

1 **CITY OF SANTA FE**

2 **RESOLUTION NO. 2016-66**

3 **INTRODUCED BY:**

4
5 Councilor Carmichael A. Dominguez

6 Mayor Javier M. Gonzales

7 Councilor Peter N. Ives

8 Councilor Ronald S. Trujillo

9
10 **A RESOLUTION**

11 **DECLARING THE INTENT OF THE CITY OF SANTA FE, NEW MEXICO TO ISSUE**
12 **ITS QUALIFIED ENERGY CONSERVATION BONDS ENTITLED CITY OF SANTA**
13 **FE, NEW MEXICO QUALIFIED ENERGY CONSERVATION REVENUE BONDS**
14 **(HOMEWISE ENERGY CONSERVATION FUND PROGRAM), SERIES 2016, IN AN**
15 **AGGREGATE PRINCIPAL AMOUNT OF UP TO \$5,000,000 IN CONNECTION WITH**
16 **THE ESTABLISHMENT OF A PROGRAM TO FINANCE RESIDENTIAL**
17 **RENEWABLE ENERGY SYSTEMS IN THE CITY OF SANTA FE (THE “PROGRAM”),**
18 **FOR THE PURPOSE OF INDUCING HOMEWISE TO IMPLEMENT THE PROGRAM**
19 **AND TO PAY THE COSTS OF THE PROGRAM FROM PROCEEDS OF THE BONDS;**
20 **AND CONCERNING RELATED MATTERS.**

21
22 **WHEREAS,** the City, a charter municipality with home-rule powers under Article X,
23 Section 6 of the Constitution of the State of New Mexico, desires to promote the energy
24 conservation industry and develop trade or other economic activity to secure and maintain a
25 balanced and stable economy in the City and to promote public health, welfare, safety,

1 convenience and prosperity; and

2 **WHEREAS**, under Section 54D(f)(1)(A)(ii) of the Internal Revenue Code of 1986, as
3 amended, Qualified Energy Conservation Bonds may be issued to finance a “green community
4 program” for the purpose of promoting energy savings through renewable energy measures; and

5 **WHEREAS**, Homewise, Inc., a 501(c)(3) organization (together with its successors and
6 assigns, including, but not limited to, subsidiaries or affiliates of Homewise, Inc., the
7 “Company”) has made a proposal to the City (the “Proposal”) whereby the City will issue
8 Qualified Energy Conservation Revenue Bonds (the “Bonds”) to finance a program pursuant to
9 which the Company will install renewable energy systems (“Systems”) for qualifying residents of
10 the City, the costs of which will be reimbursed from proceeds of the Bonds (the “Program”); and

11 **WHEREAS**, pursuant to the Program the Company will finance, design, acquire and
12 install Systems for qualifying residential customers, will be periodically reimbursed from
13 proceeds of the Bonds, and will pledge the revenues derived from the Company’s financing
14 agreements with its residential customers (“Program Participants”) for the payment of debt
15 service due on the Bonds; and

16 **WHEREAS**, the Program will make loan financing generally available to any resident of
17 the City that meets the credit qualifications suitable for participation in the Program, which
18 qualifies the Program as an authorized “green community program” as defined in Section
19 54D(f)(1)(A)(ii) and

20 **WHEREAS**, the issuance of the Bonds as tax-advantaged Qualified Energy
21 Conservation Revenue Bonds by the City to finance the Program, will constitute one of the
22 inducements whereby the Company will determine to implement the Program in the City; and

23 **WHEREAS**, the Program has been considered by the Governing Body which has
24 determined that the Proposal and Program will promote the local health, general welfare, safety,
25 convenience and prosperity of the inhabitants of the City, and the Governing Body desires to

1 indicate its intent to proceed with the issuance of the Bonds for the financing of the Program; and

2 **WHEREAS**, in order to issue the Bonds on a tax-advantaged basis, the City will apply to
3 the State Board of Finance for a distribution of a portion of the State’s Qualified Energy
4 Conservation Bond allocation; and

5 **WHEREAS**, concurrently with the issuance of the Bonds, the Company will enter into a
6 financing agreement with the City providing for payments made by Program Participants in
7 connection with the Program sufficient to pay the debt service on the Bonds, subject to the prior
8 adoption by the Governing Body of an ordinance approving such agreement and other related
9 documents and authorizing issuance of the Bonds (the “Bond Ordinance”); and

10 **WHEREAS**, the City and the Company understand that the adoption of this Resolution
11 shall not obligate the Governing Body to adopt the Bond Ordinance, to issue the Bonds or
12 obligate the Company to proceed with the Program, except pursuant to the terms of the Bond
13 Ordinance and related bond documents in forms satisfactory to the City as presented by the
14 Company prior to the issuance of the Bonds;

15 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE**
16 **CITY OF SANTA FE, NEW MEXICO:**

17 Section 1. All actions (not inconsistent with the provisions hereof) heretofore taken
18 by the City Council and the officers and employees of the City related to the Proposal, the
19 acquisition of the Program, and the sale and issuance of the Bonds, are hereby ratified, approved
20 and confirmed.

21 Section 2. The Governing Body has been informed by the Company that:

22 A. The Program will be implemented by the Company, and will consist of the financing of
23 periodic reimbursements to the Company for financing which the Company will provide to
24 Program Participants residing within the City in connection with the installation of Systems.

25 B. The maximum aggregate face amount of the Bonds to be issued with respect to

1 the Program is \$5,000,000.

2 C. The initial developer of the Program is the Company.

3 D. The initial operator of the Program will be the Company.

4 Section 3. In order to promote the local health and general welfare, safety,
5 convenience and prosperity of the inhabitants of the City, it is the Governing Body's intent to
6 take all necessary and advisable steps to effect the issuance of the Bonds in an aggregate principal
7 amount up to \$5,000,000 in order to defray part or all of the costs of the Program. The Bonds are
8 to be entitled substantially as follows "City of Santa Fe, New Mexico Qualified Energy
9 Conservation Revenue Bonds (Homewise, Inc. Energy Conservation Fund Program), Series
10 2016" provided that in the Bond Ordinance the Governing Body may designate a different Bond
11 title, including but not limited to the Series designation. It is the intention of the Governing Body
12 that the Bonds will be issued with a term to be determined in the Bond Ordinance to be adopted.
13 This expression of intent of the] Governing Body is conditioned upon the issuance of the Bonds
14 on or before five years from the date of the adoption of this Resolution.

15 Section 4. The Bonds for the implementation of the Program shall be payable from
16 the revenues derived from the financing agreements between the Company and Program
17 Participants or other moneys payable by the Company, with respect thereto, and shall not
18 constitute a debt or indebtedness of the City within the meaning of any provision or limitation of
19 the Constitution or statutes of the State of New Mexico. In addition, if the Bonds are issued, the
20 Company shall indemnify and hold harmless the City, the Governing Body and their respective
21 officers, employees, designated representatives and agents (collectively, the "Indemnified
22 Persons") from and against any liability to the Company, or to any third parties that may be
23 asserted against the City with respect to the City's participation in implementing the Program.
24 Nothing contained in this Resolution or in any other instrument shall be considered as obligating
25 the City to any pecuniary liability or a charge upon the general credit of the City or against its

1 taxing power, it being understood that no costs are to be borne by the City and that all costs
2 incurred by the City in connection with the Bonds are to be promptly reimbursed by the
3 Company. The City's adoption of this Resolution shall not be deemed a conclusion or expression
4 of approval by the City or any Indemnified Person of the Company or the Program.

5 Section 5. The City Manager and City Attorney are hereby authorized and directed
6 to take such steps as are necessary to apply to the State Board of Finance for a distribution of
7 Qualified Energy Conservation Bond allocation in order that the Bonds be issued on a tax-
8 advantaged basis.

9 Section 6. The Governing Body and other appropriate City officials and employees
10 are hereby authorized and empowered to take such steps and to do such things as may be
11 necessary to achieve the purposes of this Resolution; provided, however, the issuance of the
12 Bonds and the execution and delivery of any documents to which the City is a party in connection
13 therewith shall be subject to the approval and authorization by the Governing Body pursuant to
14 the Bond Ordinance, to be adopted following public notice of the Board's intent to adopt such
15 Bond Ordinance at least fourteen (14) days prior to the consideration of the Bond Ordinance by
16 the Board at a public meeting, such public notice to specify the time, date and place of the
17 Board's meeting. Such notice may be in substantially the form set forth in Exhibit A attached
18 hereto, to be published one time in the *Santa Fe New Mexican*, a newspaper that maintains an
19 office in the City of Santa Fe and is of general circulation in the City, at least two weeks before
20 the meeting of the Governing Body at which the Bond Ordinance is to be adopted. This
21 authorization is in compliance with Section 3-17-3 NMSA, 1978. In particular, no provision of
22 this Resolution shall in any way obligate the City or any other person to issue the Bonds, any
23 other bonds or in any way finance the Program; and the City retains full and complete discretion
24 with respect thereto.

25 Section 7. This Resolution shall not give rise to a pecuniary liability of the City and

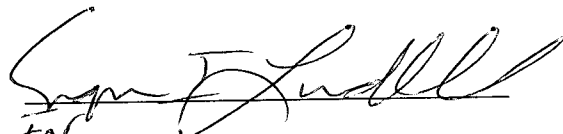
1 shall not give rise to a charge against its general credit or taxing powers.

2 Section 8. If any section, paragraph, clause or provision of this Resolution shall for
3 any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such
4 section, paragraph, clause or provision shall not affect any of the remaining provisions of this
5 Resolution.

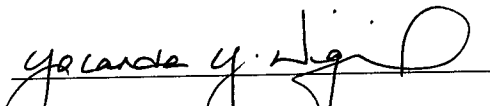
6 Section 9. All orders and resolutions, or parts thereof, in conflict with this
7 Resolution are hereby repealed; this repealer shall not be construed to revive any order, resolution
8 or part thereof, heretofore repealed.

9 Section 10. The adoption of this Resolution shall not require any further action by
10 the City regarding the issuance of the Bonds or the terms and conditions of their issuance.

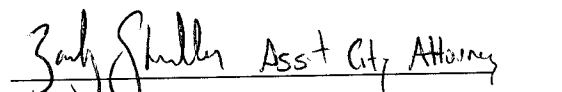
11 PASSED, APPROVED and ADOPTED this 31st day of August, 2016.

12 
13 *for*
14 JAVIER M. GONZALES, MAYOR

15 ATTEST:

16 
17 YOLANDA Y. VIGIL, CITY CLERK
18 YOLANDA Y. VIGIL, CITY CLERK

19 APPROVED AS TO FORM:

20 
21 KELLEY A. BRENNAN, CITY ATTORNEY
22 KELLEY A. BRENNAN, CITY ATTORNEY

23
24
25 *M/Legislation/Resolutions 2016/2016-66 Homewise Inducement*

1 After discussion, Councilor Dominguez moved for approval, with Councilor Ives seconding the
2 motion. Resolution No. 2016-66 passed upon the following roll call vote:

3 Those voting AYE: Councilor: Carmichael A. Dominguez
4 Mayor: Javier M. Gonzales
5 Councilor: Peter N. Ives
6 Councilor: Ronald S. Trujillo
7 Councilor: Christopher M. Rivera
8 Councilor: Renee D. Villarreal
9 Councilor: Signe I. Lindell
10 Councilor: Mike Harris
11 Councilor: Joseph M. Maestas

12 Those voting NAY: _____

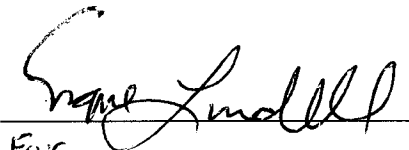
13 Those not present: _____

14 The presiding officer thereupon declared that at least a three-fourths of all the members
15 of the Governing Body having voted in favor of adoption of Resolution No. 2016-66 the motion
16 was carried and Resolution No. 2016-66 was duly passed and adopted.

17 After consideration by the Governing Body of other business the meeting was duly
18 adjourned.

19 GOVERNING BODY OF THE
20 CITY OF SANTA FE, NEW MEXICO

21 (SEAL)

22 
23 For
24 JAVIER M. GONZALES, MAYOR
25