

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2025-04

3 INTRODUCED BY:

4  
5 Councilor Carol Romero-Wirth

6 Councilor Michael Garcia

7 Councilor Amanda Chavez

8  
9  
10 A BILL

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

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

[bracketed material] = delete

underscored material = new

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 systems (“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 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 Pledged  
18 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, consisting of Environmental  
13 Services Division Maintenance and Administrative Building Project (the “Solid Waste System  
14 Project”); and

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

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

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

24 WHEREAS, each of the Net Water System Revenues, Net Wastewater System Revenues,  
25 and Net Solid Waste System Revenues has been pledged as security for repayment of, respectively,

1 outstanding Net Water System Revenue obligations, outstanding Net Wastewater System Revenue  
2 obligations, and Net Solid Waste System Revenue obligations; and

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

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

11 **WHEREAS**, the ordinances authorizing the issuance of outstanding Net Solid Waste  
12 System Revenue obligations include definitions and covenants which are specific to the operation  
13 of the Solid Waste Collection System, and govern the issuance of additional debt obligations  
14 secured by Net Solid Waste System Revenue; and

15 **WHEREAS**, for the purpose of delineating the separate net system revenues being pledged  
16 as security for repayment of the loan funds to be provided by NMED for the Water System  
17 Improvement Project, the Wastewater System Improvement Projects and the Solid Waste System  
18 Improvement Project, and the separate definitions and covenants applicable to each category of  
19 pledged revenues, the Governing Body deems it advisable and in the interest of the City to approve  
20 a separate loan agreement for each of the Water System Improvement Project, the Wastewater  
21 System Improvement Projects, and the Solid Waste System Improvement Project (collectively, the  
22 “Improvement Projects”); and

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

- 25 (1) \$17,000,000 Water Utility System Interim Loan Agreement and

1 Supplement with Covenants and Provisions Applicable to Net Water Utility System Obligations,  
2 and Interim Promissory Note;

3 (2) \$114,000,000 Wastewater Utility System Interim Loan Agreement and  
4 Supplement with Covenants and Provisions Applicable to Net Wastewater Utility System  
5 Obligations, and Interim Promissory Note; and

6 (3) \$20,000,000 Solid Waste Collection System Interim Loan Agreement and  
7 Supplement with Covenants and Provisions Applicable to Net Solid Waste Collection System  
8 Obligations, and Interim Promissory Note;

9 and

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

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

21 **Section 1. Definitions.** As used in the Ordinance, the following terms shall have the  
22 meanings specified below, unless the context clearly requires otherwise and to the extent that the  
23 terms do not conflict with the three Loan Agreement Supplements (such meaning to be equally  
24 applicable to both the singular and the plural forms of the terms defined unless the plural form is  
25 separately defined): In addition to the terms defined in the recitals hereof and below in this section,

1 the defined terms appearing in the Supplement with Covenants and Provisions Applicable to Net  
2 Water Utility System Obligations, the Supplement with Covenants and Provisions Applicable to  
3 Net Wastewater Utility System Obligations, and the Supplement with Covenants and Provisions  
4 Applicable to Net Environmental Services Division Collection System Obligations, are  
5 incorporated herein by reference.

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

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

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

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

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

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

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

23           **LOAN AGREEMENT.** The interim loan agreement between the Borrower and the  
24 NMED, pursuant to which funds will be loaned to the Borrower to construct the Project and pay  
25 eligible costs relating thereto; and the final (repayment) loan agreements which shall state the

1 amounts put into repayment the NMED loaned to the Borrower, which shall be executed annually  
2 or biannually per an agreed upon disbursement amount or upon completion of the Projects.

3 **NMSA.** New Mexico Statutes Annotated, 1987 Compilation, as amended and  
4 supplemented.

5 **NOTE.** The interim and final promissory notes issued by the Borrower to the NMED  
6 evidencing the obligation of the Borrower to the NMED incurred pursuant to the Ordinance and  
7 Loan Agreements.

8 **OPERATION AND MAINTENANCE.** All reasonable and necessary expenses of the  
9 Systems, paid or accrued, relating to operating, maintaining, and repairing the System.

10 **ORDINANCE.** This Ordinance includes amendments.

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

14 **PLEDGED REVENUES.**

- 15 • Water System Revenue for Nichols Dam Project
- 16 • Wastewater System Revenue for
  - 17 ○ The Ultraviolet (UV) Disinfection Replacement Project,
  - 18 ○ The Collections Equipment and Administrative Building, and
  - 19 ○ The Sanitary Sewer Line Repair and Rehabilitation
  - 20 ○ The Wastewater Treatment Plant (WWTP) Rehabilitation.
- 21 • Environmental Services Division Net Revenue for the Environmental Services  
22 Division Administrative Building, Maintenance Space, and Storage Area.

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

- 25 • Nichols Dam Outlet Works Rehabilitation.

- 1 • UV Disinfection Replacement Project.
- 2 • Collections Equipment and Administrative Building.
- 3 • Sanitary Sewer Line Repair/Rehabilitation.
- 4 • Wastewater Treatment Plant Repair and Rehabilitation
- 5 • Environmental Services Division Administrative Building, Maintenance Space, and
- 6 Storage Area

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

10 **REGULATIONS.** Regulations promulgated by the Water Quality Control Commission at  
11 20.7.5 NMAC and New Mexico Environment Department at 20.7.6 - 20.7.7 NMAC.

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

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

19 **Section 3. Approval of Loan Agreements.** The Loan Agreements, as supplemented  
20 with the Supplement corresponding to each, and the Interim Promissory Note corresponding to  
21 each Loan Agreement, are hereby approved for execution and delivery to NMED, with such  
22 modifications as may be required by NMED or otherwise deemed advisable and consistent with  
23 the purposes of this Amendatory Ordinance. Prior approval of the Proposed Combined NMED  
24 Loan Agreement pursuant to Ordinance No. 2024-6 is hereby repealed.

25 **Section [3] 4. FINDINGS.** The Governing Body of the Borrower declares that it has



1 considered all relevant information and data and makes the following findings:

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

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

7 (C) The Pledged Revenues may lawfully be pledged to secure the payment of amounts  
8 due under the Loan Agreements and Notes.

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

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

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

21 (A) For the purpose of protecting the public health, conserving the property, and  
22 protecting the general welfare of the borrowing community it is hereby declared necessary that the  
23 Borrower execute and deliver the Loan Agreements and Notes to be payable and collectible solely  
24 from the Pledged Revenues. The NMED has agreed to disburse the proceeds according to the terms  
25 of the Loan Agreements to the Borrower over the construction period of the Project. The principal

1 Loan amounts of the Notes shall not exceed the loan amounts specified in each of the three  
2 agreements [~~\$151 million~~] without the adoption of another Ordinance amending the Ordinance by  
3 the Governing Body of the Borrower, *and the annual interest rate on that principal amounts shall*  
4 *not exceed 0.01% percent per annum. Interest shall be computed as a percentage per year on the*  
5 *outstanding principal amounts on the Loans on the basis of a 365-day year, actual number of days*  
6 *lapsed.* The final maturity date on the Notes shall not extend beyond the agreed upon useful life of  
7 the project. The Loans shall be repaid in substantially equal annual installments in the amount and  
8 on the dates provided in the Loan Agreements with the first annual installment in the amount and  
9 on the dates provided in the Loan Agreements with the first annual installment due no later than  
10 one year after the completion of the project. The Borrower must maintain a debt service coverage  
11 ratio of no less than 1.2 and must obtain the written consent of the NMED before issuing additional  
12 obligations secured by the Pledged Revenues.

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

16 **(C)** The NMED has approved the form of the Loan Agreements and the Notes. The  
17 Authorized Officer is hereby directed to execute and deliver the Loan Agreements and the Notes  
18 and any amendments to the [4] Loan Agreements or Notes to be executed after completion of the  
19 Project with such changes consistent with the Ordinance. The approval by an Authorized Officer  
20 of these documents in their final forms shall constitute conclusive evidence of their approval and  
21 compliance with this section.

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

1           **Section [7]8. SPECIAL LIMITED OBLIGATIONS.** All Funds disbursed pursuant  
2 to the Loan Agreements and the Notes shall be special limited obligations of the Borrower and shall  
3 be payable and collectible solely from the Pledged Revenues which are irrevocably pledged as set  
4 forth in this Ordinance. The NMED may not look to any general or other fund for the payment on  
5 the Loan Agreements and the Notes except the designated special funds pledged. The Loan  
6 Agreements and the Notes shall not constitute indebtedness or debts within the meaning of any  
7 constitutional, charter, or statutory provision or limitation, nor shall they be considered or be held  
8 to be general obligations of the Borrower and shall recite that they are payable and collectible solely  
9 from the Pledged Revenues.

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

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

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

19           ~~**Section 10. APPLICATION OF REVENUES.**~~

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

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

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

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

13           Section [11] 10. LIEN OF LOAN AGREEMENTS AND NOTES. The Loan  
14 Agreements and the Notes shall constitute irrevocable liens upon the Pledged Revenues with  
15 priorities on the Pledged Revenues as set forth in the Loan Agreements [~~in this Ordinance~~]. The  
16 Borrower hereby pledges and grants a security interest in the Pledged Revenues for the payment of  
17 the Notes and any other amounts owed by the Borrower to the NMED pursuant to the Loan  
18 Agreements.

19           ~~[Section 12. OTHER OBLIGATIONS.~~ Nothing in the Ordinance shall be construed to  
20 prevent the Borrower from issuing bonds or other obligations payable from the Pledged Revenues  
21 and having a lien thereon subordinate to the liens of the Loan Agreement and the Note. ~~The~~  
22 ~~Borrower must obtain the written consent of the NMED before issuing additional obligations~~  
23 ~~secured by the Pledged Revenues.~~

24           Section 13. DEFAULT. The following shall constitute an event of default under the Loan  
25 Agreement:

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

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

8           ~~**UPON OCCURRENCE OF DEFAULT:**~~

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

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

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

22           **Section [14] 11. ENFORCEMENT VENUE.** The NMED retains the right to seek  
23 enforcement of the terms of the Loan Agreement. If the NMED and the Borrower cannot reach  
24 agreement regarding disputes as to the terms and conditions of this Loan Agreements, such disputes  
25 are to be resolved promptly and expeditiously in the district court of Santa Fe County. The

1 Borrower agrees that the district court for Santa Fe County shall have exclusive jurisdiction over  
2 the Borrower and the subject matter of [~~this~~] these Loan Agreements and waives the right to  
3 challenge such jurisdiction.

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

16 **Section [~~16~~] 13. DUTIES UPON DEFAULT.** Upon the occurrence of any of the events  
17 of default as provided in this Ordinance, the Borrower, in addition, will do and perform all proper  
18 acts on behalf of and for the NMED to protect and preserve the security created for the payment of  
19 the Notes to ensure the payment on the Notes promptly as the same become due. All proceeds  
20 derived from the System, so long as the respective Note is outstanding, shall be treated as revenues.  
21 If the Borrower fails or refuses to proceed as required by this Section, the NMED, after demand in  
22 writing, may proceed to protect and enforce the rights of the NMED as provided in the Ordinance  
23 and the Loan Agreements.

24 **Section [~~17~~] 14. TERMINATION.** When all obligations under the Loan Agreements and  
25 Notes have been paid, the Loan Agreements and Notes shall terminate and the pledge, lien, and all

1 other obligations of the Borrower under the Ordinance shall be discharged. The principal amount  
2 of the Notes, or any part thereof, may be prepaid at any time without penalty at the discretion of  
3 the Borrower and the prepayments of principal shall be applied as set forth in the Loan Agreements.

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


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

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

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

16  
17 PASSED, APPROVED, and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

18 APPROVED AS TO FORM:

19  
20 

21 ERIN K. McSHERRY, CITY ATTORNEY

22  
23 *Legislation/2025/Bills/Clarifying Structure of NMED Loan*