

MEMORANDUM

From: Peter Franklin, Modrall Sperling
Bond Counsel to the City of Santa Fe

To: Governing Body of the City of Santa Fe

Through: Emily K. Oster, Finance Director

Subject: Bond Parameters Ordinance authorizing the issuance of General Obligation Bonds approved at the General Election held on November 5, 2024

Date: May ___, 2025

1. Background.

The Governing Body of the City adopted Resolution No. ___ on [August 14, 2024] pursuant to which it submitted the following question to be placed on the ballot at the election to be held on November 5, 2024 (the "Election"): "Shall the City of Santa Fe issue up to \$25,000,000 in general obligation bonds payable from property taxes to construct, design, equip, and improve roads and streets within the City?" At that election, a majority of the electors of the City voted in favor of the question.

Article IX, Section 12 of the Constitution of the State provides that "no city, town or village shall contract any debt except by ordinance... ." The attached ordinance authorizes the issuance and sale of the general obligation bonds approved at the Election (the "Series 2025 Bonds" or the "Bonds") by either a competitive or negotiated sale, subject to specified parameters, each as described below. The Ordinance delegates authority to the City Finance Director to either accept the best bid for the Bonds if sold by competitive sale or, if the Bonds are sold in a negotiated sale to an underwriter, to execute a certificate and bond purchase agreement establishing the final terms of the Bonds. The section and subsection references below refer to the corresponding sections and subsections of the Ordinance unless otherwise indicated.

2. The Ordinance.

A. Sale of the Bonds by either competitive sale or negotiated sale.

1. Competitive Sale. Section 1 authorizes the sale of the Bonds either by a competitive sale pursuant to a Notice of Sale of the Bonds to be published in the *Santa Fe New Mexican* and by other methods, including publication in financial periodicals and distribution among investment bankers of a Preliminary Official Statement in the form included with the Ordinance. Section 2 approves the forms of the Notice of Bond Sale for newspaper publication (Ordinance Exhibit A-1), and the Official Notice of Bond Sale (Ordinance Exhibit A-2) and appended to the Preliminary Official Statement.

2. Negotiated Sale. Subsection B of Section 1 provides that if, due to market conditions, the Finance Director, in consultation with the City's Municipal Advisor and Bond Counsel, deems it advisable that the Bonds be sold in a negotiated sale to an underwriter or underwriting group (the "Underwriter"), the Finance Director shall coordinate for the selection of an Underwriter and the negotiated sale of the Bonds to the Underwriter pursuant to a bond purchase agreement.

B. Delegation of authority to the Finance Director to determine final terms of the Bonds within specified parameters.

Section 3 provides for the Finance Director to execute an Award Certificate setting forth the final terms of the Bonds, which must meet the parameters and conditions listed below:

- (A) The aggregate principal amount of the bonds shall not exceed \$25,000,000;
- (B) The net effective interest rate on the Bonds shall not exceed 10% per annum;
- (C) The final maturity of the Bonds shall not be later than August 1, 2045;
- (D) The Bonds shall not be sold at less than 100% of par, or at greater than 115% of par; and
- (E) The underwriting discount on the Bonds shall not exceed 3% of the par amount of the Bonds.

C. Summary of the other provisions of the Ordinance.

Section 4 specifies that the Bonds will be dated the date of delivery, will issued in a single series, and in denominations of \$5,000 or integral multiples thereof; provides for the payment of interest beginning on February 1, 2026, and on each February and August thereafter, and shall mature on August 1 in the years 2030 through 2045; provides details regarding the registration and payment of debt service on the Bonds; provides for redemption of the Bonds maturing on and after August 1, 2036 may be redeemed at the option of the City in whole or in part on and after August 1, 2035.

Section 5 provides that the Bonds constitute general obligations of the City, payable from *ad valorem* property taxes, and that the full faith and credit of the City is irrevocably pledged to pay the principal of and interest on the Bonds.

Sections 6 through 9 provide details concerning the execution and authentication of the Bonds, the issuance and registration of the Bonds with the Depository Trust Company (the "Depository"), the payment of principal and interest on the Bonds by the Registrar/Paying Agent to the Depository, approves a form of Registrar/Paying Agent agreement with BOKF, NA and provides for the appointment of a successor Registrar/Paying agent under certain conditions. BOKF, NA has served as Registrar and Paying Agent under a separate agreement with the City for each series of publicly marketed bonds issued by the City, beginning with the City's \$32,725,000 Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012A. Each agreement was procured as a small purchase, based on the compensation to be paid by the City ranging from \$175 to \$300 as an acceptance fee, and an annual fee ranging from \$225 to \$300, payable during the term of the bond series corresponding to each agreement. Pursuant to the Registrar/Paying Agent Agreement proposed in connection with the Series 2025 Bonds, the acceptance fee is \$300 and the annual fee is \$300.

Section 10 provides the form of the Bonds.

Section 11 provides for the delivery of the Bonds to the lawful purchaser identified in the Award Certificate.

Section 12 provides for the annual levy of *ad valorem* property taxes sufficient to pay debt service on the Bonds at the time it is due, and for the taxes to be kept by the City in its interest and sinking fund, to be used solely for the purpose of paying debt service on the Bonds.

Section 13 authorizes the Mayor, City Clerk, City Manager, Finance Director and other officers and employees of the City to take all action necessary or appropriate to effectuate the provisions of the Ordinance, including the distribution of the Official Notice of Bond Sale, the preparation and distribution of the Preliminary Official Statement, the delivery of closing certificates and a continuing disclosure agreement.

Section 14 provides that the City will restrict the use of proceeds of the Bonds, will apply the proceeds to governmental purpose of the Bonds, and will comply with the other applicable federal requirements, so as to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 15 provides that Bonds will be deemed to be paid and no longer outstanding (“Defeased”) when the City has provided for the payment of the principal of and accrued interest on such Bonds by irrevocably depositing money or government securities sufficient to pay the principal and interest on such Bonds when due, and that Defeased Bonds shall no longer be secured by the *ad valorem* property taxes levied for payment of the Bonds.

Section 16 provides that the City may invest proceeds of the Bonds as permitted by law and federal requirements applicable to the tax-exempt status of the Bonds.

Section 17 provides that, after the Bonds have been issued, the Ordinance shall constitute a contract between the City and holders of the Bonds while they are outstanding.

Sections 18 provides that the invalidity or unenforceability of any provision of the Ordinance shall not affect the validity or enforceability of its remaining provisions.

Section 19 provides that all action inconsistent with the Ordinance are repealed to the extent of such inconsistency.

Sections 20 and 21 provide for recordation of the Ordinance, publication of a notice of its adoption in a newspaper of general circulation in the City, and the form of such notice.

MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.

By: _____
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Shareholder/Attorney