

CITY OF SANTA FE, NEW MEXICO

ORDINANCE NO. 2025-9

INTRODUCED BY:

Councilor Carol Romero-Wirth

Councilor Michael Garicia

Councilor Amanda Chavez

AN ORDINANCE

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

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

WHEREAS, the City of Santa Fe, New Mexico (the “City”) is a legally created public

body, established, organized and existing incorporated charter municipality with home-rule powers under the constitution and laws of the State of New Mexico; and

WHEREAS, the Borrower now owns, operates, and maintains public utilities including Water, Wastewater, and Environmental Services systems (“System”); and

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

WHEREAS, the New Mexico Environment Department (“NMED”) is offering the Borrower three loans to assist in financing improvements to the Systems (the “Projects”), pursuant to three agreements (“Loan Agreements”) and respective promissory notes (“Notes”), payable solely from certain revenues described herein (“the Pledged Revenues”); and

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

WHEREAS, under the terms of the Loan Agreements, the Projects are subject to specific requirements of the federal grants;

WHEREAS, the Borrower has the following obligations outstanding to which the Pledged 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

WHEREAS, the Governing Body of the Borrower has determined that it is in the best interest of the Borrower to accept and enter into the Loan Agreements and to execute and to deliver the Notes, for each of the three agreements respectively, to the NMED; and

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

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

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

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

22 **WHEREAS**, each of the Net Water System Revenues, Net Wastewater System Revenues,
23 and Net Solid Waste System Revenues has been pledged as security for repayment of, respectively,
24 outstanding Net Water System Revenue obligations, outstanding Net Wastewater System Revenue
25 obligations, and Net Solid Waste System Revenue obligations; and

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

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

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

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

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

23 (1) \$17,000,000 Water Utility System Interim Loan Agreement and
24 Supplement with Covenants and Provisions Applicable to Net Water Utility System Obligations,
25 and Interim Promissory Note;

1 (2) \$114,000,000 Wastewater Utility System Interim Loan Agreement and
2 Supplement with Covenants and Provisions Applicable to Net Wastewater Utility System
3 Obligations, and Interim Promissory Note; and

4 (3) \$20,000,000 Solid Waste Collection System Interim Loan Agreement and
5 Supplement with Covenants and Provisions Applicable to Net Solid Waste Collection System
6 Obligations, and Interim Promissory Note;
7 and

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

17 **NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE**
18 **CITY OF SANTA FE, NEW MEXICO:**

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

1 Net Wastewater Utility System Obligations, and the Supplement with Covenants and Provisions
2 Applicable to Net Environmental Services Division Collection System Obligations, are
3 incorporated herein by reference.

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

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

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

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

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

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

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

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

1 **NMSA.** New Mexico Statutes Annotated, 1987 Compilation, as amended and
2 supplemented.

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

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

8 **ORDINANCE.** This Ordinance includes amendments.

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

12 **PLEDGED REVENUES.**

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

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

- 23 • Nichols Dam Outlet Works Rehabilitation.
- 24 • UV Disinfection Replacement Project.
- 25 • Collections Equipment and Administrative Building.

- Sanitary Sewer Line Repair/Rehabilitation.
- Wastewater Treatment Plant Repair and Rehabilitation
- Environmental Services Division Administrative Building, Maintenance Space, and Storage Area

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

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

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

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

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

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

- (A) The execution and delivery of the Loan Agreements and the Notes pursuant to the

1 Act to provide funds to finance the Projects, is necessary and in the interest of the public health,
2 safety, and welfare of the residents of the Borrower.

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

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

7 **Section 5. Repeal of Prior Inconsistent Action.** All ordinances or parts of
8 ordinances, including Ordinance No. 2024-6, inconsistent herewith are hereby repealed to the
9 extent only of such inconsistency. This repeal shall not be construed to revive any ordinance or
10 part of any ordinance heretofore repealed.

11 **Section 6. Authorization to Execute Related Documents and Delegated**
12 **Authority.** The acquisition and construction of the Projects and payment of eligible items are set
13 forth in the regulations from proceeds of the Loan Agreements and Notes are hereby authorized as
14 a cost not to exceed the principal Loan amounts, respectively, excluding any cost of the Project to
15 be paid from any source other than the proceeds of the Loan Agreements and respective Notes

16 **Section 7. AUTHORIZATION OF LOAN AGREEMENTS.**

17 (A) For the purpose of protecting the public health, conserving the property, and
18 protecting the general welfare of the borrowing community it is hereby declared necessary that the
19 Borrower execute and deliver the Loan Agreements and Notes to be payable and collectible solely
20 from the Pledged Revenues. The NMED has agreed to disburse the proceeds according to the terms
21 of the Loan Agreements to the Borrower over the construction period of the Project. The principal
22 Loan amounts of the Notes shall not exceed the loan amounts specified in each of the three
23 agreements without the adoption of another Ordinance amending the Ordinance by the Governing
24 Body of the Borrower, *and the annual interest rate on that principal amounts shall not exceed*
25 *0.01% percent per annum. Interest shall be computed as a percentage per year on the outstanding*

1 *principal amounts on the Loans on the basis of a 365-day year, actual number of days lapsed.* The
2 final maturity date on the Notes shall not extend beyond the agreed upon useful life of the project.
3 The Loans shall be repaid in substantially equal annual installments in the amount and on the dates
4 provided in the Loan Agreements with the first annual installment in the amount and on the dates
5 provided in the Loan Agreements with the first annual installment due no later than one year after
6 the completion of the project. The Borrower must maintain a debt service coverage ratio of no less
7 than 1.2 and must obtain the written consent of the NMED before issuing additional obligations
8 secured by the Pledged Revenues.

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

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

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

22 **Section 8. SPECIAL LIMITED OBLIGATIONS.** All Funds disbursed pursuant
23 to the Loan Agreements and the Notes shall be special limited obligations of the Borrower and shall
24 be payable and collectible solely from the Pledged Revenues which are irrevocably pledged as set
25 forth in this Ordinance. The NMED may not look to any general or other fund for the payment on

1 the Loan Agreements and the Notes except the designated special funds pledged. The Loan
2 Agreements and the Notes shall not constitute indebtedness or debts within the meaning of any
3 constitutional, charter, or statutory provision or limitation, nor shall they be considered or be held
4 to be general obligations of the Borrower and shall recite that they are payable and collectible solely
5 from the Pledged Revenues.

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

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

15 **Section 11. ENFORCEMENT VENUE.** The NMED retains the right to seek
16 enforcement of the terms of the Loan Agreement. If the NMED and the Borrower cannot reach
17 agreement regarding disputes as to the terms and conditions of this Loan Agreements, such disputes
18 are to be resolved promptly and expeditiously in the district court of Santa Fe County. The
19 Borrower agrees that the district court for Santa Fe County shall have exclusive jurisdiction over
20 the Borrower and the subject matter of these Loan Agreements and waives the right to challenge
21 such jurisdiction.

22 **Section 12. REMEDIES UPON DEFAULT.** Upon the occurrence of any of the events
23 of default as provided in the Loan Agreements or in this Ordinance, the NMED may proceed against
24 the Borrower to protect and enforce its rights under the Ordinance by mandamus or other suit,
25 action or special proceedings in equity or at law, in any court of competent jurisdiction, either for

1 the appointment of a receiver or for the specific performance of any covenant or agreement
2 contained in the Ordinance for the enforcement of any proper legal or equitable remedy as the
3 NMED may deem most effective to protect and enforce the rights provided above, or to enjoin any
4 act or thing which may be unlawful or in violation of any right of the NMED, or to require the
5 Borrower to act as if it were the trustee of an express trust, or any combination of such remedies.
6 Each right or privilege of the NMED is in addition and cumulative to any other right or privilege
7 under the Ordinance or the Loan Agreements and Notes and the exercise of any right or privilege
8 by the NMED shall not be deemed a waiver of any other right or privilege.

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

17 **Section 14. TERMINATION.** When all obligations under the Loan Agreements and
18 Notes have been paid, the Loan Agreements and Notes shall terminate and the pledge, lien, and all
19 other obligations of the Borrower under the Ordinance shall be discharged. The principal amount
20 of the Notes, or any part thereof, may be prepaid at any time without penalty at the discretion of
21 the Borrower and the prepayments of principal shall be applied as set forth in the Loan Agreements.


22 **Section 15. AMENDMENT OF ORDINANCE.** This Ordinance may be amended with
23 the prior written consent of the NMED.

Section 16. ORDINANCE IRREPEALABLE. After the Loan Agreements and Notes have been executed and delivered, the Ordinance shall be and remain irrepealable until the Notes have been fully paid, terminated, and discharged, as provided in the Ordinance.

Section 17. SEVERABILITY CLAUSE. If any section, paragraph, clause, or provision of the Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of the Ordinance.

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

PASSED, APPROVED, and ADOPTED this 9th day of April, 2025.


Alan Webber (Apr 11, 2025 15:39 MDT)


ALAN WEBBER, MAYOR

ATTEST:


ANDREA SALAZAR (Apr 11, 2025 15:40 MDT)

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:


ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Bills/2025-9 (R)/Clarifying Structure of NMED Loan