09. ***Variable Rate Bonds.*** In making computations required by this Article, interest on Variable Rate Bonds which cannot be determined exactly for a future period shall be deemed to bear the interest rate required by the definition of Debt Service Requirements in this Master Ordinance or the applicable Supplemental Ordinance. To determine the amount required to be on deposit in any Debt Service Account for the payment of interest, computations of the interest rate on Variable Rate Bonds shall be made whenever there is a change in the interest rate on the applicable Variable Rate Bonds except that the computation need not be made more often than once in any month.

ARTICLE XIX

TRANSFERS TO PAY PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SYSTEM BONDS; PAYMENT OF EXPENSES

Section 19.01. *Transfer to Paying Agent.* The City shall transfer legally available funds for the payment of Debt Service Requirements on each series of System Bonds to the applicable Paying Agent on or before the date on which each such payment is due.

Section 19.02. *Expenses.* The City or its designee shall pay all Expenses directly to the party entitled thereto from proceeds of a series of System Bonds, from amounts on deposit in the Acquisition Account for a series of System Bonds and from other Net Revenues, as applicable.

ARTICLE XX

GENERAL ADMINISTRATION OF FUNDS

The funds and accounts designated in Articles 17 and 18 shall be administered as follows:

Section 20.01. *Investment of Money.* To the extent practicable, any money in any such fund or account shall be invested in Permitted Investments within any limitations imposed by any applicable Supplemental Ordinance. Obligations purchased as an investment of money in any fund or account shall be deemed at all times to be part of that fund or account, and the interest accruing and any profit realized on those investments shall be credited to that fund or account, unless otherwise stated in this Master Ordinance, a Supplemental Ordinance or Related Document (subject to withdrawal at any time for the uses directed and permitted for such money by this Master Ordinance, Supplemental Ordinance and Related Documents), and any loss resulting from such investment shall be charged to that fund or account. The City Finance Director and Treasurer shall present for redemption or sale on the prevailing market any Permitted Investment in a fund or account when necessary to provide money to meet a required payment or transfer from that fund or account.

Section 20.02. *Deposits of Funds.* The money and investments which are part of the funds and accounts designated in Articles 17 and 18 shall be maintained and kept in an Insured Bank or Banks or may be held in book-entry form in the name of the City by an agent or custodian of or for the City for the benefit of the City, as permitted by State law. Each payment or deposit shall be made into and credited to the proper fund or account at the designated time, except that when the designated time is not a Business Day, then the payment shall be made on the next succeeding Business Day unless otherwise required in this Master Ordinance, a Supplemental Ordinance or Related Documents. The City may establish one or more accounts in Insured Banks for all of the funds and accounts or combine such funds and accounts with any other Insured Bank account or accounts for other funds and accounts of the City.

Section 20.03. *Valuation of Investments.* In the computation of the amount in any account or fund for any purpose under this Master Ordinance, except as otherwise

expressly provided in this Master Ordinance or applicable Supplemental Ordinance, Permitted Investments shall be valued at the cost thereof (including any amount paid as accrued interest) or the principal amount thereof, whichever is less; except that Permitted Investments purchased at a premium may initially be valued at the cost thereof, but in each year after such purchase shall be valued at a lesser amount determined by ratably amortizing the premium over the remaining term. Bank deposits shall be valued at the amount deposited, exclusive of any accrued interest or any other gain to the City until such gain is realized by the receipt of an interest-earned notice, or otherwise. The valuation of Permitted Investments and bank deposits in any account shall be made not less frequently than annually. No loss or profit on Permitted Investments shall be deemed to take place as a result of fluctuations in the market quotations prior to the sale or maturity thereof.

Section 20.04. *Reserve Fund Investments.* Unless otherwise stated in a Supplemental Ordinance, amounts contained in each Reserve Account in the Reserve Fund may be invested only in Permitted Investments. Amounts contained in a Reserve Account may be invested only in Permitted Investments, with maturities of not longer than five years (except for investment agreements, as described in paragraph (g) of the definition of Permitted Investments, which may have maturities in excess of five years). The Permitted Investments on deposit shall be marked to their fair market value on and as of July 1 of each year. Any deficiency in the Reserve Account as a result of such annual valuation shall be paid into the Reserve Account by the City from moneys on deposit in the Income Fund within one month of such valuation.

ARTICLE XXI

BOND INSURANCE, RESERVE ACCOUNT INSURANCE AND CREDIT FACILITY

Section 21.01. *Credit Facility for Payment of System Bonds.* Payments of all or any part of the Debt Service Requirements on any series of System Bonds may be guaranteed by a Credit Facility as and to the extent set forth in the Supplemental Ordinance and Related Documents for that series.

Section 21.02. *Consent of Bank or Bond Insurer.* Any provision of this Master Ordinance or Supplemental Ordinance expressly recognizing or granting rights in or to a Bank or Bond Insurer may not be amended in any manner which affects the rights of the Bank or Bond Insurer without the prior written consent of that Bank or Bond Insurer.

Section 21.03. *Consent of Bond Insurer in Addition to Owner's Consent.* With respect to Insured Bonds, the Owners' consent shall be effective only to the extent that the applicable Bond Insurer also gives its consent when required for the (i) execution and delivery of any supplement or amendment to this Master Ordinance (other than a Supplemental Ordinance authorizing issuance of a series of System Bonds) or applicable Supplemental Ordinance and (ii) initiation or approval of any action not described in clause (i) of this paragraph which requires Owners' consent.

Section 21.04. ***Consent of Bond Insurer upon an Event of Default.*** With respect to Insured Bonds, anything in this Master Ordinance to the contrary notwithstanding, while Insured Bonds are outstanding, upon the occurrence and continuance of an event of default with respect to a series of System Bonds, the Bond Insurer of the applicable Bond Insurance Policy shall be entitled to control and direct the enforcement of all rights and remedies to the extent granted to the Owners of those Insured Bonds under this Master Ordinance and, to the same extent that the Owners of Insured Bonds have the right, to approve all waivers of any event of default with respect to the Insured Bonds of that series.

Section 21.05. ***Payment Procedure Pursuant to Bond Insurance Policy.*** As long as a Bond Insurance Policy is in full force and effect and Insured Bonds are outstanding, the City and applicable Paying Agent agree to follow the procedures for a draw on that Bond Insurance Policy as set forth in the Supplemental Ordinance or Credit Facility.

Section 21.06. ***Book-Entry Bonds.*** If Insured Bonds are issued in book-entry form, principal, Accreted Value and interest paid by a Bond Insurer of Insured Bonds shall be distributed to any Owner of those Insured Bonds only upon evidence satisfactory to that Bond Insurer that the ownership interest of that Owner and the right to payment of such principal, Accreted Value and interest has been effectively transferred to that Bond Insurer on the books maintained for such purpose. Any Bond Insurer paying principal or interest on Insured Bonds shall be fully subrogated to all of the rights of Owners of those Insured Bonds to payment of principal, Accreted Value and interest to the extent of the insurance disbursement so made.

Section 21.07. ***Reserve Account Insurance.*** In lieu of depositing Net Revenues or proceeds of System Bonds into a Reserve Account, the City may satisfy all or a part of the Reserve Requirement, if any, for a series of System Bonds by the purchase of a Reserve Account Insurance Policy.

Section 21.08. ***Payment Procedures Pursuant to Reserve Account Insurance Policy.*** As long as a Reserve Account Insurance Policy is in full force and effect for a series of System Bonds, the City and Paying Agent agree that if money on deposit in the applicable Debt Service Account (or comparable account for a series of Subordinated Bonds) is not available to pay the amount of Debt Service Requirements coming due on that series of System Bonds, the Paying Agent and City will follow the procedures for a draw on that Reserve Account Insurance Policy as set forth in the applicable Supplemental Ordinance or Credit Facility.

Section 21.09. ***Notices to be Given to Bond Insurer and Reserve Account Insurer.*** While a Bond Insurance Policy and/or Reserve Account Insurance Policy are in effect, the City shall furnish to the Bond Insurer and/or Reserve Account Insurer:

(a) As soon as practicable after the filing thereof, a copy of the financial statements of the City and a copy of any audit and annual report of the City;

(b) A copy of any notice or certificate to be given to the Owners of Insured Bonds or System Bonds for which there is a Reserve Account Insurance Policy in effect including, without limitation, notice of any redemption or defeasance of Insured Bonds or System Bonds for which there is a Reserve Account Insurance Policy in effect;

(c) A copy of any notice or information provided pursuant to any continuing disclosure undertaking of the City with respect to System Bonds; and

(d) Such additional information as the Bond Insurer or Reserve Account Insurer reasonably request.

The City will permit each Bond Insurer and Reserve Account Insurer to discuss with appropriate officers of the City the affairs, finances and accounts of the City or any information the Bond Insurer or Reserve Account Insurer may reasonably request regarding the security for the Insured Bonds or System Bonds for which there is a Reserve Account Insurance Policy in effect. The City will permit each Bond Insurer and Reserve Account Insurer at any reasonable time to have access to and to make copies of all books and records relating to the Insured Bonds or System Bonds for which there is a Reserve Account Insurance Policy in effect.

Notwithstanding any of the provisions of this Master Ordinance, the City shall notify each Bond Insurer and Reserve Account Insurer if at any time there is an insufficient amount of money to pay the Debt Service Requirements on the Insured Bonds or System Bonds for which there is a Reserve Account Insurance Policy in effect as and when required and immediately upon the occurrence of any event of default under this Master Ordinance.

Section 21.10. *Nonexistence of or Default under Bond Insurance Policy or Reserve Account Insurance Policy; Payment in Full of Insured Bonds.*

(a) Notwithstanding anything in this Master Ordinance or a Supplemental Ordinance to the contrary: (i) if there is no Bond Insurance Policy or if there are no Insured Bonds outstanding, then the references in this Master Ordinance relating to the Bond Insurance Policy and the Bond Insurer under the Bond Insurance Policy shall have no force and effect and (ii) if a Bond Insurer under a Bond Insurance Policy is under bankruptcy or receivership protection or has failed to make a payment in accordance with or has otherwise declared its intention to abrogate or dishonor its obligation to pay under the terms of a Bond Insurance Policy, any rights or benefits conferred on that Bond Insurer by this Master Ordinance or applicable Supplemental Ordinance shall be suspended until such time as that Bond Insurer has emerged from such bankruptcy or receivership

protection, fully cured such payment default or has formally rescinded such declaration.

(b) Notwithstanding anything in this Master Ordinance to the contrary, if there is no Reserve Account Insurance Policy, then the references in this Master Ordinance relating to the Reserve Account Insurance Policy and the Reserve Account Insurer shall have no force and effect, and if a Reserve Account Insurer has failed to make a payment in accordance with the terms of the applicable Reserve Account Insurance Policy, any rights or benefits conferred on that Reserve Account Insurer by this Master Ordinance or applicable Supplemental Ordinance shall be suspended until such time as that Reserve Account Insurer has fully cured such default.

Section 21.11. *Adverse Effect on Owners.* In determining whether the rights of the Owners will be adversely affected by any action taken pursuant to the terms and provisions of this Master Ordinance or a Supplemental Ordinance, the City shall consider the effect on such Owner as if there were no Bond Insurance Policy or Reserve Account Insurance Policy in effect.

Section 21.12. *Consent or Demand by Owners of Insured Bonds.* When in this Master Ordinance the action of the Owners of a stated percentage in principal amount and Accreted Value of System Bonds then Outstanding is required for the giving of any consent or demand, the consent or demand of the Owners of Insured Bonds shall be considered only if the Bond Insurer joins in such consent or demand.

Section 21.13. *Changes to Insurance Terms.* Changes and additions may be made for a series of System Bonds with respect to the terms set forth in this Section by the Supplemental Ordinance relating to that series of System Bonds.

Section 21.14. *Other Credit Facility.* The rights and obligations of any Bank or Insurer under any Credit Facility shall be as set forth in this Master Ordinance, applicable Supplemental Ordinance or Related Documents. The City shall promptly notify any rating agency then rating the applicable System Bonds of changes to a Credit Facility.

Section 21.15. *Provisions Relating to the Series 2016 Bonds Reserve Account Insurance Policy.* The Reserve Account Insurer's provisions relating to the Series 2016 Bonds Reserve Account Insurance Policy are set forth in this Section 21.15. The requirements and procedures set forth in this Section 21.15 shall control and supersede any conflicting or inconsistent provision in this Master Ordinance. Any and all financial obligations of the City described in this Section 21.15 are limited to available Pledged Revenues and are subject to the priority of payment provisions in Article XVIII of this Master Ordinance.

A. The prior written consent of AGM shall be a condition precedent to the deposit of any credit facility (a "Credit Facility") credited to the Series 2016 Reserve Account established for the Series 2016 Bonds in lieu of a cash deposit into the Series 2016 Reserve Account. Amounts drawn under the Reserve Account Insurance

Policy shall be available only for the payment of scheduled principal and interest on the Series 2016 Bonds when due.

B. The City shall repay any draws under the Reserve Account Insurance Policy and pay all related reasonable expenses incurred by AGM and shall pay interest thereon from the date of payment by AGM at the Late Payment Rate. "Late Payment Rate" means the lesser of (x) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank) plus 5%, and (ii) the then applicable highest rate of interest on the Series 2016 Bonds and (y) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate publicly, Prime Rate shall be the publicly announced prime or base lending rate of such national bank as AGM shall specify. If the interest provisions of this Subsection B shall result in an effective rate of interest which, for any period, exceeds the limit of the usury or any other laws applicable to the indebtedness created herein, then, to the extent permitted by applicable law, all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice between or by any party hereto, be applied as additional interest for any later periods of time when amounts are outstanding hereunder to the extent that interest otherwise due hereunder for such periods plus such additional interest would not exceed the limit of the usury or such other laws, and any excess shall be applied upon principal immediately upon receipt of such moneys by AGM, with the same force and effect as if the City had specifically designated such extra sums to be so applied and AGM had agreed to accept such extra payment(s) as additional interest for such later periods. In no event shall any agreed-to or actual exaction as consideration for the indebtedness created herein exceed the limits imposed or provided by the law applicable to this transaction for the use or detention of money or for forbearance in seeking its collection.

Repayment of draws and payment of expenses and accrued interest thereon at the Late Payment Rate (collectively, "Policy Costs") shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12 of the aggregate of Policy Costs related to such draw.

Amounts in respect of Policy Costs paid to AGM shall be credited first to interest due, then to the expenses due and then to principal due. As and to the extent that payments are made to AGM on account of principal due, the coverage under the Reserve Account Insurance Policy will be increased by a like amount, subject to the terms of the Reserve Account Insurance Policy. The obligation to pay Policy Costs shall be secured by a valid lien on the Pledged Revenues (subject only to the priority of payment provisions set forth in this Master Ordinance).

All cash and investments in the Series 2016 Reserve Account shall be transferred to the Series 2016 Debt Service Account for payment of debt service on

Series 2016 Bonds before any drawing may be made on the Reserve Account Insurance Policy or any other Credit Facility credited to the Series 2016 Reserve Account in lieu of cash. Payment of any Policy Costs shall be made prior to replenishment of any such cash amounts. Draws on all Credit Facilities (including the Reserve Account Insurance Policy) on which there is available coverage shall be made on a pro-rata basis (calculated by reference to the coverage then available thereunder) after applying all available cash and investments in the Series 2016 Reserve Account. Payment of Policy Costs and reimbursement of amounts with respect to other Credit Facilities shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Series 2016 Reserve Account. For the avoidance of doubt, "available coverage" means the coverage then available for disbursement pursuant to the terms of the applicable alternative credit instrument without regard to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.

C. Upon a failure to pay Policy Costs when due or any other breach of the terms of this Section 21.15, AGM shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided in this Master Ordinance, other than (i) acceleration of the maturity of the Series 2016 Bonds or (ii) remedies which would adversely affect owners of the Series 2016 Bonds.

D. The Master Ordinance shall not be discharged until all Policy Costs owing to AGM shall have been paid in full. The City's obligation to pay such amounts shall expressly survive payment in full of the Series 2016 Bonds.

E. The City shall include any Policy Costs then due and owing AGM in the calculation of the additional bonds test and the rate covenant in this Master Ordinance.

F. The Paying Agent is hereby required to ascertain the necessity for a claim upon the Series 2016 Reserve Policy in accordance with the provisions of Subsection B hereof and to provide notice to AGM in accordance with the terms of the Series 2016 Reserve Account Insurance Policy at least five business days prior to each date upon which interest or principal is due on the Series 2016 Bonds. Where deposits are required to be made by the City with the Paying Agent to the Series 2016 Debt Service Account more often than semi-annually, the Paying Agent shall be instructed to give notice to AGM of any failure of the City to make timely payment in full of such deposits within two business days of the date due.

G. The City will pay or reimburse AGM any and all charges, fees, costs, losses, liabilities and expenses which AGM may pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants and auditors and reasonable costs of investigations, in connection with (i) any accounts established to facilitate payments under the Series 2016 Reserve Account Insurance Policy, (ii) the administration, enforcement, defense or preservation of any rights in respect of this Master Ordinance or any document executed in connection with the Series 2016 Bonds (the "Series 2016 Documents"), including defending, monitoring or participating in any

litigation or proceeding (including any bankruptcy proceeding in respect of the Issuer) relating to this Master Ordinance or any other Series 2016 Document, any beneficiary of the Master Ordinance or party to any other Series 2016 Document or the transactions contemplated by the Series 2016 Documents, (iii) the pursuit of any remedies under this Master Ordinance or any other Series 2016 Document, to the extent such costs and expenses are not recovered from such foreclosure, sale or other disposition, (iv) any amendment, waiver or other action with respect to, or related to this Master Ordinance, the Series 2016 Reserve Account Insurance Policy or any other Series 2016 Document whether or not executed or completed, or (v) any action taken by AGM to cure a default or termination or similar event (or to mitigate the effect thereof) under this Master Ordinance or any other Series 2016 Document; costs and expenses shall include a reasonable allocation of compensation and overhead attributable to time of employees of AGM spent in connection with the actions described in clauses (ii) through (v) above. AGM reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Master Ordinance or any other Series 2016 Document. Amounts payable by the City hereunder shall bear interest at the Late Payment Rate from the date such amount is paid or incurred by AGM until the date AGM is paid in full.

H. The obligation of the City to pay all amounts due to AGM shall be an absolute and unconditional obligation of the City and will be paid or performed strictly in accordance with the provisions of the Section 21.15, irrespective of (i) any lack of validity or enforceability of or any amendment or other modification of, or waiver with respect to the Series 2016 Bonds, this Master Ordinance or any other Series 2016 Document, or (ii) any amendment or other modification of, or waiver with respect to the Series 2016 Reserve Account Policy, (iii) any exchange, release or non-perfection of any security interest in property securing the Series 2016 Bonds, this Master Ordinance or any other Series 2016 Documents, (iv) whether or not such Series 2016 Bonds are contingent or matured, disputed or undisputed, liquidated or unliquidated, (v) any amendment, modification or waiver of or any consent to departure from the Series 2016 Reserve Account Insurance Policy, the Master Ordinance or all or any of the other Series 2016 Documents, (vi) the existence of any claim, setoff, defense (other than the defense of payment in full), reduction, abatement or other right which the City may have at any time against any other person or entity other than the City, whether in connection with the transactions contemplated herein or in any other Series 2016 Documents or unrelated transactions, (vii) any statement or any other document presented under or in connection with the Series 2016 Reserve Account Insurance Policy proving in any and all respects invalid, inaccurate, insufficient, fraudulent or forged or any statement therein being untrue or inaccurate in any respect, or (viii) any payment by AGM under the Series 2016 Reserve Account Insurance Policy against presentation of a certificate or other document which does not strictly comply with the terms of the Series 2016 Reserve Account Insurance Policy.

I. The City shall fully observe, perform, and fulfill each of the provisions (as each of those provisions may be amended, supplemented, modified or waived with the prior written consent of AGM) of this Master Ordinance applicable to it, each of the provisions thereof being expressly incorporated into this Section 21.15 by

reference solely for the benefit of AGM as if set forth directly herein. No provision of this Master Ordinance or any other Series 2016 Document shall be amended, supplemented, modified or waived, without the prior written consent of AGM, in any material respect or otherwise in a manner that could adversely affect the payment obligations of the City hereunder or the priority accorded to the reimbursement of Policy Costs under this Master Ordinance. AGM is hereby expressly made a third party beneficiary of this Master Ordinance and each other Series 2016 Document.

J. The City covenants to provide AGM, promptly upon request, any information regarding the Series 2016 Bonds or the financial condition and operations of the Issuer as reasonably requested by AGM. The City will permit AGM to discuss the affairs, finances and accounts of the City or any information AGM may reasonably request regarding the security for the Series 2016 Bonds with appropriate officers of the City and will use commercially reasonable efforts to enable AGM to have access to the facilities, books and records of the City on any business day upon reasonable prior notice.

K. Notices and other information to AGM shall be sent to the following address (or such other address as AGM may designate in writing): Assured Guaranty Municipal Corp., 31 West 52nd Street, New York, New York 10019, Attention: Managing Director - Surveillance, Re: Policy No. 217572-S.

ARTICLE XXII

PLEDGE OF NET REVENUES AND LIEN OF SYSTEM BONDS

The Net Revenues are hereby pledged for the payment of the System Bonds and the reimbursement of obligations of the City for the proceeds of any Credit Facility used to pay Debt Service Requirements on System Bonds and such obligations of the City shall continue to have an irrevocable lien upon the Net Revenues until paid. Net Revenues shall be applied to the payment of such obligations with the priorities set forth in Article XVIII.

ARTICLE XXIII

EQUALITY OF SYSTEM BONDS

Except as set forth in this Master Ordinance, Supplemental Ordinances, or Related Documents, System Bonds from time to time outstanding shall not be entitled to any priority one over the other in the application of the Net Revenues, regardless of the time or times of their issuance except that the lien on the Net Revenues in favor of any Subordinated Bonds shall be subordinate to the lien on the Net Revenues in favor of the Series 2016 Bonds and any additional Parity Bonds.

ARTICLE XXIV

ADDITIONAL SYSTEM BONDS

Section 24.01. *Limitations Upon Issuance of System Bonds.* Subject to the limitations of this Article and Article XXV, nothing in this Master Ordinance shall be construed to prevent the issuance by the City of additional System Bonds.

Section 24.02. *Parity Bonds.* Parity Bonds in addition to the Series 2016 Bonds may be issued for the System purposes including, but not limited to, (i) financing the Costs of a Project; or (ii) providing additional funds for deposit into a Reserve Account or the Replacement Fund and paying the costs incident to the issuance of such Parity Bonds or any combination of the foregoing.

The tests required in this Section 24.02 shall be performed without adjustment for payments to or withdrawals from the Rate Stabilization Fund or interest accrued (other than amounts representing capitalized interest) in the Acquisition Fund. For Parity Bonds with a funded Reserve Account (excluding any insurance coverage through a Reserve Fund Insurer), determination of average annual combined Debt Service Requirements or maximum combined annual Debt Service Requirements shall include application of the funds in the Reserve Account to the final debt service payment for the applicable Parity Bonds. Except as permitted herein and by Article XXV, prior to the issuance of additional Parity Bonds, the City shall be current in making all deposits required by Article XVIII and the following test shall be satisfied:

(a) a certificate prepared by an Authorized Officer of the City showing that the Net Revenues for the Historic Test Period were at least equal to 130% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds after the issuance of the proposed Parity Bonds, or

(b) a certificate prepared by a Consulting Engineer showing that:

(i) the Net Revenues for the Historic Test Period were at least equal to 130% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds immediately preceding the issuance of the proposed additional Parity Bonds;

(ii) for each Fiscal Year during the period from the date of delivery of such certificate until the latest estimated Completion Date of the Project being financed, the Consulting Engineer estimates that the City will be in compliance with the Rate Covenant; and

(iii) the estimated Net Revenues for each of the three Fiscal Years immediately following the latest estimated Completion Date for the specified Project to be financed with proceeds of the proposed additional Parity Bonds, as certified to the Consulting Engineer by an Authorized Officer of the City, will be at least equal to 130% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds which will be outstanding immediately after the issuance of the proposed additional Parity Bonds.

For purposes of subsections (b)(i) and (ii) above, in estimating Net Revenues, the Consulting Engineer may take into account (1) reasonable Gross Revenues from specified Projects expected to become available, (2) any increase in fees, rates, charges, rentals or other sources of Gross Revenues which have been approved by the City and will be in effect during the period for which the estimates are provided, and (3) any other increases in Gross Revenues for such period which the Consulting Engineer certifies to be reasonable for purposes of such certificate. With respect to Operation and Maintenance Expenses, the Consulting Engineer shall use such assumptions as the Consulting Engineer believes to be reasonable, and taking into account, (i) historical Operation and Maintenance Expenses, (ii) Operation and Maintenance Expenses associated with the specified Projects and (iii) such other factors, including inflation and changing operations or policies of the City, as the Consulting Engineer believes to be appropriate. The Consulting Engineer shall include in the certificate or in a separate accompanying report a description of the assumptions used and the calculations made in determining the estimated Net Revenues and shall also set forth the calculations of the maximum combined annual Debt Service Requirements, which calculations may be based upon information provided by another Consulting Engineer or Consultant.

For purposes of preparing the certificate or certificates described above, the Consulting Engineer or Consulting Engineers may rely upon financial statements prepared by the City which have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available; provided, however, that an Authorized Officer of the City shall certify as to their accuracy and that such financial statements were prepared substantially in accordance with generally accepted accounting principles, subject to year-end adjustments.

Section 24.03. ***Subordinate Obligations.*** Additional Subordinated Bonds in addition to the 2008 Loan and the 2013 Loan may be issued for the System purposes including, but not limited to, (i) financing the Costs of a Project; or (ii) providing additional funds for deposit into a Reserve Account or the Replacement Fund and paying the costs incident to the issuance of such Subordinated Bonds or any combination of the foregoing.

The tests required in this Section 24.03 shall be performed without adjustment for payments to or withdrawals from the Rate Stabilization Fund or interest accrued (other than amounts representing capitalized interest) in the Acquisition Fund. For Subordinate Bonds with a funded Reserve Account (excluding any insurance coverage through a Reserve Fund Insurer), determination of average annual combined Debt Service Requirements or maximum combined annual Debt Service Requirements shall include application of the funds in the Reserve Account to the final debt service payment for the applicable Subordinate Bonds. Except as permitted herein and by Article XXV, prior to the issuance of additional Subordinated Bonds, the City shall be current in making all deposits required by Article XVIII and the following test shall be satisfied:

(a) a certificate prepared by an Authorized Officer of the City showing that the Net Revenues for the Historic Test Period were at least equal to 120% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds and Outstanding Subordinated Bonds after the issuance of the proposed Subordinated Bonds, or

(b) a certificate prepared by a Consulting Engineer showing that:

(i) the Net Revenues for the Historic Test Period were at least equal to 120% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds and Outstanding Subordinated Bonds immediately preceding the issuance of the proposed additional Subordinated Bonds;

(ii) for each Fiscal Year during the period from the date of delivery of such certificate until the latest estimated Completion Date of the Project being financed, the Consulting Engineer estimates that the City will be in compliance with the Rate Covenant; and

(iii) the estimated Net Revenues for each of the three Fiscal Years immediately following the latest estimated Completion Date for the specified Project to be financed with proceeds of the proposed additional Subordinated Bonds, as certified to the Consulting Engineer by an Authorized Officer of the City, will be at least equal to 120% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds and Outstanding Subordinated Bonds which will be outstanding immediately after the issuance of the proposed additional Subordinated Bonds.

For purposes of subsections (b)(i) and (ii) above, in estimating Net Revenues, the Consulting Engineer may take into account (1) reasonable Gross Revenues from specified Projects expected to become available, (2) any increase in fees, rates, charges, rentals or other sources of Gross Revenues which have been approved by the City and will be in effect during the period for which the estimates are provided, and (3) any other increases in Gross Revenues for such period which the Consulting Engineer certifies to be reasonable for purposes of such certificate. With respect to Operation and Maintenance Expenses, the Consulting Engineer shall use such assumptions as the Consulting Engineer believes to be reasonable, and taking into account, (i) historical Operation and Maintenance Expenses, (ii) Operation and Maintenance Expenses associated with the specified Projects and (iii) such other factors, including inflation and changing operations or policies of the City, as the Consulting Engineer believes to be appropriate. The Consulting Engineer shall include in the certificate or in a separate accompanying report a description of the assumptions used and the calculations made in determining the estimated Net Revenues and shall also set forth the calculations of the maximum combined annual Debt Service Requirements, which calculations may be based upon information provided by another Consulting Engineer or Consultant.

For purposes of preparing the certificate or certificates described above, the Consulting Engineer or Consulting Engineers may rely upon financial statements prepared by the City which have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available; provided, however, that an Authorized Officer of the City shall certify as to their accuracy and that such financial statements were prepared substantially in accordance with generally accepted accounting principles, subject to year-end adjustments.

Section 24.04. *Certificates.* In determining whether additional Parity Bonds may be issued pursuant to Section 24.02 or additional Subordinated Bonds may be issued pursuant to Section 24.03, a written certificate or opinion of an Authorized Officer of the City or a Consulting Engineer shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver the additional Parity Bonds or additional Subordinated Bonds, respectively.

Section 24.05 *Superior Obligations Prohibited.* As long as Parity Bonds are outstanding, the City shall not issue additional System Bonds having a lien on the Net Revenues prior and superior to the lien of Parity Bonds on Net Revenues.

Section 24.06. *Variable Rate Bonds and Tender Indebtedness.*

(a) In making the computations required by this Article, to determine if additional System Bonds may be issued, Variable Rate Bonds shall be deemed to bear a rate of interest at the 30-year Revenue Bond Index (published by The Bond Buyer no more than two weeks prior to the date of sale) certified as described in the definition of Debt Service Requirements.

(b) No Variable Rate Bonds or Tender Indebtedness shall be issued unless such series of System Bonds is rated, based upon a Credit Facility or otherwise, at the time of issuance at the minimum level as required for investment by money market funds by at least one of the recognized major rating agencies.

(c) If the computations required by this Article are made assuming (i) interest at the maximum interest rate payable to the Bank providing a Credit Facility for the Variable Rate Bonds or Tender Indebtedness and (ii) the accelerated principal repayment schedule due to such Bank, then the acceleration of principal payments and excess interest due to such Bank may be on a parity with the payment of Debt Service Requirements on Parity Bonds; provided, however, if such assumptions are not made in making the computations required by this Article, then any accelerated principal payments due to such Bank or any interest due in excess of the rate on the Variable Rate Bonds or Tender Indebtedness must be subordinated to the payment of Debt Service Requirements on Parity Bonds.

(d) Any Bank providing a Credit Facility for liquidity support of Variable Rate Bonds or Tender Indebtedness must be rated at the minimum level

as required for investment by money market funds by at least one of the recognized major rating agencies.

(e) Any trustee, tender agent or paying agent employed with respect to Variable Rate Bonds or Tender Indebtedness must be a commercial bank with trust powers and any remarketing agent employed with respect to Variable Rate Bonds or Tender Indebtedness must have trust powers if it is responsible for holding monies or receiving bonds.

(f) The provisions of this Section 24.06 and the other provisions of this Master Ordinance stating terms and conditions relating to the issuance of Variable Rate Bonds and Tender Indebtedness may be modified at the time of issuance of Variable Rate Bonds or Tender Indebtedness in accordance with the Supplemental Ordinance authorizing issuance thereof.

ARTICLE XXV

REFUNDING BONDS

The provisions of Article XXIV of this Master Ordinance are subject to the following exceptions:

(a) **Privilege of Issuing Refunding Obligations.** If at any time while System Bonds remain Outstanding, the City desires to refund any Outstanding System Bonds or other obligations payable from Net Revenues, those System Bonds or other obligations, or any part thereof, may be refunded regardless of whether the priority of the lien for the payment of the refunding System Bonds on the Net Revenues is changed (except as provided in Sections 24.04 and in subsections (b), (c), and (d) of this Article).

(b) **Limitations Upon Issuance of Refunding Parity Bonds.** No refunding bonds or other refunding obligations shall be issued as Parity Bonds unless:

(i) there is delivered a certificate of the Authorized Officer of the City showing that the combined Debt Service Requirements on all Outstanding Parity Bonds for any Fiscal Year after the issuance of refunding Parity Bonds will not exceed the combined Debt Service Requirements for such Fiscal Year on all Outstanding Parity Bonds authorized prior to the issuance of such refunding Parity Bonds by more than ten percent (10%) in any such Fiscal Year, and the City is in current compliance with the Rate Covenant, or

(ii) The refunding Parity Bonds are issued in compliance with Section 24.02.

(c) **Limitations Upon Issuance of Refunding Subordinated Bonds.** No refunding bonds or other refunding obligations shall be issued as Subordinated Bonds unless:

(i) there is delivered a certificate of the Authorized Officer of the City showing that the combined Debt Service Requirements on all Outstanding Subordinated Bonds for any Fiscal Year after the issuance of refunding Subordinated Bonds will not exceed the combined Debt Service Requirements for such Fiscal Year on all Outstanding Subordinated Bonds authorized prior to the issuance of such refunding Subordinated Bonds by more than ten percent (10%) in any such Fiscal Year, and the City is in current compliance with the Rate Covenant, or

(ii) The refunding Subordinated Bonds are issued in compliance with Section 24.03.

(d) **Limitations Upon Issuance of Any Refunding System Bonds.** Any refunding System Bonds shall be issued with such details as the Council may provide by appropriate proceedings but without impairment of any contractual obligation imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of the series of System Bonds or other obligations payable from Net Revenues to which the refunding was applicable.

ARTICLE XXVI

PROTECTIVE COVENANTS

Section 26.01. ***Use of System Bond Proceeds.*** The City covenants and agrees that it will promptly apply the proceeds of each series of System Bonds to the Project for which they were issued or for the refunding of Outstanding System Bonds, as applicable, and for the other purposes permitted by this Master Ordinance or applicable Supplemental Ordinance.

Section 26.02. ***Payment of System Bonds.*** The City covenants and agrees that it will promptly pay the Debt Service Requirements on System Bonds at the place, on the dates and in the manner specified in this Master Ordinance, the applicable Supplemental Ordinance, Related Documents and the System Bonds.

Section 26.03. ***Rate Covenant.***

(a) The City covenants that it will at all times fix rates and collect charges for each class of service rendered by the System, and to, from time to time, amend or adjust such rates so that Gross Revenues of the System shall always be sufficient to provide for the payment of expenses of administration, Operation and Maintenance Expenses, other expenses which may be necessary to preserve the System in good repair and working order, including the necessary

reserves therefor and all other payments necessary to meet ongoing legal obligations to be paid at that time; and

(b) The City further covenants that it will at all times fix, charge and collect such rates and charges as shall be required in order that in each Fiscal Year the Net Revenues shall at least equal (i) 130% of the Debt Service Requirements on the Series 2016 Bonds and any additional Parity Bonds Outstanding in such Fiscal Year and (ii) 120% of the Debt Service Requirements on the 2016 Bonds, any additional Parity Bonds, the 2008 Loan, the 2013 Loan and any additional Subordinated Bonds Outstanding in such Fiscal Year.

(c) Failure by the City to comply with the foregoing Rate Covenant in any Fiscal Year will not constitute an event of default under this Master Ordinance so long as the City, within 180 days after the end of any such Fiscal Year, adopts the schedule of rates and charges recommended or approved by a Consulting Engineer which would bring the City into compliance with the Rate Covenant. The City is also required under this Master Ordinance in each Fiscal Year to complete a review of its financial condition for the purpose of estimating whether the Net Revenues for such Fiscal Year and for the next succeeding Fiscal Year will be sufficient to comply with the Rate Covenant set forth above. If the City determines that the Net Revenues may not be so sufficient, it shall forthwith cause the Consulting Engineer to make a study for the purpose of recommending a schedule of fees, rates and charges for the System which, in the opinion of the Consulting Engineer, will cause sufficient Gross Revenues to be collected in such Fiscal Year to comply with the Rate Covenant set forth above and will cause additional Gross Revenues to be collected in such Fiscal Year sufficient to eliminate the amount of any deficiency at the earliest practicable time within such Fiscal Year. The City shall as promptly as practicable adopt and place in effect the schedule of fees, rates and charges recommended or approved by the Consulting Engineer pursuant to this Master Ordinance. In the alternative of establishing fees, rates and charges necessary to meet the Rate Covenant set forth above, the City may implement reductions in Operation and Maintenance Expenses for the System in an amount sufficient to meet the Rate Covenant.

Section 26.04. *Lien on Lands Serviced by System.* State law grants the City a lien upon each lot or parcel of land for the charges imposed for water and sanitary sewer services supplied by the System to the owner of such lot or parcel (except as otherwise provided in Section 3-23-6 NMSA). The City will cause each lien to be perfected in accordance with the provisions of Sections 3-23-6 and 3-36-1 through 3-36-5 NMSA. The City will take all necessary steps to enforce the lien against any parcel of property the owner of which is delinquent for more than six months in the payment of charges imposed for the use of the System.

Section 26.05. *Levy of Charges.* The City will promptly fix, establish and levy the rates and charges which are required by Section 26.03. Unless contrary to any provision of applicable law, any resolution or ordinance adopted by the Council to fix, establish and levy such rates and charges shall be deemed an administrative or executive

matter not subject to the referendum provisions of the Charter or State law. No reduction in any initial or existing rate schedule for the System may be made unless:

(a) the City has fully complied with the requirements of the Rate Covenant contained in Section 26.03 for any 12 consecutive months out of the 16 calendar months immediately preceding the reduction of the rate schedule, and

(b) the audit required by Section 26.09 or a separate certificate by an Independent Accountant for or relating to any 12 consecutive months out of the 16 calendar months immediately preceding any reduction discloses that the Net Revenues resulting from the proposed reduced rate schedule would have been sufficient to meet the Rate Covenant contained in Section 26.03 during the applicable 12-month period.

Section 26.06. ***Efficient Operation.*** The City will maintain the System in efficient operating condition and make such improvements, extensions, enlargements, repairs and betterments to the System as may be necessary or advisable for its economical and efficient operation at all times and to supply reasonable public and private demands for System services within the Service Area.

Section 26.07. ***Records.*** So long as System Bonds remain Outstanding, proper books of record and account will be kept by the City, separate from all other records and accounts, showing complete and correct entries of all transactions relating to the System. However, pursuant to Section 6-14-10(E) NMSA, records with regard to the ownership or pledge of System Bonds are not subject to inspection or copying.

Section 26.08. ***Right to Inspect.*** Owners, or their duly authorized agents, shall have the right to inspect at all reasonable times all records, accounts and data relating to the System.

Section 26.09. ***Audits.*** Within 180 days following the close of each Fiscal Year, the City will cause an audit of the books and accounts of the System to be made by an Independent Accountant. Each audit of the System shall include those matters determined to be proper by the Independent Accountant.

Section 26.10. ***Billing Procedure.*** Bills for water or water facilities furnished by or through the System shall be rendered to customers on a regular basis each month following the month in which the service was rendered and shall be due as required by the applicable ordinance of the City. If permitted by law, if a bill is not paid within the period of time required by such ordinance, water service shall be discontinued as required by such ordinance, and the rates and charges due shall be collected in a lawful manner, including, but not limited to, the cost of disconnection and reconnection.

Section 26.11. ***Charges and Liens Upon System.*** The City will pay when due from Gross Revenues or other legally available funds all taxes and assessments or other municipal or governmental charges, lawfully levied or assessed upon the System and will observe and comply with all valid requirements of any municipal or governmental

authority relating to the System. The City will not create or permit any lien or charge upon the System or the Net Revenues except as permitted by this Master Ordinance, or it will make adequate provisions to satisfy and discharge within 60 days after the same accrue, all lawful claims and demands for labor, materials, supplies or other objects, which, if unpaid, might by law become a lien upon the System or the Net Revenues. However, the City shall not be required to pay or cause to be discharged, or make provision for any tax, assessment, lien or charge before the time when payment becomes due or so long as the validity thereof is contested in good faith by appropriate legal proceedings and there is no adverse effect on Owners.

Section 26.12. **Insurance.** Subject, in each case, to the condition that insurance is obtainable at reasonable rates and upon reasonable terms and conditions, in its operation of the System, the City will procure and maintain or cause to be procured and maintained commercial insurance or provide Qualified Self Insurance with respect to the facilities constituting the System and public liability insurance in the form of commercial insurance or Qualified Self Insurance and, in each case, in such amounts and against such risks as are, in the judgment of the Council, prudent and reasonable taking into account, but not being controlled by, the amounts and types of insurance or self-insured programs provided by municipalities which operate water systems. "Qualified Self Insurance" means insurance maintained through a program of self insurance or insurance maintained with a fund, company or association in which the City may have a material interest and of which the City may have control, either singly or with others. Each plan of Qualified Self Insurance shall be established in accordance with law, shall provide that reserves be established or insurance acquired in amounts adequate to provide coverage which the City determines to be reasonable to protect against risks assumed under the Qualified Self Insurance plan, including any potential retained liability in the event of the termination of such plan of Qualified Self Insurance. In the event of property loss or damage to the System, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged and thereafter, any remainder may be used to redeem System Bonds or be treated as Gross Revenues and used in the manner provided in Article XVIII.

Section 26.13. **Competing System.** Unless contrary to any provision of, or required by, applicable law, as long as System Bonds are outstanding, the City will not grant any franchise or license to a competing water utility system, or permit any person, association, firm or corporation to sell water utility services or facilities to any consumer, public or private, within the Service Area of the System; provided, however, that nothing shall prevent the City from annexing land into its boundaries solely due to the fact that there is a competing utility system or person, association, firm or corporation providing such utility services or facilities within or for the land to be annexed.

Section 26.14. **Alienating System.** While the System Bonds are Outstanding, the City shall not, except as permitted below, transfer, sell or otherwise dispose of the System. For purposes of this Section, any transfer of an asset over which the City retains or regains substantial control shall not, for so long as the City has such control, be deemed a disposition of the System.

The City may transfer, sell or otherwise dispose of the System only if such transfer, sale or disposition complies with one or more of the following provisions:

(a) The property being disposed of is inadequate, obsolete or worn out; or

(b) The property proposed to be disposed of and all other property of the System disposed of during the 12-month period ending on the day of such transfer (but excluding property disposed of under (a) above), will not, in the aggregate, constitute a Significant Portion of the System determined as described below and the proceeds are deposited into the Income Fund to be used as described below; or

(c) The City receives fair market value for the property, the proceeds are deposited into the Income Fund to be used as described below and, prior to the disposition of such property, there is delivered to the Fiscal Agent a certificate of a Consultant to the effect that notwithstanding such disposition, but taking into account the use of such proceeds in accordance with the expectations of the City as evidenced by a certificate of an Authorized Officer, the Consultant estimates that the City will be in compliance with the Rate Covenant during each of the five Fiscal Years immediately following such disposition.

For purposes of this Section, the term "Significant Portion" of the System means property of the System which, if such property had been disposed of by the City at the beginning of the Fiscal Year which includes the month of commencement of the 12-month period referred to in (b) above would have resulted in a reduction in Net Revenues for such Fiscal Year of more than 4% when the actual Net Revenues for such Fiscal Year are decreased by the revenues directly attributable to such property of the System and increased by the expenses of the City directly attributable to such property of the System.

Proceeds of the disposition of assets under (b) or (c) above shall be deposited into the Income Fund and used, within a reasonable period of time, not to exceed three years, to (i) provide additional revenue-producing properties to the System, (ii) redeem System Bonds or (iii) create an escrow fund pledged to pay specified System Bonds and thereby cause such System Bonds to be deemed to be paid as provided in Article XXXI.

Properties of the System which were financed with the proceeds of obligations the interest on which is then excluded from gross income for federal income tax purposes shall not be disposed of, except under the terms of provision (a) above, unless the City has first received a written opinion of Bond Counsel to the effect that such disposition will not cause the interest on such obligations to become includable in gross income for federal income tax purposes.

No such disposition shall be permitted which would cause the City to be in default of any other covenant contained in this Master Ordinance.

Section 26.15. *Extending Interest Payments.* To prevent any accumulation of claims for interest after maturity, except as permitted by this Master Ordinance, Supplemental Ordinance or Related Documents, the City will not directly or indirectly extend or assent to the extension of the time for the payment of any claim for interest on System Bonds. If the time for payment of interest is extended contrary to the provisions of this Section, the installments of interest extended shall not be entitled, in case of an event of default under this Master Ordinance, Supplemental Ordinance or Related Documents, to the benefit or security of this Master Ordinance, Supplemental Ordinance or Related Documents until the prior payment in full of the principal of, Accreted Value and interest on all other System Bonds then outstanding.

Section 26.16. *Competent Management.* The City shall employ experienced and competent personnel to manage the System.

Section 26.17. *Performing Duties.* The City will faithfully and punctually perform all duties with respect to the System required by State and City laws, including, but not limited to, making and collecting reasonable and sufficient rates and charges for services rendered or furnished by the System as required by this Section and the proper segregation and application of the Gross Revenues.

Section 26.18. *Other Liens.* Other than as stated in or provided by this Master Ordinance or applicable disclosure document for a series of System Bonds, there are no liens or encumbrances of any nature whatsoever, on or against the System, the Gross Revenues or the Net Revenues.

Section 26.19. *City's Existence.* The City will maintain its corporate identity and existence as long as System Bonds remain outstanding unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any Owner. However, the City may, annex or de-annex land if the City complies with other applicable covenants contained in this Master Ordinance.

Section 26.20. *Tax Compliance.*

(a) With respect to System Bonds to be issued as tax-exempt bonds under Sections 103 and 141 of the Code, the City will restrict the use and investment of the proceeds of the System Bonds and any funds reasonably expected to be used to pay the System Bonds to the extent necessary so that the System Bonds will not constitute arbitrage bonds under Section 148 of the Code. Authorized Officers having responsibility for issuing System Bonds will give appropriate certificates of the City for inclusion in transcripts of proceedings for System Bonds setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the System Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on System Bonds.

(b) With respect to System Bonds to be issued as tax-exempt bonds under Sections 103 and 141 of the Code, the City (i) will take or cause to be taken such actions that may be required of it for the interest on the System Bonds to be and remain excluded from gross income for federal income tax purposes, and (ii) will not take or permit to be taken any action that would adversely affect such exclusion, and the City will, among other acts of compliance to the extent necessary to assure the exclusion of interest on System Bonds under the Code, (A) apply, or cause to be applied, the proceeds of the System Bonds to the governmental purpose of the borrowing, (B) restrict the yield as necessary on investment property defined in Section 148(b)(2) of the Code acquired with gross proceeds of the System Bonds, (C) make timely rebate payments to the federal government in accordance with Section 148(f) of the Code, the Rebate Regulations (as defined in Article XXVII) and this Master Ordinance, (D) maintain proper books and records and make, or have made, calculations and reports, and (E) refrain from certain uses of System Bond proceeds. Authorized officers are authorized and directed to take action, make or have made calculations and rebate payments, and make or give covenants, representations, reports and certifications as may be required or appropriate to assure the exclusion of interest on the System Bonds from gross income for federal income tax purposes.

(c) The City covenants that it will not make or cause to be made any investment or deposit described or permitted in this Master Ordinance at other than the value permitted for any such investment or deposit under Sections 1.148-0 through 1.148-11 and 1.150-1 and 1.150-2 of the Regulations or any successor provision applicable to the System Bonds.

(d) The provisions of this Section 26.20 shall not apply to the System Bonds, or any series of System Bonds, if at any time and to the extent that the City receives an opinion of Bond Counsel that the failure to comply will not adversely affect the exclusion from gross income of interest on the System Bonds for federal income tax purposes under Section 103(a) of the Code.

(e) The City may issue System Bonds that are not tax-exempt bonds under the Code.

Section 26.21. ***Free Services Prohibited.*** No free service, facilities nor commodities shall be furnished by the System. Should the City use water services or facilities supplied by the System for municipal purposes, or any combination thereof, or in any other manner use the System, or any part thereof, any use of the System by or of the services rendered thereby to the City, or any department, board or agency thereof, will be paid for from the City's general fund or other available revenues at the reasonable value of the use so made, or service so rendered, which shall in no event be less than the rates charged to a System customer with similar consumption; and all the revenue so derived from the City shall be deemed to be income derived from the operation of the System, to be used and accounted for in the same manner as any other income derived from the operation of the System.

ARTICLE XXVII

REBATE FUND

The Rebate Fund has been established for the deposit of certain amounts that may be required to be paid to the United States in compliance with Section 148(f) of the Code and Sections 1.148-0 through 1.148-11 and 1.150-1 and 1.150-2 of the Regulations issued thereunder or any successor provision applicable to any series of the System Bonds (the "Rebate Regulations"). Notwithstanding any other provision in this Master Ordinance, amounts credited to the Rebate Fund shall be free and clear of any lien under this Master Ordinance and shall be held only for the purposes stated in this Article.

Concurrently with the issuance and delivery of any series of System Bonds which are tax-exempt bonds under Sections 103 and 141 of the Code, the City will execute certain certificates and agreements (collectively, the "Tax Certificate"), which will set forth the undertakings of the City to achieve compliance with Section 148(f) of the Code. All relevant definitions regarding such compliance will be contained in the Rebate Regulations or the Tax Certificate.

Within 25 days of the end of each Bond Year of each applicable series of System Bonds or at such other times provided in the Tax Certificate, the City shall (a) calculate or cause to be calculated the amount that would be considered "rebtable arbitrage" within the meaning of Section 1.148-3 of the Rebate Regulations and the Tax Certificate, using as the "computation dates" for this purpose the dates set forth in the Tax Certificate, and (b) deposit or cause to be deposited into the applicable account of the Rebate Fund for each series of System Bonds, from Gross Revenues or any other money of the City lawfully available for such purpose, an amount that, together with amounts already held in that account of the Rebate Fund, will cause the amount held in that account immediately after such deposit to be equal to the rebtable arbitrage calculated for that series of System Bonds. If the amount held in that account of the Rebate Fund is in excess of the rebtable arbitrage calculated as of the end of such Bond Year for that series of System Bonds, the City shall withdraw or cause to be withdrawn such excess from that account and such excess shall be considered as Gross Revenues.

The City shall make payments to the United States in such manner, at such times and in such amounts as prescribed by the Rebate Regulations and the Tax Certificate. The City shall keep such records of the computations made pursuant to this Article as are required under Section 148(f) of the Code and the Rebate Regulations and the Tax Certificate.

The City need not make further payments to the Rebate Fund with respect to all or a portion of an issue to the extent it satisfies one of the exemptions from rebate set forth in the Rebate Regulations or the Tax Certificate. Any amounts then on deposit in the Rebate Fund may be withdrawn and used as Gross Revenues.

ARTICLE XXVIII

CONTINUING DISCLOSURE UNDERTAKING

In connection with issuance of System Bonds pursuant to this Master Ordinance or a Supplemental Ordinance, the City will enter into written undertakings for the benefit of the holders of System Bonds (including beneficial owners) as required under Securities and Exchange Commission Rule 15c2-12, as amended, in order to assist Purchasers of System Bonds in complying with Rule 15c2-12(b)(5). When such undertakings are executed and delivered on behalf of the City as herein provided, the undertakings will be binding on the City and the officers, employees and agents of the City, and the officers, employees and agents of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the undertakings as executed. Notwithstanding any other provision of this Master Ordinance, the sole remedies for failure to comply with the undertakings shall be the ability of the beneficial owner of any System Bond to seek mandamus or specific performance by court order, to cause the City to comply with its obligations under the undertakings.

ARTICLE XXIX

EVENTS OF DEFAULT

Each of the following events is declared an "event of default" under this Master Ordinance:

- (a) Failure to pay the principal or Accreted Value of any Parity Bonds when due and payable, whether at maturity, by mandatory sinking fund redemption or otherwise.
- (b) Failure to pay any installment of interest on Parity Bonds when due and payable.
- (c) Failure to pay the purchase price of any Parity Bonds when such purchase price shall be due and payable upon an optional or mandatory tender date as provided in the Parity Bond.
- (d) For any reason, the City becomes incapable of fulfilling its obligations under this Master Ordinance.
- (e) Default by the City in the due and punctual performance of its covenants, conditions, agreements and provisions contained in System Bonds or in this Master Ordinance and the continuance of such default (other than a default set forth in subsections (a) and (b)) for thirty days after written notice specifying such default and requiring the same to be remedied has been given to the City by the Owners of at least 25% in principal amount and Accreted Value of the System Bonds then Outstanding.

(f) The City files or is otherwise placed into bankruptcy pursuant to Chapter 9 of the United States Bankruptcy Code, or any successor chapter or provision.

(g) The occurrence of any other event of default as is provided in a Supplemental Ordinance.

ARTICLE XXX

REMEDIES UPON DEFAULT

Section 30.01. *Remedies.* Upon the happening and continuance of any of the events of default stated in Article XXIX:

(a) the applicable Fiscal Agent shall proceed with any available remedies under any Credit Facility; and

(b) the Owners of not less than 66% in principal amount and Accreted Value of the System Bonds then Outstanding, including but not limited to a trustee or trustees therefor, may proceed against the City, the Council and its agents, officers and employees to:

(i) protect and enforce the rights of the Owners by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained in this Master Ordinance or any Related Document or for the enforcement of any proper legal or equitable remedy as those Owners may deem necessary or desirable to protect and enforce their rights;

(ii) to enjoin any act or thing which may be unlawful or in violation of any right of any Owner;

(iii) to require the Council to act as if it were the trustee of an express trust; or

(iv) any combination of those remedies.

All proceedings shall be instituted and maintained for the equal benefit of all Owners of System Bonds then outstanding, subject to the provisions of Section 30.03 of this Master Ordinance, with respect to the application of Gross Revenues. The failure of any Owner to exercise any right granted by this Article shall not relieve the City of any obligation to perform any duty. Each right or privilege of any owner (or trustee or receiver therefor) is in addition and cumulative to any other right or privilege and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege of any Owner.

Acceleration of System Bonds shall never be a remedy upon the happening and continuance of an event of default.

Section 30.02. *Accounting and Examination of Records after Default.* The City covenants that if an event of default shall have happened and shall not have been remedied, the books of record and accounts of the City and all other records of the City relating to the System shall at all times be subject to the inspection and use of the Owners of the System Bonds, any receiver appointed pursuant to Section 30.04 and their respective agents and attorneys. The City covenants that if an event of default shall have happened and shall not have been remedied, the City, upon demand of the Owners of at last 25% in principal amount and Accreted Value of System Bonds then Outstanding, will account, as if it were the trustee of an express trust, for all Gross Revenues and other money, securities and funds pledged or held under this Master Ordinance for such period as shall be stated in such demand.

Section 30.03. *Application of Revenues and Other Money After Default.* During the continuance of an event of default, the Net Revenues and such money, securities and funds and the income therefrom shall be applied as follows and in the following order of priority, provided that moneys and amounts held or available in each of the Debt Service Accounts and each of the Reserve Accounts shall be used solely for the payment of the Debt Service Requirements then due on the series of System Bonds corresponding to such accounts in accordance with subsection (c) of this Section.

(a) to the payment of the reasonable and proper charges and expenses of any receiver appointed pursuant to Section 30.04 and the reasonable fees and disbursements of its counsel and agents;

(b) to the payment of the Operation and Maintenance Expenses;

(c) to the payment of the Debt Service Requirements then due on the Series 2016 Bonds and any additional Parity Bonds as follows:

FIRST: to the payment to the persons entitled thereto of all installments of interest when due on the Series 2016 Bonds and any additional Parity Bonds in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

SECOND: to the payment to the persons entitled thereto of the unpaid principal, Accreted Value or redemption price of any of the Series 2016 Bonds and any additional Parity Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Series 2016 Bonds and any additional Parity Bonds due on any date, then to the payment thereof ratably, according to

the amounts of principal, Accreted Value or redemption price due on such date, to the persons entitled thereto, without any discrimination or preference; and

(d) to the payment of the Debt Service Requirements then due on any Subordinated Bonds then outstanding in such order of priority as shall be designated in the Supplemental Ordinance authorizing the issuance of such Subordinated Bonds.

Section 30.04. *Appointment of Receiver.* Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Owners of the System Bonds, the Owners of at least 25% in principal amount and Accreted Value of System Bonds then Outstanding, shall be entitled, as a matter of right, to the appointment of a receiver or receivers to protect the rights of Owners and, if desirable, to enter and take possession of and operate and maintain the System and to prescribe rates, fees or charges and collect, receive and apply all Gross Revenues as required by this Master Ordinance, with such additional powers as a court making such appointment may confer.

Section 30.05. *Non-Waiver.* Nothing in this Article or in any other provision of this Master Ordinance or in the System Bonds shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal, Accreted Value and redemption price of and interest on the System Bonds to the respective Owners of the System Bonds at the respective dates of maturity, or upon call for redemption, as herein provided, out of the Net Revenues, funds, accounts and other money, securities and funds herein pledged for such payment, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the System Bonds. No delay or omission of any Owner of the System Bonds to exercise any right or power arising upon the happening of any event of default shall impair any such right or power or shall be construed to be a waiver of any such event of default or an acquiescence therein, and every power and remedy given by this Article to the Owners of System Bonds may be exercised from time to time and as often as shall be deemed expedient by the Owners of the System Bonds.

Section 30.06. *Limitation on Remedies.* Notwithstanding any other provision in this Master Ordinance, no recourse shall be had for the payment of any System Bonds or obligation arising from any Related Document or for any claim based on any other obligation, consent or agreement contained in this Master Ordinance or any Related Document against any past, present or future officer, employee or agent of the city or member of the City Council, and all such liability of any such officers, employees, agents or member (as such) is released as a condition of and consideration for the adoption of this Master Ordinance, the execution of Related Documents and the issuance of System Bonds.

ARTICLE XXXI

DUTIES UPON DEFAULT

Upon the happening of any of the events of default listed in Article XXIX, the City will do and perform all proper acts on behalf of and for the Owners necessary to protect and preserve the security created for the payment of the System Bonds and for the payment of the Debt Service Requirements on the System Bonds promptly as the same become due. As long as any of the System Bonds are Outstanding, all Gross Revenues shall be distributed and used for the purposes and with the priorities set forth in Article XVIII. If the City fails or refuses to proceed as provided in this Article, the Owners of not less than 66% in principal amount and Accreted Value of the System Bonds then Outstanding, after demand in writing, may proceed to protect and enforce the rights of the Owners as provided in this Master Ordinance.

ARTICLE XXXII

DEFEASANCE

Section 32.01. *Defeasance of System Bonds.* When all principal, Accreted Value, interest and prior redemption premiums, if any, in connection with all or any part of the System Bonds included within a series of System Bonds have been paid or provided for, the pledge and lien and all obligations under this Master Ordinance with respect to those System Bonds shall be discharged and those System Bonds shall no longer be deemed to be outstanding within the meaning of this Master Ordinance.

Without limiting the preceding paragraph, there shall be deemed to be such payment when: (a) the Council has caused to be placed in escrow and in trust with an escrow agent located within or without the State and exercising trust powers, an amount sufficient (including the known minimum yield from Defeasance Obligations in which such amount may be initially invested) to pay all requirements of principal, Accreted Value, interest and prior redemption premium, if any, on the System Bonds to be defeased as the same become due to their final maturities or upon designated prior redemption dates, and (b) any System Bonds to be redeemed prior to maturity shall have been duly called for redemption or irrevocable instructions to call such System Bonds for redemption have been given to the Registrar or other appropriate Fiscal Agent. The escrow agent shall have received evidence satisfactory to it that the cash and Defeasance Obligations delivered will be sufficient to provide for the payment of the System Bonds to be defeased as stated above. Neither the Defeasance Obligations nor money deposited with the escrow agent shall be withdrawn or used for any purpose other than as provided in the escrow agreement and the Defeasance Obligations and money shall be segregated and held in trust for the payment of the principal or Accreted Value and premium, if any, and interest on the System Bonds with respect to which such deposit has been made. The Defeasance Obligations shall become due prior to the respective times at which the proceeds are needed in accordance with a schedule established and agreed upon between the Council and the escrow agent at the time of the creation of the escrow, or the Defeasance Obligations shall be subject to redemption but only at the option of the holders or owners thereof to assure the availability of the proceeds as needed to meet the schedule.

Until reimbursement is made by the City to the applicable Bond Insurer, if the principal, Accreted Value and/or interest due on Insured Bonds is paid by a Bond Insurer pursuant to a Bond Insurance Policy, the applicable Insured Bonds shall remain outstanding, shall not be defeased or otherwise satisfied and shall not be considered to be paid by the City. In such case the assignment and pledge of the Net Revenues for the payment of the Insured Bonds paid by the Bond Insurer and all covenants, agreements and other obligations of the City to the Owners of those Insured Bonds shall continue to exist and shall run to the benefit of that Bond Insurer, and that Bond Insurer shall be subrogated to the rights of the owners of those Insured Bonds, until all obligations of the City to that Bond Insurer have been paid.

If any System Bonds are deemed to be paid and discharged pursuant to this Section, within 15 days after the date of defeasance, the City shall cause written notice to be given to each Owner of System Bonds deemed paid and discharged at the address shown on the bond register for the applicable series of System Bonds on the date on which those System Bonds are deemed paid and discharged. The notice shall state the numbers of the System Bonds deemed paid and discharged (if less than all System Bonds of such series are deemed paid and discharged), describe the Defeasance Obligations and specify any date or dates on which the System Bonds defeased are to be called for redemption pursuant to notice of redemption given or irrevocable provisions made for that notice pursuant to this Section.

ARTICLE XXXIII

SYSTEM BONDS NOT PRESENTED WHEN DUE

If any System Bonds are not duly presented for payment when due at maturity or on any prior redemption date, and if money sufficient for the payment of those System Bonds is on deposit with the Paying Agent for those System Bonds, and, in the case of System Bonds to be redeemed, if notice of redemption has been given as provided in this Master Ordinance, Supplemental Ordinance or Related Documents, all liability of the City to the Owners of those System Bonds shall be discharged, those System Bonds shall no longer be Outstanding and it shall be the duty of that Paying Agent to segregate and to hold such money in trust, without liability for interest thereon, for the benefit of the Owners of those System Bonds.

ARTICLE XXXIV

DELEGATED POWERS

The officers, attorneys and employees of the City are authorized and directed to take all action from time to time which is necessary or appropriate to effectuate the provisions of this Master Ordinance, any Supplemental Ordinance, System Bonds and any Related Document including, without limitation, the delivery of a "deemed final" certificate relating to the disclosure document for each series of System Bonds, the publication of a summary of this Master Ordinance substantially in the form set out in

Article XX, the distribution of material related to System Bonds, the printing of System Bonds and the execution of Related Documents and certificates pertaining to the System, System Bonds, the delivery of and security for System Bonds, as may be reasonably required by the Purchaser, any Fiscal Agent, Bank or Insurer and the execution of such other certificates and documents necessary to preserve that the interest paid on the System Bonds is excluded from gross income for federal income tax purposes. The officers, attorneys and employees of the City are authorized and directed to take all action from time to time which is desirable or necessary for the City with respect to arbitrage rebate requirements under Section 148(f) of the Code.

ARTICLE XXXV

AMENDMENT OF MASTER ORDINANCE OR SUPPLEMENTAL ORDINANCE

Section 35.01. *Limitations upon Amendments.* This Master Ordinance and any Supplemental Ordinance may be amended by ordinance of the Council without the consent of Owners:

- (a) To cure any ambiguity, or to cure, correct or supplement any defect or inconsistent provision contained in this Master Ordinance or Supplemental Ordinance;
- (b) To grant to the Owners any additional rights, remedies, powers or authority that may lawfully be granted to them;
- (c) To obtain or maintain a rating on a series of System Bonds from any rating agency which amendment, in the judgment of Bond Counsel, does not materially adversely affect the Owners of that series of System Bonds;
- (d) To achieve compliance with federal securities or tax laws;
- (e) To make any other changes in this Master Ordinance or Supplemental Ordinance which, in the opinion of Bond Counsel, is not materially adverse to the Owners; and
- (f) To make any changes required by the Bond Insurer or the rating agencies.

Section 35.02. *Additional Amendments.* Except as provided above, this Master Ordinance and any Supplemental Ordinance may only be amended or supplemented by ordinance adopted by the Council in accordance with the laws of the State, without receipt by the City of any additional consideration, but with the written consent of the Owners of a majority of the principal amount and Accreted Value of each series of System Bonds then outstanding which are affected by the amendment or supplement (not including System Bonds which are then owned by or for the account of the City, but

including refunding System Bonds which are not owned by the City) and of any Bank or Insurer providing a Credit Facility which is in effect and which pertains to a series of System Bonds affected by the amendment or supplement if the Bank or Insurer is not in default in its obligations under the Credit Facility; provided, however, that no such ordinances, without the written consent of all such Owners or entities affected by the proposed amendment or supplement, shall have the effect of permitting:

- (a) An extension of the maturity of any System Bond;
- (b) A reduction in the principal amount of, premium, if any, Accreted Value, purchase price or interest rate on any System Bond;
- (c) The creation of a lien on or a pledge of Net Revenues ranking prior to the lien or pledge of Parity Bonds on Net Revenues; or
- (d) A reduction of the principal amount and Accreted Value of System Bonds required for consent to such amendment or supplement.

Section 35.03. *Proof of Instruments.* The fact and date of the execution of any instrument under the provisions of this Article may be proved by the certificate of any officer in any jurisdiction who by the laws of the jurisdiction is authorized to take acknowledgments of deeds within that jurisdiction that the person signing the instrument acknowledged before him the execution of that instrument, or may be proved by an affidavit of a witness to the execution sworn to before such officer.

Section 35.04. *Proof of System Bonds.* The principal amount and Accreted Value and numbers of System Bonds owned by any person executing such instrument and the date of holding that instrument may be proved by a certificate executed by a bank or trust company showing that on the date mentioned that person had on deposit with the bank or trust company the System Bonds described in the certificate.

ARTICLE XXXVI

MASTER ORDINANCE IRREPEALABLE

After any of the System Bonds are issued, this Master Ordinance shall be and remain irrepealable until the Debt Service Requirements on all System Bonds are fully paid, canceled and discharged, as provided in this Master Ordinance, or there has been defeasance of all System Bonds as provided in this Master Ordinance.

ARTICLE XXXVII

SEVERABILITY CLAUSE

If any section, paragraph, clause or provision of this Master Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of

that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Master Ordinance.

ARTICLE XXXVIII

REPEALER CLAUSE

All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Master Ordinance are repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, previously repealed.

ARTICLE XXXIX

DEFEASANCE AND PRIOR REDEMPTION FOR THE REFUNDED BONDS

The City has elected and does hereby declare its intent to exercise on the behalf and in the name of the City its option to defease and redeem the Refunded Bonds maturing on and after June 1, 2019, at a redemption price equal to 100.00% of the principal amount of the Refunded Bonds to be redeemed, plus accrued interest to the redemption date, pursuant to the terms of the Escrow Agreement.

ARTICLE XXXX

EFFECTIVE DATE AND GENERAL SUMMARY FOR PUBLICATION

Upon due adoption of this Master Ordinance, it shall be recorded and preserved by the City Clerk, authenticated by the signature of the Mayor and City Clerk, and the seal of the City impressed hereon, and the title and general summary of the subject matter contained in this Master Ordinance (set out below) shall be published in a newspaper which maintains an office and is of general circulation in the City and this Master Ordinance shall be in full force and effect thereafter as provided by the City Charter and the laws of the State.

Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in the Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Santa Fe, New Mexico

Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 2016-__, duly adopted and approved by the Council of the

City of Santa Fe, New Mexico, on May 11, 2016. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, City of Santa Fe, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

The title of the Ordinance is:

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO WATER UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2016 IN AN AGGREGATE PRINCIPAL AMOUNT OF \$36,665,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING, DEFEASING, DISCHARGING, AND/OR RESTRUCTURING CERTAIN OUTSTANDING WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX OBLIGATIONS OF THE CITY; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE CITY'S WATER UTILITY SYSTEM; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AND ESCROW AGREEMENT; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS AND THE OUTSTANDING REFUNDED OR RESTRUCTURED WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX OBLIGATIONS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; AMENDING AND RESTATING ORDINANCE NO. 2006-47; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS.

The title sets forth a general summary of the subject matter contained in the Ordinance. A complete copy of the Ordinance is on file in the office of the City Clerk at the City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico, and are available for inspection and/or purchase during regular office hours. This notice also constitutes compliance with Section 6-14-6, NMSA 1978.

(End of Summary of Ordinance for Publication)

PASSED, ADOPTED, SIGNED AND APPROVED THIS 11TH DAY OF MAY,
2016.

CITY OF SANTA FE

(SEAL)

By _____
Mayor

ATTEST:

By _____
City Clerk

APPROVED AS TO FORM:

By _____
City Attorney

After discussion, Councilor _____ moved for approval, with Councilor _____ seconding the motion. Ordinance No. 2016-__ passed upon the following roll call vote:

Those voting AYE:

Those voting NAY:

Those not present:

The presiding officer thereupon declared that at least a majority of all the members of the Council having voted in favor of adoption of Bill No. 2016-__ the motion was carried and Ordinance No. 2016-__ was duly passed and adopted.

After consideration by the Council of other business the meeting was duly adjourned.

CITY OF SANTA FE

(SEAL)

By _____
Mayor

ATTEST:

By _____
City Clerk

STATE OF NEW MEXICO)

) ss.

COUNTY OF SANTA FE)

I, Yolanda Y. Vigil, City Clerk of the City of Santa Fe, New Mexico, do hereby certify:

1. The foregoing pages constitute a full and correct copy of the record of the proceedings of the City Council of the City at a regular meeting thereof, held on May 11, 2016, taken from the official minutes of the City Council, a copy of which is set forth in the record of proceedings; the copy of that Ordinance as contained in the record of proceedings is a full, true and correct copy of the original of Ordinance No. 2016-___ as passed by the City Council at that meeting, and the original Ordinance has been duly authenticated by the signatures of the Mayor of the City and the City Clerk on that date, sealed with the corporate seal of the City, and recorded in my office in a book of ordinances kept for that purpose.

2. _____ () members of the City Council were present at that meeting, and the members of the City Council voted on the passage of that Ordinance as set forth in the record of proceedings.

3. Notice of the May 11, 2016 meeting of the City Council was duly given as required by the Open Meetings Act, Sections 10-15-1 through 10-15-4, NMSA 1978, and Resolution No. 2016-__ which is the current resolution of the City which establishes the reasonable notice policy of the City as required by the Open Meetings Act.

4. On April __, 2016 and May __, 2016, a Notice of Public Hearing on Adoption of Bill No. 2016-__ was published in The Santa Fe New Mexican, a newspaper which maintains an office in and is of general circulation within the City. A true and correct copy of the affidavit of publication of the Notice of Public Hearing is attached hereto as Exhibit A.

5. On May 14, 2016, a Notice of Adoption of Ordinance No. 2016-__ was published by title and summary of its subject matter in *The Santa Fe New Mexican*, a newspaper which maintains an office in and is of general circulation within the City. A true and correct copy of the affidavit of publication of the Notice of Adoption is attached hereto as Exhibit B.

6. No other business concerning that Ordinance was taken at that meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Santa Fe, New Mexico this 11th day of May, 2016.

CITY OF SANTA FE

(SEAL)

By _____
City Clerk

Y:\dox\client\23845\0147\GENERAL\W2703521.DOC

EXHIBIT A
(Notice of Public Hearing)

EXHIBIT B
(Notice of Adoption)

Good evening Councilors and Mayor Gonzales

INTRODUCE YOURSELF AND YOUR ROLE WITH ASSOCIATION

The Santa Fe Association of REALTORS® is concerned that the short term rental proposal under consideration this evening does not codify an existing practice by the city that has been used when a property holding a legal permit is sold to another owner.

We respectfully urge City Council to codify the process and have offered suggested language but at a minimum we hope you will direct staff to review the concern and develop policies to address the issue.

The Realtor community believes this action will provide certainty in the real estate market as properties are bought and sold especially when:

- 1) The current property owner may have existing rental agreements that may need to be honored as a condition of the sale, or
- 2) A new requirement being proposed to *"limit the density of short term rentals."* It is unclear how existing legal short

Exhibit "A"

term rental permit holders who want to sell a property to a new owner seeking to reapply for a short term rental permit would be impacted by this proposed condition. Codifying the current process will remove any uncertainty,

Lastly, we don't believe there is no identifiable "harm" in allowing a legal, current permit to transfer to the new owner - only additional revenue for the city.

Thank you for your consideration this evening.

Some replies to KH's emails 5/11/16

Str's ruined my neighborhood !! I had to move as I no longer had a quality of life that was acceptable. The out of state home owners came to SANTA FE to party and there is no management of their properties when renters are coming in after midnight and leaving at 4 am in order to catch their planes ..so if the city thinks these the fees are paying for the extra wear and tear on the streets, sewers water , parks and city facilities with the increased volume of users then they might want to rework the numbers! I thought that the str discussion would be a fair , zoning would be relevant neighborhoods would be honored and respected and the city would welcome open public discussion. I was wrong and I was ignorant . It wasn't. The decision was made on str's before the open meetings were announced.. It was a huge disappointment to me personally and a farce. People are greedy and until they personally experience str's on either side of their primary residence they have no idea how their privacy and quality of life will be altered and destroyed. Good luck.. Big cities can absorb the uproar .. Santa Fe is not a big city .

It is my truth ..too late it will be the truth of those homeowners who live here full time and are interested in a primary home that has a neighborhood ..those interested only in investments do not care and would be raising holy hell if their city approved str's in their primary neighborhoods. The city council needs to make the people who live here full time and their basic needs first instead of always chasing tourists .. If you respect your city others will follow your example .. The city counselors seem to have no respect for the city or for its tax base which consists of primary residents and primary homeowners...don't get me started! Things have gone to the others since you left!! It is too bad.. What used to make Santa Fe .. Santa Fe different is being destroyed and it is now looking and feeling like a city anywhere...it is always about money and making another dollar ...the goose is dead and that changes everything!!

I like our street and neighborhood as they are. I would hate to see any of it resemble a motel row, with strangers rushing about and making a mess of things. Is everything for sale?

The situation sounds very grim for neighborhoods in Santa Fe.

STRs are very bad for neighborhoods—they destroy the fabric of community. If we must have STRs we suggest a section of Santa Fe be designated for such STRs so they can be contained in one area and closely monitored. But I doubt if most folks who desire a classy or even ordinary SFe STR would like actually living next to another STR occupied while they are in SFe. I have heard horror stories from friends living next to a STR on Tano Road—big parties, loud music, and more. We too have had a problem with ... rentals

The City of Santa Fe tourism department, under the direction of Randy Randal, along with City Councilor Peter Ives has recently recommended that the City of Santa Fe lift all limits and bans on Vacation Rentals in Santa Fe's neighborhoods. This in spite of the fact that it is generally an accepted

Exhibit "10"

fact that Vacation Rentals drive out locals and are responsible for increased rents for Real Santa Fe Residents. I have a book that was published by VRBO.com one of the top Vacation Rental websites. The books says Vacation Rentals come to what used to be sleepy little towns, drive up prices and drive out locals. Sounds vaguely familiar!! And guess what? Most of the people who buy houses for use as vacation rentals are not residents of Santa Fe. So at the same time that we have houses and apartments sitting empty 40 to 50 percent of the year, so that a Texan can rent them to people visiting from Phoenix, we have Santa Feans forced out of houses that have been in their family for generations, moving to Rio Ranch, and commuting to Santa Fe. And while we have people up in arms about sky rocketing rents, the cost of living, and other City Councilors sitting on Committees to Study affordable housing we have Mr Randall and Councilor Ives selling out Santa Fe residents by recommending that we lift all limits on Vacation Rentals. Why not just rename the town Disney Fe.

Suggested changes to proposed short-term rental ordinance and resolution and their implementation

Resolution

1. Delete "Whereas" lines 21 -23 that make the number of available permits subject to Airbnb's "host membership demand".
2. Require a public hearing if council considers increasing the number of available permits.

Ordinance

1. Strong sanctions, including loss of permit, for landlords whose tenants repeatedly violate noise, parking, and other environmental ordinances.
2. Requiring str's to adhere to laws governing residential properties, which was a promise made at a public meeting but one that looks like it will not be kept.

For instance, code says no more than 5 unrelated people can live in one residence. But we were told by staff that they could not apply this to short-term renters because they are not "residents". A real Catch-22.

3. A limitation on the number of short-term rental permits that can be issued to a single person or entity.
4. That no matter what changes are made in the number of permits issued, that the city maintain restrictions on the number of permits allowed in a particular geographic space that are equal to, or better than, the ones in the proposed ordinance.

Implementation

1. That negotiations between Airbnb (or other short-term rental platforms) should include not just representation from Tourism but also someone whose job it is to represent the interests of neighborhood residents and homeowners.
2. That as technology advances, the city invest in technology that can identify those landlords that do not adhere to city ordinance re short-term rentals.

Exhibit "11"



CITY COUNCIL MEETING OF
May 11, 2016
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY

Mayor Javier Gonzales		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Carmichael Dominguez		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Mike Harris		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Peter Ives		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION ENDORISING THE NAMING OF A US NAVY SUBMARINE AS THE USS LOS ALAMOS.	Finance Committee – 5/31/16 City Council – 6/8/16
Councilor Signe Lindell		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Joseph Maestas		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Chris Rivera		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION AMENDING TABLE 80 (PAGE 77) OF THE CITY OF SANTA FE IMPACT FEE CAPITAL IMPROVEMENTS PLAN 2020 REGARDING PLANNED MAJOR ROAD IMPROVEMENTS AND ADDING "SOUTHSIDE TRANSIT CENTER LOOP" AS AN ELIGIBLE PROJECT TO RECEIVE "ROAD" IMPACT FEES.	Public Works Committee – 5/23/16 Transit Advisory Board – 5/24/16 Finance Committee – 5/31/16 City Council – 6/8/16

Exhibit "B"

Councilor Ron Trujillo		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION SUPPORTING THE NEW MEXICO LITTER CONTROL AND BEAUTIFICATION ACT OF 1985 WHICH PROVIDES PUBLIC FUNDS IN THE FORM OF GRANTS FOR THE PURPOSE OF ENHANCING LOCAL LITTER CONTROL AND BEAUTIFICATION PROGRAMS.	Finance Committee – 5/31/16 Public Utilities Committee – 6/1/16 City Council – 6/8/16
Councilor Renee Villarreal		
Co-Sponsors	Title	Tentative Committee Schedule
	AN ORDINANCE RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN ORDINANCE, ARTICLE 11-11 SFCC 1987; APPROVING AND ADOPTING A LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE FARMERS' MARKET INSTITUTE FOR INDOOR CONCESSION FACILITY IMPROVEMENTS, A LOCAL ECONOMIC DEVELOPMENT PROJECT.	Economic Development Review Committee – 5/25/16 City Council (Request to Publish) – 5/25/16 Public Works Committee – 6/6/16 City Business and Quality of Life – 6/8/16 Finance Committee – 6/13/16 City Council (Public Hearing) – 6/29/16

Introduced legislation will be posted on the City Attorney's website, under legislative services. If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Jesse Guillen, (505) 955-6518, jbg Guillen@santafenm.gov or Rebecca Seligman at (505) 955-6501, rxseligman@santafenm.gov.

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2016-__

INTRODUCED BY:

Councilor Christopher M. Rivera

A RESOLUTION

AMENDING TABLE 80 (PAGE 77) OF THE CITY OF SANTA FE *IMPACT FEE CAPITAL IMPROVEMENTS PLAN 2020* REGARDING PLANNED MAJOR ROAD IMPROVEMENTS AND ADDING "SOUTHSIDE TRANSIT CENTER LOOP" AS AN ELIGIBLE PROJECT TO RECEIVE "ROAD" IMPACT FEES.

WHEREAS, on August 27, 2014, the Governing Body approved Resolution No. 2014-71 adopting the *Impact Fee Capital Improvements Plan 2020* for the city of Santa Fe; and

WHEREAS, Section 14-12.1 SFCC 1987 Definitions, "Capital Improvement" in accordance with the New Mexico Development Fees Act (5-8-1 NMSA) allows the use of impact fees to acquire capital improvements including essential equipment costing \$10,000 or more and having a life expectancy of ten years or more; and

WHEREAS, Table 80 (page 77) of the capital improvements plan included "Planned Major Road Improvements, 2014-2020", specifying roads to be improved and eligible to receive impact fee funds; and

WHEREAS, due to the identified need for additional capital improvements in order to

1 create the Southside Transit Center Loop along Camino Entrada as a bus terminus and
2 turnaround, addition of the project to the *Impact Fee Capital Improvements Plan 2020* will insure
3 construction; and

4 **WHEREAS**, the city of Santa Fe deems these improvements necessary to assist in
5 enhancing road capacity;

6 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
7 **CITY OF SANTA FE** that Table 80, page 77, "Planned Major Road Improvements 2014-2020"
8 of the *Impact Fee Capital Improvements Plan 2020* is amended to include the following under
9 "Project Name", "Location" and "Cost Estimate":

<u>Project Name</u>	<u>Location</u>	<u>Cost Estimate</u>
Southside Transit Center Loop	Camino Entrada	\$1,144,585.45

12
13 PASSED, APPROVED, and ADOPTED this ____ day of _____, 2016.

14
15 _____
16 JAVIER M. GONZALES, MAYOR

17 ATTEST:

18
19 _____
20 YOLANDA Y. VIGIL, CITY CLERK

21 APPROVED AS TO FORM:

22
23 _____
24 KELLEY A. BRENNAN, CITY ATTORNEY

25 *M/Legislation/Resolutions 2016/Southside Transit Center Loop CIP*

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2016-__**

3 **INTRODUCED BY:**

4
5 Councilor Peter N. Ives

6
7
8
9
10 **A RESOLUTION**

11 **ENDORISING THE NAMING OF A US NAVY SUBMARINE AS THE USS LOS**
12 **ALAMOS.**

13
14 **WHEREAS**, the Los Alamos County Council has recently passed unanimously a
15 resolution in support of a citizens initiative to name a US Navy submarine as the USS Los
16 Alamos; and

17 **WHEREAS**, both the House and the Senate of the Legislature of the State of New
18 Mexico have enthusiastically and unanimously passed memorials endorsing the naming of a US
19 Navy submarine as the USS Los Alamos; and

20 **WHEREAS**, the City Council of Santa Fe wishes to recognize, applaud and endorse this
21 effort to recognize the contributions of the communities of Northern New Mexico; and

22 **WHEREAS**, it is entirely appropriate and justified that the Secretary of the Navy should
23 consider this request, given the unique contributions of the residents of Los Alamos and northern
24 New Mexico to this nation and the United States Navy since 1943; and

25 **WHEREAS**, Los Alamos has partnered with the United States Navy on projects of

1 mutual interest, concern and national security since 1943; and

2 **WHEREAS**, many key participants of the Manhattan project and subsequent programs
3 were and are members of the United States Navy; and

4 **WHEREAS**, it was the residents of Los Alamos who successfully designed the first
5 nuclear weapons the helped bring the deadliest war in history to an abrupt conclusion, saving
6 countless lives; and

7 **WHEREAS**, it is the residents of Los Alamos and surrounding communities who
8 provide and have provided the scientific, engineering and technical expertise that has driven Los
9 Alamos National Laboratory since its inception; and

10 **WHEREAS**, the knowledge and understanding of nuclear energy that was developed by
11 residents of Los Alamos during the Manhattan Project provided the scientific basis that led to the
12 development of the U.S. Navy's nuclear propulsion systems used extensively by the U.S. Navy
13 today; and

14 **WHEREAS**, inspectors from Los Alamos and surrounding communities have been sent
15 around the world inspecting for weapons of mass destruction; and

16 **WHEREAS**, Los Alamos has, since 1980, trained all International Atomic Energy
17 (IAEA) Inspectors in their mission of ensuring the peaceful use of nuclear facilities; and

18 **WHEREAS**, the work of Los Alamos and other organizations involved in the Manhattan
19 Project has been nationally recognized by the Congress of the United States in creating the
20 Manhattan Project National Historical Park; and

21 **WHEREAS**, Los Alamos National Laboratory will celebrate it's 75th Anniversary in
22 2018, the naming of the USS Los Alamos to coincide with that historic event would be a proud
23 moment in the history of Los Alamos, the State of New Mexico, the United States Navy and the
24 United States

25 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**

1 **CITY OF SANTA FE**

2 that the initiative to name a future United States navy nuclear-powered submarine the
3 USS Los Alamos be endorsed and that a copy of this resolution be transmitted to the United
4 States Secretary of the Navy.

5 PASSED, APPROVED AND ADOPTED this ____ day of ____, 2016.

6
7 _____
8 JAVIER M. GONZALES, MAYOR

9 ATTEST:

10
11 _____
12 YOLANDA Y. VIGIL, CITY CLERK

13 APPROVED AS TO FORM:

14
15 _____
16 KELLEY A. BRENNAN, CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2016-__

INTRODUCED BY:

Councilor Ronald S. Trujillo

A RESOLUTION

SUPPORTING THE NEW MEXICO LITTER CONTROL AND BEAUTIFICATION ACT OF 1985 WHICH PROVIDES PUBLIC FUNDS IN THE FORM OF GRANTS FOR THE PURPOSE OF ENHANCING LOCAL LITTER CONTROL AND BEAUTIFICATION PROGRAMS.

WHEREAS, the city of Santa Fe recognizes the existence of a litter problem within the boundaries of Santa Fe; and

WHEREAS, the New Mexico Litter Control & Beautification Act of 1985 (the "ACT") provides, through the State Tourism Department, Litter Control and Beautification Section, for the allocation of public funds in the form of grants for the purpose of enhancing local litter control and beautification programs; and

WHEREAS, the city of Santa Fe has reviewed and considered the regulations, the agreement covering administration and use of said funds.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the city of Santa Fe:

1. Endorses and supports such a program and delegates the administration of such program to Keep Santa Fe Beautiful, as indicated in Exhibit "A" attached hereto and incorporated herein by reference.

2. Authorizes Keep Santa Fe Beautiful to plan, budget and apply for a grant under the ACT which if approved, will be used to fund said programs.

3. Requests the State Tourism Department, Litter Control Beautification Section to consider and approve said application and program. Said program is in accordance with the Act and related regulations governing the use and expenditure of said funds.

PASSED, APPROVED and ADOPTED this ____ day of _____, 2016.

ATTEST:

JAVIER M. GONZALES, MAYOR

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY