

[\$23,800,000]

TAXABLE REFUNDING LOAN AGREEMENT

dated

_____, 2019

by and between

NEW MEXICO FINANCE AUTHORITY

and

CITY OF SANTA FE, NEW MEXICO

Certain interests of the New Mexico Finance Authority under this Loan Agreement may be assigned to BOKF, NA, as trustee under an Indenture, as defined in Article I of this Loan Agreement.

LOAN AGREEMENT

THIS TAXABLE REFUNDING LOAN AGREEMENT (the "Loan Agreement"), dated _____, 2019, is entered into by and between the **NEW MEXICO FINANCE AUTHORITY** (the "Finance Authority"), and **CITY OF SANTA FE, NEW MEXICO** (the "Governmental Unit"), a political subdivision duly organized and existing under the laws of the State of New Mexico (the "State").

W I T N E S S E T H:

WHEREAS, the Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized and created under and pursuant to the laws of the State, particularly Section 6-21-1 et seq., NMSA 1978, as amended (the "Finance Authority Act"); and

WHEREAS, one of the purposes of the Finance Authority Act is to implement a program to permit qualified entities, such as the Governmental Unit, to enter into agreements with the Finance Authority to facilitate financing of public projects; and

WHEREAS, the Governmental Unit is a political subdivision duly organized and existing under and pursuant to the laws of the State and is a qualified entity under the Finance Authority Act; and

WHEREAS, the Governing Body of the Governmental Unit has determined that it is in the best interests of the Governmental Unit and its residents that the Governmental Unit enter into this Loan Agreement with the Finance Authority and accept a loan from the Finance Authority to finance the refunding and redemption of the Loan Agreement by and between the Finance Authority and the Governmental Unit dated as of _____, 2009 (the "Refunded Loan") which financed the acquisition and improvement of land, buildings and other real property owned by the College of Santa Fe (the "Project") as more fully described on the Term Sheet attached hereto as Exhibit "A"; and

WHEREAS, pursuant to Section 7-1-6.4, NMSA 1978, as amended, the Governmental Unit receives monthly distributions of State-Shared Gross Receipts Tax revenues from the New Mexico Department of Taxation and Revenue equal to one and two hundred twenty-five thousandths percent (1.225%) of the gross receipts of persons engaging in business within the Governmental Unit, which provide for a portion of the Pledged Revenues; and

WHEREAS, the Governmental Unit is authorized by the Act to impose by ordinance the Municipal Gross Receipts Tax and the Municipal Infrastructure Gross Receipts Tax pursuant to Sections 7-19D-9 and 7-19D-11, NMSA 1978, as amended; and

WHEREAS, pursuant to the Act, the Governmental Unit has by the Tax Ordinances imposed the Municipal Gross Receipts Tax and the Municipal Infrastructure Gross Receipts Tax on the gross receipts of all persons engaging in business within the Governmental Unit and does receive the State-Shared Gross Receipts Tax pursuant to Section 7-1-6.4 NMSA 1978, as amended, which provide for a portion of the Pledged Revenues; and

WHEREAS, the Act authorizes the Governmental Unit to use the Pledged Revenues to finance the Project and to enter into this Loan Agreement; and

WHEREAS, the Finance Authority has determined that the Project is important to the overall capital needs of the residents of the State and that the Project will directly enhance the health and safety of the residents of the Governmental Unit by providing interest cost savings to the Governmental Unit; and

WHEREAS, the Governmental Unit has entered into the Intercept Agreement by and between the Finance Authority and the Governmental Unit whereby the Pledged Revenues due to the Governmental Unit from the Distributing State Agency may be intercepted by the Finance Authority, or the Trustee, as its assignee, to make payments due under this Loan Agreement; and

WHEREAS, the Finance Authority may assign and transfer this Loan Agreement to the Trustee pursuant to the Indenture; and

WHEREAS, except as described on the Term Sheet, the Pledged Revenues have not been pledged or hypothecated in any manner or for any purpose at the time of the execution and delivery of this Loan Agreement, and the Governmental Unit desires to pledge the Pledged Revenues toward the payment of this Loan Agreement; and

WHEREAS, the obligation of the Governmental Unit hereunder shall constitute a special, limited obligation of the Governmental Unit, limited to the Pledged Revenues and other legally available special revenues, and shall not constitute a general obligation or other indebtedness of the Governmental Unit or a charge against the general credit or ad valorem taxing power of the Governmental Unit; and

WHEREAS, the execution, performance and delivery of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Governing Body pursuant to the Ordinance; and

WHEREAS, the execution and performance of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Finance Authority and its officers;

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the parties hereto agree:

ARTICLE I DEFINITIONS

Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Loan Agreement unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Loan Agreement including the foregoing recitals, unless the context clearly requires otherwise.

“Act” means the general laws of the State, including Sections 3-31-1 through 3-31-12, Sections 7-1-6.4, 7-1-6.15, 7-1-6.46, 7-19D-9 and 7-19D-11, NMSA 1978, as amended, the Tax

Ordinances, and enactments of the Governing Body relating to this Loan Agreement and the Intercept Agreement, including the Ordinance.

“Additional Payment Obligations” means payments in addition to Loan Agreement Payments required by this Loan Agreement, including, without limitation, payments required pursuant to the provisions of Article IX and Article X hereof.

“Aggregate Annual Debt Service Requirement” means the total principal and interest payments, if any, due and payable pursuant to this Loan Agreement and on all Superior Tax Obligations and Parity Obligations secured by a pledge of the Pledged Revenues for any one Fiscal Year.

“Authorized Officers” means, in the case of the Governmental Unit, the Mayor, Finance Director, Manager and Clerk, and, in the case of the Finance Authority, the Chairman, Vice-Chairman and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

“Bond Closing Date” means the date of delivery and funding of the Bonds.

“Bond Counsel” means nationally recognized bond counsel experienced in matters of municipal law, satisfactory to the Trustee and listed in the list of municipal bond attorneys, as published semiannually by the Bond Buyer’s Municipal Marketplace, or any successor publication.

“Bonds” means public project revolving fund revenue bonds issued by the Finance Authority to fund or reimburse this Loan Agreement.

“Business Day” means a day on which the Trustee is open for the conduct of substantially all of its business operations.

“Closing Date” means the date of execution, delivery and funding of this Loan Agreement as shown on the Term Sheet.

“Event of Default” means one or more events of default as defined in Section 10.1 of this Loan Agreement.

“Expense Fund” means the expense fund created pursuant to the Indenture, to be held and administered by the Trustee to pay Expenses.

“Expenses” means the costs of issuance of the Loan Agreement and the Bonds, if any, and periodic and regular fees and expenses incurred by the Finance Authority in administering this Loan Agreement, including legal fees.

“Finance Authority Debt Service Account” means the debt service account established in the name of the Governmental Unit within the Debt Service Fund, as defined in the Indenture, held and administered by the Finance Authority to pay principal and interest on this Loan Agreement as the same become due.

“Fiscal Year” means the period beginning on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

“Governing Body” means the duly organized City Council of the Governmental Unit and any successor governing body of the Governmental Unit.

“Historic Test Period” means any twelve (12) consecutive calendar months designated by an Authorized Officer of the Governmental Unit from time to time out of the eighteen (18) calendar months next preceding the date of adoption of the Governmental Unit ordinance authorizing the issuance of Parity Obligations without regard to any resolution or ordinance supplementing or amending the authorizing ordinance.

“Indenture” means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

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

“Intercept Agreement” means the Intercept Agreement, dated _____, 2019, between the Governmental Unit and the Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of the Pledged Revenues in amounts sufficient to pay Loan Agreement Payments, and any amendments or supplements to the Intercept Agreement.

“Interest Component” means the portion of each Loan Agreement Payment paid as interest on this Loan Agreement as shown on Exhibit “B” hereto.

“Loan” means the funds in the Loan Agreement Principal Amount to be loaned to the Governmental Unit by the Finance Authority pursuant to this Loan Agreement.

“Loan Agreement” means this loan agreement and any amendments or supplements hereto, including the exhibits attached to this loan agreement.

“Loan Agreement Balance” means, as of any date of calculation, the Loan Agreement Principal Amount less the aggregate principal amount paid or prepaid pursuant to the provisions of this Loan Agreement.

“Loan Agreement Payment” means, collectively, the Principal Component and the Interest Component to be paid by the Governmental Unit as payment of this Loan Agreement as shown on Exhibit “B” hereto.

“Loan Agreement Payment Date” means each date a payment is due on this Loan Agreement as shown on Exhibit “B” hereto.

“Loan Agreement Principal Amount” means the original principal amount of this Loan Agreement as shown on the Term Sheet.

“Loan Agreement Term” means the term of this Loan Agreement as provided under Article III of this Loan Agreement.

“Municipal Gross Receipts Tax Revenues” means the revenues of the one-half of one percent (1/2%) Municipal Gross Receipts Tax imposed by the Governmental Unit pursuant to Ordinance No. 1981-45 and Section 7-19D-9, NMSA 1978, as amended, on the gross receipts of all persons engaging in business within the Governmental Unit.

“Municipal Infrastructure Gross Receipts Tax Revenues” means the revenues of the one-sixteenth of one percent (1/16%) Municipal Infrastructure Gross Receipts Tax imposed by the Governmental Unit pursuant to Ordinance No. 1993-21 and Section 7-19D-11, NMSA 1978, as amended, on the gross receipts of all persons engaging in business within the Governmental Unit.

“NMSA” means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented.

“Ordinance” means the Governmental Unit Ordinance No. 2019-___ adopted by the Governing Body on May 29, 2019 approving the execution and delivery of a Loan Agreement and the Intercept Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments, as supplemented by the Pricing Certificate.

“Parity Obligations” means this Loan Agreement, the 2010B Bonds, the 2012B Bonds, the 2013B Bonds, the 2016C Bonds, the 2016D Bonds, the 2017 Taxable Bonds, the 2018 Gas Tax/Sub. Lien GRT Bonds and any other obligations, now outstanding or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with this Loan Agreement, including those shown on the Term Sheet.

“Permitted Investments” means securities which are at the time legal investments of the Governmental Unit for the money to be invested, as applicable, including but not limited to the following if permitted by law: (i) direct obligations of, or obligations fully guaranteed by the United States of America or instruments evidencing ownership interests in those obligations or in specified portions of the principal of or interest on those obligations; (ii) negotiable securities of the State; (iii) money market funds which invest solely in obligations described in clause (i) above which are rated in the highest rating category by Moody’s Investors Service, Inc., or Standard & Poor’s Ratings Services; and (iv) the State Treasurer’s short-term investment fund created pursuant to Section 6-10-10.1 NMSA 1978, as amended, and operated, maintained and invested by the office of the State Treasurer.

“Pledged Revenues” means (1) the State-Shared Gross Receipts Tax Revenues; (2) the one-half of one percent (1/2%) Municipal Gross Receipts Tax Revenues; (3) the one-sixteenth of one percent (1/16%) Municipal Infrastructure Gross Receipts Tax Revenues; (4) the portion of the gross receipts tax distribution to the Governmental Unit made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax Revenues, Municipal Gross Receipts Tax Revenues and Municipal Infrastructure Gross Receipts Tax Revenues that would have been remitted to the Governmental Unit but for the deductions (effective January 1, 2005) provided by Section 7-9-92 and 7-9-93 NMSA 1978 and any similar distributions made to the Governmental Unit in lieu of State-Shared Gross Receipts Tax Revenues, Municipal Gross Receipts Tax Revenues and Municipal Infrastructure Gross Receipts Tax Revenues pursuant to law; and (5) any other gross receipts tax revenues received by the Governmental Unit, whether from distribution by the State or pursuant to gross receipts taxes imposed by the Governmental Unit, and hereafter (i.e. after the adoption of this Ordinance) pledged to the payment of the Loan by affirmative act of the Governing Body, which distributions are made monthly by the Distributing State Agency.

“Principal Component” means the portion of each Loan Agreement Payment paid as principal on this Loan Agreement as shown on Exhibit “B” hereto.

“Processing Fee” means the processing fee to be paid on the Closing Date by the Governmental Unit to the Finance Authority for the costs of originating and servicing the Loan, as shown on the Term Sheet.

“Program Account” means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of this Loan Agreement for disbursement to the Governmental Unit for payment of the costs of the Project.

“Refunded Loan” means

“Refunding Project” means the refunding and redemption of the outstanding principal of, and interest accrued to the redemption date on, the Refunded Loan, as described on the Term Sheet.

“Santa Fe University of Art and Design” means that certain higher education facility, land and buildings located at 1600 St. Michael’s Drive, Santa Fe, New Mexico.

“State-Shared Gross Receipts Tax Revenues” means the revenues of the State-Shared Gross Receipts Tax distributed to the Governmental Unit pursuant to Section 7-1-6.4, NMSA 1978, as amended.

“Superior Tax Obligations” means the 2012A Bonds, 2013A Bonds, 2014 Bonds, 2016A Bonds, 2016B Bonds, the 2018A Bonds and any additional bonds or other obligations hereafter issued payable from the Pledged Revenues and issued with a lien on the Pledged Revenues superior to the lien thereon of this Loan Agreement.

“Tax Ordinances” means (i) Ordinance No. 1981-45 passed and approved by the Governmental Unit pursuant to the Act on July 8, 1981, with an effective date of January 1, 1982, which imposes a Municipal Local Option Gross Receipts Tax of one-half of one percent (.50%), known as the Municipal Gross Receipts Tax, of the gross receipts of all persons engaging in business within the Governmental Unit and (ii) Ordinance No. 1993-21 passed and approved by the Governmental Unit pursuant to the Act on June 30, 1993, with an effective date of January 1, 1994, which imposes a Municipal Local Option Gross Receipts Tax of one-sixteenth of one percent (.0625%), known as the Municipal Infrastructure Gross Receipts Tax, of the gross receipts of all persons engaging in business within the Governmental Unit.

“Term Sheet” means Exhibit “A” attached hereto.

“Trustee” means BOKF, NA, Albuquerque, New Mexico, or any successor trust company, national or state banking association or financial institution at the time appointed Trustee by the Finance Authority.

“Unassigned Rights” means the rights of the Finance Authority to receive payment of administrative expenses, reports and indemnity against claims pursuant to the provisions of this Loan Agreement which are withheld in the granting clauses of the Indenture from the pledge, assignment and transfer of this Loan Agreement to the Trustee.

“2010B Bonds” means the City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2010B” issued pursuant to Ordinance No. 2010-26 adopted by the Governing Body on November 10, 2010 in an aggregate principal amount of \$10,490,000.

“2012A Bonds” means the City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012A issued pursuant to Ordinance No. 2012-7, adopted by the Governing Body on January 25, 2012 in an aggregate principal amount of \$32,725,000.

“2012B Bonds” means the City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater Systems Refunding Revenue Bonds, Series 2012B issued pursuant to Ordinance No. 2012-6, adopted by the Governing Body on January 25, 2012 in an aggregate principal amount of \$14,280,000.

“2013A Bonds” means the City of Santa Fe, New Mexico Gross Receipts Tax Refunding Revenue Bonds, Series 2013A issued pursuant to Ordinance No. 2013-18, adopted by the Governing Body on June 18, 2013 in an aggregate principal amount of \$10,880,000.

“2013B Bonds” means the City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2013B issued pursuant to Ordinance No. 2013-19, adopted by the Governing Body on May 8, 2013 in an aggregate principal amount of \$13,780,000.

“2014 Bonds” means the City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2014 issued pursuant to Ordinance No. 2014-27, adopted by the Governing Body on August 27, 2014 in an aggregate principal amount of \$15,460,000

“2016A Bonds” means the City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016A issued pursuant to Ordinance No. 2016-21, adopted by the Governing Body on May 25, 2016 in an aggregate principal amount of \$6,700,000.

“2016B Bonds” means the City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016B issued pursuant to Ordinance No. 2016-21, adopted by the Governing Body on May 25, 2016, in an aggregate principal amount of \$21,900,000.

“2016C Bonds” means the City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016C issued pursuant to Ordinance No. 2016-21, adopted by the Governing Body on May 25, 2016, as supplemented by Resolution No. 2016-50 adopted by the Governing Body on June 23, 2016 in an aggregate principal amount of \$9,480,000.

“2016D Bonds” means the City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016D issued pursuant to Ordinance No. 2016-21, adopted by the Governing Body on May 25, 2016, as supplemented by Resolution No. 2016-50 adopted by the Governing Body on June 23, 2016 in an aggregate principal amount of \$2,020,000

“2017 Bonds” means the City of Santa Fe, New Mexico Taxable Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2017 issued pursuant to Ordinance No. 2017-8, adopted by the Governing Body on April 26, 2017 in an aggregate principal amount of \$4,530,000.

“2018 Bonds” means the City of Santa Fe, New Mexico Gasoline Tax/Subordinate Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018 issued pursuant to Ordinance No. 2017-23, adopted by the Governing Body on November 8, 2017 in an aggregate principal amount of \$10,290,000.

“2018A Bonds” means the City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018A issued pursuant to Ordinance No. 2018-25,

adopted by the Governing Body on October 31, 2018 in an aggregate principal amount of \$20,000,000.

ARTICLE II
REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1 Representations, Covenants and Warranties of the Governmental Unit.
The Governmental Unit represents, covenants and warrants:

(a) Binding Nature of Covenants. All covenants, stipulations, obligations and agreements of the Governmental Unit contained in this Loan Agreement shall be deemed to be the covenants, stipulations, obligations and agreements of the Governmental Unit to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Governmental Unit and its successors and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Loan Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Governmental Unit by the provisions of this Loan Agreement and the Ordinance shall be exercised or performed by the Governmental Unit or by such members, officers, or officials of the Governmental Unit as may be required by law to exercise such powers and to perform such duties.

(b) Personal Liability. No covenant, stipulation, obligation or agreement contained in this Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Governmental Unit or member of the Governing Body in his or her individual capacity, and neither the members of the Governing Body nor any officer, agent or employee of the Governmental Unit, shall be liable personally on this Loan Agreement or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

(c) Authorization of Loan Agreement and Intercept Agreement. The Governmental Unit is a political subdivision of the State and is duly organized and existing under its home-rule charter and the statutes and laws of the State. Pursuant to the Act, as amended and supplemented from time to time, the Governmental Unit is authorized to enter into the transactions contemplated by this Loan Agreement and the Intercept Agreement and to carry out its obligations hereunder and thereunder. The Governmental Unit has duly authorized and approved the execution and delivery of this Loan Agreement, the Intercept Agreement and the other documents related to the transaction.

(d) Use of Loan Agreement Proceeds. The Governmental Unit shall proceed without delay in applying the proceeds of this Loan Agreement to the Refunding Project and shall expend the proceeds for this purpose on the Closing Date, or within [30] days thereof.

(e) Payment of Loan Agreement. The Governmental Unit shall promptly pay Loan Agreement Payments, as specified in Exhibit “B” hereto, according to the true intent and meaning of this Loan Agreement. Loan Agreement Payments are payable solely from Pledged Revenues or from the proceeds of refunding bonds or other refunding obligations which the Governmental Unit may hereafter issue in its sole discretion and which are payable from Pledged Revenues; and nothing in this Loan Agreement shall be construed as obligating the Governmental Unit to pay Loan Agreement Payments from any general or other fund of the Governmental Unit other than such special funds. Nothing contained in this Loan Agreement, however, shall be construed as prohibiting the Governmental Unit in its sole and absolute discretion, from making such payments from any moneys which may be lawfully used, and which are legally available, for that purpose.

(f) Completion of Refunding Project. The Refunding Project will consist of refunding, redeeming and paying the outstanding principal amount of the Refunded Loan and interest accrued thereon to the date of redemption.

(g) Necessity of Refunding Project. The Refunding Project under the terms and conditions provided for in this Loan Agreement is necessary, convenient and in furtherance of the governmental purposes of the Governmental Unit and is in the best interest of the Governmental Unit and its residents.

(h) Legal, Valid and Binding Special Obligation. The Governmental Unit has taken all required action necessary to authorize the execution and delivery of this Loan Agreement and the Intercept Agreement, and this Loan Agreement and the Intercept Agreement constitute legal, valid and binding special obligations of the Governmental Unit enforceable in accordance with their terms.

(i) Loan Agreement Term. The Loan Agreement Term does not exceed the remaining useful life of the Project.

(j) Use of Project. During the Loan Agreement Term, the Project will at all times be used for the benefit of the Governmental Unit as a whole and its citizens.

(k) No Excess Loan Agreement Proceeds. The amount loaned to the Governmental Unit under this Loan Agreement as set forth on the Term Sheet does not exceed the sum of (i) the cost of the Project and (ii) an amount necessary to pay the costs related to execution and delivery of this Loan Agreement and to issuance of the Bonds.

(l) No Breach or Default Caused by Loan Agreement or Intercept Agreement. Neither the execution and delivery of this Loan Agreement and the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions in this Loan Agreement and the Intercept Agreement, nor the consummation of the transactions contemplated herein and therein, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the Governmental Unit is a party or by which the Governmental Unit is bound or any laws,

ordinances, governmental rules or regulations or court or other governmental orders to which the Governmental Unit or its properties are subject, or constitutes a default under any of the foregoing.

(m) Irrevocable Enactments. While this Loan Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for the payment of this Loan Agreement, including the Ordinance, shall be irrevocable until this Loan Agreement has been paid in full as to both principal and interest, and shall not be subject to amendment or modification in any manner which would in any way jeopardize the timely payment of Loan Agreement Payments.

(n) Outstanding Debt. Except for the Parity Obligations and Superior Tax Obligations, if any, described on the Term Sheet, there are currently no outstanding bonds, notes or other obligations of the Governmental Unit which are payable from and secured by a parity or superior lien on the Pledged Revenues.

Additional indebtedness, bonds or notes of the City may be issued with a lien on parity with the lien of the Superior Tax Obligations on the Pledged Revenues in accordance with the terms and conditions set forth in the ordinances authorizing the issuance of the Superior Tax Obligations and notwithstanding any other provision of this Loan Agreement, such additional indebtedness, bonds or notes may be secured by a lien on the Pledged Revenues superior to the lien of this Loan Agreement on the Pledged Revenues as set forth in Section 5.5 below.

Additional indebtedness, bonds or notes of the City may be issued with a parity lien, but not necessarily an exclusive parity lien, with the lien of the Parity Obligations, on the Pledged Revenues as set forth in Section 5.5 below.

(o) No Litigation. To the knowledge of the Governmental Unit, no litigation or proceeding is pending or threatened against the Governmental Unit or any other person affecting the right of the Governmental Unit to execute or deliver this Loan Agreement or the Intercept Agreement to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither the execution and delivery of this Loan Agreement or the Intercept Agreement by the Governmental Unit nor compliance by the Governmental Unit with the obligations under such agreements, requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(p) No Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Loan Agreement, would constitute an Event of Default on the part of the Governmental Unit under this Loan Agreement or the Intercept Agreement.

(q) Pledged Revenues Not Budgeted. The portion of the Pledged Revenues necessary to pay the Loan Agreement Payments, as and when due, are not needed or

budgeted to pay current or anticipated operational or other expenses of the Governmental Unit.

(r) Expected Coverage Ratio. The Pledged Revenues from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed two hundred percent (200%) of the maximum Aggregate Annual Debt Service Requirement.

(s) No Extension of Interest Payments. There shall be no extension of the time for paying any interest on this Loan Agreement.

(t) Governmental Unit's Existence. The Governmental Unit will maintain its corporate identity and existence so long as this Loan Agreement is unpaid, unless another political subdivision by operation of law succeeds to the liabilities and rights of the Governmental Unit without adversely affecting to any substantial degree the privileges and rights of the Finance Authority.

(u) Continuing Disclosure. The Governmental Unit covenants that it shall provide continuing disclosure to the Finance Authority, as the Finance Authority may require, that shall include, but not be limited to: annual audits, operational data required to update information in any disclosure documents used to assign or securitize the Loan Agreement Payments by issuance of Bonds by the Finance Authority pursuant to the Indenture, and notification of any event deemed material by the Finance Authority.

(v) Right to Inspect. The Finance Authority and the Trustee shall have the right to inspect, at all reasonable times, all records, accounts and data relating to the Project and to inspect the Project.

(w) Audits. The Governmental Unit further agrees that, except where the State Auditor of the State performs the audit or where the due date for the audit has been postponed as may otherwise be required by the State Auditor or any other State office or agency with appropriate authority, it will, within one hundred eighty (180) days following the close of each Fiscal Year, cause an audit of the books and accounts of the Governmental Unit to be made by an Independent Accountant. Each audit of the Governmental Unit shall include those matters determined to be proper by the Independent Accountant. Each audit will be available for inspection by the Finance Authority. The Governmental Unit will provide the Finance Authority with a copy of each audit promptly upon the request of the Finance Authority. All expenses incurred in the making of the audits and reports required by this Section shall be paid by the Governmental Unit.

(x) Second Supplemental Resolution. The Governmental Unit agrees and covenants that it will adopt a Second Supplemental Resolution before the Bond Closing Date, approving the Final Interest Rates.

Section 2.2 Representations, Covenants and Warranties of the Finance Authority. The Finance Authority represents, covenants and warrants for the benefit of the Governmental Unit as follows:

(a) Authorization of Loan Agreement and Intercept Agreement. The Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized, existing and in good standing under the laws of the State, has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Loan Agreement and the Intercept Agreement and, by proper action, has duly authorized the execution and delivery of this Loan Agreement and the Intercept Agreement.

(b) Assignment of Rights. The Finance Authority may not pledge or assign the Pledged Revenues, the Loan Agreement Payments or any of its other rights under this Loan Agreement and the Intercept Agreement except to the Trustee pursuant to the Indenture.

(c) No Breach or Default Caused by Loan Agreement or Intercept Agreement. Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement or the Intercept Agreement, nor the consummation of the transactions contemplated in this Loan Agreement or the Intercept Agreement, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Finance Authority is a party or by which the Finance Authority is bound or constitutes a default under any of the foregoing and will not conflict with or constitute a violation of any constitutional or statutory provision or order, rule, regulation, decree, ordinance or resolution of any court, government or governmental authority having jurisdiction over the Finance Authority or its property and which conflict or violation will have a material adverse effect on the Finance Authority or the financing of the Project.

(d) No Litigation. To the knowledge of the Finance Authority, there is no litigation or proceeding pending or threatened against the Finance Authority or any other person affecting the right of the Finance Authority to execute or deliver this Loan Agreement or the Intercept Agreement or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither the execution and delivery of this Loan Agreement or the Intercept Agreement by the Finance Authority, nor compliance by the Finance Authority with its obligations under this Loan Agreement and the Intercept Agreement requires the approval of any regulatory body, or any other entity, which approval has not been obtained.

(e) Legal, Valid and Binding Obligations. This Loan Agreement and the Intercept Agreement constitute the legal, valid and binding obligations of the Finance Authority enforceable in accordance with their terms.

(f) Reimbursement of Amount Loaned. The Finance Authority intends to reimburse the public project revolving fund (as defined in the Finance Authority Act) for the amount of the Loan from the proceeds of the Bonds.

(g) Compliance with Securities Laws. The Finance Authority acknowledges that no offering document or prospectus has been prepared by the Governmental Unit with respect to this Loan Agreement. The Finance Authority is a sophisticated accredited investor regularly making loans and purchasing securities similar to this Loan Agreement and has been provided with and has reviewed such information as it deems relevant in making its decision to make the Loan to the Governmental Unit. Other than the pledge to the Trustee described above, the Finance Authority will not sell, pledge, transfer, convey, hypothecate, mortgage or dispose of the Loan Agreement, or any portion thereof, except to persons who have been provided sufficient information with which to make an informed investment decision regarding the Loan Agreement and in compliance with the Securities Act of 1933, as amended, the regulations promulgated thereunder and applicable state securities laws and regulations.

(h) Finance Authority Compliance with Policies. As related to this Loan Agreement, the Finance Authority has complied with all policies and procedures as adopted and approved by the Finance Authority Board of Directors, or such policies have been waived by the Finance Authority Board of Directors.

ARTICLE III LOAN AGREEMENT TERM

The Loan Agreement Term shall commence on the Closing Date and shall not terminate until this Loan Agreement has been paid in full or provision for the payment of this Loan Agreement has been made pursuant to Article VIII hereof. The Loan Agreement Term shall not exceed thirty (30) years.

ARTICLE IV LOAN; APPLICATION OF MONEYS; INTEREST RATE

On the Closing Date, the Finance Authority shall transfer the Loan Agreement Principal Amount as follows:

(a) To the Trustee, the amount shown on the Term Sheet as the Program Account deposit shall be deposited into the Governmental Unit's Program Account to be maintained by the Trustee pursuant to the Indenture and disbursed pursuant to Section 6.2 hereof at the direction of the Governmental Unit as needed by the Governmental Unit for the Project; and

(b) To the Finance Authority, the amount shown on the Term Sheet as the Finance Authority Debt Service Account deposit shall be deposited into the Finance Authority Debt Service Account to be maintained by the Finance Authority or its assignee and utilized as provided in Section 5.2 hereof; and

(c) To the Finance Authority, payment in the amount shown on the Term Sheet as the Processing Fee.

ARTICLE V
LOAN TO THE GOVERNMENTAL UNIT;
PAYMENTS BY THE GOVERNMENTAL UNIT

Section 5.1 Loan to the Governmental Unit; Payment Obligations Limited to Pledged Revenues; Pledge of Pledged Revenues. The Finance Authority hereby lends to the Governmental Unit and the Governmental Unit hereby borrows from the Finance Authority an amount equal to the Loan Agreement Principal Amount. The Governmental Unit promises to pay, but solely from the sources pledged herein, the Loan Agreement Payments as herein provided. The Governmental Unit does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right, title and interest of the Governmental Unit in and to: (i) the Pledged Revenues to the extent required to pay the Loan Agreement Payments on parity with the Parity Obligations; (ii) the Finance Authority Debt Service Account, such account being held by the Finance Authority; (iii) the Program Account, such account being held by the Trustee; and (iv) all other rights hereinafter granted, for the securing of the Governmental Unit's obligations under this Loan Agreement, including payment of the Loan Agreement Payments and Additional Payment Obligations; provided, however, that if the Governmental Unit, its successors or assigns, shall well and truly pay, or cause to be paid, all Loan Agreement Payments at the time and in the manner contemplated by this Loan Agreement, then, upon such final payment or provision for payment by the Governmental Unit, this Loan Agreement and the rights created thereby shall terminate; otherwise, this Loan Agreement shall remain in full force and effect. The Loan Agreement Payments shall, in the aggregate, be sufficient to pay the Principal Component and the Interest Component when due, the payment schedule of which is attached hereto as Exhibit "B."

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Closing Date. The Governmental Unit and the Finance Authority acknowledge and agree that the Loan Agreement Payments of the Governmental Unit hereunder are limited to the Pledged Revenues, and that this Loan Agreement shall constitute a special, limited obligation of the Governmental Unit. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Governmental Unit within the meaning of any constitutional or statutory debt limitation. No provision of this Loan Agreement shall be construed to pledge or to create a lien on any class or source of Governmental Unit moneys other than the Pledged Revenues, nor shall any provision of this Loan Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Governmental Unit moneys other than the Pledged Revenues. In addition, to the extent not required for the payment of obligations of the Governmental Unit hereunder, the Pledged Revenues may be utilized by the Governmental Unit for any other purposes permitted by law.

Section 5.2 Payment Obligations of Governmental Unit. As provided in the Intercept Agreement, the Distributing State Agency shall cause to be transferred from the Pledged Revenues, the amounts provided in subsections (a)(i) and (ii) of this Section 5.2 for deposit into the Finance Authority Debt Service Account. The Finance Authority Debt Service Account shall be established and held by the Finance Authority on behalf of the Governmental Unit. All

Pledged Revenues received by the Finance Authority pursuant to this Section 5.2 shall be accounted for and maintained on an ongoing basis by the Finance Authority in the Finance Authority Debt Service Account and all Loan Agreement Payments shall be remitted to the Trustee. The amounts on deposit in the Finance Authority Debt Service Account shall be expended and used by the Finance Authority only in the manner and order of priority specified below.

(a) As a first charge and lien, but not an exclusive first charge and lien, on the Pledged Revenues (on a parity with the lien on the Pledged Revenues created by any outstanding Parity Obligations), the Governmental Unit shall remit to the Finance Authority and the Finance Authority shall transfer and deposit into the Finance Authority Debt Service Account the following from the Pledged Revenues received pursuant to the Intercept Agreement from the Governmental Unit which the Finance Authority shall transfer to the Trustee in accordance with the Indenture:

(i) Interest Components. (A) Monthly, beginning on the first day of the second month following the Closing Date, an amount in equal monthly installments which is necessary to pay the first maturing Interest Component coming due on this Loan Agreement (which is due November 1, 2019); and (B) on the first day of each month thereafter, one-sixth (1/6) of the amount necessary to pay the next maturing Interest Component on this Loan Agreement as described in Exhibit "B".

(ii) Principal Payments. (A) Monthly, beginning on the first day of the second month following the Closing Date, an amount in equal monthly installments which is necessary to pay the first maturing Principal Component (which is May 1, 2020); and (B) on the first day of each month thereafter, one-twelfth (1/12) of the amount which is necessary to pay the next maturing Principal Component on this Loan Agreement during the Loan Agreement Term, as described in Exhibit "B".

(b) Each Loan Agreement Payment shall be transferred by the Finance Authority from the Finance Authority Debt Service Account to the Trustee.

(c) Subject to the foregoing deposits, the Finance Authority or the Trustee shall annually use the balance of the Pledged Revenues received, if any, at the request of the Governmental Unit: (i) to credit against upcoming Loan Agreement Payments; or (ii) to distribute to the Governmental Unit for any purpose permitted by law.

Section 5.3 Manner of Payment. All payments of the Governmental Unit hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 herein, for remittance to the Trustee. The obligation of the Governmental Unit to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Governmental Unit, the Finance Authority, the Trustee, any vendor or any other person, the Governmental Unit shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and

shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Governmental Unit assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

Section 5.4 Disposition of Payments by the Trustee. The Trustee shall deposit all moneys received from the Finance Authority under this Loan Agreement in accordance with the Indenture.

Section 5.5 Additional Superior Tax Obligations and Parity Obligations.

(a) Limitations Upon Issuance of Additional Superior Tax Obligations. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Superior Tax Obligations payable from Pledged Revenues and constituting a lien upon such Pledged Revenues prior and superior to the lien thereon of this Loan Agreement. Before any additional Superior Tax Obligations are issued, the conditions, if any, set forth in the ordinances authorizing the issuance of Superior Tax Obligations must be satisfied.

(b) Limitations Upon Issuance of Additional Parity Obligations. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Parity Obligations payable from Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this Loan Agreement; provided, however, that before any additional Parity Obligations are actually issued (excluding refunding bonds the proceeds of which are used to refund Parity Obligations, as provided in Section 5.6, but including Parity Obligations which are refunding bonds which refund subordinate obligations), the following conditions shall be met:

(i) The Governmental Unit shall then be current in all of the deposits required to be made with respect to Parity Obligations (including, if applicable, any obligation to fund any reserve account required by the terms of any ordinance authorizing the issuance of any such Parity Obligations); and

(ii) No default shall exist in connection with any of the covenants or requirements of the Ordinance or this Loan Agreement; and

(iii) (A) No additional Parity Obligations shall be issued unless Pledged Revenues received for the Historic Test Period shall have been sufficient to pay an amount representing at least two hundred percent (200%) of the combined maximum Aggregate Annual Debt Service Requirements coming due in any subsequent Fiscal Year on the Bonds, on the then outstanding Superior Tax Obligations and Parity Obligations, and the additional Parity Obligations proposed to be issued (excluding any reserves therefor); and

(B) In making the computations required by this subparagraph (ii) other gross receipts tax revenues, including without limitation, the Environmental Services Gross Receipts Tax Revenues, received by the Governmental Unit, whether from distribution by the State or pursuant to gross receipts taxes imposed by the Governmental Unit (other than State-

shared Gross Receipts Tax Revenues) pledged to the Superior Tax Obligations, Parity Obligations, and the Parity Obligations proposed to be issued, may be included only to the extent such gross receipts tax revenues are pledged to a particular series of such outstanding obligations or proposed Parity Obligations and only to the extent of the maximum Aggregate Annual Debt Service Requirements on such outstanding obligations or proposed Parity Obligations.

(c) Subordinate Obligations Permitted. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional obligations payable from the Pledged Revenues with a lien thereon subordinate and junior to the lien thereon of this Loan Agreement, nor to prevent the issuance of obligations refunding all or part of the obligations as permitted by section 5.6 of this Loan Agreement.

(d) Certificate of Chief Financial Officer. A written certificate or opinion of the chief financial officer of the Governmental Unit that the Pledged Revenues for the applicable Historic Test Period are sufficient to pay the amounts required in this Section shall be required in making a determination that the requirements set forth in this Section have been satisfied and shall be conclusively presumed to be accurate in determining that such requirements have been satisfied.

Section 5.6 Refunding Obligations. The provisions of Section 5.5 hereof are subject to the following exceptions:

(a) If at any time after the Closing Date, while this Loan Agreement, or any part thereof, is outstanding, the Governmental Unit shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged Revenues, this Loan Agreement, such bonds or other obligations, or any part thereof, may be refunded (but the holders of this Loan Agreement or bonds to be refunded may not be compelled to surrender this Loan Agreement or their bonds, unless this Loan Agreement, the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the Governmental Unit's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as provided in subparagraph (c) of Section 5.5 hereof and in subparagraphs (b) and (c) of this Section.

(b) No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with this Loan Agreement unless:

(i) The outstanding obligations so refunded are Parity Obligations and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof.

(c) The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged Revenues with the portion of this Loan Agreement or any bonds

or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of this Loan Agreement or the bonds or other obligations of the same issue refunded thereby. If only a part of this Loan Agreement or the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:

(i) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof; or

(iii) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

(d) Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the Governmental Unit may provide by ordinance or resolution, but without any impairment of any contractual obligations imposed upon the Governmental Unit by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, this Loan Agreement).

Section 5.7 Investment of Governmental Unit Funds. Investment of Governmental Unit Funds. Money on deposit in the Finance Authority Debt Service Account established by the Finance Authority for the Governmental Unit shall be invested by the Finance Authority in Permitted Investments chosen at the discretion of the Finance Authority. Money on deposit in the Program Account held by the Trustee and created hereunder shall be invested by the Trustee in Permitted Investments at the written direction of the Finance Authority or at the discretion of the Trustee. Any earnings on amounts in said account shall be held and administered in the account and utilized in the same manner as the other moneys on deposit therein.

Section 5.8 Governmental Unit May Budget for Payments. The Governmental Unit may, in its sole discretion, but without obligation and subject to the Constitution of the State, governing laws, and its budgetary requirements, make available properly budgeted and legally available funds to defray any insufficiency of Pledged Revenues to pay Loan Agreement Payments; provided, however, the Governmental Unit has not covenanted and cannot covenant to make such funds available and has not pledged any of such funds for such purpose.

ARTICLE VI THE REFUNDING PROJECT

Section 6.1 Agreement to Complete Refunding Project. The Governmental Unit hereby agrees that to effectuate the purposes of this Loan Agreement and to effectuate the completion of the Project, it shall make, execute, acknowledge and transmit any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and, in general, do all things which may be requisite or proper to complete the Refunding Project.

The Governmental Unit agrees to complete the Project through the application of moneys to be disbursed from the Program Account pursuant to Section 6.2 of this Loan Agreement.

Section 6.2 Disbursements From the Program Account. So long as no Event of Default shall occur, the Trustee shall disburse moneys from the Program Account in accordance with Section 6.2 of the Indenture upon receipt by the Trustee of a requisition substantially in the form of Exhibit "C" attached hereto signed by an Authorized Officer of the Governmental Unit.

Section 6.3 Completion of the Refunding Project. Within thirty (30) days after completion of the Project, an Authorized Officer of the Governmental Unit shall deliver a certificate to the Finance Authority and the Trustee stating that, to his or her knowledge the Project has been completed and accepted by the Governmental Unit, and all costs have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 6.4 Application of Loan Agreement Proceeds Subsequent to Completion of the Refunding Project. Upon completion of the Refunding Project as signified by delivery of the completion certificate contemplated in Section 6.3 hereof or in the event that the Finance Authority and the Trustee shall not have received a certificate of completion as required by Section 6.3 hereof, the Trustee shall transfer the amounts remaining in the Program Account (except amounts necessary for payment of amounts not then due and payable) to the Finance Authority Debt Service Account and such amounts shall be used for the payment of Loan Agreement Payments.

ARTICLE VII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

Section 7.1 Further Assurances and Corrective Instruments. The Finance Authority and the Governmental Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues, or for otherwise carrying out the intention hereof.

Section 7.2 Finance Authority and Governmental Unit Representatives. Whenever under the provisions hereof the approval of the Finance Authority or the Governmental Unit is required, or the Governmental Unit or the Finance Authority is required to take some action at the request of the other, such approval or such request shall be given for the Finance Authority or

for the Governmental Unit by an Authorized Officer of the Finance Authority or the Governmental Unit, as the case may be, and any party hereto shall be authorized to act on any such approval or request.

Section 7.3 Requirements of Law. During the Loan Agreement Term, the Governmental Unit and the Finance Authority shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the parties hereto, to the extent such orders relate to or govern the Project or the Pledged Revenues.

Section 7.4 Lien; Equality of Liens. The Loan Agreement Payments constitute an irrevocable second lien (but not necessarily an exclusive second lien) upon the Pledged Revenues. The Governmental Unit covenants that the Loan Agreement Payments and any Parity Obligations herein authorized to be issued and from time to time outstanding shall be equitably and ratably secured by a second lien on the Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Pledged Revenues regardless of the time or times of the issuance of such obligations, it being the intention of the Governmental Unit that there shall be no priority between the Loan Agreement Payments and any such Parity Obligations regardless of the fact that they may be actually issued and delivered at different times.

Section 7.5 Expeditious Acquisition. The Governmental Unit shall acquire and complete the Project with all practical dispatch.

ARTICLE VIII PREPAYMENT OF LOAN AGREEMENT PAYMENTS

Section 8.1 Prepayment. The Governmental Unit is hereby granted the option to prepay the Principal Component of this Loan Agreement in whole or in part on any day on or after ten (10) years following the Closing Date without penalty or prepayment premium. The Governmental Unit may designate the due dates of the Principal Component being prepaid in the event of a partial prepayment. Notice of intent to make such prepayment shall be provided to the Finance Authority and the Trustee by the Governmental Unit no less than forty-five (45) days prior to the prepayment date. The Trustee shall recalculate the Loan Agreement Payments due under this Loan Agreement in the event of a partial prepayment in a manner which is consistent with the manner in which the Bonds, if any, are prepaid.

Section 8.2 Defeasance. Should the Governmental Unit pay or make provision for payment of the Loan such that all amounts due pursuant to this Loan Agreement shall be deemed to have been paid and defeased, then the Loan Agreement Payments hereunder shall also be deemed to have been paid, the Governmental Unit's payment obligations hereunder shall be terminated, this Loan Agreement and all obligations contained herein shall be discharged and the pledge hereof released. Such payment shall be deemed made when the Governmental Unit has deposited with an escrow agent, in trust, (i) moneys sufficient to make such payment, and/or (ii) noncallable Government Obligations maturing as to principal and interest in such amount and at such times as will ensure the availability of sufficient moneys to make such payment and when all necessary and proper expenses of the Finance Authority have been paid or provided for. In

the event the Governmental Unit makes provisions for defeasance of this Loan Agreement, the Governmental Unit shall cause to be delivered (1) a report of an independent nationally recognized certified public accountant verifying the sufficiency of the escrow established to pay this Loan Agreement in full when due or upon an irrevocably designated prepayment date, and (2) an opinion of Bond Counsel to the effect that this Loan Agreement is no longer outstanding, each of which shall be addressed and delivered to the Finance Authority. Government Obligations with the meaning of this Section 8.2, unless otherwise approved by the Finance Authority, shall include only (1) cash, (2) United States Treasury Certificates, Notes and Bonds (including State and Local Government Series (“SLGs”), and (3) obligations the principal and interest on which are unconditionally guaranteed by the United States of America.

ARTICLE IX INDEMNIFICATION

From and to the extent of the Pledged Revenues, to the extent permitted by law, the Governmental Unit shall and hereby agrees to indemnify and save the Finance Authority and the Trustee harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition and completion of the Project during the Loan Agreement Term, from: (i) any act of negligence or other misconduct of the Governmental Unit or breach of any covenant or warranty by the Governmental Unit hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition and completion of the Project in excess of the Loan Agreement proceeds and interest on the investment thereof. The Governmental Unit shall indemnify and save the Finance Authority and the Trustee harmless, from and to the extent of available Pledged Revenues, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or the Trustee, shall defend the Finance Authority or the Trustee, as applicable, in any such action or proceeding.

ARTICLE X EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined. Any one of the following shall be an “Event of Default” under this Loan Agreement:

(a) Failure by the Governmental Unit to pay any amount required to be paid under this Loan Agreement on the date on which it is due and payable;

(b) Failure by the Governmental Unit to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a), for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the Governmental Unit by the Finance Authority or the Trustee unless the Finance Authority and the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Finance Authority or the Trustee but

cannot be cured within the applicable thirty (30) day period, the Finance Authority and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Governmental Unit within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Governmental Unit is unable to carry out the agreements on its part herein contained, the Governmental Unit shall not be deemed in default under this paragraph (b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default);

(c) Any warranty, representation or other statement by or on behalf of the Governmental Unit contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is false or misleading in any material respect;

(d) A petition is filed against the Governmental Unit under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests;

(e) The Governmental Unit files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(f) The Governmental Unit admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Governmental Unit for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests.

Section 10.2 Remedies on Default. Whenever any Event of Default has occurred and is continuing and subject to Section 10.3 hereof, the Finance Authority or the Trustee may take any or all of the following actions as may appear necessary or desirable to collect the payments then due and to become due or to enforce performance of any agreement of the Governmental Unit in this Loan Agreement or the Intercept Agreement:

(a) By mandamus or other action or proceeding or suit at law or in equity to enforce the rights of the Finance Authority and the Trustee under this Loan Agreement and the Intercept Agreement against the Governmental Unit, and compel the

Governmental Unit to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or

(b) By suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Finance Authority or the Trustee; or

(c) Intervene in judicial proceedings that affect this Loan Agreement or the Pledged Revenues; or

(d) Cause the Governmental Unit to account as if it were the trustee of an express trust for all of the Pledged Revenues; or

(e) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts then due and thereafter to become due under this Loan Agreement or to enforce any other of its rights thereunder; or

(f) Apply any amounts in the Program Account toward satisfaction of any of the obligations of the Governmental Unit under this Loan Agreement.

Section 10.3 Limitations on Remedies. A judgment requiring a payment of money entered against the Governmental Unit may reach only available Pledged Revenues.

Section 10.4 No Remedy Exclusive. Subject to Section 10.3 hereof, no remedy herein conferred upon or reserved to the Finance Authority or the Trustee is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Finance Authority or the Trustee to exercise any remedy reserved in this Article X, it shall not be necessary to give any notice, other than such notice as may be required in this Article X.

Section 10.5 Waivers of Events of Default. The Finance Authority or the Trustee may in its discretion waive by written waiver any Event of Default hereunder and the consequences of such an Event of Default provided, however, that there shall not be waived: (i) any Event of Default in the payment of the principal of this Loan Agreement at the date when due as specified herein; or (ii) any default in the payment when due of the interest on this Loan Agreement, unless prior to such waiver, all arrears of interest, with interest at the rate borne by this Loan Agreement on all arrears of payments of principal and all expenses of the Finance Authority or the Trustee, in connection with such Event of Default shall have been paid or provided for, and in case of any such waiver, or in case any proceeding taken by the Finance Authority or the Trustee on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Finance Authority and the Trustee shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 10.6 No Additional Waiver Implied by One Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by the

other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Governmental Unit shall default under any of the provisions hereof and the Finance Authority or the Trustee shall employ attorneys or incur other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Governmental Unit herein contained, the Governmental Unit agrees that it shall on demand therefor pay to the Finance Authority or the Trustee, as applicable, the fees of such attorneys and such other expenses so incurred, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Governmental Unit under this Section shall be limited to expenditures from and to the extent of available Pledged Revenues.

ARTICLE XI MISCELLANEOUS

Section 11.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows: if to the Governmental Unit, City of Santa Fe, 200 Lincoln Avenue, Santa Fe, New Mexico 87501, Attention: Finance Director; if to the Finance Authority, New Mexico Finance Authority, 207 Shelby Street, Santa Fe, New Mexico 87501, Attention: Chief Executive Officer; and if to the Trustee, BOKF, NA, 100 Sun Avenue N.E., Suite 500, Albuquerque, New Mexico, Attention: Trust Division. The Governmental Unit, the Finance Authority, and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.2 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Finance Authority, the Governmental Unit and their respective successors and assigns, if any.

Section 11.3 Amendments. This Loan Agreement may be amended only with the written consent of the Finance Authority and the Governmental Unit.

Section 11.4 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Finance Authority, either directly or through the Finance Authority, or against any officer, employee, director, trustee or member of the Governmental Unit, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director, trustee or member of the Governmental Unit or of the Finance Authority is hereby expressly waived and released by the Governmental Unit and by the Finance Authority as a condition of and in consideration for the execution of this Loan Agreement.

Section 11.5 Severability. In the event that any provision of this Loan Agreement, other than the requirement of the Governmental Unit to pay hereunder, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.6 Execution in Counterparts. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7 Assignment by the Finance Authority. Pursuant to the Indenture, this Loan Agreement and the Intercept Agreement may be assigned and transferred by the Finance Authority to the Trustee, which assignment and transfer is hereby acknowledged and approved by the Governmental Unit.

Section 11.8 Compliance with Governing Law. It is hereby declared by the Governing Body that it is the intention of the Governmental Unit by the execution of this Loan Agreement to comply in all respects with the provisions of the New Mexico Constitution and statutes as the same govern the pledge of the Pledged Revenues to payment of all amounts payable under this Loan Agreement.

Section 11.9 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.10 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

(Remainder of page intentionally left blank)
(Signature pages follow)

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself and as approved by the Board of Directors of the Finance Authority on _____, 2019, has executed this Taxable Loan Agreement in its corporate name with its corporate seal hereunto affixed and attested by its duly authorized officers; and the Governmental Unit has caused this Loan Agreement to be executed in its corporate name and the seal of the Governmental Unit affixed and attested by its duly authorized officers. All of the above are effective as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By _____
John Gasparich, Chair

[SEAL]

Attest:

By _____
_____, Secretary

PREPARED FOR EXECUTION BY OFFICERS
OF THE NEW MEXICO FINANCE AUTHORITY:
Sutin, Thayer & Browne A Professional Corporation
As Bond Counsel

By: _____

APPROVED FOR EXECUTION BY OFFICERS OF
THE NEW MEXICO FINANCE AUTHORITY:

By: _____
Dan Opperman
General Counsel

CITY OF SANTA FE, NEW MEXICO

By _____
Alan Webber, Mayor

[SEAL]

Attest:

By _____
Yolanda Y. Vigil, City Clerk

EXHIBIT "A"

TERM SHEET

FINANCE AUTHORITY Loan _____-PP

Governmental Unit: City of Santa Fe, New Mexico

Project Description: Refunding of 2009 Loan Agreement dated as of August ____, 2019 by and between the Finance Authority and the City of Santa Fe for acquisition and improvement of land, buildings and other real property owned by the College of Santa Fe.

Loan Agreement
Principal Amount: \$ _____

Pledged Revenues:

- (i) the revenues of the State-Shared Gross Receipts Tax distributed monthly to the Governmental Unit pursuant to Section 7-1-6.4 NMSA 1978 from the New Mexico Department of Taxation and Revenue equal to one and two hundred twenty-five hundredths percent (1.225%) of the gross receipts of persons engaging in business within the Governmental Unit, as determined and adjusted under the Gross Receipts Tax Compensating Tax Act, Chapter 7, Article 9 NMSA 1978;
- (ii) the revenues of the Municipal Gross Receipts Tax imposed by the Governmental Unit pursuant to Section 7-19D-9, NMSA 1978 and City Ordinance No. 1981-45, in the amount of one-half of one percent (.50%) of the gross receipts of persons engaging in business within the Governmental Unit, as determined and adjusted under the Municipal Local Option Gross Receipts Taxes Act;
- (iii) the revenues of the Municipal Infrastructure Gross Receipts Tax imposed by the Governmental Unit pursuant to Section 7-19D-11 NMSA 1978 and City Ordinance No. 1993-21, in the amount of one-sixteenth of one percent (.0625%) of the gross receipts of persons engaging in business with the Governmental Unit, as determined and adjusted under the Municipal Local Option Gross Receipt Taxes Act and the Tax Administration Act.
- (iv) the portion of the gross receipts tax distribution to the Governmental Unit made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared

Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues, and Infrastructure Gross Receipts Tax Revenues that would have been remitted to the Governmental Unit but for the deductions (effective January 1, 2005) provided by Section 7-9-92 and 7-9-93 NMSA 1978 and any similar distributions made to the Governmental Unit in lieu of State-Shared Gross Receipts Tax Revenues, One-Half Percent Municipal Gross Receipts Tax Revenues and Infrastructure Gross Receipts Tax Revenues pursuant to law; and

(v) any other gross receipts tax revenues received by the Governmental Unit, whether from distribution by the State or pursuant to gross receipts taxes imposed by the Governmental Unit.

Coverage Ratio: 200%

Distributing State Agency: State of New Mexico Taxation and Revenue Department

Currently Outstanding
Superior Tax Obligations:

(i) City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012A issued pursuant to Ordinance No. 2012-7, adopted by the Governing Body on January 25, 2012 in an aggregate principal amount of \$32,725,000

(ii) City of Santa Fe, New Mexico Gross Receipts Tax Refunding Revenue Bonds, Series 2013A issued pursuant to Ordinance No. 2013-18, adopted by the Governing Body on June 18, 2013 in an aggregate principal amount of \$10,880,000

(iii) City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2014 issued pursuant to Ordinance No. 2014-27, adopted by the Governing Body on August 27, 2014 in an aggregate principal amount of \$15,460,000

(iv) City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016A issued pursuant to Ordinance No. 2016-21, adopted by the Governing Body on May 25, 2016 in an aggregate principal amount of \$6,700,000

(v) City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016B issued pursuant to Ordinance No. 2016-21, adopted by the Governing Body on May 25, 2016, in an aggregate principal amount of \$21,900,000

(vi) City of Santa Fe, New Mexico Senior Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018A issued pursuant to Ordinance No. 2018-25, adopted by the Governing Body on October 31, 2018 in an aggregate principal amount of \$20,000,000

Currently Outstanding

Parity (Subordinate) Obligations:

(i) City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2010B” issued pursuant to Ordinance No. 2010-26 adopted by the Governing Body on November 10, 2010 in an aggregate principal amount of \$10,490,000

(ii) City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater Systems Refunding Revenue Bonds, Series 2012B issued pursuant to Ordinance No. 2012-6, adopted by the Governing Body on January 25, 2012 in an aggregate principal amount of \$14,280,000

(iii) City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2013B issued pursuant to Ordinance No. 2013-19, adopted by the Governing Body on May 8, 2013 in an aggregate principal amount of \$13,780,000

(iv) City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016C issued pursuant to Ordinance No. 2016-21, adopted by the Governing Body on May 25, 2016, as supplemented by Resolution No. 2016-50 adopted by the Governing Body on June 23, 2016 in an aggregate principal amount of \$9,480,000

(v) City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016D issued pursuant to Ordinance No. 2016-21, adopted by the Governing Body on May 25, 2016, as supplemented by Resolution No. 2016-50 adopted by the Governing Body on

June 23, 2016 in an aggregate principal amount of \$2,020,000

(vi) City of Santa Fe, New Mexico Taxable Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2017 issued pursuant to Ordinance No. 2017-8, adopted by the Governing Body on April 26, 2017 in an aggregate principal amount of \$4,530,000.

(vii) City of Santa Fe, New Mexico Gasoline Tax/Subordinate Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018 issued pursuant to Ordinance No. 2017-23, adopted by the Governing Body on November 8, 2017 in an aggregate principal amount of \$10,290,000.

Additional Parity Bonds Test: 200%

Authorizing Legislation: Ordinance No. 2019-___ adopted on May 29, 2019

Closing Date: _____, 2019

Blended Interest Rate: _____%

Program Account Deposit: \$ _____

Finance Authority
Debt Service Account
Deposit: \$ _____

PROGRAM ACCOUNT DEPOSITS MUST BE USED WITHIN THREE YEARS

EXHIBIT "B"

DEBT SERVICE SCHEDULE FOR LOAN REPAYMENT

Print Name and Title