

CITY OF SANTA FE, NEW MEXICO

ORDINANCE NO. 2019-2

AN ORDINANCE

CONCERNING THE MUNICIPAL WASTEWATER UTILITY SYSTEM OF THE CITY OF SANTA FE, NEW MEXICO (THE "SYSTEM"); PROVIDING FOR THE ISSUANCE OF THE CITY'S NET WASTEWATER UTILITY SYSTEM / ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2019, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,525,000 FOR THE EXTENSION, ENLARGEMENT, BETTERMENT, REPAIR AND OTHER IMPROVEMENT OF THE SYSTEM; PROVIDING THAT THE BONDS SHALL BE PAYABLE SOLELY OUT OF THE NET REVENUES DERIVED FROM THE OPERATION OF THE SYSTEM AND THE CITY'S ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX REVENUES; PROVIDING FOR THE ACQUISITION OF A RESERVE FUND INSURANCE POLICY IN CONNECTION WITH THE DEBT SERVICE RESERVE FUND ESTABLISHED IN CONNECTION WITH THE BONDS; PROVIDING FOR THE DISPOSITION OF THE REVENUES DERIVED FROM THE OPERATION OF THE SYSTEM; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS, THE METHOD OF PAYING THE PRINCIPAL OF AND INTEREST ON THE BONDS AND THE SECURITY THEREFOR; PRESCRIBING OTHER DETAILS CONCERNING THE SYSTEM REVENUES, BONDS AND THE SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND WITH FUTURE FINANCING THEREFOR; APPROVING FORMS OF A PRELIMINARY OFFICIAL STATEMENT AND A

1 CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE BONDS;
2 DELEGATING AUTHORITY TO THE MAYOR, CITY MANAGER, AND FINANCE
3 DIRECTOR OF THE CITY TO DETERMINE THE EXACT PRINCIPAL AMOUNTS,
4 MATURITY DATES, INTEREST RATES, PRICES, REDEMPTION FEATURES AND
5 OTHER FINAL TERMS OF THE BONDS PURSUANT TO A PRICING CERTIFICATE;
6 AMENDING CERTAIN PROVISIONS OF ORDINANCE NO. 2012-6 CONCERNING
7 THE ISSUANCE OF ADDITIONAL WASTEWATER SYSTEM REVENUE BONDS;
8 RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND
9 REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

10
11 Capitalized terms in the following preambles have the same definitions as are set forth in
12 Section 1 unless the content provides otherwise.

13 **WHEREAS**, the City of Santa Fe, in the County of Santa Fe and State of New Mexico
14 (herein the "City"), is a legally and regularly created, established, organized and existing charter
15 municipality with home-rule powers under the general laws of the State of New Mexico; and

16 **WHEREAS**, the City now owns, operates and maintains a public utility constituting a
17 sanitary sewer system (referred to herein variously as the "System"); and

18 **WHEREAS**, pursuant to Section 7-19D-10, NMSA 1978, and City Ordinance No.
19 1993-20, the City has imposed an environmental services gross receipts tax on persons engaging
20 in business in the City and receives monthly distributions of Environmental Services Gross
21 Receipts Tax Revenues from the New Mexico Department of Taxation and Revenue equal to
22 1/16th of one percent (0.0625%) of the gross receipts of persons engaging in business within the
23 City, as determined and adjusted under the Municipal Local Option Gross Receipts Taxes Act
24 and the Tax Administration Act. The Environmental Services Gross Receipts Tax is dedicated
25 for purposes authorized by Section 7-19D-10, NMSA 1978; and

1 **WHEREAS**, pursuant to Ordinance No. 2012-6, passed and adopted by the Governing
2 Body on January 25, 2012, the City issued its "City of Santa Fe, New Mexico Gross Receipts Tax
3 (Subordinate Lien)/Wastewater Systems Refunding Revenue Bonds, Series 2012B" (herein the
4 "Series 2012B Bonds") in an aggregate principal amount of \$14,280,000 payable from and
5 constituting a first (but not an exclusive first) lien on the Net Revenues of the System and a
6 subordinate (but not an exclusive subordinate) lien on the Environmental Services Gross Receipts
7 Tax Revenues and certain other gross receipts tax revenues of the City; and

8 **WHEREAS**, other than the Series 2012B Bonds, there are no other obligations currently
9 outstanding that are payable from the Net Revenues of the System and the Environmental
10 Services Gross Receipts Tax Revenues; and

11 **WHEREAS**, improvements to the System are now necessary and advisable to meet the
12 current and anticipated needs of the City; and

13 **WHEREAS**, the Governing Body hereby determines that there is an urgent need for the
14 Project as herein defined and that the Bonds shall be issued for the Project which consequently
15 also will provide for the public health, peace and safety of the City and its citizens; and

16 **WHEREAS**, the Bonds shall be issued pursuant to Sections 3-31-1 through 3-31-12,
17 NMSA 1978, and with an irrevocable first lien, but not necessarily an *exclusive first lien*, on the
18 Net Revenues of the System and a lien on the Environmental Services Gross Receipts Tax
19 Revenues, as more fully described herein; and

20 **WHEREAS**, the Governing Body expects to offer the Bonds in a negotiated sale and to
21 sell the Bonds pursuant to a Pricing Certificate and the Bond Purchase Agreement, to be executed
22 by the Mayor or, the absence of the Mayor, another Authorized Officer pursuant to Section 6-14-
23 10.2 NMSA 1978, all within the parameters set forth in this Ordinance; and

24 **WHEREAS**, Section 3-31-6(C) NMSA 1978, provides as follows:

25 "Any law which authorizes the pledge of any or all of the pledged revenues to the

1 payment of any revenue bonds issued pursuant to Sections 3-31-1 through 3-31-
2 12, NMSA 1978, or which affects the pledged revenues, or any law supplemental
3 thereto or otherwise appertaining thereto, shall not be repealed or amended or
4 otherwise directly or indirectly modified in such a manner as to impair adversely
5 any such outstanding revenue bonds, unless such outstanding revenue bonds have
6 been discharged in full or provision has been fully made therefor.”; and

7 **WHEREAS**, there have been presented to the Governing Body and there presently are on
8 file with the City Clerk (a) the Bond Purchase Agreement, (b) the Preliminary Official Statement,
9 (c) a form of Continuing Disclosure Agreement, and (d) a commitment from the Reserve Fund
10 Insurer for the Reserve Account Insurance Policy to be provided in connection with the Debt
11 Service Reserve Fund for the Bonds (the “Commitment”), each of which documents is
12 incorporated by reference and considered to be a part hereof; and

13 **WHEREAS**, the Governing Body hereby determines that the Project being acquired in
14 part with the proceeds of the Bonds is a governmental purpose and is not a project which would
15 cause the Bonds to be “private activity bonds” as defined by the Tax Code.

16 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL, AS THE**
17 **GOVERNING BODY OF THE CITY OF SANTA FE, NEW MEXICO:**

18 **Section 1. Definitions.** The terms in this section defined for all purposes of this
19 ordinance and of any ordinance amendatory hereof or supplemental hereto, or relating hereto, and
20 of any instrument or document appertaining hereto, except where the context by clear implication
21 herein otherwise requires, shall have meanings herein specified:

22 “Acquisition Fund” or “Project Acquisition Fund” means the “City of Santa Fe Net
23 Wastewater Utility System / Environmental Services Gross Receipts Tax Improvement Revenue
24 Bonds, Series 2019, Project Acquisition Fund,” established in Section 17(C) hereof.

25 “Act” means the general laws of the State, including Sections 3-31-1 through 3-31-12

1 NMSA 1978, as amended, and enactments of the City Council relating to the issuance of the
2 Bonds, including this Ordinance.

3 "Bond Fund" means the "City of Santa Fe Net Wastewater Utility System /
4 Environmental Services Gross Receipts Tax Improvement Revenue Bonds, Series 2019, Fund,"
5 created in Section 20(B) hereof and to be held by the City.

6 "Bond Purchase Agreement" means the agreement between the City and the Purchaser
7 providing for the sale by the City and the purchase by the Purchaser of the Bonds.

8 "Bonds" or "Series 2019 Bonds" means the "City of Santa Fe, New Mexico Net
9 Wastewater Utility System / Environmental Services Gross Receipts Tax Improvement Revenue
10 Bonds, Series 2019" authorized by this ordinance.

11 "City," "Municipal," or "Municipality" means the municipal corporation and body
12 corporate and politic known as the City of Santa Fe, New Mexico.

13 "City's Chief Financial Officer" means the City officer currently designated as the
14 "Finance Director" or his or her successor in function, provided that for purposes hereof, the
15 designation of any successor in title by the City Manager, if given in writing, shall be conclusive.

16 "Commitment" means the written commitment to the City from Reserve Fund Insurer to
17 provide the Reserve Account Insurance Policy.

18 "Consulting Engineer" means any registered or licensed professional engineer or firm of
19 such engineers, entitled to practice and practicing as such under the laws of the State of New
20 Mexico, retained and compensated by the City, but not in the regular employ of the City. The
21 written determination by the Mayor or City Manager or the authorized designee of either, that an
22 engineer or firm of engineers meets the foregoing qualifications of the preceding sentence shall
23 be conclusive for purposes of any provision of this ordinance. As to construction drawings and
24 specifications prepared for the Project by City employees working under the supervision of the
25 City Engineer, this term may include the City Engineer.

1 "Continuing Disclosure Agreement" means the agreement of the City to provide certain
2 annual financial information for the benefit of the owners of the Bonds and to be dated the date of
3 issuance and delivery of the Bonds.

4 "Credit Facility" means a letter of credit, standby bond purchase agreement, line of
5 credit, bond insurance policy or reserve account insurance policy, guaranty or similar agreement
6 provided by a bank, insurer or other provider of a Credit Facility rated, at the time the Credit
7 Facility is provided, "A" or better by Fitch and S&P (if such rating agencies are then rating the
8 Bonds), including any substitute therefor, to provide support to pay the purchase price of, or the
9 payment of the principal of and interest on, Obligations.

10 "Cross-over Refunding Bonds" means bonds or obligations issued for the purpose of
11 refunding Obligations if the proceeds thereof are irrevocably deposited in escrow to secure
12 repayment on an applicable redemption date or maturity date of the principal of and redemption
13 premium on the related Obligations being refunded and the earnings on such escrow are required
14 to be used to pay interest on the Cross-over Refunding Bonds.

15 "Debt Service Account" means the account of the Bond Fund so denominated and
16 established in Section 20(B) hereof.

17 "Debt Service Requirements" for any period means the sum of: (i) the amount required to
18 pay the interest, or to make reimbursements for payments of interest, becoming due on the
19 applicable Obligations during such period; plus (ii) the amount required to pay the principal or
20 accreted value, or to make reimbursements for the payment of principal or accreted value,
21 becoming due on the applicable Obligations during that period, whether at maturity, an accretion
22 term date or upon mandatory sinking fund redemption dates, plus (iii) any net periodic payments
23 on a notional amount required to be made by the City pursuant to a Qualified Exchange
24 Agreement minus (iv) any net periodic payments on a notional amount to be received by the City
25 pursuant to a Qualified Exchange Agreement.

1 (a) No payments required on the applicable Obligations shall be included in
2 any computation of Debt Service Requirements for any computation period prior to the maturity
3 or otherwise certain due dates thereof which may occur because of the exercise of an option by
4 the City, or which may otherwise become due by reason of any other circumstance or
5 contingency, including acceleration, which constitute other than regularly scheduled payments of
6 principal, accreted value, interest or other regularly scheduled payments on the applicable
7 Obligations.

8 (b) Debt Service Requirements required to be made pursuant to a Qualified
9 Exchange Agreement shall be based upon the actual amount required to be paid by the City, if
10 any, to the Qualified Counterparty. In determining that amount, any payments required to be
11 made by either party to the Qualified Exchange Agreement at a Variable Exchange Rate shall be
12 computed, in determining the obligation of the City under the Qualified Exchange Agreement,
13 using the procedures set forth in the applicable sections of this ordinance.

14 (c) The computation of interest for the purposes of this definition shall be
15 made without considering the interest rate payable pursuant to a Credit Facility, unless, at the
16 time of computation of Debt Service Requirements, payments on Obligations are owed to, or
17 *Obligations are owned or held by*, the provider of a Credit Facility pursuant to the provisions of
18 that Credit Facility.

19 (d) The accreted value of capital appreciation bonds shall be included in the
20 calculation of interest and principal only for the applicable year during which the accreted value
21 becomes payable.

22 (e) In any computation of Debt Service Requirements relating to the
23 issuance of additional Parity Obligations:

24 (1) There shall be deducted from that computation (i) amounts on
25 deposit in an escrow account related to an issue of Cross-over Refunding Bonds and (ii) proceeds

1 of a series of Obligations deposited to the credit of an account for the payment of capitalized
2 interest on Obligations included as part of the computation during the applicable period.

3 (2) There may be made the adjustment to the Debt Service
4 Requirements applicable to Bond Anticipation Notes described in Section 26E.

5 (f) Except as otherwise provided in the ordinance authorizing the issuance
6 of Crossover Refunding Bonds, the purchase or tender price of Put Obligations resulting from the
7 optional or mandatory tender or presentment for purchase of those Put Obligations shall not be
8 included in any computation of Debt Service Requirements.

9 "Environmental Services Gross Receipts Tax" means the environmental services gross
10 receipts tax imposed pursuant to Section 7-19D-10 NMSA 1978 by City Ordinance No. 1993-20
11 on persons engaging in business in the City in the amount of 1/16th of one percent of the gross
12 receipts of such persons.

13 "Environmental Services Gross Receipts Tax Ordinance" means the City Ordinance No.
14 1993-20 imposing the Environmental Services Gross Receipts Tax, as amended.

15 "Environmental Services Gross Receipts Tax Revenue Fund" means the "City of Santa
16 Fe, New Mexico Environmental Services Gross Receipts Tax Revenue Fund," maintained by the
17 City and continued by Section 19 of this ordinance, into which the City shall deposit the
18 Environmental Services Gross Receipts Tax Revenues.

19 "Environmental Services Gross Receipts Tax Revenues" means the environmental
20 services gross receipts tax revenues received by the City pursuant to Section 7-19D-10, NMSA
21 1978 and the Environmental Services Gross Receipts Tax Ordinance.

22 "Exchange Act" means Section 6-18-8.1, NMSA 1978, as amended and supplemented.

23 "Federal Securities" means direct obligations of, or obligations the principal of and
24 interest on which are unconditionally guaranteed by the United States of America.

25 "Fiscal Year" for the purposes of this ordinance means the twelve months commencing

1 on the first day of July of any calendar year and ending on the last day of June of the next
2 calendar year; but it may mean any other 12-month period which any appropriate authority
3 hereafter may establish for the System.

4 "Governing Body," "City Council," or "Council" means the City Council of the City.

5 "Gross Receipts Tax Revenues" means, means (1) the State-Shared Gross Receipts Tax
6 Revenues; (2) the One-Half Percent Municipal Gross Receipts Tax Revenues; (3) the
7 Infrastructure Gross Receipts Tax Revenues; (4) the Environmental Services Gross Receipts Tax
8 Revenues; (5) the portion of the gross receipts tax distribution to the City made pursuant to
9 Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax
10 Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, Infrastructure Gross
11 Receipts Tax Revenues and Environmental Services Gross Receipts Tax Revenues that would
12 have been remitted to the City but for the deductions (effective January 1, 2005) provided by
13 Sections 7-9-92 and 7-9-93 NMSA 1978 and any similar distributions made to the City in lieu of
14 State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax
15 Revenues, Infrastructure Gross Receipts Tax Revenues and Environmental Services Gross
16 Receipts Tax Revenues pursuant to law; and (6) any other gross receipts tax revenues received by
17 the City, whether from distribution by the State or pursuant to gross receipts taxes imposed by the
18 City, and hereafter (i.e. after the adoption of this Ordinance) pledged to the payment of
19 Obligations by affirmative act of the Governing Body.

20 "Gross Revenues," "revenues," "gross revenues," "income" or "gross income" Gross
21 Revenues," "revenues," "gross revenues," "income" or "gross income" from the System means
22 all income and revenues directly or indirectly derived by the City from the operation and use of
23 the Wastewater System, or any part of the Wastewater System, and includes, without limitation,
24 all revenues received by the City, or any municipal corporation or agency succeeding to the rights
25 of the City, from the Wastewater System and from the sale and use of wastewater, wastewater

1 services or facilities, or any other service, commodity or facility or any combination thereof
2 furnished to the inhabitants in the customer service area for the Wastewater System. Such term
3 also includes:

4 (a) Investment earnings allocated to the Wastewater Fund by the City from
5 amounts in the Debt Service Fund and from surplus Wastewater System Net Revenues in
6 accordance with Section 22;

7 (b) All income derived from the investment of any money in the Wastewater
8 Fund and Wastewater System Rate Stabilization Account;

9 (c) Money released from the Wastewater System Rate Stabilization Account
10 to the extent that the amount released is used to pay Wastewater System Operation and
11 Maintenance Expenses or Debt Service Requirements on Parity Wastewater System Obligations
12 in the year released; provided that withdrawals from the Wastewater Rate Stabilization Account
13 shall not be included in Wastewater System Gross Revenues for the purposes of the Rate
14 Covenant in any two consecutive calendar years;

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

18 (e) That portion of expansion charges and/or impact fees established
19 specifically to pay debt service on debt obligations.

20 Gross Revenues do not include:

21 (a) any money received as (i) wastewater testing fees, (ii) grants or gifts
22 from the United States of America, the State or other sources, (iii) the proceeds of any charge or
23 tax intended as a replacement therefor or other capital contributions from any source which are
24 restricted as to use or (iv) the capital improvement portion of any expansion charges and/or
25 impact fees;

1 (b) taxes and/or fees collected by the City and remitted to other
2 governmental agencies; and

3 (c) condemnation proceeds or the proceeds of any insurance policy, except
4 any insurance proceeds derived in respect of loss of use or business interruption.

5 "Herein," "hereby," "hereunder," "hereof," "hereinbefore" and "hereafter" refer to this
6 ordinance and not solely to the particular portion thereof in which such word is used. Definitions
7 include both singular and plural. Pronouns include both singular and plural and cover all genders.

8 "Improvement Project" or "Project" means extending, enlarging, bettering, repairing and
9 otherwise improving the System, including, but not necessarily limited to amounts necessary to
10 initially fund the Reserve Account of the Reserve Fund or a Reserve Fund Insurance Policy or
11 both) as provided in Sections 17(B) and 20(C) hereof and all costs and expenses pertaining to the
12 foregoing and the issuance of the Bonds, including but not necessarily limited to any amounts
13 which may be required to be deposited into the Rebate Fund to the extent permitted by law.

14 "Independent Accountant" means any registered or certified public accountant or firm of
15 such accountants duly licensed to practice and practicing as such under the laws of the State of
16 New Mexico, appointed and paid by the City, who (1) is, in fact, independent and not under the
17 domination of the City, (2) does not have any substantial interest, direct or indirect, with the City,
18 and (3) is not connected with the City as an officer or employee of the City, but who may be
19 regularly retained to make annual or similar audits of the books or records of the City;
20 "Independent Accountant" also means the State Auditor of the State of New Mexico.

21 "Infrastructure Gross Receipts Tax" means the infrastructure gross receipts tax imposed
22 pursuant to Section 7-19D-11 NMSA 1978 by the Infrastructure Gross Receipts Tax Ordinance
23 on persons engaged in business in the City in an amount of 1/16th of one percent (0.0625%) of
24 the gross receipts of such persons.

25 "Infrastructure Gross Receipts Tax Ordinance" means City Ordinance No. 1993-21

1 imposing the Infrastructure Gross Receipts Tax, as amended.

2 "Insured Bank" means a bank which is a member of the Federal Deposit Insurance
3 Corporation.

4 "Net Revenues" or "net revenues" or "net income" means the Gross Revenues after
5 deducting Operation and Maintenance Expenses of the System.

6 "Obligations" means bonds, notes or any other instrument which evidences a borrowing
7 or other obligation of the City, including Qualified Exchange Agreements, secured by Pledged
8 Revenues, issued or incurred for any purpose permitted by the Act or the Exchange Act, as
9 amended from time to time.

10 "One-Half Percent Municipal Gross Receipts Tax Ordinance" means City of Santa Fe
11 Ordinance No. 1981-45 imposing a one-half of one percent municipal gross receipts tax.

12 "One-Half Percent Municipal Gross Receipts Tax Revenues" means those revenues
13 received by the City pursuant to the Municipal Local Option Gross Receipts Taxes Act, Sections
14 7-19D-1 through 7-19D-12 NMSA 1978, and the One-Half Percent Municipal Gross Receipts
15 Tax Ordinance.

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

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

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

25 (c) the costs of audits of the books and accounts of the Wastewater System:

- 1 (d) amounts required to be deposited in the Rebate Fund;
- 2 (e) salaries, administrative expenses, labor costs, surety bonds and the cost
- 3 of materials and supplies used for or in connection with the current operation of the Wastewater
- 4 System; and
- 5 (f) any fees required to be paid under any operation, maintenance and/or
- 6 management agreement with respect to the Wastewater System.

7 Operation and Maintenance Expenses do not include any allowance for

8 depreciation, payments in lieu of taxes, liabilities incurred by the City as a result of its negligence

9 or other misconduct in the operation of the Wastewater System, any charges for the accumulation

10 of reserves for capital replacements or any Wastewater System Operation and Maintenance

11 Expenses payable from moneys other than Wastewater System Gross Revenues.

12 "Operation and Maintenance Fund" means the "City of Santa Fe Wastewater Utility

13 System Operation and Maintenance Fund" which is continued in Section 20A hereof.

14 "Ordinance" shall mean this ordinance and any ordinance or resolution amendatory

15 hereof or supplemental hereof.

16 "Parity Bonds" or "Parity Obligations" means the Series 2012B Bonds and any bonds or

17 other obligations hereafter issued with a lien on the Pledged Revenues on parity with the lien

18 *thereon of the Series 2012B Bonds and the Bonds herein authorized to be issued.*

19 "Parity EGRT Obligations" means the 2012B Bonds and any other obligations hereafter

20 issued with a lien on the Pledged Environmental Services Gross receipts Tax Revenues on a

21 parity with the lien thereon of the Series 2012B Bonds and the Bonds herein authorized to be

22 issued.

23 "Parity Wastewater Obligations" means the 2012B Bonds and any other obligations

24 hereafter issued with a lien on the Net Revenues on a parity with the lien thereon of the Series

25 2012B Bonds and the Bonds herein authorized.

1 "Paying Agent" means BOKF, NA, as agent for the City for the payment of the Bonds,
2 the interest thereon, and any successor.

3 "Permitted Investments" means any of the following which at the time of such
4 investment are legal investments for the City pursuant to adopted City investment policies and the
5 laws of the State:

6 (a) Government Obligations;

7 (b) Obligations of, or obligations guaranteed as to *principal and interest* by
8 any agency or instrumentality of the United States which are backed by the full faith and credit of
9 the United States, including, but not limited to: General Services Administration--participation
10 certificates; Government National Mortgage Association (GNMA)--GNMA guaranteed
11 mortgage-backed securities and GNMA guaranteed participation certificates; U.S. Department of
12 Housing & Urban Development--local authority bonds; and U.S. Export-Import Bank--all fully
13 guaranteed obligations;

14 (c) Obligations of the following government-sponsored agencies: Federal
15 Home Loan Mortgage Corporation--participation certificates and senior debt obligations; Farm
16 Credit System--consolidated system-wide bonds and notes; Federal Home Loan Banks--
17 consolidated debt obligations; Federal National Mortgage Association--senior debt obligations
18 and mortgage-backed securities (excluding stripped mortgage securities which are valued greater
19 than par on the portion of unpaid principal); Student Loan Marketing Association--senior debt
20 obligations (excluding securities that do not have a fixed par value and/or whose terms do not
21 promise a fixed dollar amount at maturity or call date) and letter of credit backed issues;
22 Financing Corporation--debt obligations; and Resolution Funding Corporation--debt obligations;

23 (d) Bank time deposits evidenced by certificates of deposit and bankers'
24 acceptances issued by an Insured Bank, provided that such time deposits and bankers'
25 acceptances (1) do not exceed at any one time in the aggregate five percent (5%) of the combined

1 total of the capital, surplus and undivided profits of such Insured Bank, or (2) are secured by
2 obligations described in paragraphs (a), (b), (c) and (h) of this definition which obligations at all
3 times have a market value (exclusive of accrued interest) at least equal to 102% of such time
4 deposits so secured;

5 (e) Obligations, other than specified private activity bonds (as defined in
6 Section 57(a)(5)(C) of the Internal Revenue Code, as amended (the "Tax Code")), the interest on
7 which is excluded from gross income of the recipient for federal income tax purposes and any
8 other instrument which does not constitute "investment property" under Section 148 of the Tax
9 Code (excluding securities that do not have a fixed par value and/or whose terms do not promise
10 a fixed dollar amount at maturity or call date), as amended from time to time, which is rated in
11 the highest major Rating Category by S&P and Fitch (if such rating agency is then rating the
12 Bonds);

13 (f) Money market instruments and other securities of commercial banks,
14 broker-dealers or recognized financial institutions, which securities or instruments are rated in the
15 highest Rating Category by S&P and Fitch, (if such rating agency is then rating the Bonds), or
16 which securities are guaranteed by a person or entity whose long-term debt obligations are rated
17 in the highest Rating Category by S&P and Fitch (if such rating agency is then rating the Bonds)
18 including, without limitation, securities of, or other interests in, any open-end or closed-end
19 management type investment company or investment trust registered under the provisions or 15
20 U.S.C. Sections 80(a)-1 et. seq., which invest only in, or whose securities are secured only by,
21 obligations of the type set forth in paragraphs (a), (b), (c) and (h) of this definition;

22 (g) Stripped Securities: (1) U.S. Treasury STRIPS and (2) REFCORP
23 STRIPS (stripped by Federal Reserve Bank of New York);

24 (h) Repurchase agreements involving the purchase and sale of, and
25 guaranteed investment contracts, the par value of which is collateralized by a perfected first

1 pledge of, or security interest in, or the payments of which are unconditionally guaranteed by,
2 securities described in parts (a), (b), (c) and (h) of this definition, which collateral is held by the
3 City, or for the benefit of the City, by a party other than the provider of the guaranteed investment
4 contract or repurchase agreement, with a collateralized value of at least 102% of the par value of
5 such repurchase agreement or guaranteed investment contract or 102% of the market value
6 thereof, valued at intervals of no less than monthly and which collateral is not subject to any other
7 pledge or security interest; and

8 (i) Such other investments as are now or may be hereafter authorized as
9 legal investments for the City by the legislature of the State under Section 6-10-10 NMSA 1978,
10 or a similar statutory provision applicable to the City, provided that such investment is rated, at
11 the time of purchase, "A" or better by Fitch and "A" or better by S&P (if such rating agency is
12 then rating the Bonds).

13 "Pricing Certificate" means one or more certificates executed by the Mayor, or in the
14 Mayor's absence, the City Manager or City Finance Director, dated on or before the date of
15 delivery of the Bonds, setting forth the following final terms of the Bonds: (i) the interest and
16 principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii)
17 the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the redemption
18 and tender provisions; (vii) the creation of any capitalized interest fund, including the size and
19 funding of such fund(s); (viii) the amount of underwriting discount, if any; (ix) the amount of the
20 Reserve Requirement, if any, and whether such Reserve Fund shall be funded with proceeds of
21 the Bonds or through the deposit of a Reserve Fund Insurance Policy; and (x) the final terms of
22 agreements, if any, with agents or service providers required for the purchase, sale, issuance and
23 delivery of the Bonds, all subject to the parameters and conditions contained in this Ordinance.

24 "Pledged Revenues" means, collectively, the Net Revenues and the Environmental Gross
25 Receipts Tax Revenues.

1 “Project” means the Improvement Project.

2 “Purchaser” means the Underwriters.

3 “Put Obligations” means any Obligations which have put or similar features requiring the
4 City to purchase such Obligations upon notice from the owners thereof.

5 “Qualified Exchange Agreement” means any financial arrangement between the City
6 and a Qualified Counterparty which satisfies the requirements of the Exchange Act at the time the
7 agreement is entered into.

8 “Rate Stabilization Fund” means the Wastewater System Stabilization Fund continued in
9 Section 19.

10 “Rebate Fund” means the “City of Santa Fe Net Wastewater Utility System /
11 Environmental Services Gross Receipts Tax Improvement Revenue Bonds, Series 2019 Bond
12 Rebate Fund” created in Section 21F hereof, which is to be held by the City.

13 “Redemption Price” means the principal of, interest on, and any prior redemption
14 premium due in connection with any obligations specifically provided hereunder.

15 “Registrar” means BOKF, NA Albuquerque, New Mexico, as registrar and transfer agent
16 for the Bonds, and any successor.

17 “Regular Record Date” means the 15th day of the calendar month (whether or not a
18 business day) preceding each regularly scheduled interest payment date on the Bonds.

19 “Related Documents” means the Pricing Certificate, the *Bond Purchase Agreement*, the
20 Continuing Disclosure Undertaking, the Preliminary Official Statement, the Official Statement,
21 and any other document or agreement containing an obligation of the City as may be required in
22 connection with the issuance of the Bonds.

23 “Replacement Fund” means the Wastewater System Replacement Fund continued in
24 Section 19.

25 “Reserve Fund” means the “City of Santa Fe Net Wastewater System Improvement

1 Revenue Bonds, Series 2019, Reserve Fund” established in Section 21(C) hereof, and to be held
2 by the City.

3 “Reserve Fund Insurance Policy” means any insurance policy, surety bond or letter of
4 credit deposited in or credited to the 2019 Reserve Account as provided in Section 21(C) hereof
5 in lieu of or in partial substitution for cash or allowable investments on deposit in the Reserve
6 Fund. Any such insurance policy, surety bond or letter of credit must be issued by an entity
7 experienced in insuring municipal bonds whose policies of insurance would not in and of itself
8 adversely affect the rating on the 2019 Bonds by S&P Global Ratings or Fitch in effect at the time
9 such policy is initially deposited in or credited to the Reserve Fund.

10 “Reserve Fund Insurer” means, if applicable, the provider of the Reserve Fund Insurance
11 Policy, as identified in the Pricing Certificate.

12 “Reserve Requirement” shall, if determined to be necessary or advisable, be the amount
13 set forth in the Pricing Certificate, which may initially be satisfied by deposit of the Reserve Fund
14 Insurance Policy, which amount shall not exceed the least of (i) ten percent (10%) of the
15 aggregate principal amount of the Bonds, (ii) the maximum annual Debt Service Requirements of
16 the Bonds, or (iii) one hundred twenty-five percent (125%) of the average Debt Service
17 Requirements of the Bonds.

18 “Series 2012B Bonds” means the “City of Santa Fe, New Mexico Gross Receipts Tax
19 (Subordinate Lien)/Wastewater Systems Refunding Revenue Bonds, Series 2012B” issued
20 pursuant to Ordinance No. 2012-6, passed and adopted by the Governing Body on January 25,
21 2012, in an aggregate principal amount of \$14,280,000 payable from and constituting a first (but
22 not an exclusive first) lien on the Net Revenues of the System and a subordinate (but not an
23 exclusive subordinate) lien on the Pledged Environmental Services Gross Receipts Tax Revenues
24 and certain other gross receipts tax revenues of the City.

25 “Series Date” means the date of initial issuance and delivery of the Bonds.

1 “Special Record Date” means a special date fixed to determine the names and addresses
2 of registered owners of the Bonds for purposes of paying interest on a special interest payment
3 date for the payment of defaulted interest thereon, all as further provided in Section 5B hereof.

4 “State-Shared Gross Receipts Tax Revenues” means the revenues distributed to the City
5 monthly by the New Mexico Department of Taxation and Revenue pursuant to Sections 7-1-6 and
6 7-1-6.4 NMSA 1978, at the rate authorized (currently 1.225% of the gross receipts of persons
7 doing business within the City) from the proceeds of a state-wide gross receipts tax imposed
8 pursuant to Chapter 7, Article 9, NMSA 1978.

9 “Superior Tax Obligations” means Obligations secured by a lien on the Gross Receipts
10 Tax prior and superior to the lien thereon of the 2012B Bonds.

11 “System,” or “Utility” means the municipally owned public utility designated as the
12 City’s wastewater utility system, consisting of all properties, real, personal, mixed or otherwise,
13 now owned or hereafter acquired by the City through purchase, construction or otherwise, and
14 used in connection with the wastewater utility system of the City and in any way appertaining
15 thereto, whether situated within or without the limits of the City.

16 “Tax Code” means the Internal Revenue Code of 1986, as amended to the date of initial
17 delivery of the Bonds.

18 “Underwriters” means RBC Capital Markets, LLC, as senior manager and Underwriters’
19 representative, and Piper Jaffray & Co., as co-manager.

20 “Wastewater Fund” or “Income Fund” means the “City of Santa Fe Wastewater System
21 Gross Income Fund” which was created in Ordinance 1997-30 adopted by the City Council on
22 October 29, 1997 and is continued in Section 19 hereof and is held by the City.

23 *Definitions of other terms appear throughout this ordinance.*

24 **Section 2. Ratification.** All action heretofore taken (not inconsistent with the
25 express provisions of this ordinance) by the Governing Body and officers of the City directed

1 toward the Project and the authorization, sale and issuance of the Bonds to the Purchaser as
2 herein authorized, be, and the same hereby is, ratified, approved and confirmed.

3 **Section 3. Wastewater Utility System.** The municipal wastewater facilities or
4 system shall continue to constitute a municipal wastewater utility and shall be operated and
5 maintained as the System.

6 **Section 4. Authorization of the Improvement Project and the Bonds;**
7 **Parameters; Delegation of Authority.**

8 A. Authorization of Improvement Project. The Improvement Project is hereby
9 authorized at a total cost of \$16,525,000, excluding any such cost defrayed or to be defrayed by
10 any source other than the Bonds. The Improvement Project is hereby declared to be necessary for
11 the health, safety and welfare of the residents of the City.

12 B. Authorization of Bonds. For the purpose of protecting the public health,
13 conserving the property and advancing the general welfare of the citizens of the City, and for the
14 purpose of defraying the cost of the Project, it is hereby declared that the interest or necessity of
15 the City and the inhabitants thereof demand the issuance by the City of its fully registered (*i.e.*,
16 registered as to payment of both principal and interest) revenue bonds without coupons to be
17 designated "City of Santa Fe Net Wastewater Utility System / Environmental Services Gross
18 Receipts Tax Improvement Revenue Bonds, Series 2019" in the aggregate principal of
19 \$16,525,000. The Bonds shall be payable and collectible, both as to principal and interest, solely
20 from the Pledged Revenues, and shall constitute special, limited obligations of the City.

21 C. The Bonds shall be sold pursuant to a negotiated sale to the Underwriter at a sale
22 price and upon the terms set forth in the Pricing Certificate and Bond Purchase Agreement, and
23 shall be within the parameters set forth below:

24 (1) The Bonds shall be issued for the Improvement Project and to pay the
25 costs of issuance of the Bonds.

(2) The maximum par amount of the Bonds shall not be more than \$16,525,000.

(3) The final maturity of the Bonds shall be no later than June 1, 2040.

(4) The maximum interest rate on the Bonds shall be no greater than 12% per annum.

(5) The Bond shall be payable solely from the Pledged Revenues.

(6) The Bonds shall be sold to the Purchaser pursuant to a negotiated sale.

(7) The maximum sale price of the Bonds shall be not more than \$16,525,000, exclusive of premium payable in connection with the issuance of the Bonds.

(8) The Purchasers' discount shall not exceed 1% of the aggregate principal amount of the Bonds.

(9) The Bonds shall be in substantially the form set forth in this Ordinance.

(10) The City hereby appoints BOKF, NA as the paying agent and registrar for the Bonds.

D. The Mayor or, in the Mayor's absence, the City Manager or City Finance Director, is hereby authorized pursuant to this Ordinance to approve the final terms of the Bonds as permitted by Section 6-14-10.2 NMSA 1978, and to execute and deliver the Pricing Certificate and the Bond Purchase Agreement.

Section 5. Bond Details.

A. Basic Details. The Bonds shall be dated the date of their issuance and delivery to the Purchaser (herein "Series Date"), and are issuable in the denomination of \$5,000 each or any integral multiple thereof (provided that no Bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual Bond will be issued for more than one maturity). The Bonds shall be numbered consecutively from 1 upwards.

The Bonds shall bear interest from the Series Date, payable semi-annually on June 1 and

1 December 1 each year, commencing on June 1, 2019 or such other date as permitted by law and
2 determined in the Pricing Certificate and Bond Purchase Agreement executed and delivered as
3 provided in Section 4D hereof, until their respective maturities and shall bear the rates of interest
4 and shall mature on June 1 in each of the designated amounts and years as set forth in Pricing
5 Certificate and Bond Purchase Agreement.

6 B. Payment-Regular Record Date. The principal of any Bond shall be payable to
7 the registered owner thereof as shown on the registration books kept by the Registrar which is
8 hereby appointed as registrar (and transfer agent) for the Bonds, upon maturity or prior
9 redemption thereof and upon presentation and surrender at the Paying Agent which also is hereby
10 appointed as the paying agent for the Bonds. If any Bond shall not be paid upon such
11 presentation and surrender at or after maturity or on a designated prior redemption date on which
12 the City may have exercised its right to redeem any Bond prior to its stated maturity pursuant to
13 Section 6 of this Ordinance, it shall continue to draw interest at the rate borne by the Bond until
14 the principal thereof is paid in full. Payment of interest on any Bond shall be made to the
15 registered owner of the Bond as of the Regular Record Date by check or draft mailed by the
16 Paying Agent, on or before each interest payment date (or, if such interest payment date is not a
17 *Business Day, on or before the next succeeding Business Day*), to the registered owner thereof on
18 the Regular Record Date at his address as it last appears on the registration books kept by the
19 Registrar on the Regular Record Date (or by such other arrangements as may be mutually agreed
20 to by the Paying Agent and any registered owner on such Regular Record Date). All such
21 payments shall be made in lawful money of the United States of America. The person in whose
22 name any Bond is registered at the close of business on any Regular Record Date with respect to
23 any interest payment date shall be entitled to receive the interest payable thereon on such interest
24 payment date notwithstanding any transfer or exchange thereof subsequent to such Regular
25 Record Date and prior to such interest payment date; but any such interest not so timely paid or

1 duly provided for shall cease to be payable as provided above and shall be payable to the person
2 in whose name any Bond is registered at the close of business on a Special Record Date fixed by
3 the Registrar for the payment of any such defaulted interest. Such Special Record Date shall be
4 fixed by the Registrar whenever moneys become available for defaulted interest, and notice of
5 any such Special Record Date shall be given not less than ten days prior thereto in the manner
6 required by the Depository or by first-class mail, to the registered owners of the Bonds as of a
7 date selected by the Registrar, stating the Special Record Date and the date fixed for the payment
8 of such defaulted interest.

9 C. Book-Entry. The Bonds may be issued or registered, in whole or in part, in
10 book-entry form from time to time with no physical distribution of bond certificates made to the
11 public, with a Depository acting as securities depository for the Bonds. A single certificate for
12 each maturity date of the Bonds issued in book-entry form will be delivered to the Depository and
13 immobilized in its custody. The book-entry system will evidence ownership of the Bonds in
14 authorized denominations, with transfer of ownership effected on the books of the Depository and
15 its participants ("Participants"). As a condition to delivery of the Bonds in book-entry form, the
16 Purchaser will, immediately after acceptance of delivery thereof, deposit, or cause to be
17 deposited, the Bond certificates with the Depository, registered in the name of the Depository or
18 its nominee. Principal and interest will be paid to the Depository or its nominee as the registered
19 owner of the Bonds. The transfer of principal and interest payments to Participants will be the
20 responsibility of the Depository; the transfer of principal and interest payments to the beneficial
21 owners of the Bonds (the "Beneficial Owners") will be the responsibility of Participants and other
22 nominees of Beneficial Owners maintaining a relationship with Participants (the "Indirect
23 Participants"). The City will not be responsible or liable for maintaining, supervising or
24 reviewing the records maintained by the Depository, Participants or Indirect Participants.

25 If (i) the Bonds are not eligible for the services of the Depository, (ii) the Depository

1 determines to discontinue providing its services with respect to the Bonds or (iii) the City
2 determines that a continuation of the system of book-entry transfers through the Depository
3 ceases to be beneficial to the City or the Beneficial Owners, the City will either identify another
4 Depository or certificates for the Bonds will be delivered to the Beneficial Owners or their
5 nominees, and the Beneficial Owners or their nominees, upon authentication of Bonds and
6 registration of those Bonds in the Beneficial Owners' or nominees' names, will become the
7 owners of the Bonds for all purposes. In that event, the City shall mail an appropriate notice to
8 the Depository for notification to Participants, Indirect Participants and Beneficial Owners of the
9 substitute Depository or the issuance of bond certificates to Beneficial Owners or their nominees,
10 as applicable.

11 Authorized Officers of the City are authorized to sign agreements with Depositories
12 relating to the matters set forth in this Section.

13 Notwithstanding any other provision of this Ordinance, so long as all of the Bonds are
14 registered in the name of the Depository or its nominee, all payments of principal and interest on
15 the Bonds, and all notices with respect to the Bonds, shall be made and given by the Paying
16 Agent, Registrar or the City to the Depository as provided in this Ordinance and by the
17 Depository to its Participants or Indirect Participants and notices to the Beneficial Owners of the
18 Bonds in the manner provided in an agreement or letter of the City to the Depository.

19 **Section 6. Redemption.**

20 A. Optional Redemption. The Bonds may be subject to redemption prior to their
21 stated maturities at the City's option in one or more units of principal of \$5,000 on at the price
22 and on the dates established in the Pricing Certificate and the Bond Purchase Agreement.
23 Redemption shall be made upon prior notice mailed to each registered owner of each bond
24 selected for redemption as shown on the registration books kept by the Registrar in the manner
25 and upon the conditions provided in this Ordinance.

1 B. Notice by City. At least 45 days prior to any date selected by the City for
2 optional redemption of any of the Bonds, the City shall give written instructions to the Registrar
3 with respect to the optional redemption. The Registrar shall not be required to give notice of any
4 optional redemption unless the Registrar has received written instructions from the City in regard
5 thereto at least 45 days prior to such redemption date (unless such deadline is waived by the
6 Registrar). Additionally, notice of optional redemption shall be given by the City by sending a
7 copy of such notice by first-class, postage prepaid mail, not less than thirty days prior to the
8 optional redemption date to the Paying Agent, if the Registrar is not the Paying Agent.

9 C. Notice by Registrar. Additionally, notice of redemption shall be given by the
10 Registrar by sending a copy of such notice in the manner required by the Depository or by first-
11 class, postage prepaid mail, not more than 60 days and not less than 30 days prior to the
12 redemption date to each registered owner of each Bond selected for redemption as shown on the
13 registration books kept by the Registrar as of the date of mailing of notice. Failure to give such
14 notice by mailing to the registered owner of any Bond, or any defect therein, shall not affect the
15 validity of the proceedings for the redemption of any of the Bonds.

16 D. Other Redemption Details. The notice required by paragraph C of this Section
17 shall specify the number or numbers of the Bond or Bonds or portions thereof to be so redeemed
18 (if less than all are to be redeemed); and all notices required by this Section shall specify the date
19 fixed for redemption, and shall further state that on such redemption date there will become and
20 be due and payable upon each \$5,000 unit of principal so to be redeemed at the Paying Agent the
21 principal thereof, accrued interest, if any, to the redemption date, and the applicable prior
22 redemption premium thereon (if any), and that from and after such date interest will cease to
23 accrue. Accrued interest to the redemption date will be paid by check or draft mailed to the
24 registered owner (or by alternative means if so agreed to by the Paying Agent and the registered
25 owner). Notice having been given in the manner hereinbefore provided, the Bond or Bonds so

1 called for redemption shall become due and payable on the redemption date so designated; and
2 upon presentation thereof at the Paying Agent, the City will pay the Bond or Bonds so called for
3 redemption and the applicable prior redemption premium (if any). In the event that only a portion
4 of the principal amount of a Bond is so redeemed, a new Bond representing the unredeemed
5 principal shall be duly completed, authenticated and delivered by the Registrar to the registered
6 owner pursuant to Section 9 of this Ordinance and without charge to the registered owner thereof.
7 The Registrar and Paying Agent shall comply with any other terms regarding redemption and
8 notice of redemption as required by any applicable agreement with a Depository.

9 E. Conditional Redemption. If money or Government Obligations sufficient to pay
10 the redemption price of the Bonds to be called for redemption are not on deposit with the Paying
11 Agent prior to the giving of notice of redemption pursuant to Paragraph D of this Section 6, such
12 notice shall state such Bonds will be redeemed in whole or in part on the redemption date in a
13 principal amount equal to that part of the redemption price received by the Paying Agent on the
14 applicable redemption date. If the full amount of the redemption price is not received as set forth
15 in the preceding sentence, the notice shall be effective only for those Bonds for which the
16 redemption price is on deposit with the Paying Agent. If all Bonds called for redemption cannot
17 be redeemed, the Bonds to be redeemed shall be selected in a manner deemed reasonable and fair
18 by the City and the Registrar shall give notice, in the manner in which the original notice of
19 redemption was given, that such money was not received and the information required by
20 paragraph E of this Section. In that event, the Registrar shall promptly return to the Owners
21 thereof the Bonds or certificates which it has received evidencing the part thereof which have not
22 been redeemed.

23 **Section 7. Negotiability.** Subject to the provisions made or necessarily implied
24 herein, the Bonds shall be fully negotiable, and shall have all the qualities of negotiable paper,
25 and the registered owner or owners thereof shall possess all rights enjoyed by the holders of

1 negotiable instruments under the provisions of the Uniform Commercial Code.

2 **Section 8. Execution.**

3 A. Filing Manual Signatures. Prior to the execution and authentication of any Bond
4 by facsimile signature pursuant to Sections 6-9-1 through 6-9-6, both inclusive, NMSA 1978, the
5 Mayor, City Clerk and City Treasurer shall each forthwith file with the Secretary of State of New
6 Mexico, his or her manual signature certified by him or her under oath; provided, that such filing
7 shall not be necessary for any officer where any previous such filing may have legal application
8 to the Bonds or if facsimile signatures are not used on the Bonds.

9 B. Method of Execution. Each Bond shall be signed and executed by the manual or
10 facsimile signature of the Mayor under a manual impression of the seal of the City or a facsimile
11 thereof which shall be printed, stamped, engraved or otherwise placed thereon; each Bond shall
12 be executed and attested with the manual or facsimile signature of the City Clerk and
13 countersigned with the manual or facsimile signature of the City Treasurer; and each Bond shall
14 be authenticated by the manual signature by an authorized officer of the Registrar as hereafter
15 provided. The Bonds bearing the manual or facsimile signatures of the officers in office at the
16 time of the authorization thereof shall be the valid and binding obligations of the City (subject to
17 the requirement of authentication by the Registrar as hereinafter provided) notwithstanding that
18 before the delivery thereof and payment therefor, or before the issuance thereof upon transfer or
19 exchange, any or all of the persons whose manual or facsimile signatures appear thereon shall
20 have ceased to fill their respective offices. The Mayor, City Clerk and City Treasurer of the City
21 shall, by the execution of a signature certificate pertaining to the Bonds, adopt as and for their
22 respective signatures the manual or facsimile signatures thereof appearing on the Bonds; and, at
23 the time of the execution of the signature certificate, the Mayor, City Clerk and City Treasurer
24 may each adopt as and for his or her facsimile signature the manual or facsimile signature of his
25 or her predecessor in office in the event that such facsimile signature appears upon any of the

1 Bonds.

2 C. Certificate of Authentication. No Bond shall be valid or obligatory for any
3 purpose unless the certificate of authentication, substantially in the form hereinafter provided, has
4 been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed
5 to have been duly executed by it if manually signed by an authorized officer of the Registrar, but
6 it shall not be necessary that the same officer sign the certificate of authentication on all of the
7 Bonds issued hereunder.

8 **Section 9. Provisions Relating to Registration, Transfer, Exchange,**
9 **Replacement and Cancellation of and Registration Records for the Bonds.**

10 A. Registration Books - Transfer and Exchange - Authentication. Books for the
11 registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for
12 transfer of any Bonds at the Registrar, duly endorsed for transfer or accompanied by an
13 assignment duly executed by the registered owner or his attorney duly authorized in writing, the
14 Registrar shall authenticate and deliver in the name of the transferee or transferees a new Bond or
15 Bonds of a like aggregate principal amount and of the same maturity, bearing a number or
16 numbers not contemporaneously outstanding. Bonds may be exchanged at the Registrar for an
17 equal aggregate principal amount of Bonds of the same maturity of other authorized
18 denominations. The Registrar shall authenticate and deliver a Bond or Bonds which the
19 registered owner making the exchange is entitled to receive, bearing a number or numbers not
20 contemporaneously outstanding. Exchanges and transfers of Bonds as herein provided shall be
21 without charge to the owner or any transferee, but the Registrar may require the payment by the
22 owner of any Bond requesting exchange or transfer of any tax or other governmental charge
23 required to be paid with respect to such exchange or transfer.

24 B. Times When Transfer or Exchange Not Required. The Registrar shall not be
25 required (1) to transfer or exchange all or a portion of any Bond subject to prior redemption

1 during the period of fifteen days next preceding the mailing of notice to the registered owners
2 calling any Bonds for prior redemption pursuant to Section 6(D) hereof or (2) to transfer or
3 exchange all or a portion of a Bond after the mailing to registered owners of notice calling such
4 Bond or portion thereof for prior redemption.

5 C. Payment - Registered Owners. The person in whose name any Bond shall be
6 registered, on the registration books kept by the Registrar, shall be deemed and regarded as the
7 absolute owner thereof for the purpose of making payment thereof and for all other purposes
8 except as may otherwise be provided with respect to payment of interest as is provided in Section
9 5(B) hereof; and payment of or on account of either principal or interest on any Bond shall be
10 made only to or upon the written order of the registered owner thereof or his legal representative,
11 but such registration may be changed upon transfer of such Bond in the manner and subject to the
12 conditions and limitations provided herein. All such payments shall be valid and effectual to
13 discharge the liability upon such Bond to the extent of the sum or sums so paid.

14 D. Replacement Bonds. If any Bond shall be lost, stolen, destroyed or mutilated, the
15 Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it may
16 reasonably require, authenticate and deliver a replacement Bond or Bonds of a like aggregate
17 principal amount and of the same maturity, bearing a number or numbers not contemporaneously
18 outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured, the Registrar
19 may direct the Paying Agent to pay such Bond in lieu of replacement.

20 E. Delivery of Bond Certificates to Registrar. The officers of the City are
21 authorized to deliver to the Registrar fully executed but unauthenticated Bonds in such quantities
22 as may be convenient to be held in custody by the Registrar pending use as herein provided.

23 F. Cancellation of Bonds. Whenever any Bond shall be surrendered to the Paying
24 Agent upon payment thereof, or to the Registrar for transfer, exchange or replacement as
25 provided herein, such Bond shall be promptly canceled by the Paying Agent or Registrar, and

1 counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or
2 Registrar to the City.

3 **Section 10. Depository for the Bonds.**

4 A. Procedures Relating to Registration and Depository. Notwithstanding the
5 foregoing provisions of Sections 4 through 9 hereof, the Bonds shall initially be evidenced by one
6 Bond for each stated maturity in a denomination equal to the aggregate principal amount of such
7 maturity for the Bonds. Such initially delivered Bond shall be registered in the name of "Cede &
8 Co.," as nominee for The Depository Trust Company, New York, New York, the depository for
9 the Bonds. The Bonds may not thereafter be transferred or exchanged except:

10 (1) To any successor of The Depository Trust Company, or any nominee of
11 such successor, upon the merger, consolidation, sale of substantially all of the assets or other
12 reorganization of The Depository Trust Company, or its successor, which successor of The
13 Depository Trust Company must be both a "clearing corporation" as defined in Section 55-8-
14 102(3), NMSA 1978, and a qualified and registered "clearing agency" under Section 17A of the
15 Securities Exchange Act of 1934, as amended;

16 (2) To any new depository (a) upon the resignation of (i) The Depository
17 Trust Company or a successor or new depository pursuant to clause (1) hereof or (ii) any new
18 depository under this clause (2) or (b) upon a determination by the City that The Depository Trust
19 Company or such successor or new depository is no longer able to carry out its functions and the
20 designation by the City of another depository institution acceptable to the depository then holding
21 the Bond or Bonds, which new depository institution must be both a "clearing corporation" as
22 defined in Section 55-8-102(3), NMSA 1978, and a qualified and registered "clearing agency"
23 under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions
24 of The Depository Trust Company or such successor or new depository; or

25 (3) To any registered owner as specified in the transfer instructions in

1 Subsection B of this section (a)(i) upon the resignation of The Depository Trust Company or any
2 successor depository under clause (1) hereof or of any new depository under clause (2) hereof or
3 (ii) upon a determination by the City that The Depository Trust Company or such successor or
4 new depository is no longer able to carry out its functions or (iii) upon a determination by the
5 City that the continuation of book-entry only transfers through The Depository Trust Company or
6 such successor or new depository is not in the best interest of the beneficial owners of the Bonds
7 or the City, and (b) upon the failure by the City, after reasonable investigation, to locate another
8 qualified depository institution under clause (2) to carry out the functions of The Depository Trust
9 Company or such successor or new depository.

10 B. Procedures Relating to New Bonds. In the case of a transfer to a successor of
11 The Depository Trust Company or its nominee as referred to in clause (1) of Subsection A hereof
12 or in the case of the designation of a new depository pursuant to clause (2) of Subsection A
13 hereof, upon receipt of the outstanding Bond or Bonds by the Registrar together with written
14 instructions for transfer satisfactory to the Registrar, a new Bond for each maturity shall be issued
15 to such successor or new depository, as the case may be, or its nominee, as is specified in such
16 written transfer instructions. In the case of a resignation or determination under clause (3) of
17 Subsection A hereof and the failure after reasonable investigation to locate another qualified
18 depository institution for the Bonds as provided in clause (3) of Subsection A hereof, and upon
19 receipt of the outstanding Bond by the Registrar together with written instructions for transfer
20 satisfactory to the Registrar, new Bonds shall be issued in the denominations of \$5,000 or any
21 integral multiple thereof, as provided in and subject to the limitations of Section 5 hereof,
22 registered in the names of such persons, and in such denominations as are requested in such
23 written transfer instructions; however, the Registrar shall not be required to deliver such new
24 Bonds within a period of less than 30 days from the date of receipt of such written transfer
25 instructions.

1 C. Responsibilities of the City and Registrar. The City and the Registrar shall be
2 entitled to treat the registered owner of any Bond as the absolute owner thereof for any purposes
3 hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all
4 of them, and the City and the Registrar shall have no responsibility for transmitting payments to
5 the beneficial owners of the Bonds held by The Depository Trust Company or any successor or
6 new depository named pursuant to Subsection A hereof.

7 D. Cooperation of the City and Registrar. The City and the Registrar shall endeavor
8 to cooperate with The Depository Trust Company or any successor or new depository named
9 pursuant to clause (1) or (2) of Subsection A hereof in effectuating payment of principal of and
10 interest on the Bonds by arranging for payment in such a manner that funds representing such
11 payments are available to the depository on the date they are due.

12 E. Partial Redemption. Upon any partial redemption of any maturity of the Bonds,
13 Cede & Co., (or its successor) in its discretion may request the City to issue and authenticate a
14 new Bond or shall make an appropriate notation on the Bond indicating the date and amount of
15 prepayment, except in the case of final maturity, in which case the Bond must be presented to the
16 Registrar prior to payment.

17 **Section 11. Successor Registrar or Paying Agent.** If the Registrar or Paying Agent
18 initially appointed hereunder shall resign, or if the City shall reasonably determine that the
19 Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the City may,
20 upon notice mailed to each registered owner of Bonds at the address last shown on the
21 registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor
22 Registrar or Paying Agent shall be a bank or trust company located in the United States and
23 having a shareholders equity (*e.g.*, capital stock, surplus and undivided profits), however
24 denominated, not less than \$50,000,000. It shall not be required that the same institution serve as
25 both Registrar and Paying Agent hereunder, but the City shall have the right to have the same

institution serve as both Registrar and Paying Agent hereunder.

Section 12. Special Obligations. All of the Bonds and any obligations under any agreement relating to any draw on any Reserve Fund Insurance Policy which may hereafter be acquired as part of the Reserve Fund Requirement as provided in Section 21(C) hereof, together with the interest accruing thereon, shall be payable and collectible solely out of the Pledged Revenues and amounts in the Bond Fund and Reserve Fund, all of which are irrevocably so pledged; the registered owner or owners thereof and the issuer of any Reserve Fund Insurance Policy, if any, may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor as further provided in this ordinance; and the Bonds and any obligations under a Reserve Fund Insurance Policy, if any, shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision; nor shall they be considered or held to be general obligations of the City; and each of the Bonds herein authorized to be issued shall recite on its face that it is payable and collectible solely from the Pledged Revenues and amounts in the Bond Fund and Reserve Fund, all of which are irrevocably so pledged, and that the registered owner thereof may not look to any general or other fund for the payment of principal and interest on, and prior redemption premium due in connection with, the Bonds.

Section 13. Forms of Bonds, Certificate of Authentication, Assignment and Legal Opinion Certificate. The Bonds, Registrar's Certificate of Authentication, Form of Assignment and the Legal Opinion Certificate shall be in substantially the following forms (provided that any of the text on the face of the Bond may, with appropriate reference, be printed on the back of the Bonds and provided further that an endorsement or certificate applying to municipal bond insurance for the Bonds, if applicable, may also be printed thereon):

(Form of Bond)

UNITED STATES OF AMERICA

COUNTY OF SANTA FE
STATE OF NEW MEXICO

No. _____

\$ _____

CITY OF SANTA FE
NET WASTEWATER UTILITY SYSTEM / ENVIRONMENTAL SERVICES GROSS
RECEIPTS TAX IMPROVEMENT REVENUE BOND,

INTEREST RATE	MATURITY DATE	SERIES DATE	CUSIP
_____% per annum	June 1, ____	____, 2019	

SERIES 2019

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

DOLLARS

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 BOKF, NA, Albuquerque, New Mexico, as paying agent, or its successor (herein the "Paying Agent"), the Principal Amount stated above, in lawful money 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. 2019-2, adopted January 30, 2019, which authorizes this bond and which is referred to herein

1 as the "Bond Ordinance"), by check or draft mailed to such registered owner, on or before each
2 interest payment date as hereinafter provided (or, if such interest payment date is not a business
3 day, on or before the next succeeding business day), at his address as it last appears on the
4 Regular Record Date on the registration books kept for that purpose by BOKF, NA, Albuquerque,
5 New Mexico, as registrar (i.e., transfer agent) for the bonds, or its successor (herein the
6 "Registrar") or by such other arrangement as may be agreed to by the Paying Agent and the
7 registered owner hereof, interest on such sum in lawful money of the United States of America
8 from the Series Date specified above or the most recent interest payment date to which interest
9 has been fully paid or duly provided for in full (as more fully provided in the Bond Ordinance)
10 until maturity at the per annum Interest Rate specified above, payable on December 1, 2019 and
11 semiannually thereafter on June 1 and December 1 in each year. Any such interest not so timely
12 paid or duly provided for shall cease to be payable to the registered owner as of the Regular
13 Record Date and shall be payable to the registered owner as of a Special Record Date (as defined
14 in the Bond Ordinance), as further provided in the Bond Ordinance. If upon presentation and
15 surrender to the Paying Agent at or after maturity or on a designated prior redemption date on
16 which the City may have exercised its right to prior redeem this bond pursuant to the Bond
17 Ordinance, payment of this bond is not made as herein provided, interest hereon shall continue at
18 the rate herein designated until the principal hereof is paid in full. If the Bonds are issued in
19 book-entry only form, an authorized officer of the City and the applicable securities depository
20 ("Depository") may make other arrangements for the payments on the Bonds.

21 The bonds of the series of which this bond is a part maturing on and after June 1, ____,
22 are subject to redemption prior to maturity at the City's option in one or more units of principal of
23 \$5,000 on an after June 1, ____, in whole or in part at any time, in such order of maturities as the
24 City may determine (and by lot if less than all of the Bonds of such maturity is called, such
25 selection by lot to be made by the Registrar in such manner as he shall consider appropriate and

1 fair), at a redemption price equal to the principal amount of the Bonds or the portion thereof to be
2 redeemed plus accrued interest, if any, to the redemption date.

3 Redemption shall be made upon mailed notice to each registered owner of each bond
4 selected for redemption as shown on the registration books kept by the Registrar in the manner
5 and upon the conditions provided in the Bond Ordinance.

6 The bonds of the series of which this is one are fully registered (i.e., registered as to
7 payment of both principal and interest), and are issuable in the denomination of \$5,000 or any
8 denomination which is an integral multiple of \$5,000 (provided that no bond may be in a
9 denomination which exceeds the principal coming due on any maturity date and no individual
10 bond will be issued for more than one maturity). Upon surrender of any of such bonds at the
11 Registrar with a written instrument satisfactory to the Registrar duly executed by the registered
12 owner or his duly authorized attorney, such bond may, at the option of the registered owner or his
13 duly authorized attorney, be exchanged for an equal aggregate principal amount of such bonds of
14 the same maturity of other authorized denominations, subject to such terms and conditions as set
15 forth in the Bond Ordinance.

16 This bond is fully transferable by the registered owner hereof in person or by his duly
17 authorized attorney on the registration books kept by the Registrar upon surrender of this bond
18 together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon
19 such transfer a new fully registered bond of authorized denomination or denominations of the
20 same aggregate principal amount and maturity will be issued to the transferee in exchange for this
21 bond, subject to such terms and conditions as set forth in the Bond Ordinance. The City and the
22 Registrar and Paying Agent may deem and treat the person in whose name this bond is registered
23 as the absolute owner hereof for the purpose of making payment and for all other purposes.

24 This bond is one of a series of bonds designated "City of Santa Fe Net Wastewater Utility
25 System / Environmental Services Gross Receipts Tax Improvement Revenue Bonds, Series

1 2019,” of like tenor and date, except as to interest rate, number and maturity, authorized for the
2 purpose of extending, enlarging, bettering, repair and other improvements of the City’s
3 municipally owned wastewater utility system, and paying the costs of issuance of the Bonds
4 (collectively, the “Improvement Project”), as set forth in the Bond Ordinance.

5 This bond is issued pursuant to and in strict compliance with the Constitution and laws of
6 the State of New Mexico.

7 This bond does not constitute an indebtedness of the City within the meaning of any
8 constitutional or statutory provision or limitation, shall not be considered or be held to be a
9 general obligation of the City, and is payable and collectible solely from the Net Revenues of the
10 System and the Pledged Environmental Services Gross Receipts Tax Revenues pursuant to the
11 Bond Ordinance, which revenues are so pledged; and the holder of this bond may not look to any
12 general or other fund for the payment of the principal and interest on this obligation, except the
13 special funds pledged therefor. Payment of the bonds of the series of which this bond is one and
14 the interest thereon shall be made solely from, and as security for such payment, there are pledged
15 pursuant to the Bond Ordinance special funds identified as a first lien on the “Net Revenues”,
16 defined as revenues of the System net of Operation and Maintenance Expenses, as defined in the
17 Bond Ordinance, and the City’s Environmental Services Gross Receipts Tax Revenues
18 (collectively with the Net Revenues, the “Pledged Revenues”). For a description of the funds, the
19 nature and extent of the security afforded thereby for the payment of the principal of and interest
20 on the bonds, and other details concerning the bonds, reference is made to the Bond Ordinance.
21 Additional bonds and other obligations, in addition to the series of which this bond is one, may be
22 issued and made payable from the City’s Pledged Revenues having a lien thereon on a parity
23 with, or junior to the lien of the bonds of the series of which this bond is one, in accordance with
24 the provisions of the Bond Ordinance.

25 The City covenants and agrees with the registered owner of this bond and with each and

1 every person who may become the registered owner hereof that it will keep and perform all of the
2 covenants of the Bond Ordinance.

3 This bond is subject to the conditions, and every registered owner hereof by accepting the
4 same agrees with the obligor and every subsequent registered owner hereof that the principal of
5 and the interest on this bond shall be paid, and this bond is transferable, free from, and without
6 regard to any equities between the obligor and the original or any intermediate registered owner
7 hereof for any setoffs or cross-claims.

8 It is further certified, recited and warranted that all the requirements of law have been
9 fully complied with by the City Council and officers of the City in the issuance of this bond; and
10 that it is issued pursuant to and in strict conformity with the Constitution and laws of the State of
11 New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12,
12 NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

13 This bond shall not be valid or obligatory for any purpose until the Registrar shall have
14 manually signed the certificate of authentication herein.

15 **IN WITNESS WHEREOF**, the City of Santa Fe has caused this bond to be signed,
16 subscribed, and executed, and attested with the facsimile signatures of its Mayor and its City
17 Clerk, respectively and has caused the facsimile of its corporate seal to be affixed on this bond,
18 all as of the Series Date.

19 CITY OF SANTA FE

20 [(FACSIMILE SEAL)]

By (Facsimile Signature)

21 Mayor

22 ATTEST:

23 By (Facsimile Signature)

24 City Clerk

25 (Form of Registrar's Certificate of Authentication)

1 REGISTRAR'S CERTIFICATE OF AUTHENTICATION

2 Date of Authentication: _____, 2019

3 This is one of the bonds described in the within-mentioned Bond Ordinance, and this
4 bond has been duly registered on the registration books kept by the undersigned as Registrar for
5 such Bonds.

6 BOKF, NA,

7 Albuquerque, New Mexico, as Registrar

8 By _____

9 Authorized Officer

10 (End of Form of Registrar's Certificate of Authentication)

11 (Form of Assignment)

12 ASSIGNMENT

13 For value received, _____ hereby sells, assigns and transfers unto
14 _____ the within bond and hereby irrevocably constitutes and appoints
15 _____ attorney, to transfer the same on the books of the Registrar, with full
16 power of substitution in the premises.

17 Signature Guaranteed: _____

18 Name and Address of Transferee

19 _____
20 _____

21 Dated: _____

Social Security Number or other

22 Tax Identification Number

23 _____
24 _____

25 (End of Form of Assignment)

1 (End of Form of Bond)

2 **Section 14. Sale of Bonds and Approval of Documents.** The City hereby agrees to
3 sell the Bonds to the Purchaser in accordance with the Bond Purchase Agreement. The form,
4 terms and provisions of the Bond Purchase Agreement, the Preliminary Official Statement, the
5 Continuing Disclosure Agreement, the Commitment from the Reserve Fund Insurer in the forms
6 heretofore on file with the City Clerk and presented at the meeting, are in all respects approved,
7 authorized and confirmed. The Mayor is authorized and directed, and the City Clerk is
8 authorized and directed to affix the seal of the City to and attest, the Bond Purchase Agreement,
9 the Continuing Disclosure Agreement, the Commitment from the Reserve Fund Insurer, the
10 Preliminary Official Statement, and the final Official Statement in substantially the same form as
11 the Preliminary Official Statement with such changes therein as are not inconsistent with this
12 ordinance and as shall be approved by the Mayor, his execution thereof to constitute conclusive
13 evidence of his approval of any and all changes or revisions thereof from the form now before
14 this meeting. From and after the execution and delivery of the Bond Purchase Agreement and the
15 Continuing Disclosure Agreement, the officers, agents and employees of the City are hereby
16 authorized, empowered and directed to do all such acts and things and to execute all such
17 documents as may be necessary to carry out and comply with the provisions of the Bond Purchase
18 Agreement as executed. The use and distribution of the Preliminary Official Statement and the
19 Official Statement in connection with the sale of the Bonds to the public are hereby authorized
20 and acknowledged.

21 **Section 15. Delivery of Bonds and Registration.** When the Bonds have been duly
22 executed, authenticated, registered and sold, the City Treasurer shall deliver them to The
23 Depository Trust Company on behalf of the Purchaser upon receipt of the agreed purchase price
24 unless otherwise provided in writing by the Purchaser. The Registrar shall initially register the
25 Bonds in the name of "Cede & Co."

1 **Section 16. Use of Proceeds - Period of Usefulness.** Except as herein otherwise
2 specifically provided, the proceeds derived from the sale of the Bonds shall be used and paid
3 solely for the purpose of the Improvement Project. The Improvement Project is hereby
4 determined to have a period of usefulness of not less than 30 years from the date of this
5 ordinance.

6 **Section 17. Authorization to Execute Related Documents and Delegated**
7 **Authority.**

8 A. Approval of Documents; Ratification. The form, terms and provisions of the
9 Related Documents presented at this meeting, are in all respects approved, authorized and
10 confirmed, with such changes therein not inconsistent with this Ordinance as the Authorized
11 Officers of the City deem necessary or desirable.

12 B. Delegated Authority and Execution of Documents. In addition to the delegation
13 of authority provided in Section 4D hereof, the officers, agents and employees of the City are
14 authorized, empowered and directed to take all action required by this Ordinance, and all such
15 other action as may be necessary or appropriate to effectuate the provisions of this Ordinance, the
16 Related Documents and any other documents as may be necessary or appropriate to carry out and
17 comply with the provisions of this Ordinance.

18 **Section 18. Use of Bond Proceeds; Purchaser Not Responsible.** Except as herein
19 otherwise specifically provided in this Ordinance, the proceeds from the sale of the Bonds shall
20 be used and paid solely for the valid costs of the Improvement Project.

21 A. Acquisition Account. An amount of proceeds received from the sale of the
22 Bonds shall be deposited in the Acquisition Account held by the trustee for the Purchaser and
23 used to pay the costs of the Improvement Project.

24 B. Payment of Costs of Issuance. An amount of proceeds received from the sale of
25 the Bonds shall be used to pay Costs of Issuance, and to the extent not needed to pay Costs of

1 Issuance, shall be deposited in the Series 2019 Bond Fund, as applicable.

2 C. Project Completion. As soon as practicable after completion of the Improvement
3 Project, and in any event not more than 60 days after completion of the Improvement Project, any
4 proceeds remaining unspent (other than any amount retained by the City for any Improvement
5 Project costs not then due and payable) shall be transferred and deposited in the Debt Service
6 Fund and used by the City to pay principal and interest on the Bonds as same become due.

7 D. Purchaser Not Responsible. The validity of the Bonds is not dependent on nor
8 affected by the validity or regularity of any proceedings related to the completion of the
9 Improvement Project as defined in this Ordinance. The Purchaser of the Bonds, and any
10 subsequent owner of any Bonds, shall in no manner be responsible for the application or disposal
11 by the City or by any officer or any employee or other agent of the City of the moneys derived
12 from the sale of the Bonds or of any other moneys designated in this Ordinance.

13 **Section 19. Funds and Accounts.** The City hereby creates, or continues, as
14 applicable, the following special and separate funds:

15 A. Wastewater Fund. Continues the Wastewater Fund to be maintained and
16 controlled by the City as a separate and distinct fund for deposit of the Gross Revenues.

17 B. Rate Stabilization Fund. Continues the Wastewater System Rate Stabilization
18 Fund as a special and separate fund to be maintained and controlled by the City for the purposes
19 described in Section 21.

20 C. Replacement Fund. Continues the Wastewater System Replacement Fund as a
21 special and separate fund to be maintained and controlled by the City for the purposes described
22 in Section 21.

23 D. Environmental Services Gross Receipts Tax Revenue Fund. Continues the
24 Environmental Services Gross Receipts Tax Revenue Fund previously established and maintained
25 by the City.

1 **Section 20. Deposit of Gross Revenues and Pledged Environmental Services Gross**

2 **Receipts Tax Revenues.** So long as any Bonds are outstanding, the Gross Revenues shall,
3 immediately upon receipt thereof by the City, be set aside and deposited into the Wastewater
4 Fund. All money deposited into the Wastewater Fund shall be held separate and apart from the
5 City's general fund and applied only in accordance with the provisions of this ordinance and any
6 other City ordinance authorizing the issuance of Obligations payable from the Net Revenues.

7 So long as any Bonds are outstanding, the Pledged Environmental Services Gross
8 Receipts Tax Revenues shall, immediately upon receipt thereof by the City, be set aside and
9 deposited into the Environmental Services Gross Receipts Tax Revenue Fund. All money
10 deposited into the Environmental Services Gross Receipts Tax Revenue Fund shall be held
11 separate and apart from the City's general fund and applied only in accordance with the
12 provisions of this ordinance and any other City ordinance authorizing the issuance of Obligations
13 payable from the Pledged Environmental Services Gross Receipts Tax Revenues.

14 **Section 21. Administration of Wastewater Fund and Pledged Environmental**

15 **Services Gross Receipts Tax Revenue Fund.** So long as any of the Bonds shall be outstanding,
16 either as to principal or interest or both, the following payments shall be made monthly from the
17 Wastewater Fund:

18 A. Administration of Wastewater Fund. So long as any of the Bonds shall be
19 outstanding, the following payments shall be made from the Wastewater Fund:

20 (1) Operation and Maintenance Expenses. First, as a first charge on the
21 Wastewater System Gross Revenues, there shall be paid the Operation and Maintenance
22 Expenses of the Wastewater System as they become due and payable.

23 (2) Debt Service Fund Payments. Second, but subject to and after the
24 withdrawals authorized by the preceding paragraph A(1), the following amounts shall be
25 withdrawn from the Wastewater Fund and credited to the Debt Service Fund:

1 (a) Interest Payments. Monthly, commencing on the first day of the
2 first month following the delivery of the Bonds, an amount in equal monthly installments
3 necessary, together with any moneys therein and available therefor, to pay the next maturing
4 installment of interest on the Bonds then outstanding and monthly thereafter commencing on each
5 interest payment date, one-sixth (1/6th) of the amount necessary to pay the next maturing
6 installment of interest on the outstanding Bonds, and

7 (b) Principal Payments. Monthly, commencing on the first day of
8 the first month following delivery of the Bonds, an amount in equal monthly installments
9 necessary, together with any moneys therein and available therefor, to pay the next maturing
10 installment of principal on the Bonds and monthly thereafter commencing on each principal
11 payment date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment
12 of principal on the Bonds.

13 (3) Parity Obligations. Third, but concurrently with the payments required
14 by paragraph A(2) of this section, funds remaining in the Wastewater Fund shall be used by the
15 City to pay the Debt Service Requirements of other Parity Obligations, now outstanding or
16 hereafter authorized to be issued and payable from Pledged Revenues.

17 If prior to any interest payment date or principal payment date, there has been
18 accumulated in the Debt Service Fund the entire amount necessary to pay the next maturing
19 installment of interest or principal, or both, the payment required in subparagraphs A(2)(a) and
20 A(2)(b) (whichever is applicable) above, may be appropriately reduced and the required monthly
21 amounts again shall be so credited to such account commencing on such interest payment date or
22 principal payment date (whichever is applicable).

23 B. Administration of the Pledged Environmental Services Gross Receipts Tax
24 Revenue Fund. So long as any of the Bonds are outstanding, the following payments shall be
25 made from the Pledged Environmental Services Gross Receipts Tax Revenues:

1 (1) First, as a first charge on the Pledged Environmental Services Gross
2 Receipts Tax Revenues, the amounts necessary to pay the Debt Service Requirements on
3 outstanding bonds or obligations, with a lien on the Pledged Environmental Services Gross
4 Receipts Tax Revenues prior and superior to the lien thereon of the Bonds such amounts as are
5 required from the Environmental Services Gross Receipts Tax Revenue Fund, pursuant to the
6 ordinances authorizing the outstanding superior Environmental Services Gross Receipts Tax
7 obligations as required by such ordinances.

8 (2) Second, but subject to and after the withdrawals authorized by the
9 preceding paragraph B(1), so long as any of the Bonds shall be outstanding, to the extent that any
10 monthly payment required to be made into the Debt Service Fund has not been made from the
11 Wastewater Fund or from any other legally available source, the following amounts shall be
12 withdrawn from the Environmental Services Gross Receipts Tax Revenue Fund and credited to
13 the Bond Fund:

14 (a) Interest Payments. Monthly, commencing on the first day of the
15 first month following the delivery of the Bonds, an amount in equal monthly installments
16 necessary, together with any moneys therein and available therefor, to pay the next maturing
17 installment of interest on the Bonds then outstanding and monthly thereafter commencing on each
18 interest payment date, one-sixth (1/6th) of the amount necessary to pay the next maturing
19 installment of interest on the outstanding Bonds, and

20 (b) Principal Payments. Monthly, commencing on the first day of
21 the first month following the delivery of the Bonds, an amount in equal monthly installments
22 necessary, together with any moneys therein and available therefor, to pay the next maturing
23 installment of principal on the Bonds and monthly thereafter commencing on each principal
24 payment date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment
25 of principal on the Bonds.

1 (3) Third, but concurrently with the payments required by paragraph B(2) of
2 this section, funds remaining in the Environmental Services Gross Receipts Tax Revenue Fund,
3 shall be used by the City to pay the Debt Service Requirements of such additional Parity Tax
4 Obligations, if any, hereafter authorized to be issued and payable from Pledged Environmental
5 Services Gross Receipts Tax Revenues.

6 If prior to any interest payment date or principal payment date, there has been
7 accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment
8 of interest or principal, or both, the payment required in subparagraphs B2(a) and B2(b)
9 (whichever is applicable) of this paragraph, may be appropriately reduced and the required
10 monthly amounts again shall be so credited to such account commencing on such interest
11 payment date or principal payment date (whichever is applicable).

12 C. Termination Upon Deposits to Maturity. No payment need be made into the
13 Bond Fund if the amount in such funds totals a sum at least equal to the entire amount of Bonds
14 then outstanding, both as to principal and interest to their respective maturities, and both accrued
15 and not accrued, in which case, moneys in the Bond Fund in an amount at least equal to such
16 principal and interest requirements shall be used solely to pay such as the same accrue and any
17 moneys in excess thereof in the Bond Fund and any other moneys derived from the Pledged
18 Revenues may be used in any lawful manner determined by the City.

19 D. Payment of Additional Obligations and Qualified Exchange Agreements. Either
20 prior to, concurrently with or subsequent to the payments required by Paragraphs A and B of this
21 Section 21, depending upon whether the additional Obligations are Superior EGRT Tax
22 Obligations, Parity EGRT Obligations, Parity Wastewater System/ EGRT Obligations or
23 subordinate Obligations as provided in this Ordinance, the Pledged Revenues shall be used by the
24 City for the payment of Debt Service Requirements on additional Obligations, if any, hereafter
25 authorized to be issued and payable from the Pledged Revenues as the same accrue. In the event

1 that such obligations are Parity Obligations, the payments of Debt Service Requirements on such
2 additional Obligations shall be made concurrently with the payments required by Paragraphs A(2)
3 and B(2) of this Section 21 (provided that such payments may be made at any intervals as may
4 be provided in the ordinance or resolution authorizing such additional Obligations). The
5 following amounts required to be paid by the City shall be paid from Pledged Revenues with the
6 same priority as other payments of Debt Service Requirements on Parity Obligations:

7 (1) Any amount to reimburse or pay a bond insurer or reserve account
8 insurer or guarantor, or to make payments or reimbursements pursuant to another Credit Facility,
9 for payments of Debt Service Requirements made on Parity Obligations; and amounts payable to
10 a Qualified Counterparty under a Qualified Exchange Agreement, excluding Exchange
11 Termination Payments, if such payments are designated in a City ordinance relating to that
12 Qualified Exchange Agreement as having a lien on Pledged Revenues on a parity with the lien
13 thereon of Parity Obligations;

14 (2) Reimbursement of any reserve fund Credit Facility obtained for any issue
15 of Parity Obligations; and

16 (3) Cash deposits to any required reserve fund established with respect to
17 any issue of Parity Obligations.

18 Each payment of Debt Service Requirements on Parity Obligations shall be transferred to
19 the Paying Agent for payment of Parity Obligations, or directly to a Qualified Counterparty, bond
20 insurer, reserve account insurer or guarantor or other provider of a Credit Facility entitled to
21 receive payments on Parity Obligations, on or before the due date of such payment.

22 E. Rebate Fund. There is hereby created a separate account to be known as the
23 "City of Santa Fe, New Mexico Net Wastewater System / Environmental Services Gross Receipts
24 Tax Improvement Revenue Bonds, Series 2019, Rebate Fund" (the "Rebate Fund"), to be held by
25 the City. There shall be transferred into the Rebate Fund from the Pledged Revenues, such

1 amounts as are required to be deposited therein to meet the City's obligations under the covenant
2 contained in Section 27V of this Ordinance, in accordance with Section 148(f) of the Internal
3 Revenue Code of 1986, as amended (the "Tax Code"). Amounts on deposit in the Rebate Fund
4 shall not be subject to the lien and pledge of this ordinance to the extent such amounts are
5 required to be paid to the United States Treasury. The City hereby finds and determines that
6 payment to the United States in an amount equal to interest and other gain from the investment of
7 moneys accumulated in the Bond Fund and any other account into which Pledged Revenues are
8 transferred, to the extent such interest or other gain is subject to the rebate requirements of
9 Section 148(f) of the Tax Code, shall be subject to a lien thereon in favor of the United States
10 Treasury and pledged to the United States Treasury for the benefit of the owners of the Bonds
11 from time to time. From time to time, if the City determines that there is on deposit in the Rebate
12 Fund more money than is needed to satisfy the rebate obligation, then such excess shall be
13 transferred and credited to the Bond Fund and used to pay Debt Service Requirements.

14 F. Payment of Expenses and Certain Obligations which are not Parity Obligations.

15 After and subject to the payments required, and provisions contained in, any of the preceding
16 paragraphs of this Section, any remaining Pledged Revenues shall be used, to the extent
17 necessary, for payment of: (i) any other amounts, expenses, fees and interest owed by the City
18 relating to the issuance, delivery, servicing, payment, redemption and refunding of Parity
19 Obligations and (ii) other amounts relating to Parity Obligations owed by the City pursuant to the
20 Related Documents, any Qualified Exchange Agreement (excluding Exchange Termination
21 Payments), bond insurance policy, reserve fund insurance policy or similar documents which are
22 not payable pursuant to any other prior paragraph of this Section.

23 G. Subordinate Obligations. After and subject to the payments required by, and
24 provisions contained in, the preceding paragraphs of this Section, any remaining Pledged
25 Revenues shall be used, as necessary, by the City for the payment of the principal of, premium, if

1 any, and interest on all Obligations with a lien on the Pledged Revenues which is subordinate and
2 junior to the lien of the Parity Obligations on Pledged Revenues, including without limitation, any
3 Exchange Termination Payments.

4 H. Payment of Additional Subordinated Obligations. After and subject to the
5 payments required above in this Section: (i) any remaining Pledged Environmental Services
6 Gross Receipts Tax Revenues shall be used by the City for the payment of the principal of and
7 interest (including debt service reserves) on obligations with a lien on the Pledged Environmental
8 Services Gross Receipts Tax Revenues which is subordinate and junior to the lien of the Parity
9 EGRT Tax Obligations, as the same accrue; and (ii) any balance remaining in the Wastewater
10 Fund shall be used by the City for the payment of the principal of and interest (including debt
11 service reserves) on obligations with a lien on the Pledged Wastewater System Revenues which is
12 subordinate and junior to the lien of the Parity Wastewater System Obligations, as the same
13 accrue.

14 I. Use of the Wastewater System Rate Stabilization Fund. Amounts deposited in
15 the Wastewater System Rate Stabilization Fund may be withdrawn at any time and used for any
16 purpose for which Wastewater System Gross Revenues may be used.

17 J. Use of the Wastewater System Replacement Fund. While any Parity Wastewater
18 System Obligations are Outstanding, money on deposit in the Wastewater System Replacement
19 Fund shall be used only (i) for replacement costs and capital improvements to the Wastewater
20 System, (ii) for extraordinary charges relating to the financing or refinancing of the Wastewater
21 System, and (iii) to purchase or otherwise defease, or provide for defeasance of, Outstanding
22 Obligations payable from Net Revenues.

23 K. Use of Surplus Revenues. Each month, after making all the payments required to
24 be made by the prior paragraphs of this Section, any moneys remaining in the Wastewater Fund
25 and any remaining Pledged Environmental Services Gross Receipts Tax Revenues may be

1 applied to any other lawful purpose or purposes authorized by applicable law, as determined by
2 the City.

3 L. Variable Interest Rate. In making the computations required by this Section,
4 interest on Obligations which bear a Variable Interest Rate shall be computed: (i) at the actual
5 Variable Interest Rate or Variable Exchange Rate for the computation period, if such rate can be
6 computed exactly, or (ii) if the Variable Interest Rate or Variable Exchange Rate cannot be
7 computed exactly, at the actual rate for the immediately preceding computation period.

8 **Section 22. General Administration of Funds.** The funds and accounts designated
9 in Sections 17 through 21 of this Ordinance shall be administered as follows:

10 A. Investment of Money. Any moneys in any fund designated in Sections 17
11 through 21 may be invested in Permitted Investments provided, that investment of amounts in the
12 Reserve Fund shall have maturities of not exceeding five years from the date of their acquisition
13 and their value shall be determined annually at the end of each Fiscal Year. The obligations
14 purchased as an investment of moneys in a particular fund shall be deemed at all times to be part
15 of that fund, and the interest accruing thereon and any profit realized therefrom shall be credited
16 to the fund, and any loss resulting from each investment shall be charged to that fund. The City
17 Treasurer shall present for redemption or sale on the prevailing market any obligations purchased
18 as an investment of moneys in the fund whenever it shall be necessary to do so in order to provide
19 moneys to meet any payment or transfer from such fund.

20 B. Deposits of Funds. The moneys and investments comprising each of the funds
21 and accounts designated in Sections 17 through 21 of this Ordinance shall be held by the City and
22 maintained and kept separate from all other funds and accounts in an Insured Bank or Insured
23 Banks. The amounts prescribed shall be paid to the appropriate funds as specified in Section 21.
24 Each payment shall be made into the proper bank account and credited to the proper fund not
25 later than the last day designated; provided that when the designated date is not a business day,

1 then such payment shall be made on the next succeeding business day. Nothing herein shall
2 prevent the establishment of one such bank account or more (or consolidation with any existing
3 bank account), for all of the funds and accounts in Sections 17 through 21 of this Ordinance.

4 **Section 23. Lien on Pledged Revenues.** The Bonds constitute an irrevocable and
5 valid first lien, but not an exclusive first lien, on the Net Revenues of the System and a
6 subordinate lien, but not an exclusive subordinate lien, on the Pledged Environmental Services
7 Gross Receipts Tax Revenues. Obligations issued with a superior lien on the Pledged
8 Environmental Gross Receipts Tax Revenues may only be issued as Superior Tax Obligations,
9 i.e. as Obligations secured by Gross Receipts Tax Revenues as defined in Section 1 hereof.

10 **Section 24. Additional Superior and Parity EGRT Obligations.**

11 A. Limitations Upon Issuance of Additional Tax Obligations. No provision of this
12 ordinance shall be construed in such a manner as to prevent the issuance by the City of additional
13 Obligations payable from Gross Receipts Tax Revenues and constituting a lien upon EGRT
14 revenues prior and superior to the lien of the Bonds, as provided in Section 23 hereof. Before any
15 additional Superior Tax Obligations are issued, the conditions, if any, set forth in the ordinances
16 authorizing the issuance of Superior Tax Obligations must be satisfied.

17 Before any additional Parity EGRT Obligations are actually issued (excluding refunding
18 bonds the proceeds of which are used to refund Parity EGRT Obligations, as provided in Section
19 26, but including Parity Tax Obligations which are refunding bonds which refund subordinate
20 obligations), the following conditions shall be met:

- 21 (1) The additional Parity EGRT Obligations must be Obligations; and
22 (2) The City shall then be current in all of the deposits required to be made
23 with respect to Parity EGRT Obligations (including, if applicable, any obligation to fund any
24 reserve account required by the terms of any ordinance authorizing the issuance of any such
25 Obligations); and

1 (3) (a) No additional Parity EGRT Obligations shall be issued unless
2 Pledged Environmental Services Tax Revenues combined with any additional gross receipts tax
3 revenues pledged to the proposed additional Parity EGRT Obligations received for the Historic
4 Test Period shall have been sufficient to pay an amount representing at least two hundred percent
5 (200%) of the combined maximum annual Debt Service Requirements coming due in any
6 subsequent Fiscal Year on the Bonds, on the then outstanding Superior EGRT Obligations and
7 Parity EGRT Obligations, and the additional Parity EGRT Obligations proposed to be issued
8 (excluding any reserves therefor); and

9 (b) In making the computations required by this subparagraph (3)
10 other gross receipts tax revenues, including without limitation, received by the City, whether from
11 distribution by the State or pursuant to gross receipts taxes imposed by the City (other than State-
12 Shared Gross Receipts Tax Revenues) pledged to the Superior EGRT Obligations, the Parity
13 EGRT Obligations and the Parity Tax Obligations proposed to be issued, may be included only
14 to the extent such gross receipts tax revenues are pledged to a particular series of such
15 outstanding obligations or proposed Parity EGRT Obligations and only to the extent of the
16 maximum annual Debt Service Requirements coming due in the applicable Fiscal Year on such
17 outstanding obligations or proposed Parity EGRT Obligations.

18 B. Subordinate Obligations Permitted. No provision of this ordinance shall be
19 construed in such a manner as to prevent the issuance by the City of additional Obligations
20 payable from the Pledged Environmental Services Gross Receipts Tax Revenues with a lien
21 thereon subordinate and junior to the lien of the Bonds thereon, nor to prevent the issuance of
22 Obligations refunding all or part of the Bonds as permitted by Section 26.

23 C. Variable Interest Rate. In making the computations required by this Section and
24 Section 26, Obligations which bear a Variable Interest Rate shall be deemed to bear interest at the
25 maximum rate permitted for those obligations.

1 D. Certificate of City Finance Director. A written certificate or opinion of the City
2 Finance Director that the Pledged Environmental Gross Receipts Tax Revenues for the applicable
3 Historic Test Period are sufficient to pay the amounts required in this Section shall be required in
4 making a determination that the requirements set forth in this Section have been satisfied and
5 shall be conclusively presumed to be accurate in determining that such requirements have been
6 satisfied.

7 E. Bond Anticipation Notes. Whenever the City shall have authorized the issuance
8 of Superior EGRT Obligations or Parity EGRT Obligations under the Act and the City shall, at
9 the time, be permitted by the laws of the State to issue notes representing loans in anticipation of
10 the sale of such Superior EGRT Obligations or Parity EGRT Obligations ("Bond Anticipation
11 Notes"), the City may by resolution or ordinance authorize the issuance of Bond Anticipation
12 Notes in anticipation of the sale of such Superior EGRT Obligations or Parity EGRT Obligations,
13 provided, however, that before any Bond Anticipation Notes are actually issued, the conditions of
14 Section 24 shall be met. Bond Anticipation Notes shall not be issued in an amount exceeding the
15 principal amount of the Superior EGRT Obligations or Parity EGRT Obligations in anticipation
16 of the sale of which such notes are proposed to be issued.

17 For the purposes of determining compliance with this Section, as of the date of issuance
18 of any Bond Anticipation Notes, the aggregate principal amount of all outstanding Bond
19 Anticipation Notes (including such proposed Bond Anticipation Notes) shall never exceed the
20 principal amount of a hypothetical issue of Superior EGRT Obligations or Parity EGRT
21 Obligations which could be issued hereunder having an assumed final maturity of twenty (20)
22 years, bearing an assumed rate of interest equal to the highest rate then borne by any Bond
23 Anticipation Note then outstanding (or, if none, the interest rate borne by the proposed Bond
24 Anticipation Notes to be issued) and having debt service due in each Fiscal Year in
25 approximately equal amounts.

1 F. Put Obligations. In making the computations required by this Section and
2 Section 26, the principal amount of any Put Obligations to be outstanding in the Fiscal Year when
3 the combined maximum annual Debt Service Requirements come due shall be excluded from the
4 maximum annual Debt Service Requirements only if the Credit Facility providing liquidity or
5 standby purchase support for Put Obligations is rated, on the date the computations are made, "A"
6 or better by Moody's or S&P (if such rating agencies are then rating the Bonds). If there is no
7 Credit Facility for the Put Obligations or the rating requirement for the Credit Facility set forth in
8 the preceding sentence is not satisfied, the principal amount of the Put Obligations to be
9 outstanding in the Fiscal Year when combined maximum annual Debt Service Requirements
10 come due shall be considered in computing maximum annual Debt Service Requirements.

11 **Section 25. Additional Parity Obligations.** Parity Wastewater System/ EGRT
12 Obligations may be issued for the purposes permitted by the Act including, but not limited to, (1)
13 financing the costs of a project; or (2) providing additional funds for deposit into the Wastewater
14 System Replacement Fund and paying the costs incident to the issuance of such Parity
15 Obligations or any combination of the foregoing.

16 A. Limitations Upon Issuance of Additional Parity Bonds. The tests required in this
17 Section 25 shall be performed without adjustment for payments to or withdrawals from the
18 Wastewater System Rate Stabilization Fund. Except as permitted herein, prior to the issuance of
19 additional Parity Obligations, the City shall be current in making all deposits required by Section
20 21 and the following test shall be satisfied:

21 (1) a certificate prepared by the City Finance Director showing that the
22 Pledged Revenues for the Historic Test Period were at least equal to 120% of the maximum
23 combined annual Debt Service Requirements for all Outstanding Parity Obligations which will be
24 outstanding immediately after the issuance of the proposed Parity Obligations, or

25 (2) a certificate prepared by a Consulting Engineer showing that:

1 (a) the Pledged Revenues for the Historic Test Period were at least
2 equal to 120% of the maximum combined annual Debt Service Requirements for all Outstanding
3 Parity Obligations immediately preceding the issuance of the Parity Obligations;

4 (b) for each Fiscal Year during the period from the date of delivery
5 of such certificate until the latest estimated completion date of the specified project(s) to be
6 funded with the proceeds of such Parity Obligations, the Consulting Engineer estimates that the
7 City will be in compliance with the Rate Covenant; and

8 (c) the estimated Pledged Revenues for each of the three Fiscal
9 Years immediately following the latest estimated completion date for the specified project(s) to
10 be financed with proceeds of such Parity Obligations, as certified to the Consulting Engineer by
11 an Authorized Officer of the City will be at least equal to 120% of the maximum combined
12 annual Debt Service Requirements for all Outstanding Parity Obligations which will be
13 outstanding immediately after the issuance of the proposed Parity Obligations.

14 For purposes of subsections (2)(b) and (c) above, in estimating Wastewater System Net
15 Revenues, the Consulting Engineer may take into account (1) reasonable Wastewater System
16 Gross Revenues from specified Wastewater System projects expected to become available, (2)
17 any increase in fees, rates, charges, rentals or other sources of Wastewater System Gross
18 Revenues which have been approved by the City and will be in effect during the period for which
19 the estimates are provided, and (3) any other increases in Wastewater System Gross Revenues
20 which the Consulting Engineer believes to be a reasonable assumption for such period. With
21 respect to Wastewater System Operation and Maintenance Expenses, the Consulting Engineer
22 shall use such assumptions as the Consulting Engineer believes to be reasonable, and taking into
23 account, (i) historical Wastewater System Operation and Maintenance Expenses, (ii) Wastewater
24 System Operation and Maintenance Expenses associated with the specified Wastewater System
25 projects and (iii) such other factors, including inflation and changing operations or policies of the

1 City, as the Consulting Engineer believes to be appropriate. The Consulting Engineer shall
2 include in the certificate or in a separate accompanying report a description of the assumptions
3 used and the calculations made in determining the estimated Wastewater System Net Revenues
4 and shall also set forth the calculations of the maximum combined annual Debt Service
5 Requirements, which calculations may be based upon information provided by another
6 Consultant.

7 For purposes of preparing the certificate or certificates described above, the Consulting
8 Engineer or Consultant may rely upon financial statements prepared by the City which have not
9 been subject to audit by an Independent Accountant if audited financial statements for the Fiscal
10 Year or period are not available; provided, however, that an Authorized Officer of the City shall
11 certify as to their accuracy and that such financial statements were prepared substantially in
12 accordance with generally accepted accounting principles, subject to year-end adjustments.

13 (3) In determining whether additional Parity Wastewater System/ EGRT
14 Obligations may be issued pursuant to this Section 25, a written certificate or opinion of the City
15 Finance Director or a Consulting Engineer shall be conclusively presumed to be accurate in
16 determining the right of the City to authorize, issue, sell and deliver the additional Parity
17 Obligations.

18 (4) Nothing contained in this ordinance shall be construed to prevent the
19 City from issuing bonds or other obligations with a lien on Pledged Revenues subordinate or
20 junior to the lien of the Parity Obligations on Pledged Revenues.

21 (5) The City shall not issue additional obligations payable from Pledged
22 Revenues with a lien on Pledged Wastewater System Revenues superior to the lien of Parity
23 Obligations (provided, that Superior Lien EGRT Obligations may be issued in compliance with
24 Section 24 hereof).

25 **Section 26. Refunding Bonds.** The provisions of Sections 24 and 25 hereof are

1 subject to the following exceptions:

2 A. Privilege of Issuing Refunding Obligations. If at any time after the Bonds, or any
3 part thereof, shall have been issued and remain outstanding, the City shall find it desirable to
4 refund any outstanding Parity Obligations or other outstanding obligations payable from the
5 Pledged Revenues, the bonds or other obligations, or any part thereof, may be refunded (but only
6 with the consent of the registered owner or owners thereof, unless the bonds or other obligations,
7 at the time of their required surrender for payment, shall then mature, or shall then be callable for
8 prior redemption at the City's option), regardless of whether the priority of the lien for the
9 payment of the refunding obligations on the Pledged Revenues is changed (except as provided in
10 paragraphs A of Section 24 and 25 and in paragraphs B and C of this Section 26).

11 B. Limitations Upon Issuance of Refunding Obligations. No refunding bonds or
12 other refunding obligations payable from the Pledged Environmental Services Gross Receipts
13 Tax Revenues which are Superior Obligations will be issued except in accordance with the terms
14 of the ordinances governing such outstanding Obligations with a lien on the Pledged
15 Environmental Services Gross Receipts Tax Revenues. No refunding bonds or other refunding
16 obligations payable from the Pledged Environmental Services Gross Receipts Tax Revenues or
17 the Pledged Revenues, whichever is applicable, shall be issued on a parity with the Bonds herein
18 authorized, unless:

19 (1) The lien on the Pledged Environmental Services Gross Receipts Tax
20 Revenues or Pledged Revenues of the outstanding obligations so refunded is on a parity with the
21 lien thereon of the Bonds herein authorized; or

22 (2) The refunding bonds or other refunding obligations are issued in
23 compliance with Paragraph A of Section 24 or Paragraph A of Section 25, whichever is
24 applicable, of this ordinance.

25 C. Refunding Part of an Issue. The refunding bonds or other obligations so issued

1 shall enjoy complete equality of lien with the portion of any bonds or other obligations of the
2 same issue which is not refunded, if any there be; and the registered owner or owners of such
3 refunding bonds or such other refunding obligations shall be subrogated to all of the rights and
4 privileges enjoyed by the registered owner or owners of the bonds or other obligations of the
5 same issue refunded thereby.

6 D. Limitations Upon Issuance of any Refunding Obligations. Any refunding bonds
7 or other refunding obligations payable from the Pledged Environmental Services Gross Receipts
8 Tax Revenues or Pledged Revenues shall be issued with such details as the City may by
9 ordinance provide, subject to the inclusion of any such rights and privileges designated in
10 Paragraph C of this Section 26, but without any impairment of any contractual obligations
11 imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of
12 such outstanding obligations of any one or more issues (including but not necessarily limited to
13 the Bonds herein authorized). If only a part of the outstanding bonds and any other outstanding
14 obligations of any issue or issues payable from the Pledged Environmental Services Gross
15 Receipts Tax Revenues or Pledged Revenues is refunded, then such obligations may not be
16 refunded without the consent of the registered owner or owners of the unrefunded portion of such
17 obligations, unless:

18 (1) The refunding bonds or other refunding obligations do not increase any
19 aggregate annual principal and interest requirements evidenced by such refunding obligations and
20 by the outstanding obligations not refunded on and prior to the last maturity date of such
21 unrefunded obligations, or

22 (2) The refunding bonds or other refunding obligations are issued in
23 compliance with Paragraph A of Section 24 or Paragraph A of Section 25 hereof, whichever is
24 applicable, or

1 (3) The lien on the Pledged Environmental Services Gross Receipts Tax
2 Revenues or Pledged Revenues, whichever is applicable, for the payment of the refunding
3 obligations is subordinate to each such lien for the payment of any obligations not refunded.

4 E. Cross-over Refunding Bonds. If the refunding bonds to be issued are Cross-over
5 Refunding Bonds, the ordinance providing for the issuance thereof shall provide (1) that until the
6 date on which the principal portion of the related Obligations being refunded is to be paid or
7 redeemed from the proceeds of such Cross-over Refunding Bonds, the Cross-over Refunding
8 Bonds shall not be Parity Obligations and shall be payable solely from the escrow provided for in
9 the related ordinance, and (2) a certificate of an Independent Accountant shall be prepared to
10 demonstrate the sufficiency of the moneys and investments in the escrow to pay the principal of
11 and interest on the Cross-over Refunding Bonds until the date on which the principal portion of
12 the related Obligations being refunded is to be paid or redeemed and to pay or redeem the related
13 Obligations being refunded.

14 **Section 27. Equality of Bonds.** The Bonds authorized to be issued hereunder and
15 from time to time outstanding shall not be entitled to any priority one over the other in the
16 application of the Pledged Revenues, regardless of the time or times of their issuance, it being the
17 intention of the Governing Body that there shall be no priority among the Bonds regardless of the
18 fact that they may be actually issued and delivered at different times.

19 **Section 28. Protective Covenants.** The City hereby covenants and agrees with each
20 and every registered owner of the Bonds that:

21 A. Payment of Bonds Herein Authorized. The City will promptly pay the principal
22 of and the interest on every Bond issued hereunder and secured hereby at the place, on the dates
23 and in the manner specified herein and in the Bonds according to the true intent and meaning
24 hereof. Such principal and interest are payable solely from the Pledged Revenues. Nothing in the
25 Bonds, any Qualified Exchange Agreement or this ordinance shall be construed as obligating the

1 City to pay principal, premium, if any, or interest on any of the Bonds from, and the holders of
2 the Bonds and any Qualified Counterparty may not look to, any general or other fund of the City,
3 except those specifically set forth herein.

4 B. Rate Covenant.

5 (1) The City covenants that it will at all times fix rates and collect charges
6 for each class of service rendered by the Wastewater System, and to, from time to time, amend or
7 adjust such rates so that Wastewater System Gross Revenues, together with the Environmental
8 Services Gross Receipts Tax Revenues, shall always be sufficient to provide for the payment of
9 the Debt Service Requirements on all Outstanding Parity Obligations and Subordinate
10 Obligations as and when the same become due and payable, to maintain the funds and accounts
11 established in the Ordinance, to provide for the payment of Wastewater System Operation and
12 Maintenance Expenses which may be necessary to preserve the same in good repair and working
13 order, including the necessary reserves therefor and all other payments necessary to meet on-
14 going legal obligations to be paid at that time; and

15 (2) The City further covenants that it will at all times fix, charge and collect
16 such rates and charges as shall be required in order that in each Fiscal Year the Wastewater
17 System Net Revenues, together with the Environmental Services Gross Receipts Tax Revenues,
18 shall at least equal the greater of (a) the Debt Service Requirements on all Outstanding Parity
19 Obligations and Subordinate Obligations in such Fiscal Year and the deposits required by this
20 ordinance to be made into the various funds of this ordinance in such year or (b) 110% of the
21 Debt Service Requirements on all Outstanding Parity Obligations and Subordinate Obligations in
22 such Fiscal Year.

23 Failure by the City to comply with the foregoing Rate Covenant in any Fiscal Year will
24 not constitute an event of default under this Ordinance so long as the City, within 180 days,
25 adopts the schedule of rates and charges recommended or approved by a Consulting Engineer

1 which would bring the City into compliance with the Rate Covenant. The City is also required
2 under this Ordinance in each Fiscal Year to complete a review of its financial condition for the
3 purpose of estimating whether the Wastewater System Net Revenues, together with the
4 Environmental Services Gross Receipts Tax Revenues, for such Fiscal Year and for the next
5 succeeding Fiscal Year will be sufficient to comply with the Rate Covenant set forth above. If the
6 City determines that the Wastewater System Net Revenues, together with the Environmental
7 Services Gross Receipts Tax Revenues, may not be so sufficient, it shall forthwith cause the
8 Consulting Engineer to make a study for the purpose of recommending a schedule of fees, rates
9 and charges for the Wastewater System which, in the opinion of the Consulting Engineer, will
10 cause sufficient Wastewater System Gross Revenues, together with the Environmental Services
11 Gross Receipts Tax Revenues, to be collected in such Fiscal Year to comply with the Rate
12 Covenant set forth above and will cause additional Wastewater System Gross Revenues to be
13 collected in such Fiscal Year sufficient to eliminate the amount of any deficiency at the earliest
14 practicable time within such Fiscal Year. The City shall as promptly as practicable adopt and
15 place in effect the schedule of fees, rates and charges recommended or approved by the
16 Consulting Engineer pursuant to this Ordinance. In the alternative of establishing fees, rates and
17 charges necessary to meet the Rate Covenant set forth above, the City may undertake steps to
18 reduce Wastewater System Operation and Maintenance Expenses.

19 C. Lien on Lands Serviced by Wastewater System. New Mexico law grants the City
20 a lien upon each lot or parcel of land for the charges imposed for water and wastewater services
21 supplied by the Wastewater System to the owner of such lot or parcel (except as otherwise
22 provided in Section 3-23-6 NMSA 1978, as amended). The City will cause each lien to be
23 perfected in accordance with the provisions of Sections 3-23-6 and 3-36-1 through 3-36-5 NMSA
24 1978 as amended. The City will take all necessary steps to enforce the lien against any parcel of

1 property the owner of which is delinquent for more than six months in the payment of charges
2 imposed for the use of the Wastewater System.

3 D. Levy of Charges. The City will promptly fix, establish and levy the rates and
4 charges which are required by the Rate Covenant. Unless contrary to any provision of applicable
5 law, any ordinance adopted by the City to fix, establish and levy such rates and charges shall be
6 deemed an administrative or executive matter not subject to any applicable referendum provisions
7 of any City charter or state law. No reduction in any initial or existing rate schedule for the
8 Wastewater System may be made unless:

9 (a) the City has fully complied with the provisions of Section 21 of the
10 Ordinance for any 12 consecutive months out of the 16 calendar months immediately preceding
11 the reduction of the rate schedule, and

12 (b) the audit required by paragraph H of Section 28 or a separate certificate
13 by an Independent Accountant for or relating to any 12 consecutive months out of the 16 calendar
14 months immediately preceding any reduction discloses that the estimated Wastewater System Net
15 Revenues resulting from the proposed reduced rate schedule would have been sufficient to meet
16 the Rate Covenant in Paragraph B of this Section during the applicable 12-month period.

17 E. Efficient Operation. The City will maintain the Wastewater System in efficient
18 operating condition and make such improvements, extensions, enlargements, repairs and
19 betterments to the Wastewater System as may be necessary or advisable for its economical and
20 efficient operation at all times and to supply reasonable public and private demands for
21 Wastewater System services within the Service Area.

22 F. Records. So long as the Bonds remain Outstanding, proper books of record and
23 account will be kept by the City, separate from all other records and accounts, showing complete
24 and correct entries of all transactions relating to the Wastewater System. However, pursuant to

1 Section 6-14-10(E) NMSA 1978, records with regard to the ownership or pledge of the Bonds are
2 not subject to inspection or copying.

3 G. Right to Inspect. Owners of the Bonds, or their duly authorized agents, shall
4 have the right to inspect at all reasonable times all records, accounts and data relating to the
5 Wastewater System, the Pledged Environmental Gross Receipts Tax Revenues and the Net
6 Revenues.

7 H. Audits. Within 180 days following the close of each Fiscal Year, the City will
8 cause an audit of the books and accounts of the Wastewater System to be made by an
9 Independent Accountant. Each audit of the Wastewater System shall include those matters
10 determined to be proper by the Independent Accountant.

11 I. Billing Procedure. Bills for wastewater or wastewater services or facilities, or
12 any combination, furnished by or through the Wastewater System shall be rendered to customers
13 on a regular basis each month following the month in which the service was rendered and shall be
14 due as required by City ordinance. If permitted by law, if a bill is not paid within the period of
15 time required by City ordinance, wastewater services shall be discontinued as required by City
16 ordinance, and the rates and charges due shall be collected in a lawful manner, including, but not
17 limited to, the cost of disconnection and reconnection.

18 J. Charges and Liens Upon Wastewater System. The City will pay when due from
19 Wastewater System Gross Revenues or other legally available funds all taxes and assessments or
20 other municipal or governmental charges, lawfully levied or assessed upon the Wastewater
21 System and will observe and comply with all valid requirements of any municipal or
22 governmental authority relating to the Wastewater System. The City will not create or permit any
23 lien or charge upon the Wastewater System or the Wastewater System Gross Revenues except as
24 permitted by this ordinance, or it will make adequate provisions to satisfy and discharge within 60
25 days after the same accrue, all lawful claims and demands for labor, materials, supplies or other

1 objects, which, if unpaid, might by law become a lien upon the Wastewater System or the
2 Wastewater System Gross Revenues. However, the City shall not be required to pay or cause to
3 be discharged, or make provision for any tax, assessment, lien or charge before the time when
4 payment becomes due or so long as the validity thereof is contested in good faith by appropriate
5 legal proceedings and there is no adverse affect on owners of the Bonds.

6 K. Insurance. Subject, in each case, to the condition that insurance is obtainable at
7 reasonable rates and upon reasonable terms and conditions, in its operation of the Wastewater
8 System, the City will procure and maintain or cause to be procured and maintained commercial
9 insurance or provide Qualified Self Insurance with respect to the facilities constituting the
10 Wastewater System and public liability insurance in the form of commercial insurance or
11 Qualified Self Insurance and, in each case, in such amounts and against such risks as are, in the
12 judgment of the City, prudent and reasonable taking into account. but not being controlled by, the
13 amounts and types of insurance or self-insured programs provided by municipalities which
14 operate systems such as the Wastewater System. "Qualified Self Insurance" means insurance
15 maintained through a program of self insurance or insurance maintained with a fund, company or
16 association in which the City may have a material interest and of which the City may have
17 control, either singly or with others. Each plan of Qualified Self Insurance shall be established in
18 accordance with law, shall provide that reserves be established or insurance acquired in amounts
19 adequate to provide coverage which the City determines to be reasonable to protect against risks
20 assumed under the Qualified Self Insurance plan, including any potential retained liability in the
21 event of the termination of such plan of Qualified Self Insurance. In the event of property loss or
22 damage to the Wastewater System, insurance proceeds shall be used first for the purpose of
23 restoring or replacing the property lost or damaged and thereafter, any remainder may be used to
24 redeem Parity Wastewater System Obligations or be treated as Wastewater System Gross
25 Revenues and used in the manner provided in Section 21.

1 L. Competing Wastewater System. Unless contrary to any provision of, or required
2 by, applicable law, as long as the Bonds are outstanding, the City will not grant any franchise or
3 license to a competing wastewater utility system, or permit any person, association, firm or
4 corporation to sell similar wastewater utility services or facilities to any consumer, public or
5 private, within the Service Area of the Wastewater System; provided, however, that nothing
6 shall prevent the City from annexing land into its boundaries solely due to the fact that there is a
7 competing utility system or person, association, firm or corporation selling similar wastewater
8 utility services or facilities within or for the land to be annexed. Notwithstanding the foregoing,
9 permits granted to individual homeowners shall not violate this section if the City is in
10 compliance with the Rate Covenant.

11 M. Alienating Wastewater System. While the Bonds are Outstanding, the City shall
12 not, except as permitted below, transfer, sell or otherwise dispose of the Wastewater System. For
13 purposes of this Section, any transfer of an asset over which the City retains or regains substantial
14 control shall not, for so long as the City has such control, be deemed a disposition of the
15 Wastewater System.

16 The City may transfer, sell or otherwise dispose of the Wastewater System only if such
17 transfer, sale or disposition complies with one or more of the following provisions:

- 18 (1) The property being disposed of is inadequate, obsolete or worn out; or
19 (2) The property proposed to be disposed of and all other property of the
20 Wastewater System disposed of during the 12-month period ending on the day of such transfer
21 (but excluding property disposed of under (1) above), will not, in the aggregate, constitute a
22 Significant Portion of the Wastewater System determined as described below and the proceeds
23 are deposited into the Wastewater Fund to be used as described below; or
24 (c) The City receives fair market value for the property, the proceeds are
25 deposited into the Wastewater Fund to be used as described below and, prior to the disposition of

1 such property, there is delivered a certificate of a Consultant to the effect that notwithstanding
2 such disposition, but taking into account the use of such proceeds in accordance with the
3 expectations of the City as evidenced by a certificate of an Authorized Officer, the Consultant
4 estimates that the City will be in compliance with Section 21 of this Ordinance during each of the
5 five Fiscal Years immediately following such disposition.

6 For purposes of this Section, the term "Significant Portion" of the Wastewater System
7 means property of the Wastewater System which, if such property had been disposed of by the
8 City at the beginning of the Fiscal Year which includes the month of commencement of the 12-
9 month period referred to in (2) above would have resulted in a reduction in Wastewater System
10 Net Revenues for such Fiscal Year of more than four percent (4%) when the actual Wastewater
11 System Net Revenues for such Fiscal Year are decreased by the revenues directly attributable to
12 such property of the Wastewater System and increased by the expenses of the City directly
13 attributable to such property of the Wastewater System.

14 Proceeds of the disposition of assets under (2) or (3) above shall be deposited into the
15 Wastewater Fund and used, within a reasonable period of time, not to exceed three years, to (i)
16 provide additional revenue-producing properties to the Wastewater System, (ii) redeem Parity
17 Wastewater System Obligations or (iii) create an escrow fund pledged to pay all or a part of the
18 Bonds and thereby cause such Bonds to be deemed to be paid as provided in Section 29.

19 No such disposition shall be permitted which would cause the City to be in default of any
20 other covenant contained in this ordinance.

21 N. Extending Interest Payments. To prevent any accumulation of claims for interest
22 after maturity, except as permitted by this ordinance or Related Documents, the City will not
23 directly or indirectly extend or assent to the extension of the time for the payment of any claim
24 for interest on the Bonds. If the time for payment of interest is extended contrary to the provisions
25 of this Section, the installments of interest extended shall not be entitled, in case of an event of

1 default under this ordinance, or Related Documents, to the benefit or security of this ordinance, or
2 Related Documents until the prior payment in full of the principal of and interest on all other
3 Bonds then outstanding.

4 O. Competent Management. The City shall employ experienced and competent
5 personnel to manage the Wastewater System.

6 P. Performing Duties. The City will faithfully and punctually perform all duties
7 with respect to the Wastewater System required by State and City laws, including, but not limited
8 to, making and collecting reasonable and sufficient rates and charges for services rendered or
9 furnished by the Wastewater System as required by this Section and the proper segregation and
10 application of the Wastewater System Gross Revenues.

11 Q. City's Existence. The City will maintain its corporate identity and existence as
12 long as the Bonds remain outstanding unless another political subdivision by operation of law
13 succeeds to the liabilities and rights of the City, without adversely affecting to any substantial
14 degree the privileges and rights of any Owner. However, the City may annex or de-annex land if
15 the City complies with other applicable covenants in this ordinance.

16 R. Tax Compliance.

17 (a) The City will restrict the use and investment of the proceeds of the
18 Bonds and any funds reasonably expected to be used to pay the Bonds to the extent necessary so
19 that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. Authorized
20 Officers having responsibility for issuing Bonds will give appropriate certificates of the City for
21 inclusion in transcripts of proceedings for Bonds setting forth the reasonable expectations of the
22 City regarding the use of all the proceeds of the Bonds, the facts, circumstances and estimates on
23 which they are based, and other facts and circumstances relevant to the tax treatment of interest
24 on Bonds.

25 (b) The City (i) will take or cause to be taken such actions that may be

1 required of it for the interest on the Bonds to be and remain excluded from gross income for
2 federal income tax purposes, and (ii) will not take or permit to be taken any action that would
3 adversely affect such exclusion, and the City will, among other acts of compliance to the extent
4 necessary to assure the exclusion of interest on Bonds under the Code, (A) apply, or cause to be
5 applied, the proceeds of the Bonds to the governmental purpose of the borrowing, (B) restrict the
6 yield as necessary on investment property defined in Section 148(b)(2) of the Code acquired with
7 gross proceeds of the Bonds, (C) make timely rebate payments to the federal government in
8 accordance with Section 148(f) of the Code and this ordinance, (D) maintain proper books and
9 records and make, or have made, calculations and reports, and (E) refrain from certain uses of
10 Bond proceeds. Authorized Officers are authorized and directed to take action, make or have
11 made calculations and rebate payments, and make or give covenants, representations, reports and
12 certifications as may be required or appropriate to assure the exclusion of interest on the Bonds
13 from gross income for federal income tax purposes.

14 (c) The City covenants that it will not make or cause to be made any
15 investment or deposit described or permitted in this ordinance at other than the value permitted
16 for any such investment or deposit under Sections 1.148-0 through 1.148-11 and 1.150-1 and
17 1.150-2 of the Regulations or any successor provision applicable to the Bonds.

18 (d) The provisions of this paragraph R of Section 28 shall not apply to the
19 Bonds, if at any time and to the extent that the City receives an opinion of Bond Counsel that the
20 failure to comply will not adversely affect the exclusion from gross income of interest on the
21 Bonds for federal income tax purposes under Section 103(a) of the Code.

22 S. Other Liens. Other than the Parity Obligations and the Bonds, there are no liens
23 or encumbrances of any nature whatsoever on or against the Pledged Revenues. This Ordinance
24 does not prohibit the issuance of Superior EGRT Obligations with a lien on the Pledged
25 Environmental Services Gross Receipts Tax Revenues superior to the lien thereon of the Bonds.

1 T. Duty With Respect to Pledged Revenues. If the statutes or any ordinance which
2 materially affects the Pledged Revenues, or any part of the ordinances, shall ever be held to be
3 invalid or unenforceable, it shall be the duty of the City to immediately take any legally
4 permissible action necessary to produce sufficient Pledged Revenues to comply with the
5 contracted obligations of this ordinance, except as provided in paragraph U of this Section 28.

6 U. Impairment of Contract. The City agrees that any law or ordinance or resolution
7 of the City in any manner affecting the Pledged Revenues or the Bonds, or otherwise appertaining
8 thereto, shall not be repealed or otherwise directly or indirectly modified, in such a manner as to
9 impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or
10 provision has been fully made therefor, or unless the consent of the required percentage of the
11 registered owners of the then outstanding Bonds is obtained pursuant to Section 34 of this
12 ordinance.

13 V. Limitation on Consolidation of Wastewater System. The City shall not,
14 for so long as any of the Bonds are Outstanding, consolidate the Wastewater System with the
15 City's water system.

16 W. Notice of Qualified Exchange Agreements to Rating Agencies. The City shall
17 not enter into a Qualified Exchange Agreement which is a Parity EGRT Obligation or with
18 respect to any Parity EGRT Obligations without first providing notice of such Qualified
19 Exchange Agreement to Fitch and S&P and without first receiving written confirmation from
20 Fitch and S&P that entering into such Qualified Exchange Agreement, in and of itself, would not
21 result in a reduction of the ratings then assigned to the Bonds by Fitch and S&P.

22 X. Implementation Requirements for Wastewater System Rates. The provisions of
23 this ordinance regarding the Wastewater System and the pledge of the Net Revenues to the Bonds
24 shall be effective upon the due adoption and approval of this ordinance. Annually, on or before
25 January 1 of each year, commencing January 1, 2020, the City shall determine if, on the date of

1 calculation, additional Parity EGRT Obligations could then be issued under the test set forth in
2 Section 24(A)(iii) hereof. The City need not obtain a certificate or opinion of Independent
3 Accountant in making the annual determination. So long as the City satisfies the test for issuance
4 of additional Parity Tax Obligations at the time of each annual determination, the City shall not
5 be required to implement the covenants set forth in this Section 28 relating to the Wastewater
6 System. However, if the City fails to satisfy the test for issuance of additional Parity EGRT
7 Obligations at the time of any annual determination, the City shall, within three (3) months of
8 such determination, implement all covenants and terms relating to the Wastewater System set
9 forth in this Section 28, including specifically the Rate Covenant. In addition, the City may, at
10 any time, elect to implement all covenants and terms relating to the Wastewater System set forth
11 in this Section 28 by affirmative action of the Council.

12 Y. Limitation on Superior Tax Obligations or Parity Tax Obligations with Variable
13 Interest Rates. The City shall not issue Obligations secured by the Pledged Environmental
14 Services Gross Receipts Tax Revenues with a Variable Interest Rate which, at the time of
15 issuance, are assigned a lower rating than the rating then assigned to the Bonds by Fitch or S&P,
16 unless the written consent of such rating agency to a lower rating is obtained prior to issuance of
17 such Obligations.

18 Z. Continuing Disclosure Undertaking. Authorized Officers of the City are
19 authorized to sign such documents with respect to the City's continuing disclosure obligations as
20 are necessary or desirable to comply with the Continuing Disclosure Undertaking and
21 requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under
22 the Securities Exchange Act of 1934, as amended.

23 **Section 29. Defeasance.** When all principal, any applicable prior redemption
24 premium (if any) and interest due on the Bonds have been duly paid, the pledge and lien and all
25 obligations hereunder shall thereby be discharged and the Bonds shall no longer be deemed to be

1 outstanding within the meaning of this Ordinance. There shall be deemed to be such due
2 payment as to any Bond when the City has placed in escrow and in trust with a commercial bank
3 or trust company located within or without the State of New Mexico and exercising trust powers,
4 a cash amount sufficient (including the known minimum yield from Federal Securities in which
5 all or a portion of such amount may initially be invested) to meet all requirements of principal,
6 interest and any applicable prior redemption premium (if any) as the same become due to its
7 maturity date or prior redemption date as to which the City shall have exercised or obligated itself
8 to exercise its option to call such Bond. The Federal Securities shall become due prior to the
9 respective times on which the proceeds thereof shall be needed, in accordance with a schedule
10 established and agreed upon between the City and such bank or trust company at the time of the
11 creation of the escrow or the Federal Securities shall be subject to the redemption at the option of
12 the holders thereof to assure such availability as so needed to meet such schedule. Federal
13 Securities within the meaning of this Section 29 shall include only direct obligations of, or
14 obligations the principal of and interest on which are unconditionally guaranteed by the United
15 States of America and which are not callable prior to maturity by the issuer of such obligations.

16 **Section 30. Delegated Powers.** The officers of the City are hereby authorized and
17 directed to take all action necessary or appropriate to effectuate the provisions of this ordinance,
18 including, without limiting the generality of the foregoing, a reimbursement agreement required
19 in connection with the Reserve Fund Insurance Policy, if applicable, the printing and reprinting of
20 the Bonds, the original and (if necessary) subsequent delivery to the Registrar of a number (as
21 determined by the responsible officer) of fully or partially executed Bonds to be held by the
22 Registrar for use as herein provided, the acquisition of a Reserve Fund Insurance Policy, the
23 execution by the Mayor and City Clerk or their designees, of the Bond Purchase Agreement, the
24 Continuing Disclosure Agreement, and final Official Statement in substantially the forms
25 presented at the meeting at which this ordinance is adopted subject to such changes, corrections

1 and additions as they may determine and such other certificates as may reasonably be required by
2 the Purchaser.

3 **Section 31. Events of Default.** Each of the following events is hereby declared an
4 “event of default”:

5 A. Nonpayment of Principal. If payment of the principal and optional redemption
6 premium, if applicable, of any of the Bonds shall not be made when the same become due and
7 payable, either at maturity, or by proceedings for optional redemption, or otherwise; or

8 B. Nonpayment of Interest. If payment of any installment of interest shall not be
9 made when the same becomes due and payable or within 30 days thereafter; or

10 C. Incapable to Perform. If the City shall for any reason be rendered incapable of
11 fulfilling its obligations hereunder; or

12 D. Default of Any Other Provision. If the City shall default in the due and punctual
13 performance of its covenants or conditions, agreements and provisions contained in the Bonds or
14 in this Ordinance on its part to be performed other than with respect to payment of principal, any
15 prior redemption premium or interest on the Bonds and other than with respect to continuing
16 disclosure, and if such default shall continue for 60 days after written notice specifying such
17 default and requiring the same to be remedied shall have been given to the City by the registered
18 owners of at least 25% in principal amount of the Bonds then outstanding.

19 **Section 32. Remedies of Defaults.** Upon the happening and continuance of any of
20 the events of default as provided in Section 30 of this ordinance, then and in every case the
21 registered owner or owners of not less than 25% in principal amount of the Bonds then
22 outstanding, including but not limited to a trustee or trustees therefor, may proceed against the
23 City, its Council, and its agents, officers and employees to protect and enforce the rights of any
24 registered owner of Bonds under this Ordinance by mandamus or other suit, action or special
25 proceedings in equity or at law, in any court of competent jurisdiction, either for specific

1 performance of any covenant or agreement contained herein or in an award or execution of any
2 power herein granted for the enforcement of any power, legal or equitable remedy as such
3 registered owner or owners may deem most effectual to protect and enforce the rights aforesaid,
4 or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any
5 registered owner, or to require the Council of the City to act as if it were the trustee of an
6 expressed trust, or any combination of such remedies. All such proceedings at law or in equity
7 shall be instituted, had and maintained for the equal benefit of all registered owners of the Bonds
8 then outstanding. The failure of any such registered owner so to proceed shall not relieve the City
9 or any of its officers, agents or employees of any liability for failure to perform any duty. Each
10 right or privilege of any registered owner (or trustee thereof) is in addition and cumulative to any
11 other right or privilege, and the exercise of any right or privilege by or on behalf of any registered
12 owner shall not be deemed a waiver of any other right or privilege thereof.

13 **Section 33. Duties Upon Default.** Upon the happening of any of the events of
14 default as provided in Section 31 hereof, the City, in addition, will do and perform all proper acts
15 on behalf of and for the registered owners of the Bonds to protect and preserve the security
16 created for the payment of the principal of and interest on the Bonds promptly as the same
17 become due. All proceeds derived from the Pledged Revenues, so long as any of the Bonds
18 herein authorized, either as to principal or interest, are outstanding and unpaid, shall be paid into
19 the Bond Fund and used for the purposes therein provided. In the event the City fails or refuses
20 to proceed as in this Section provided, the registered owner or registered owners of not less than
21 25% in principal amount of the Bonds then outstanding, after demand in writing, may proceed to
22 protect and enforce the rights of the registered owners as provided in this Ordinance.

23 **Section 34. Amendment.** This Ordinance may be amended or supplemented by
24 ordinance adopted by the Council in accordance with the laws of the State of New Mexico, as
25 follows:

1 A. Without Consent of the Registered Owners. The City, without the consent of or
2 notice to the registered owners of the Bonds, may adopt an ordinance supplemental hereto
3 (which supplemental ordinance shall thereafter form a part hereof) for any one or more or all of
4 the following purposes:

5 (1) To add to the covenants and agreements in this Ordinance contained
6 other covenants and agreements thereafter to be observed for the protection or benefit of the
7 registered owners of the Bonds; or

8 (2) To cure any ambiguity, to cure, correct or supplement any defect or
9 inconsistent provision contained in this ordinance, or to make any provision with respect to
10 matters arising under this Ordinance or for any other purpose if such provisions are necessary or
11 desirable and do not adversely affect the interests of the owners of the Bonds; or

12 (3) To subject to this Ordinance additional revenues, properties or collateral;
13 or

14 (4) In connection with the issuance of Parity Obligations or Refunding
15 Bonds pursuant to the terms of this Ordinance.

16 B. With Consent of the Registered Owners. The City, without receipt by the City of
17 any additional consideration but with the written consent of the registered owners of 75% of the
18 Bonds outstanding at the time of the adoption of such amendatory or supplemental ordinance also
19 may amend this Ordinance in any other manner not permitted by Subsection A of this Section 34;
20 provided, however, that no such ordinance shall have the effect of permitting an extension of the
21 maturity of any Bond authorized by this ordinance; or

22 (1) A reduction in the principal amount of any Bond, the rate of interest
23 thereon; or

24 (2) The creation of a lien upon or pledge of Pledged Revenues ranking prior
25 to the lien or pledge created by this ordinance; or a reduction of the principal amount of Bonds

1 required for consent to such amendatory or supplemental ordinance; or the establishment of
2 priorities as between Bonds issued and outstanding under the provisions of this Ordinance.

3 **Section 34. Continuing Disclosure.** For the benefit of the owners of the Bonds
4 (including beneficial owners), the City will enter into and comply with all of the provisions
5 of the Continuing Disclosure Agreement; provided, however, that the Continuing Disclosure
6 Agreement may be amended from time to time in accordance with its terms and without
7 action by the Council, the City approval of any such amendment to be evidenced by the
8 signature of the Mayor or, in the absence of the Mayor, the Mayor's designee.
9 Notwithstanding any other provisions of this ordinance, failure of the City to comply with
10 the Continuing Disclosure Agreement shall not be considered an "event of default" under
11 Section 31 hereof, and holders and beneficial owners of Bonds shall be entitled to exercise
12 only such rights with respect thereto as are provided in the Continuing Disclosure
13 Agreement.

14 **Section 35. Enforcement.** Any registered owner of any Bond or Bonds, may,
15 either by law or in equity, by suit, action, mandamus or other appropriate proceedings in any
16 court of competent jurisdiction enforce the payment of and interest on any Bond on or after
17 the date on which such payment is due, and may by suit, action, mandamus or other
18 appropriate proceeding or proceedings enforce and compel the performance of such payment
19 in accordance with the provisions of this Ordinance.

20 **Section 36. Severability.** If any section, paragraph, clause or provision of this
21 Ordinance shall be held to be invalid or unenforceable, the invalidity or unenforceability of such
22 section, paragraph, clause or provision shall not affect any of the remaining provisions of this
23 Ordinance.

24 **Section 37. Repealer Clause.** All ordinances or parts of ordinances inconsistent
25 herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be

1 construed to revive any ordinance or part of any ordinance heretofore repealed.

2 **Section 38. Ordinance Irrepealable.** After any of the Bonds herein authorized are
3 issued, this Ordinance shall be and remain irrepealable until the Bonds and interest thereon shall
4 be fully paid, canceled and discharged as therein provided, or there has been defeasance as
5 provided in Section 28 hereof.

6 **Section 39 Recording, Authentication and Effective Date of Ordinance.** This
7 Ordinance shall be recorded in the ordinance book of the City kept for that purpose, and be
8 authenticated by the signature of the Mayor, as presiding officer of the City, and by signature of
9 the City Clerk. This Ordinance shall be effective five (5) days after its title and general summary
10 thereof (as set forth in Section 40 hereof) has been published in the *Santa Fe New Mexican*, a
11 newspaper published in and maintaining an office in, and having local and general circulation in
12 the City.

13 **Section 40. General Summary for Publication.** Pursuant to Section 3-17-5, NMSA
14 1978, as amended, the title and a general summary of the subject matter contained in this
15 ordinance shall be published in substantially the following form:

16 (Form of Summary of Ordinance for Publication)

17 CITY OF SANTA FE, NEW MEXICO

18 NOTICE OF ADOPTION OF ORDINANCE NO. 2019-2

19 NOTICE IS HEREBY GIVEN of the title and of a general summary of the subject matter
20 contained in Ordinance No. 2019-2 (the "Ordinance"), duly adopted and approved by the City
21 Council of the City of Santa Fe on January 30, 2019. A complete copy of the Ordinance is
22 available for public inspection during the normal and regular business hours of the City Clerk in
23 the office of the City Clerk, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

24 The title of the Ordinance is:

25 **ORDINANCE NO. 2019-2**

1 CONCERNING THE MUNICIPAL WASTEWATER UTILITY SYSTEM OF THE CITY
2 OF SANTA FE, NEW MEXICO (THE "SYSTEM"); PROVIDING FOR THE ISSUANCE
3 OF THE CITY'S NET WASTEWATER UTILITY SYSTEM / ENVIRONMENTAL
4 SERVICES GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES
5 2019, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,525,000 FOR
6 THE EXTENSION, ENLARGEMENT, BETTERMENT, REPAIR AND OTHER
7 IMPROVEMENT OF THE SYSTEM; PROVIDING THAT THE BONDS SHALL BE
8 PAYABLE SOLELY OUT OF THE NET REVENUES DERIVED FROM THE
9 OPERATION OF THE SYSTEM AND THE CITY'S ENVIRONMENTAL SERVICES
10 GROSS RECEIPTS TAX REVENUES; PROVIDING FOR THE ACQUISITION OF A
11 RESERVE FUND INSURANCE POLICY IN CONNECTION WITH THE DEBT
12 SERVICE RESERVE FUND ESTABLISHED IN CONNECTION WITH THE BONDS;
13 PROVIDING FOR THE DISPOSITION OF THE REVENUES DERIVED FROM THE
14 OPERATION OF THE SYSTEM; PROVIDING THE FORM, TERMS AND
15 CONDITIONS OF THE BONDS, THE METHOD OF PAYING THE PRINCIPAL OF
16 AND INTEREST ON THE BONDS AND THE SECURITY THEREFOR; PRESCRIBING
17 OTHER DETAILS CONCERNING THE SYSTEM REVENUES, BONDS AND THE
18 SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN
19 CONNECTION THEREWITH AND WITH FUTURE FINANCING THEREFOR;
20 APPROVING FORMS OF A PRELIMINARY OFFICIAL STATEMENT AND A
21 CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE BONDS;
22 DELEGATING AUTHORITY TO THE MAYOR, CITY MANAGER, AND FINANCE
23 DIRECTOR OF THE CITY TO DETERMINE THE EXACT PRINCIPAL AMOUNTS,
24 MATURITY DATES, INTEREST RATES, PRICES, REDEMPTION FEATURES AND
25 OTHER FINAL TERMS OF THE BONDS PURSUANT TO A PRICING CERTIFICATE;

1 **AMENDING CERTAIN PROVISIONS OF ORDINANCE NO. 2012-6 CONCERNING**
2 **THE ISSUANCE OF ADDITIONAL WASTEWATER SYSTEM REVENUE BONDS;**
3 **RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND**
4 **REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.**

5 A summary of the subject matter of this Ordinance is contained in its title. This notice
6 constitutes compliance with Section 6-14-6 NMSA 1978.

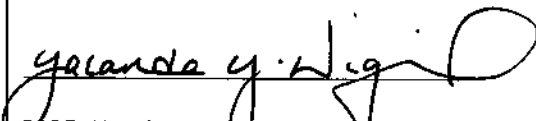
7 (End of Form of Notice of Adoption of Ordinance)

8 PASSED, APPROVED, and ADOPTED this 30th day of January, 2019
9
10

11 

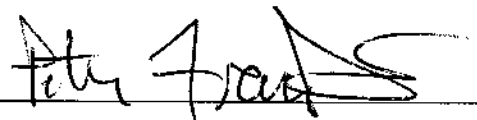
12 ALAN M. WEBBER, MAYOR

13 ATTEST:

14
15 
16 YOLANDA Y. VIGIL, CITY CLERK

17 APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

18 Modrall, Sperling, Roehl, Harris & Sisk, P.A. as Bond Counsel

19 
20

21 PETER FRANKLIN
22
23
24

1 AN ABSTRACT OF PROCEEDINGS

2 STATE OF NEW MEXICO)

3 COUNTY OF SANTA FE) ss.

4 CITY OF SANTA FE)

5 The Governing Body (the "Governing Body") of the City of Santa Fe (the "City") in the
6 County of Santa Fe, State of New Mexico, met in regular session in full conformity with law and
7 ordinances and rules of the City, at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico, being
8 the regular meeting place of the Governing Body, at the hour of 7:00 p.m., on Wednesday, the
9 30th day of January, 2019.

10 Upon roll call the following were found to be present, constituting a quorum of the
11 Governing Body:

12	PRESENT:	Mayor:	<u>Alan Webber</u>
13		Councilor:	<u>Roman Abeyta</u>
14		Councilor:	<u>Michael Harris</u>
15		Councilor:	<u>Peter Ives</u>
16		Councilor:	<u>Signe Lindell</u>
17		Councilor:	<u>Christopher Rivera</u>
18		Councilor:	<u>Carol Romero - Wirth</u>
19		Councilor:	<u>Joanne Vigil Coppler</u>
20		Councilor:	<u>Renee Villarreal</u>

21 ABSENT: _____

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

23 PUBLIC HEARINGS

24 ***

25 CONSIDERATION OF BILL NO. 2018-23

ADOPTION OF ORDINANCE NO. 2019-2

Issuance of Net Wastewater Utility System / Environmental Services Gross Receipts Tax

Improvement Revenue Bonds, Series 2019.