

1 STATE OF NEW MEXICO )  
2 COUNTY OF SANTA FE ) ss.  
3 CITY OF SANTA FE )

4 The City Council (the "Governing Body") of the City of Santa Fe, New Mexico  
5 (the "City"), met in regular session in full conformity with the law and the rules and regulations  
6 of the Governing Body at the Santa Fe Municipal Offices, 200 Lincoln Avenue, Santa Fe, New  
7 Mexico on the 29<sup>th</sup> day of May, 2019, at the hour of 7:00 p.m. Upon roll call, the following  
8 members were found to be present:

9 PRESENT: Mayor: Alan M. Webber  
10 Councilor: Signe I. Lindell  
11 Councilor: Carol Romero-Wirth  
12 Councilor: Mike Harris  
13 Councilor: Peter N. Ives  
14 Councilor: Renee D. Villarreal  
15 Councilor: Christopher M. Rivera  
16 Councilor: Roman "Tiger" Abeyta  
17 Councilor: JoAnne Vigil Coppler

18 Thereupon, there was officially filed with the Clerk a copy of a proposed ordinance in  
19 final form.

20 **PUBLIC HEARINGS**

21 **CONSIDERATION OF BILL NO. 2019-8 ADOPTION OF ORDINANCE NO. 2019-7**

22 Authorizing Execution and Delivery of a Loan Agreement with the New Mexico Finance  
23 Authority in a principal amount not to exceed \$23,800,000.

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1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2019-7

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4  
5 AN ORDINANCE

6 AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY  
7 AND BETWEEN THE CITY OF SANTA FE AND THE NEW MEXICO FINANCE  
8 AUTHORITY, EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE CITY TO  
9 PAY A PRINCIPAL AMOUNT NOT TO EXCEED \$23,800,000, FOR THE PURPOSE OF  
10 DEFRAYING THE COST OF REFUNDING, PAYING, AND REFINANCING THE 2009  
11 LOAN AGREEMENT DATED SEPTEMBER 14, 2009 WITH THE NEW MEXICO  
12 FINANCE AUTHORITY (COLLEGE OF SANTA FE ACQUISITION); PROVIDING  
13 FOR THE PAYMENT OF THE LOAN AGREEMENT FROM CERTAIN GROSS  
14 RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; PROVIDING THAT THE  
15 LOAN AGREEMENT WILL CONSTITUTE A SUBORDINATE LIEN UPON THE  
16 PLEDGED GROSS RECEIPTS TAX REVENUES; PROVIDING FOR THE  
17 DISTRIBUTIONS OF GROSS RECEIPTS TAX REVENUES FROM THE TAXATION  
18 AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE NEW MEXICO  
19 FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO AN INTERCEPT  
20 AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE  
21 LOAN AGREEMENT; DELEGATING AUTHORITY TO THE MAYOR OR, IN THE  
22 MAYOR'S ABSENCE, THE CITY MANAGER OR FINANCE DIRECTOR, TO  
23 APPROVE THE FINAL PRINCIPAL AMOUNT, INTEREST RATES AND OTHER  
24 DETAILS OF THE LOAN AGREEMENT WITHIN THE PARAMETERS SET FORTH  
25 IN THIS AUTHORIZING ORDINANCE, AND TO EXECUTE AND DELIVER A

1 **PRICING CERTIFICATE REFLECTING THE FINAL TERMS OF THE LOAN**  
2 **AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL**  
3 **ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE**  
4 **TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND**  
5 **DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.**

6  
7 Capitalized terms used in the following preambles have the same meaning as defined in  
8 Section 1 of the Ordinance unless the context requires otherwise.

9 **WHEREAS**, the City is a legally and regularly created, established, organized and  
10 existing home-rule municipality under the constitution and general laws of the State of New  
11 Mexico; and

12 **WHEREAS**, the Governing Body has determined and hereby determines that the Project  
13 may be financed with amounts borrowed under the Loan Agreement and that it is in the best  
14 interests of the City and its residents that the Loan Agreement be executed and delivered and that  
15 the financing of the Project take place by executing and delivering the Loan Agreement; and

16 **WHEREAS**, pursuant to Section 7-1-6.4 NMSA 1978, the City receives monthly  
17 distributions of State-Shared Gross Receipts Tax revenues from the New Mexico Department of  
18 Taxation and Revenue equal to one and two hundred twenty-five thousandths percent (1.225%) of  
19 the gross receipts of persons engaging in business within the City, as determined and adjusted  
20 under the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9 NMSA 1978 (the  
21 "State-Shared Gross Receipts Tax"); and

22 **WHEREAS**, pursuant to the Municipal Local Option Gross Receipts Taxes Act, Sections  
23 7-19D-9, NMSA 1978, as amended, and City Ordinance No. 1981-45, the City has imposed a  
24 municipal gross receipts tax in the amount of one-half of one percent (.50%) of the gross receipts  
25 of persons engaging in business within the City, as determined and adjusted under the Municipal

1 Local Option Gross Receipts Taxes Act (the "Local Option Gross Receipts Tax"); and

2       **WHEREAS**, House Bill 479, passed and adopted by the Legislature of the State  
3 in the regular session of the 54<sup>th</sup> Legislature of the State of New Mexico, effective on  
4 July 1, 2019, de-earmarks certain optional municipal and county gross receipts taxes,  
5 including but not limited to the Municipal Infrastructure Gross Receipts Tax under  
6 Section 7-19D-11 NMSA 1978, which statute will be repealed and replaced by Section 7-  
7 19D-9 NMSA 1978, as amended, effective July 1, 2019, with the effect that the  
8 increments of gross receipts tax originally authorized by Section 7-19D-11 NMSA 1978  
9 shall continue to be used for the purposes stated therein; and

10       **WHEREAS**, pursuant to Municipal Local Option Gross Receipts Taxes Act, Section 7-  
11 19D-11 NMSA 1978, as repealed and replaced by Section 7-19D-9 NMSA 1978 as of July 1,  
12 2019, and City Ordinance No. 1993-21, the City has imposed an infrastructure gross receipts tax  
13 in the amount of one-sixteenth of one percent (.0625%) of the gross receipts of persons engaging  
14 in business within the City, as determined and adjusted under the Municipal Local Option Gross  
15 Receipts Taxes Act and the Tax Administration Act (the "Infrastructure Gross Receipts Tax");  
16 and

17       **WHEREAS**, pursuant to Ordinance No. 2009-35, passed and adopted by the Governing  
18 Body on July 29, 2009, Resolution No. 2009-85 adopted on August 26, 2009 and Resolution  
19 2009-94 adopted on September 30, 2009 (collectively, the "2009 College Acquisition Loan  
20 Ordinance"), the City entered into a Loan Agreement dated September 14, 2009, with the New  
21 Mexico Finance Authority in an aggregate principal amount of \$29,615,000 (herein the "2009  
22 College Acquisition Finance Authority Loan") payable from and constituting a subordinate (but  
23 not an exclusive subordinate) lien on the State-Shared Gross Receipts Tax Revenues, the One-  
24 Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax

1 Revenues; and

2       **WHEREAS**, pursuant to Ordinance No. 2010-26, passed and adopted by the Governing  
3 Body on November 10, 2010 (the “2010B Ordinance”), the City issued its “City of Santa Fe, New  
4 Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2010B” (herein  
5 the “Series 2010B Bonds”) in an aggregate principal amount of \$10,490,000 payable from and  
6 constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross  
7 Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the  
8 Infrastructure Gross Receipts Tax Revenues; and

9       **WHEREAS**, pursuant to Ordinance No. 2012-7, passed and adopted by the Governing  
10 Body on January 25, 2012 (the “2012A Ordinance”) the City issued its “City of Santa Fe, New  
11 Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012A” (the  
12 “Series 2012A Bonds”), in the total principal amount of \$32,725,000, payable from and  
13 constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax  
14 Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure  
15 Gross Receipts Tax Revenues; and

16       **WHEREAS**, pursuant to Ordinance No. 2012-6, passed and adopted by the Governing  
17 Body on January 25, 2012 (the “2012B Ordinance”) the City issued its “City of Santa Fe, New  
18 Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Refunding Revenue Bonds,  
19 Series 2012B” (herein the “Series 2012B Bonds”), in the aggregate principal amount of  
20 \$14,280,000 payable from and constituting a subordinate (but not an exclusive subordinate) lien  
21 on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross  
22 Receipts Tax Revenues, the Environmental Services Gross Receipts Tax Revenues and the  
23 Infrastructure Gross Receipts Tax Revenues, and payable from and constituting a first (but not  
24 exclusive first) lien on the Wastewater System Revenues; and

25       **WHEREAS**, pursuant to Ordinance No. 2013-18, passed and adopted by the Governing

1 Body on June 18, 2013 (the “2013A Ordinance”), the City issued its “City of Santa Fe, New  
2 Mexico Gross Receipts Tax Refunding Revenue Bonds, Series 2013A” (herein the “Series 2013A  
3 Bonds”) in an aggregate principal amount of \$10,880,000 payable from and constituting a first  
4 (but not an exclusive first) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half  
5 Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax  
6 Revenues; and

7 **WHEREAS**, pursuant to Ordinance No. 2013-19, passed and adopted by the Governing  
8 Body on May 18, 2013 (the “2013B Ordinance”), the City issued its “City of Santa Fe, New  
9 Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2013B” (herein  
10 the “Series 2013B Bonds”) in an aggregate principal amount of \$13,780,000 payable from and  
11 constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross  
12 Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the  
13 Infrastructure Gross Receipts Tax Revenues; and

14 **WHEREAS**, pursuant to Ordinance No. 2014-27, passed and adopted by the Governing  
15 Body on August 27, 2014 (the “2014 Ordinance”), the City issued its “City of Santa Fe, New  
16 Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2014” (herein the “Series 2014  
17 Bonds”) in an aggregate principal amount of \$15,460,000 payable from and constituting a first  
18 (but not an exclusive first) lien on the State-Shared Gross Receipts Tax Revenues, the One-Half  
19 Percent Municipal Gross Receipts Tax Revenues and the Infrastructure Gross Receipts Tax  
20 Revenues; and

21 **WHEREAS**, pursuant to Ordinance No. 2016-21, passed and adopted by the Governing  
22 Body on May 25, 2016 (the “2016 Ordinance”), the City issued its “City of Santa Fe, New  
23 Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016A” (herein the  
24 “Series 2016A Bonds”) in an aggregate principal amount of \$6,700,000 payable from and  
25 constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax

1 Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure  
2 Gross Receipts Tax Revenues; and

3         **WHEREAS**, pursuant to the 2016 Ordinance, the City issued its “City of Santa Fe, New  
4 Mexico Senior Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016B” (herein the  
5 “Series 2016B Bonds”) in an aggregate principal amount of \$21,900,000 payable from and  
6 constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax  
7 Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure  
8 Gross Receipts Tax Revenues; and

9         **WHEREAS**, pursuant to the 2016 Ordinance, the City issued its “City of Santa Fe, New  
10 Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016C” (herein  
11 the “Series 2016C Bonds”) in an aggregate principal amount of \$9,480,000 payable from and  
12 constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross  
13 Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the  
14 Infrastructure Gross Receipts Tax Revenues; and

15         **WHEREAS**, pursuant to the 2016 Ordinance, the City issued its “City of Santa Fe, New  
16 Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2016D” (herein  
17 the “Series 2016D Bonds”) in an aggregate principal amount of \$2,020,000 payable from and  
18 constituting a subordinate (but not an exclusive subordinate) lien on the State-Shared Gross  
19 Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the  
20 Infrastructure Gross Receipts Tax Revenues; and

21         **WHEREAS**, pursuant to Ordinance No. 2017-8, passed and adopted by the Governing  
22 Body on April 26, 2017 (the “2017 Ordinance”), the City issued its “City of Santa Fe, New  
23 Mexico Taxable Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2017”  
24 (herein the “Series 2017 Taxable Bonds”) in an aggregate principal amount of \$4,530,000  
25 payable from and constituting a subordinate (but not an exclusive subordinate) lien on the State-

1 Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross Receipts Tax  
2 Revenues and the Infrastructure Gross Receipts Tax Revenues; and

3       **WHEREAS**, pursuant to Ordinance No. 2017-23, passed and adopted by the Governing  
4 Body on November 8, 2017 (the “2018 Ordinance”), the City issued its Gasoline Tax /  
5 Subordinate Lien Gross Receipts Tax Improvement Revenue Bonds, Series, 2018 (herein the  
6 “Series 2018 Bonds”) in an aggregate principal amount of \$10,290,000, payable from and  
7 constituting (i) a first (but not an exclusive first) lien on the General Gasoline Tax Revenues and  
8 the Municipal Road Gasoline Tax Revenues and (ii) a subordinate (but not exclusive subordinate)  
9 lien on the State-Shared Gross Receipts Tax Revenues, the One-Half Percent Municipal Gross  
10 Receipts Tax Revenues and the Infrastructure Gross Receipts Tax Revenues; and

11       **WHEREAS**, pursuant to Ordinance No. 2018-25, passed and adopted by the Governing  
12 Body on October 31, 2018 (the “2018A Ordinance) the City authorized the issuance, sale and  
13 delivery of its Senior Lien Gross Receipts Tax Improvement Revenue Bonds, Series 2018A  
14 (herein the “Series 2018A Bonds”) in aggregate principal amount of \$20,000,000 payable from  
15 and constituting a first (but not an exclusive first) lien on the State-Shared Gross Receipts Tax  
16 Revenues, the One-Half Percent Municipal Gross Receipts Tax Revenues and the Infrastructure  
17 Gross Receipts Tax Revenues; and

18       **WHEREAS**, except for the outstanding 2009 College Acquisition Finance Authority  
19 Loan, Series 2010B Bonds, Series 2012B Bonds, Series 2013B Bonds, Series 2016C Bonds,  
20 Series 2016D Bonds, Series 2017 Taxable Bonds and Series 2018 Bonds (collectively, the  
21 “Subordinate Tax Obligations”) and the outstanding Series 2012A Bonds, Series 2013A Bonds,  
22 Series 2014 Bonds, Series 2016A Bonds, Series 2016B Bonds and the Series 2018A Bonds  
23 (collectively, the “Parity Superior Tax Obligations”), there are no obligations presently  
24 outstanding to which the Pledged Tax Revenues have been pledged by the City; and

25       **WHEREAS**, the Governing Body has determined that it is in the best interest of the City



1 to refund, refinance, and prepay the outstanding 2009 College Acquisition Finance Authority  
2 Loan (the "Project") with the proceeds of the Loan Agreement, the interest on which is not  
3 expected to be excludable from gross income for federal income tax purposes; and

4 **WHEREAS**, the Governing Body has determined that it may lawfully pledge the State-  
5 Shared Gross Receipts Tax, the Local Option Gross Receipts Tax and the Infrastructure Gross  
6 Receipts Tax (collectively, the "Pledged Tax Revenues," as further defined in Section 1 of this  
7 Ordinance) for the payment of amounts due under the Loan Agreement; and

8 **WHEREAS**, the Governing Body desires to provide that, under the circumstances  
9 specified in the Loan Agreement, a portion of the distributions of the Pledged Tax Revenues will  
10 be redirected to the Finance Authority or its assigns pursuant to an Intercept Agreement between  
11 the City and the Finance Authority (the "Intercept Agreement") for the payment of amounts due  
12 under the Loan Agreement; and

13 **WHEREAS**, the Loan Agreement shall be executed and delivered with a subordinate  
14 lien (but not an exclusive subordinate lien) on the Pledged Tax Revenues; and

15 **WHEREAS**, other than as described in this Ordinance and in Exhibit "A" to the Loan  
16 Agreement, the Pledged Tax Revenues have not heretofore been pledged to secure the payment of  
17 any obligation; and

18 **WHEREAS**, the Loan Agreement shall be a special, limited obligation of the City,  
19 payable from the Pledged Tax Revenues and other legally available special revenues and shall not  
20 constitute a general obligation of the City, or a debt or pledge of the full faith and credit of the  
21 City or the State; and

22 **WHEREAS**, there have been presented to the Governing Body and there presently are on  
23 file with the City Clerk this Ordinance and the forms of the Loan Agreement and Intercept  
24 Agreement; and

25 **WHEREAS**, the Loan Agreement will be entered into only after receipt of the required

1 approval of the Project by the Department of Finance and Administration of the State of New  
2 Mexico; and

3 **WHEREAS**, all required authorizations, consents and approvals in connection with (i)  
4 the use and pledge of the Pledged Tax Revenues to the Finance Authority (or its assigns) for the  
5 payment of the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance  
6 the Project, and (iii) the authorization, execution and delivery of the Related Documents which  
7 are required to have been obtained by the date of this Ordinance, have been obtained or are  
8 reasonably expected to be obtained; and

9 **WHEREAS**, the Governing Body expects to privately place the Loan Agreement with  
10 the New Mexico Finance Authority with the final terms of and additional details of the Loan  
11 Agreement established in a Pricing Certificate to be executed by the Mayor or, the absence of the  
12 Mayor, another Authorized Officer pursuant to Section 6-14-10.2 NMSA 1978, all within the  
13 parameters set forth in this Ordinance; and

14 **NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE**  
15 **CITY OF SANTA FE:**

16 **Section 1.** Definitions. As used in this Ordinance, the following terms shall, for all  
17 purposes, have the meanings herein specified, unless the context clearly requires otherwise (such  
18 meanings to be equally applicable to both the singular and the plural forms of the terms defined):

19 "Act" means the general laws of the State, including Sections 3-31-1 through 3-31-12,  
20 Section 6-21-1 through 6-21-31, Section 7-1-6.4, and Sections 7-19D-9 as amended by Chapter  
21 274, Laws 2019 of the first session of the 54<sup>th</sup> Legislature, which amendments are effective July  
22 1, 2019, and enactments of the Governing Body relating to the Loan Agreement, including this  
23 Ordinance.

24 "Aggregate Annual Debt Service Requirement" means the total principal and interest due  
25 and payable pursuant to the Loan Agreement and on all Parity Tax Obligations secured by a

1 pledge of the Pledged Tax Revenues, for any one Fiscal Year.

2 "Authorized Officers" means, in the case of the City, the Mayor, Manager, Finance  
3 Director & Treasurer, and Clerk, and in the case of the Finance Authority, the Chairman, Vice-  
4 Chairman, Secretary and Chief Executive Officer.

5 "Bonds" means public project revolving fund revenue bonds, if any, issued hereafter by  
6 the Finance Authority and specifically related to the Loan Agreement and the Loan Agreement  
7 Payments.

8 "City" or "Governmental Unit" means the City of Santa Fe, New Mexico.

9 "Closing Date" means the date of execution, delivery and funding of the Loan  
10 Agreement.

11 "Completion Date" means the date of final payment of the cost of the Project.

12 "Debt Service Account" means the account in the name of the City within the Debt  
13 Service Fund established under the Indenture and held by Finance Authority to pay principal and  
14 interest on the Loan Agreement as the same become due.

15 "Distributing State Agency" means the Taxation and Revenue Department of the State of  
16 New Mexico.

17 "Expense" means the costs of issuance of the Loan Agreement and the Bonds, if any, and  
18 the periodic and regular fees and expenses incurred by the Finance Authority in administering the  
19 Loan Agreement, including legal fees.

20 "Finance Authority" or "NMFA" means the New Mexico Finance Authority.

21 "Fiscal Year" means the period commencing on July 1 in each calendar year and ending  
22 on the last day of June of the next succeeding calendar year, or any other twelve-month period  
23 which any appropriate authority may hereafter establish for the City as its fiscal year.

24 "Governing Body" means the City Council of the City of Santa Fe, New Mexico, or any  
25 future successor governing body of the City.

1 "Herein," "hereby," "hereunder," "hereof," "hereinabove" and "hereafter" refer to the  
2 entire Ordinance and not solely to the particular section or paragraph of the Ordinance in which  
3 such word is used.

4 "Indenture" means the General Indenture of Trust and Pledge dated June 1, 1995, as  
5 amended and supplemented by and between the Finance Authority and the Trustee, or the  
6 Subordinated General Indenture of Trust dated as of March 1, 2005, as supplemented, by and  
7 between the Finance Authority and the Trustee, as determined by the Finance Authority pursuant  
8 to a pledge notification or supplemental indenture.

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

16 "Intercept Agreement" means the Intercept Agreement between the City and Finance  
17 Authority providing for the direct payment by the City or the Distributing State Agency of  
18 Pledged Tax Revenues in amounts sufficient to pay principal, and interest due on the Loan  
19 Agreement.

20 "Loan" means the funds to be loaned to the City by the Finance Authority pursuant to the  
21 Loan Agreement.

22 "Loan Agreement" means the Loan Agreement dated the Closing Date between the  
23 Finance Authority and the City which provides for the financing of the Project and requires  
24 payments by or on behalf of the City to the Finance Authority and/or the Trustee.

25 "Loan Agreement Balance" means, as of the date of calculation, the Loan Agreement

1 Principal Amount less the aggregate principal amount paid or prepaid pursuant to the provisions  
2 of the Loan Agreement.

3 "Loan Agreement Payment" means, collectively, the Principal Component and the  
4 Interest Component to be paid by the City as the payment of the Loan Agreement, as shown on  
5 Exhibit "B" to the Loan Agreement.

6 "Loan Agreement Principal Amount" means an amount not to exceed \$23,800,000.

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

9 "Ordinance" means this ordinance as supplemented or amended from time to time.

10 "Parity Subordinate Tax Obligations" means the Series 2010B Bonds, the Series 2012B  
11 Bonds, the Series 2013B Bonds, the Series 2016C Bonds, the Series 2016D Bonds, the Series  
12 2017 Taxable Bonds, and the Series 2018 Bonds, and any other obligations subsequently issued  
13 with a lien on the Pledged Tax Revenues on a parity with the Parity Subordinate Tax Obligations  
14 and subordinate to the lien thereon of the Superior Tax Obligations.

15 "Pledged Tax Revenues" or "Pledged Revenues" means:

16 (i) the revenues of the State-Shared Gross Receipts Tax distributed monthly to  
17 the City pursuant to Section 7-1-6.4 NMSA 1978 from the New Mexico Department of Taxation  
18 and Revenue equal to one and two hundred twenty-five thousandths percent (1.225%) of the  
19 gross receipts of persons engaging in business within the City, as determined and adjusted under  
20 the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9 NMSA 1978;

21 (ii) the revenues of the Municipal Gross Receipts Tax imposed by the City  
22 pursuant to Sections 7-19D-9, NMSA 1978, as amended, and City Ordinance No. 1981-45, in the  
23 amount of one-half of one percent (.50%) of the gross receipts of persons engaging in business  
24 within the City, as determined and adjusted under the Municipal Local Option Gross Receipts  
25 Taxes Act;

1 (iii) the revenues of the Municipal Infrastructure Gross Receipts Tax originally  
2 imposed by the City pursuant to Section 7-19D-11 NMSA 1978, which, effective July 1, 2019, is  
3 repealed and replaced by Section 7-19D-9, NMSA 1978, and City Ordinance No. 1993-21, in the  
4 amount of one-sixteenth of one percent (.0625%) of the gross receipts of persons engaging in  
5 business within the City, as determined and adjusted under the Municipal Local Option Gross  
6 Receipts Taxes Act and the Tax Administration Act;

7 (iv) the portion of the gross receipts tax distribution to the City made pursuant to  
8 Section 7-1-6.46 NMSA 1978, which represents the amount of State-Shared Gross Receipts Tax  
9 Revenues, one-half percent Municipal Gross Receipts Tax revenues, and one-sixteenth percent  
10 Municipal Infrastructure Gross Receipts Tax revenues that would have been remitted to the City  
11 but for the deductions provided by Section 7-9-92 and 7-9-93 NMSA 1978 and any similar  
12 distributions made to the City in lieu of State-Shared Gross Receipts Tax Revenues, one-half  
13 percent Municipal Gross Receipts Tax revenues and one-sixteenth percent Municipal  
14 Infrastructure Gross Receipts Tax Revenues pursuant to law; and

15 (v) any other gross receipts tax revenues received by the City, whether from  
16 distribution by the State or pursuant to gross receipts taxes imposed by the City, and hereafter  
17 (i.e. after the adoption of this ordinance) pledged to the payment of the Loan Agreement by  
18 affirmative act of the Council.

19 "Pricing Certificate" means the certificate setting forth the maturity dates, principal  
20 amounts, prices, redemption features and other final terms of the Loan Agreement.

21 "Processing Fee" means the processing fee, if any, to be paid on the Closing Date by the  
22 City to the Finance Authority for the costs of originating and servicing the Loan, as shown on  
23 Exhibit "A" to the Loan Agreement.

24 "Program Account" means the account in the name of the City established under the  
25 Indenture and held by the Trustee for deposit of a portion of the proceeds of the Loan Agreement

1 for disbursal to the City for payment of the costs of the Project.

2 "Project" means the refunding, refinancing and prepaying the Refunded Loan payment of  
3 the Processing Fee to the Finance Authority and payment of related professional fees.

4 "Refunded Loan" means the Loan Agreement between the City and the Finance  
5 Authority dated September 14, 2009 (College of Santa Fe Acquisition).

6 "Related Documents" means the Loan Agreement, the Intercept Agreement, the Pricing  
7 Certificate and any other document or agreement containing an obligation of the City as may be  
8 required in connection with the execution and delivery of the Loan Agreement.

9 "State" means the State of New Mexico.

10 "Superior Tax Obligations" means the Series 2012A Bonds, the Series 2013A Bonds, the  
11 Series 2014 Bonds, the Series 2016A Bonds, the Series 2016B Bonds, the Series 2018A Bonds,  
12 and any other Parity Superior Tax Obligations issued subsequent to the delivery of the Loan  
13 Agreement.

14 "Trustee" means the trust company or national or state banking association or financial  
15 institution at the time appointed Trustee by the Finance Authority.

16 **Section 2.** Ratification. All action heretofore taken (not inconsistent with the  
17 provisions of this Ordinance) by the Governing Body and officers of the City directed toward the  
18 Project and the execution and delivery of the Loan Agreement, be, and the same hereby is,  
19 ratified, approved and confirmed.

20 **Section 3.** Authorization of the Project and Related Documents. The Project and  
21 the method of financing the Project through execution and delivery of the Related Documents are  
22 hereby authorized and ordered. The Project is for the benefit and use of the City.

23 **Section 4.** Findings. The City hereby declares that it has considered all relevant  
24 information and data and hereby makes the following findings:

25 A. Moneys available and on hand for the Project from all sources other than

1 the Loan are not sufficient to defray the cost of the Project.

2 B. The Pledged Tax Revenues may lawfully be pledged to secure the  
3 payment of amounts due under the Loan Agreement.

4 C. It is economically feasible to defray, in whole or in part, the costs of the  
5 Project by the execution and delivery of the Loan Agreement.

6 D. The Project and the execution and delivery of the Related Documents  
7 pursuant to the Act to provide funds for the financing of the Project are necessary and in the  
8 interest of the residents of the City.

9 F. The City will finance the Project, in whole or in part, with the net  
10 proceeds of the Loan.

11 G. Other than as described in this Ordinance, the City does not have any  
12 outstanding obligations payable from Pledged Revenues which it has incurred or will incur prior  
13 to the initial execution and delivery of the Loan Agreement.

14 **Section 5.** Related Documents - Authorization and Detail.

15 A. Authorization. This Ordinance has been adopted by the affirmative vote  
16 of at least a majority of all of the members of the Governing Body. For the purpose of conserving  
17 the property, protecting the general welfare and prosperity of the citizens of the City and  
18 financing the Project, it is hereby declared necessary that the City, pursuant to the Act, execute  
19 and deliver the Loan Agreement evidencing a special, limited obligation of the City to pay a  
20 principal amount not to exceed \$23,800,000, and the execution and delivery of the Related  
21 Documents are hereby authorized. The City shall use the proceeds of the Loan to (i) finance the  
22 Project, and (ii) to pay the Processing Fee to the Finance Authority and costs of related  
23 professional fees.

24 B. Detail. The Related Documents shall be in substantially the forms  
25 presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan



1 shall be payable in installments of principal due on the dates designated in the Loan Agreement  
2 and bear interest payable on the dates designated in the Loan Agreement and at the rates  
3 designated in the Pricing Certificate and Loan Agreement. The Loan Agreement shall be  
4 delivered pursuant to a private placement with the Finance Authority upon the terms set forth in  
5 the Pricing Certificate, and shall be within the parameters set forth below:

6 The Loan Agreement shall be executed and delivered for the Project and to pay  
7 Expenses.

8 The maximum principal amount of the Loan Agreement shall not be more than  
9 \$23,800,000.

10 The final maturity of the Loan Agreement shall be no later than June 1, 2039.

11 The maximum interest rate on the Loan Agreement shall be no greater than 6% per  
12 annum.

13 The Loan Agreement shall be payable solely from the Pledged Tax Revenues.

14 The Loan Agreement shall be delivered pursuant to a private sale to the Finance  
15 Authority.

16 The Finance Authority's Processing Fee shall not exceed 1% of the aggregate principal  
17 amount of the Loan Agreement.

18 The minimum net present value savings for the refunding of the Refunded Loan shall be  
19 3.00%.

20 The Loan Agreement shall include a provision stating that interest payable thereon is not  
21 expected to be excludable from gross income for federal income tax purposes.

22 The Mayor or, in the Mayor's absence, the City Manager or City Finance Director, is  
23 hereby authorized pursuant to this Ordinance to approve the final terms of the Loan Agreement  
24 within the parameters set forth in this Ordinance as permitted by Section 6-14-10.2 NMSA 1978,  
25 and to execute and deliver the Pricing Certificate.

1           **Section 6.**     Approval of Related Documents. The forms of the Related Documents  
2 as presented at the meeting of the Governing Body at which this Ordinance was adopted are  
3 hereby approved. Authorized Officers are hereby individually authorized to execute,  
4 acknowledge and deliver the Related Documents with such changes, insertions and omissions that  
5 are consistent with this Ordinance and the Pricing Certificate as may be approved by such  
6 individual Authorized Officers, and the Clerk is hereby authorized to affix the seal of the City on  
7 the Related Documents and attest the same. The execution of the Related Documents by an  
8 Authorized Officer shall be conclusive evidence of such approval.

9           **Section 7.**     Special Limited Obligations. The Loan Agreement shall be secured by  
10 the pledge of the Pledged Tax Revenues as set forth in this Ordinance and the Loan Agreement  
11 and shall be payable solely from the Pledged Tax Revenues. The Loan Agreement, together with  
12 interest thereon and other obligations of the City thereunder, shall be special, limited obligations  
13 of the City, payable from the Pledged Tax Revenues as provided in this Ordinance, the Loan  
14 Agreement and the Related Documents and shall not constitute a general obligation of the City or  
15 the State, and the holders of the Loan Agreement may not look to any general fund of the City for  
16 payment of the obligations thereunder. Nothing contained in this Ordinance nor in the Loan  
17 Agreement, nor any other Related Documents or instruments, shall be construed as obligating the  
18 City (except with respect to the application of the Pledged Tax Revenues), as incurring a  
19 pecuniary liability or a charge upon the general credit of the City or against its taxing power, nor  
20 shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other  
21 Related Document or instrument impose any pecuniary liability upon the City or any charge upon  
22 its general credit or against its taxing power. The Loan Agreement and Related Documents shall  
23 never constitute an indebtedness of the City within the meaning of any State constitutional  
24 provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of  
25 the City or a charge against its general credit or taxing power. Nothing herein shall prevent the

1 City from applying other special revenues of the City legally available therefor to payments  
2 required by the Loan Agreement, in its sole and absolute discretion.

3 **Section 8.** Disposition of Proceeds: Completion of the Project.

4 A. Program Account and Debt Service Account.

5 (i) Loan Agreement Account. The City hereby consents to creation  
6 of the Debt Service Account to be held and maintained by the Finance Authority and to the  
7 Program Account to be held by the Trustee pursuant to the Indenture, each in connection with the  
8 Loan. The City hereby approves of the deposit of a portion of the proceeds of the Loan  
9 Agreement in the Program Account.

10 The proceeds derived from the execution and delivery of the Loan Agreement shall be  
11 deposited promptly upon the receipt thereof in the Program Account and the Debt Service  
12 Account, as provided in the Loan Agreement and the Indenture.

13 Until the Completion Date, the money in the Program Account shall be used and paid out  
14 solely for the purpose of acquiring the Project in compliance with applicable law and the  
15 provisions of the Loan Agreement and the Indenture.

16 The City will complete the Project with all due diligence.

17 B. Completion of the Project. Upon the Completion Date, the City shall  
18 execute a certificate stating that the Project has been completed. As soon as practicable, and, in  
19 any event, not more than 60 days from the Completion Date, any balance remaining in the  
20 Program Account shall be transferred and deposited into the Debt Service Account, as provided  
21 in the Loan Agreement and the Indenture.

22 D. Finance Authority and Trustee Not Responsible. The Finance Authority  
23 and the Trustee shall in no manner be responsible for the application or disposal by the City or by  
24 its officers of the funds derived from the Loan Agreement or of any other funds herein  
25 designated.

1           **Section 9.**     Deposit of Pledged Tax Revenues, Distributions of the Pledged Tax  
2 Revenues and Flow of Funds.

3           A.     Deposit of Pledged Tax Revenues. Except as otherwise provided in the  
4 Loan Agreement and the Intercept Agreement, Pledged Tax Revenues shall be paid to the  
5 Finance Authority for deposit in the Debt Service Account in an amount sufficient to pay  
6 principal, interest and other amounts due under the Loan Agreement.

7           B.     Termination on Deposits to Maturity. No payment shall be made into  
8 the Debt Service Account if the amount in the Debt Service Account totals a sum at least equal to  
9 the entire aggregate amount to become due as to principal and interest, on, and any other amounts  
10 due under, the Loan Agreement, in which case moneys in such account in an amount at least  
11 equal to such principal and interest requirements shall be used solely to pay such obligations as  
12 the same become due, and any moneys in excess thereof in such accounts shall be transferred to  
13 the City and used as provided in Subsection C below.

14           C.     Use of Surplus Revenues. After making all the payments hereinabove  
15 required to be made by this Section and any payments required by outstanding Superior Tax  
16 Obligations and Parity Tax Obligations, any moneys remaining in the Debt Service Account shall  
17 be transferred to the City on a timely basis and shall be applied to any other lawful purpose  
18 authorized by the City, the Constitution and laws of the State, as the City may from time to time  
19 determine.

20           **Section 10.**   Lien on Pledged Tax Revenues. The Pledged Tax Revenues are hereby  
21 authorized to be pledged to, and are hereby pledged, and the City grants a security interest therein  
22 for, the payment of the principal, interest and any other amounts due under the Loan Agreement.  
23 The Loan Agreement constitutes an irrevocable lien subordinate to the lien of the Superior Tax  
24 Obligations on the Pledged Tax Revenues, and a parity lien, but not necessarily an exclusive  
25 parity lien with the lien of the Parity Tax Obligations, on the Pledged Tax Revenues as set forth

1 herein ~~and therein~~.

2           **Section 11.     Authorized Officers.** Authorized Officers are hereby individually  
3 authorized and directed to execute and deliver any and all papers, instruments, opinions,  
4 affidavits and other documents and to do and cause to be done any and all acts and things  
5 necessary or proper for carrying out this Ordinance, the Related Documents, and all other  
6 transactions contemplated hereby and thereby. Authorized Officers are hereby individually  
7 authorized to do all acts and things required of them by this Ordinance and the Related  
8 Documents for the full, punctual and complete performance of all the terms, covenants and  
9 agreements contained in this Ordinance and the Loan Agreement, including but not limited to, the  
10 execution and delivery of closing documents in connection with the execution and delivery of the  
11 Loan Agreement and the publication of the summary of this Ordinance set out in Section 17 of  
12 this Ordinance (with such changes, additions and deletions as they may determine).

13           **Section 12.     Supplement and Amendment of Ordinance.** Prior to the date of the  
14 initial delivery of the Loan Agreement to the Finance Authority, the provisions of this Ordinance  
15 may be supplemented by resolution of the Governing Body with respect to any changes which are  
16 not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be  
17 amended by ordinance of the Governing Body without receipt by the City of any additional  
18 consideration, but only with the prior written consent of the Finance Authority.

19           **Section 13.     Ordinance Irrepealable.** After the Related Documents have been  
20 executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due  
21 under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.

22           **Section 14.     Severability Clause.** If any section, paragraph, clause or provision of this  
23 Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or  
24 unenforceability of such section, paragraph, clause or provision shall not affect any of the  
25 remaining provisions of this Ordinance.

1           **Section 15.**     Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts  
2 thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This  
3 repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof,  
4 heretofore repealed.

5           **Section 16.**     Effective Date. Upon due adoption of this Ordinance, it shall be  
6 recorded in the book of the City kept for that purpose, authenticated by the signatures of the  
7 Mayor and Clerk of the City, and the title and general summary of the subject matter contained in  
8 this Ordinance (set out in Section 17 below) shall be published in a newspaper which maintains  
9 an office and is of general circulation in the City, or posted in accordance with law, and such  
10 Ordinance shall be in full force and effect thereafter, in accordance with law.

11           **Section 17.**     General Summary for Publication. Pursuant to the general laws of the  
12 State, the title and a general summary of the subject matter contained in this Ordinance shall be  
13 published in substantially the following form:

14                                (Form of Summary of Ordinance for Publication)

15                                City of Santa Fe, New Mexico

16                                Notice of Adoption of Ordinance

17                                Notice is hereby given of the title and of a general summary of the subject matter  
18 contained in Ordinance No. 2019-7, duly adopted and approved by the Governing Body of the  
19 City of Santa Fe, New Mexico (the "City"), on May 8, 2019. Complete copies of the Ordinance  
20 are available for public inspection during the normal and regular business hours of the City Clerk,  
21 200 Lincoln Avenue, Santa Fe, NM.

22                                The title of the Ordinance is:

23                                **CITY OF SANTA FE, NEW MEXICO**

24                                **ORDINANCE NO. 2019-7**

25                                **AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN**

1 **AGREEMENT BY AND BETWEEN THE CITY OF SANTA FE AND THE NEW**  
2 **MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL, LIMITED**  
3 **OBLIGATION OF THE CITY TO PAY A PRINCIPAL AMOUNT NOT TO EXCEED**  
4 **\$23,800,000, FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING,**  
5 **PAYING, AND REFINANCING THE 2009 LOAN AGREEMENT DATED SEPTEMBER**  
6 **14, 2009 WITH THE NEW MEXICO FINANCE AUTHORITY (COLLEGE OF SANTA**  
7 **FE ACQUISITION); PROVIDING FOR THE PAYMENT OF THE LOAN AGREEMENT**  
8 **FROM CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY;**  
9 **PROVIDING THAT THE LOAN AGREEMENT WILL CONSTITUTE A**  
10 **SUBORDINATE LIEN UPON THE PLEDGED GROSS RECEIPTS TAX REVENUES;**  
11 **PROVIDING FOR THE DISTRIBUTIONS OF GROSS RECEIPTS TAX REVENUES**  
12 **FROM THE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO**  
13 **THE NEW MEXICO FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO AN**  
14 **INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST**  
15 **DUE ON THE LOAN AGREEMENT; DELEGATING AUTHORITY TO THE MAYOR**  
16 **OR, IN THE MAYOR’S ABSENCE, THE CITY MANAGER OR FINANCE DIRECTOR,**  
17 **TO APPROVE THE FINAL PRINCIPAL AMOUNT, INTEREST RATES AND OTHER**  
18 **DETAILS OF THE LOAN AGREEMENT WITHIN THE PARAMETERS SET FORTH**  
19 **IN THIS AUTHORIZING ORDINANCE, AND TO EXECUTE AND DELIVER A**  
20 **PRICING CERTIFICATE REFLECTING THE FINAL TERMS OF THE LOAN**  
21 **AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL**  
22 **ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE**  
23 **TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND**  
24 **DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.**

25 A summary of the subject matter of the Ordinance is contained in its title.

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This notice constitutes compliance with Section 6-14-6 NMSA 1978.

(End of Form of Summary for Publication)

PASSED, APPROVED, and ADOPTED this 29<sup>th</sup> day of May, 2019

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ALAN M. WEBBER, MAYOR

ATTEST:

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YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

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PETER FRANKLIN, AS BOND COUNSEL



1 Councilor Lindell then moved adoption of the foregoing Ordinance, duly seconded  
2 by Councilor Harris.

3 The motion to adopt said Ordinance, upon being put to a vote, was passed and adopted on  
4 the following recorded vote:

5 Those Voting Aye: Councilor JoAnne Vigil Coppler  
6 Councilor Renee D. Villarreal  
7 Councilor Roman "Tiger" Abeyta  
8 Councilor Mike Harris  
9 Councilor Signe I. Lindell  
10 Councilor Carol Romero-Wirth  
11 Mayor Alan M. Webber

12 Those Absent: \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_

15 Nine (9) members of the Governing Body having voted in favor of said motion, the  
16 Mayor declared said motion carried and said Ordinance adopted, whereupon the Mayor and the  
17 Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

18 After consideration of matters not relating to the Ordinance, the meeting on the motion  
19 duly made, seconded and unanimously carried, was adjourned.

21 CITY OF SANTA FE, NEW MEXICO  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 ALAN M. WEBBER, MAYOR  
25

1 [SEAL]

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3

4 ATTEST:

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7 \_\_\_\_\_  
YOLANDA Y. VIGIL, CITY CLERK

8 STATE OF NEW MEXICO )

9 COUNTY OF SANTA FE ) ss.

10 CITY OF SANTA FE )

11 I, Yolanda Y. Vigil, the duly acting and qualified Clerk of the City of Santa Fe, New  
12 Mexico (the "City"), do hereby certify:

13 1. The foregoing pages are a true, perfect, and complete copy of the record of the  
14 proceedings of the City Council (the "Governing Body"), constituting the governing body of the  
15 City, had and taken at a duly called regular meeting held at the Santa Fe Municipal Offices, 200  
16 Lincoln Avenue, Santa Fe, New Mexico, 87501, on May 8, 2019 at the hour of 7:00 p.m., insofar  
17 as the same relate to the execution and delivery of the proposed Loan Agreement, a copy of  
18 which is set forth in the official records of the proceedings of the Governing Body kept in my  
19 office. None of the action taken has been rescinded, repealed, or modified.

20 2. Such proceedings were duly had and taken as therein shown, the meeting therein  
21 was duly held, and the persons therein named were present at such meeting, as therein shown.

22 3. Notice of the May 29<sup>th</sup>, 2019, meeting of the Governing Body was duly given as  
23 required by the Open Meetings Act, Sections 10-15-1 through 4, NMSA 1978 and Resolution No.  
24 2019-01 which is the current Resolution of the City which establishes the reasonable notice  
25 policy of the City as required by the Open Meetings Act.

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IN WITNESS WHEREOF, I have hereunto set my hand this 29<sup>th</sup> day of May, 2019.

CITY OF SANTA FE, NEW MEXICO

(SEAL)

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YOLANDA Y. VIGIL, CITY CLERK