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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2025-04

INTRODUCED BY:

Councilor Carol Romero-Wirth

Councilor Michael Garcia

Councilor Amanda Chavez

RED – AMENDMENT A – COUNCILOR ROMERO-WIRTH

A BILL

**AMENDING ORDINANCE NO. 2024-6 TO APPROVE THREE INDIVIDUAL
LOAN AGREEMENTS WITH THE NEW MEXICO ENVIRONMENT
DEPARTMENT TO BE PAID WITH REVENUES FROM EACH SYSTEM,
RESPECTIVELY: (1) A WASTEWATER PROJECT LOAN AGREEMENT; (2) A
WATER PROJECT LOAN AGREEMENT; AND (3) A SOLID WASTE
COLLECTION PROJECT LOAN AGREEMENT; INCORPORATING
DEFINITIONS AND COVENANTS RELATING TO WASTEWATER, WATER,
AND SOLID WASTE SYSTEM DEBT OBLIGATIONS IN EACH LOAN
AGREEMENT, RESPECTIVELY, BY REFERENCE HEREIN; RATIFYING
PRIOR ACTION CONSISTENT WITH THE PROVISIONS HEREOF; AND
REPEALING PRIOR ACTION INCONSISTENT WITH THE PROVISIONS
HEREOF, BUT ONLY TO THE EXTENT OF SUCH INCONSISTENCY.**

Capitalized terms used in the following preambles ~~[are defined in Section 1 of this Ordinance]~~ have the same meaning as set forth in Section 1 of this Amendatory Ordinance, unless the context requires otherwise.

1 **WHEREAS**, the City of Santa Fe, New Mexico (the “~~Borrower~~ City”) is a legally [~~and~~
2 ~~regularly~~] created public body, established, organized and existing incorporated charter
3 municipality with home-rule powers under the [~~general~~] constitution and laws of the State of New
4 Mexico [~~“State”~~]; and

5 **WHEREAS**, the Borrower now owns, operates, and maintains public utilities including
6 Water, Wastewater, and Environmental Services ~~Division~~ systems (~~each a~~ “System”); and

7 **WHEREAS**, the present Systems are insufficient and inadequate to meet the needs of the
8 Borrower; and

9 **WHEREAS**, the New Mexico Environment Department (“NMED”) is offering the
10 Borrower [~~a~~] three loans to assist in financing improvements to the Systems (the “Projects”),
11 pursuant to [~~an~~] three agreements (“Loan Agreements”) and respective promissory notes (“Notes”),
12 payable solely from certain ~~pledged~~ revenues described herein (~~“the Pledged Revenues”~~); and

13 **WHEREAS**, NMED intends to fund the Loan Agreements with funds that include a one-
14 time federal grant to the NMED from the Environmental Protection Agency (EPA); and

15 **WHEREAS**, under the terms of the Loan Agreements, the Projects ~~are~~ [~~is~~] subject to
16 specific requirements of the federal grants; [~~and~~]

17 **WHEREAS**, the Borrower has the following obligations outstanding to which the
18 ~~P~~pledged ~~R~~revenues have already been pledged:

Funding Source (e.g., Revenue Bond, NMED, NMFA, etc.) and Series# or Loan/Project #	Principal Amount Outstanding at 06/30/2023
Water Utility System Refunding, Series 2016	\$30,145,000
Public Project Revolving Fund (“PPRF”)-Buckman Diversion Project, Series 2008	\$5,191,493
Drinking Water Revolving Fund (“DWRLF”) No. 2696, Series 2013	\$1,499,281

19
20 **WHEREAS**, the Governing Body of the Borrower has determined that it is in the best

1 interest of the Borrower to accept and enter into the Loan Agreements and to execute and to deliver
2 the Notes, for each of the three agreements respectively, to the NMED[-]; and

3 WHEREAS, the Governing Body adopted Ordinance No. 2024-6 on August 14, 2024,
4 pursuant to which it approved a form of loan agreement with the New Mexico Environment
5 Department (“NMED”) in the principal amount of \$151,000,000 (the “Proposed Combined NMED
6 Loan Agreement”), for the purpose of financing (1) improvements to the City’s Water Utility
7 System, consisting of the Nichols Dam Outlet Works Rehabilitation Project (the “Water System
8 Improvement Project”); (2) improvements to the City’s Wastewater Utility System, consisting of
9 (a) UV Disinfection Replacement project; (b) Sanitary Sewer Line Repair project, (c) Collections
10 Division Equipment and Administration Building project, and (d) Wastewater Treatment Plant
11 Repair and Rehabilitation Project (collectively, the “Wastewater System Improvement Projects”);
12 and (3) improvements to the ~~City’s Solid Waste Collection System~~ ~~Environmental Services~~
13 ~~Division facilities~~, consisting of Environmental Services Division Maintenance and Administrative
14 Building Project (the “~~Solid Waste System~~ ~~Environmental Services Division~~ ~~Improvement~~
15 Project”); and

16 WHEREAS, the portion of the Proposed Combined NMED Loan Agreement to be applied
17 to the Water System Improvement Project would be repayable from Net Water System Revenues;
18 and

19 WHEREAS, the portion of the Proposed Combined NMED Loan Agreement to be applied
20 to the Wastewater System Improvement Project would be repayable from Net Wastewater System
21 Revenues; and

22 WHEREAS, the portion of the Proposed Combined NMED Loan Agreement to be applied
23 to the ~~Solid Waste System~~ ~~Environmental Services Division~~ ~~Improvement~~ Project would be
24 repayable from ~~Net Solid Waste System~~ ~~Environmental Services Division~~ Revenues; and

25 WHEREAS, each of the Net Water System Revenues, Net Wastewater System Revenues,

1 and Net ~~Solid Waste System~~ Environmental Services Division Revenues has been pledged as
2 security for repayment of, respectively, outstanding Net Water System Revenue obligations,
3 outstanding Net Wastewater System Revenue obligations, and Net ~~Solid Waste System~~
4 Environmental Services Division Revenue obligations; and

5 WHEREAS, the ordinances authorizing the issuance of outstanding Net Water System
6 Revenue obligations include definitions and covenants which are specific to the operation of the
7 Water Utility System, and govern the issuance of additional debt obligations secured by Net Water
8 System Revenue; and

9 WHEREAS, the ordinances authorizing the issuance of outstanding Net Wastewater
10 System Revenue obligations include definitions and covenants which are specific to the operation
11 of the Wastewater Utility System, and govern the issuance of additional debt obligations secured
12 by Net Wastewater System Revenue; and

13 WHEREAS, the ordinances authorizing the issuance of outstanding Net ~~Solid Waste~~
14 ~~System~~ Environmental Services Division Revenue obligations include definitions and covenants
15 which are specific to the operation of the ~~Solid Waste Collection System~~ Environmental Services
16 ~~Division~~, and govern the issuance of additional debt obligations secured by Net ~~Solid Waste System~~
17 ~~Environmental Services Division~~ Revenue; and

18 WHEREAS, for the purpose of delineating the separate net system revenues being pledged
19 as security for repayment of the loan funds to be provided by NMED for the Water System
20 Improvement Project, the Wastewater System Improvement Projects and the ~~Solid Waste System~~
21 ~~Environmental Services Division~~ Improvement Project (collectively, the “Pledged Revenues”), and
22 the separate definitions and covenants applicable to each category of ~~p~~Pledged ~~r~~Rvenues, the
23 Governing Body deems it advisable and in the interest of the City to approve a separate loan
24 agreement for each of the Water System Improvement Project, the Wastewater System
25 Improvement Projects, and the ~~Solid Waste System~~ Environmental Services Division Improvement

1 Project (collectively, the “Improvement Projects”); and

2 WHEREAS, the following forms of NMED loan documents have been presented to the
3 Governing Body in connection with its consideration of this Ordinance:

4 (1) \$17,000,000 Water Utility System Interim Loan Agreement and
5 Supplement with Covenants and Provisions Applicable to Net Water Utility System Obligations,
6 and Interim Promissory Note;

7 (2) \$114,000,000 Wastewater Utility System Interim Loan Agreement and
8 Supplement with Covenants and Provisions Applicable to Net Wastewater Utility System
9 Obligations, and Interim Promissory Note; and

10 (3) \$20,000,000 ~~Solid Waste Collection System~~ Environmental Services
11 Division Interim Loan Agreement and Supplement with Covenants and Provisions Applicable to
12 Net ~~Solid Waste Collection System~~ Environmental Services Division Obligations, and Interim
13 Promissory Note; and

14 WHEREAS, the City intends to finance the costs of the Water System Improvement
15 Project with the proceeds of the Water Utility System Interim Loan Agreement, the costs of the
16 Wastewater Utility System Improvement Projects with the proceeds of the Wastewater Utility
17 System Interim Loan Agreement, and the costs of the ~~Solid Waste Collection System~~
18 Environmental Services Division Improvement Project with the proceeds of the ~~Solid Waste~~
19 Collection System Environmental Services Division Interim Loan Agreement (together with the
20 Water Utility System Interim Loan Agreement and the Wastewater Utility System Interim Loan
21 Agreement, as each is supplemented by its respective Supplement, the “Loan Agreements”), and
22 to authorize the execution and delivery of the Loan Agreements and corresponding Promissory
23 Notes, subject to the terms and provisions of this Amendatory Ordinance.

24 **NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE**
25 **[BORROWER] CITY OF SANTA FE, NEW MEXICO:**

1 **Section 1. Definitions.** As used in the Ordinance, the following terms shall have the
2 meanings specified below, unless the context clearly requires otherwise and to the extent that the
3 terms do not conflict with the three Loan Agreement Supplements (*such meaning to be equally*
4 *applicable to both the singular and the plural forms of the terms defined unless the plural form is*
5 *separately defined*): In addition to the terms defined in the recitals hereof and below in this section,
6 the defined terms appearing in the Supplement with Covenants and Provisions Applicable to Net
7 Water Utility System Obligations, the Supplement with Covenants and Provisions Applicable to
8 Net Wastewater Utility System Obligations, and the Supplement with Covenants and Provisions
9 Applicable to Net Environmental Services Division ~~Collection System~~ Obligations, are
10 incorporated herein by reference.

11 **ACT.** The general laws of the State, including the Wastewater Facility
12 Construction Loan Act at NMSA 1978, Sections 74-6A-1 to -15 , as amended; enactments of the
13 Governing Body of the Borrower relating to the Notes and the Loan Agreements made by resolution
14 or ordinance, including this ordinance; and the powers of the Borrower as a public body under
15 authority given by the Constitution and Statutes of the State.

16 **ANNUAL AUDIT or SINGLE AUDIT.** Financial statements of the Borrower as of the
17 end of each Fiscal Year, audited by an Auditor, consistent with the federal Single Audit Act and
18 the State Auditor’s rules.

19 **AUTHORIZED OFFICER.** City of Santa Fe Mayor Alan Webber or other officer or
20 agent of the Borrower is designated by the Borrower’s Signature Resolution Number 2024-30
21 adopted by the Governing Body of the Borrower, as amended.

22 **BORROWER.** The entity requesting funds pursuant to the Act.

23 **FISCAL YEAR.** The twelve-month period commencing on the first day of July of each
24 year and ending on the last day of June of the succeeding year, or any other twelve-month period
25 which the Borrower hereafter may establish as the fiscal year of the System.

1 **GOVERNING BODY OF THE BORROWER.** City of Santa Fe governing body.

2 **LOAN.** A loan of funds from NMED made pursuant to the Loan Agreement.

3 **LOAN AGREEMENT.** The interim loan agreements between the Borrower and the
4 NMED, pursuant to which funds will be loaned to the Borrower to construct the Project and pay
5 eligible costs relating thereto; and the final (repayment) loan agreements which shall state the
6 amounts put into repayment the NMED loaned to the Borrower, which shall be executed annually
7 or biannually per an agreed upon disbursement amount or upon completion of the Projects.

8 **NMSA.** New Mexico Statutes Annotated, 1987 Compilation, as amended and
9 supplemented.

10 **NOTE.** The interim and final promissory notes issued by the Borrower to the NMED
11 evidencing the obligation of the Borrower to the NMED incurred pursuant to the Ordinance and
12 Loan Agreements.

13 **OPERATION AND MAINTENANCE.** All reasonable and necessary expenses of the
14 Systems, paid or accrued, relating to operating, maintaining, and repairing of each of the Systems.

15 **ORDINANCE.** This Ordinance includes amendments.

16 **PARITY BONDS or PARITY OBLIGATIONS.** Revenue Bonds and other bonds or
17 other obligations payable from the Pledged Revenues issued with a lien on the Pledged Revenues
18 on parity with the bonds or obligations as listed in this Ordinance.

19 **PLEDGED REVENUES.**

- 20 • **Net** Water System Revenue for Nichols Dam Project
- 21 • **Net** Wastewater System Revenue for
- 22 ○ The Ultraviolet (UV) Disinfection Replacement Project,
- 23 ○ The Collections Equipment and Administrative Building, and
- 24 ○ The Sanitary Sewer Line Repair and Rehabilitation
- 25 ○ The Wastewater Treatment Plant (WWTP) Rehabilitation.

1 • **Net** Environmental Services Division ~~Net~~ Revenue for the Environmental Services
2 Division Administrative Building, Maintenance Space, and Storage Area.

3 **PROJECT.** The most current NMED approved Project Description described on the
4 Project Description Form on file with NMED, including but not limited to:

- 5 • Nichols Dam Outlet Works Rehabilitation.
- 6 • UV Disinfection Replacement Project.
- 7 • Collections Equipment and Administrative Building.
- 8 • Sanitary Sewer Line Repair/Rehabilitation.
- 9 • Wastewater Treatment Plant Repair and Rehabilitation
- 10 • Environmental Services Division Administrative Building, Maintenance Space, and
11 Storage Area

12 **PROJECT COMPLETION DATE.** The date that operations of the completed works are
13 initiated or capable of being initiated, whichever is earlier. This also applies to individual phases
14 or segments.

15 **REGULATIONS.** Regulations promulgated by the Water Quality Control Commission at
16 20.7.5 NMAC and New Mexico Environment Department at 20.7.6 - 20.7.7 NMAC.

17 **SUBORDINATE OBLIGATIONS.** Other obligations payable from the Pledged
18 Revenues issued with a lien on the Pledged Revenues subordinate to the lien of [~~the~~] each Loan
19 Agreement and Note as may be listed in this Ordinance.

20 **Section 2. RATIFICATION.** All action before now (not inconsistent with the
21 provisions of the Ordinance) by the Governing Body, the officers and employees of the Borrower,
22 directed toward the Loan Agreements and the Notes, is ratified, approved and confirmed as a result
23 of this document

24 **Section 3. Approval of Loan Agreements.** The Loan Agreements, as supplemented
25 with the Supplement corresponding to each, and the Interim Promissory Note corresponding to

1 each Loan Agreement, are hereby approved for execution and delivery to NMED, with such
2 modifications as may be required by NMED or otherwise deemed advisable and consistent with
3 the purposes of this Amendatory Ordinance. Prior approval of the Proposed Combined NMED
4 Loan Agreement pursuant to Ordinance No. 2024-6 is hereby repealed.

5 **Section [3] 4. FINDINGS.** The Governing Body of the Borrower declares that it has
6 considered all relevant information and data and makes the following findings:

7 (A) The execution and delivery of the Loan Agreements and the Notes pursuant to the
8 Act to provide funds to finance the Projects, is necessary and in the interest of the public health,
9 safety, and welfare of the residents of the Borrower.

10 (B) The money available for the Projects from all sources other than the Loan
11 Agreements is not sufficient to pay when due to cost of the Project.

12 (C) The Pledged Revenues **identified in each Loan Agreement** may lawfully be
13 pledged to secure the payment of amounts due under **the those** Loan Agreements and **corresponding**
14 Notes.

15 **Section [4]5. [SYSTEM. The Systems shall continue to constitute Water, Wastewater,**
16 **and Environmental Services systems and shall be operated and maintained as such] Repeal of Prior**
17 **Inconsistent Action.** All ordinances or parts of ordinances, including Ordinance No. 2024-6,
18 inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repeal
19 shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

20 **Section [5]6. Authorization [OF PROJECT] to Execute Related Documents and**
21 **Delegated Authority.** The acquisition and construction of the Projects and payment of eligible
22 items are set forth in the regulations from proceeds of the Loan Agreements and Notes are [is]
23 hereby authorized as a cost not to exceed the principal Loan amounts, respectively [of \$ 151
24 million], excluding any cost of the Project to be paid from any source other than the proceeds of
25 the Loan Agreements and **respective corresponding** Notes

1 **Section [6]7. AUTHORIZATION OF LOAN AGREEMENTS.**

2 **(A)** For the purpose of protecting the public health, conserving the property, and
3 protecting the general welfare of the borrowing community it is hereby declared necessary that the
4 Borrower execute and deliver the Loan Agreements and Notes to be payable and collectible solely
5 from the Pledged Revenues. The NMED has agreed to disburse the proceeds according to the terms
6 of the Loan Agreements to the Borrower over the construction period of the Project. The principal
7 Loan amounts of the Notes shall not exceed the loan amounts specified in each of the three Loan
8 Agreements [~~\$151 million~~] without the adoption of another Ordinance amending the Ordinance
9 by the Governing Body of the Borrower, *and the annual interest rate on that principal amounts*
10 *shall not exceed 0.01% percent per annum. Interest shall be computed as a percentage per year on*
11 *the outstanding principal amounts on the Loans on the basis of a 365-day year, actual number of*
12 *days lapsed.* The final maturity date on the Notes shall not extend beyond the agreed upon useful
13 life of ~~the each p~~Project. The Loans shall be repaid in substantially equal annual installments in the
14 amount and on the dates provided in the Loan Agreements with the first annual installment in the
15 amount and on the dates provided in the Loan Agreements with the first annual installment due no
16 later than one year after the completion of the project. The Borrower must maintain a debt service
17 coverage ratio of no less than 1.2 and must obtain the written consent of the NMED before issuing
18 additional obligations secured by **any of** the Pledged Revenues.

19 **(B)** If the Borrower fails to satisfy any federal grant requirements or conditions, the
20 Borrower may be required to refund any federal grant funds disbursed to the Borrower from
21 NMED.

22 **(C)** The NMED has approved the form of the Loan Agreements and the Notes. The
23 Authorized Officer is hereby directed to execute and deliver the Loan Agreements and the Notes
24 and any amendments to the [1]Loan Agreements or Notes to be executed after completion of the
25 Project with such changes consistent with the Ordinance. The approval by an Authorized Officer

1 of these documents in their final forms shall constitute conclusive evidence of their approval and
2 compliance with this section.

3 (D) From the date of the initial execution and delivery of the Loan Agreements and the
4 Notes, Authorized Officers, agents and employees of the Borrower are authorized, empowered, and
5 directed to carry out such acts and to execute all such documents as may be necessary to comply
6 with the provisions of this Ordinance, the Loan Agreements, and the Notes.

7 **Section [7]8. SPECTIAL LIMITED OBLIGATIONS.** All Funds disbursed pursuant
8 to the Loan Agreements and the Notes shall be special limited obligations of the Borrower and shall
9 be payable and collectible solely from the **respective** Pledged Revenues **identified in each Loan**
10 **Agreement**, which are irrevocably pledged as set forth in this Ordinance **and the Loan Agreements**.
11 The NMED may not look to any general or other fund for the payment on the Loan Agreements
12 and the Notes except the designated special funds pledged. The Loan Agreements and the Notes
13 shall not constitute indebtedness or debts within the meaning of any constitutional, charter, or
14 statutory provision or limitation, nor shall they be considered or be held to be general obligations
15 of the Borrower and shall recite that they are payable and collectible solely from the Pledged
16 Revenues **corresponding to and identified in each Loan Agreement**.

17 **Section 9. Effective Date, General Summary for Publication.** Upon due adoption
18 of this Ordinance, the City shall record and preserve it as is consistent with 2-2.4, "Ordinances;
19 effective date; proof of publication", SFCC 1987, and this Ordinance shall be in full force and
20 effect after its publication in accordance with law.

21 [~~Section 8. OPERATION OF PROJECT. The Borrower shall operate and maintain the~~
22 ~~Project so that it will function properly over its structural and material design life.~~

23 ~~Section 9. USE OF PROCEEDS. The NMED shall disburse Funds pursuant to the Loan~~
24 ~~Agreement for NMED approved costs incurred by the Borrower for the Project or to pay contractors~~
25 ~~or suppliers of materials for work performed on the Project as set forth in the Loan Agreement.~~

1 ~~Section 10. APPLICATION OF REVENUES.~~

2 ~~(A) OPERATION AND MAINTENANCE.~~ So long as the Loan Agreement and the
3 Note are outstanding, either as to principal or interest, or both, the Borrower shall pay for the
4 operation and maintenance expenses of the System, approved indirect charges and any amounts for
5 capital replacement and repair of the System as incurred.

6 ~~(B) PARITY OBLIGATIONS AND OTHER APPROVED DEBT(S).~~ The
7 Borrower shall pay the principal, interest and administrative fees (if applicable) of parity
8 obligations and other approved debts which are secured from the Pledged Revenues as scheduled.

9 ~~(C) EQUITABLE AND RATABLE DISTRIBUTION.~~ Obligations of the Borrower
10 secured by the Pledged Revenues on parity with the Loan Agreement and the Note, from time to
11 time outstanding, shall not be entitled to any priority one over the other in the application of the
12 Pledged Revenues, regardless of the time or times of their issuance or creation.

13 ~~(D) SUBORDINATE OBLIGATIONS.~~ The Pledged Revenues used for the payment
14 of Subordinate Obligations shall be applied first to the payment of the amounts due the Loan
15 Agreement and the Note, including payments to be made to other obligations payable from the
16 Pledged Revenues which have a lien on the Pledged Revenues on parity with the Loan Agreement
17 and the Note.]

18 Section [11] 10. LIEN OF LOAN AGREEMENTS AND NOTES. The Loan
19 Agreements and the Notes shall constitute irrevocable liens upon the Pledged Revenues **with**
20 **corresponding to and identified in each Loan Agreement, with liens and** priorities on the Pledged
21 Revenues as set forth **in the each Loan Agreements** [in this Ordinance]. The Borrower hereby
22 pledges and grants a security interest in the Pledged Revenues for the payment of the Notes and
23 any other amounts owed by the Borrower to the NMED pursuant to the Loan Agreements.

24 ~~[Section 12. OTHER OBLIGATIONS.~~ Nothing in the Ordinance shall be construed to
25 prevent the Borrower from issuing bonds or other obligations payable from the Pledged Revenues

1 and having a lien thereon subordinate to the liens of the Loan Agreement and the Note. The
2 Borrower must obtain the written consent of the NMED before issuing additional obligations
3 secured by the Pledged Revenues.

4 **Section 13. DEFAULT.** The following shall constitute an event of default under the Loan
5 Agreement:

6 (A) The failure by the Borrower to pay the annual payment due on the repayment of the
7 Loan set forth in the Loan Agreement and Note when due and payable either at maturity or
8 otherwise; or

9 (B) Default by the Borrower in any of its covenants or conditions set forth under the Loan
10 Agreement (*other than a default described in the previous clause of this section*) for 60 days after
11 the NMED has given written notice to the Borrower specifying such default and requiring the same
12 to be remedied.

13 **UPON OCCURRENCE OF DEFAULT:**

14 (A) The entire unpaid principal amount of the Interim and Final Promissory Note plus
15 accrued interest and any fees thereon may be declared by the NMED to be immediately due and
16 payable and the Borrower shall pay the amounts due under Note from the Pledged Revenues, either
17 immediately or in the manner required by the NMED in its declaration, but only to the extent funds
18 are available for payment of the Note. However, if insufficient funds are available for payment of
19 the Note(s), the NMED may require the Borrower to identify sources for additional funds, which
20 may include adjusting the rates charged by the System to ensure repayment of the Note in
21 accordance with applicable laws.

22 (B) If default by the Borrower is of covenants or conditions required under the federal
23 grant, the Borrower may be required to refund the amount of the Loan disbursed to the Borrower
24 from NMED.

1 ~~(C) The NMED shall have no further obligation to make payments to the Borrower under~~
2 ~~the Loan Agreement.]~~

3 **Section [14] 11. ENFORCEMENT VENUE.** The NMED retains the right to seek
4 enforcement of the terms of the Loan Agreement. If the NMED and the Borrower cannot reach
5 agreement regarding disputes as to the terms and conditions of this Loan Agreement~~s~~, such disputes
6 are to be resolved promptly and expeditiously in the district court of Santa Fe County. The
7 Borrower agrees that the district court for Santa Fe County shall have exclusive jurisdiction over
8 the Borrower and the subject matter of ~~this~~ these each Loan Agreement~~s~~ and waives the right to
9 challenge such jurisdiction.

10 **Section [15] 12. REMEDIES UPON DEFAULT.** Upon the occurrence of any of the
11 events of default as provided in the Loan Agreement~~s~~ or in this Ordinance, the NMED may proceed
12 against the Borrower to protect and enforce its rights under the Ordinance by mandamus or other
13 suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either
14 for the appointment of a receiver or for the specific performance of any covenant or agreement
15 contained in the Ordinance for the enforcement of any proper legal or equitable remedy as the
16 NMED may deem most effective to protect and enforce the rights provided above, or to enjoin any
17 act or thing which may be unlawful or in violation of any right of the NMED, or to require the
18 Borrower to act as if it were the trustee of an express trust, or any combination of such remedies.
19 Each right or privilege of the NMED is in addition and cumulative to any other right or privilege
20 under the Ordinance or the Loan Agreement~~s~~ and Note~~s~~ and the exercise of any right or privilege
21 by the NMED shall not be deemed a waiver of any other right or privilege.

22 **Section [16] 13. DUTIES UPON DEFAULT.** Upon the occurrence of any of the events
23 of default as provided in this Ordinance, the Borrower, in addition, will do and perform all proper
24 acts on behalf of and for the NMED to protect and preserve the security created for the payment of
25 the Note~~s~~ to ensure the payment on the Note~~s~~ promptly as the same become due. All proceeds

1 derived from the System, so long as **any of the respective Notes** is outstanding, shall be treated as
2 revenues **of that System**. If the Borrower fails or refuses to proceed as required by this Section, the
3 NMED, after demand in writing, may proceed to protect and enforce the rights of the NMED as
4 provided in the Ordinance and the Loan Agreements.

5 **Section ~~[17]~~ 14. TERMINATION.** When all obligations under the Loan Agreements and
6 Notes have been paid, the Loan Agreements and Notes shall terminate and the pledge, lien, and all
7 other obligations of the Borrower under ~~the~~ **this** Ordinance shall be discharged. The principal
8 amount of the Notes, or any part thereof, may be prepaid at any time without penalty at the
9 discretion of the Borrower and the prepayments of principal shall be applied as set forth in the Loan
10 Agreements.

11 **Section ~~[18]~~ 15. AMENDMENT OF ORDINANCE.** This Ordinance may be amended
12 with the prior written consent of the NMED.

13 **Section ~~[19]~~ 16. ORDINANCE IRREPEALABLE.** After the Loan Agreements and
14 Notes have been executed and delivered, the Ordinance shall be and remain irrevocable until the
15 Notes ~~has~~ have been fully paid, terminated, and discharged, as provided in the Ordinance.

16 **Section ~~[20]~~ 17. SEVERABILITY CLAUSE.** If any section, paragraph, clause, or
17 provision of the Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity
18 or unenforceability of such section, paragraph, clause, or provision shall not affect any of the
19 remaining provisions of the Ordinance.

20 **Section ~~[21]~~ 18. REPEALER CLAUSE.** All bylaws, orders, Ordinances, or parts thereof,
21 inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer
22 shall not be construed to revive any bylaw, order, Ordinance, or part thereof, heretofore repealed.

23
24 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2025.
25

1 APPROVED AS TO FORM:

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4 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2025/Bills/Clarifying Structure of NMED Loan*