

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 29th 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.
24
25

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 54th 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 54th 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 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.

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

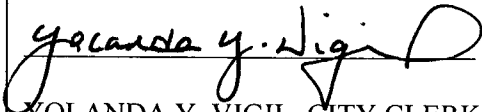
2 (End of Form of Summary for Publication)

3 PASSED, APPROVED, and ADOPTED this 29th day of May, 2019

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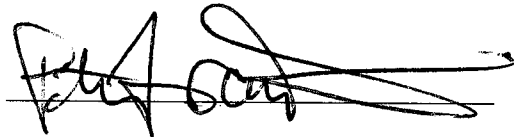
7 ALAN M. WEBBER, MAYOR

8 ATTEST:

9
10 

11 YOLANDA Y. VIGIL, CITY CLERK

12 APPROVED AS TO FORM:

13 

14 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.

20
21 CITY OF SANTA FE, NEW MEXICO

22
23 

24 ALAN M. WEBBER, MAYOR
25

1 IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of May, 2019.

2 CITY OF SANTA FE, NEW MEXICO

3
4 (SEAL)

5 
6 YOLANDA Y. VIGIL, CITY CLERK