AGENDA

. . . for the Regular Meeting of the Farmington City Council to be held at 6:00 p.m., Tuesday, August 9, 2016 in the Council Chamber, City Hall, 800 Municipal Drive, Farmington, New Mexico. . .

1. Roll Call and Convening the Meeting:

2. Invocation: Youth Administrator Laura Womack of Crossroads Community Church.

3. Pledge of Allegiance:

4. Acceptance of Consent Agenda: Those items on the agenda that are marked with an asterisk (*) have been placed on the Consent Agenda and will be voted on without discussion with one motion. If any item proposed does not meet with approval of all Councilors or if a citizen so requests, that item will be heard under Business from the Floor.

5. *Approval of Minutes for:

   (a) the Regular Meeting of the City Council held July 26, 2016; and------ **18**

   (b) the Regular Work Session of the City Council held July 19, 2016.---- **19**

6. *Approval of Bid for purchase of uniforms (Police) being awarded to Neve's Uniform & Equipment as the lowest and best bidder meeting specifications after application of the five percent in-state and Veterans preferences ($64,365). Bids opened July 19, 2016 with two bidders participating.---------- **1**

7. *Approval for Adoption of Resolution No. 2016-1596 establishing a policy for the release of official personnel records and superseding Resolution No. 99-967.---------- **2**

8. *Approval of Warrants up to and including August 6, 2016.

9. Recommendations from the Planning and Zoning Commission:---------- **3**

   Acceptance of Consent Agenda: The items marked with an asterisk (*) have been placed on the Planning and Zoning Commission Consent Agenda and will be voted on without discussion by one motion. If an item does not meet with approval of all Councilors or if a citizen so requests, it will be removed from the Consent Agenda and heard in regular order.

   *(1) Adoption of the recommendation from the Planning and Zoning Commission as contained within the Community Development Department Petition Report to approve Petition No. SUP 16-57 from Vera Matthews requesting a Special Use Permit to allow three horses and a shade structure to be located on 2.50 acres in the RE-1, Residential Estate, District for property located at 7000 Hood Mesa Trail, subject to:

(a) the petitioner adhering to the provisions of Chapter 6 of the City Code relating to animals; and
(b) a review of the Special Use Permit being required if the lot size is reduced.

The recommendation of the Planning and Zoning Commission passed by a vote of 6-0 on July 28, 2016. ----------**4**

*(2) Adoption of the recommendation from the Planning and Zoning Commission as contained within the Community Development Department Petition Report to approve Petition No. ZC 16-58 from Brandt Thrower, represented by Cheney-Walters-Echols, requesting a zone change from the combined SF-7 and SF-10, Single-Family Residential, Districts to the SF-7, Single-Family Residential, District for 0.3199 acres of property located at 1921 Chilton Court.

The recommendation of the Planning and Zoning Commission passed by a vote of 6-0 on July 28, 2016. ----------**5**

*(3) Adoption of the recommendation from the Planning and Zoning Commission as contained within the Community Development Department Petition Report to approve Petition No. ZC 16-59 from Residential Rentals, LLC, represented by Gayle Goeden, requesting a zone change from the IND, Industrial, District to the MU, Mixed-Use, District for Lots 6 and 7 of Block 1 of the Riverside Addition located at 115 East Corcorran Drive.

The recommendation of the Planning and Zoning Commission passed by a vote of 6-0 on July 28, 2016. ----------**6**

*(4) Adoption of the recommendation from the Planning and Zoning Commission as contained within the Community Development Department Petition Report to approve Petition No. SUP 16-61 from Faraz Sandhu requesting a Special Use Permit to allow the installation of a second stove in an attached family-care unit located on 0.43 acres in the SF-10, Single-Family Residential, District at 4002 San Paula Avenue.

The recommendation of the Planning and Zoning Commission passed by a vote of 6-0 on July 28, 2016. ----------**7**

*(5) Adoption of the recommendation from the Planning and Zoning Commission as contained within the Community Development Department Petition Report to approve Petition No. SUP 16-62 from Sandy Foxwell requesting a Special Use Permit to allow a nonconforming residential use to be rebuilt to the same size and at the same location if destroyed by more than 50 percent for property located at 113 North Wall Street in the CB, Central Business, District.

The recommendation of the Planning and Zoning Commission passed by a vote of 6-0 on July 28, 2016. ----------**8**

10. Presentation regarding advertising on the exterior of the Red Apple Transit buses and shelters (Eddie Smylie and Andrew Montoya).

11. Public Hearing to receive comments on the Community Development Block Grant (CDBG) Draft 2016 Annual Action Plan; **and**
Adoption of Resolution No. 2016-1597 adopting the Community Development Block Grant (CDBG) 2016 Annual Action Plan (Mary Holton).---------- **9**

12. Public Hearing to receive comments on the Community Development Block Grant (CDBG) Substantial Amendment to the 2014 Annual Action Plan; **and**
Adoption of Resolution No. 2016-1598 adopting the Community Development Block Grant (CDBG) Substantial Amendment to the 2014 Annual Action Plan (Mary Holton).---------- **10**

13. New Business:

(a) Mayor

(1) Appointments to the Citizens Police Advisory Committee; Community Relations Commission; and the Library Board; and appointment and reappointments to the Northwest New Mexico Council of Governments.

(b) Councilors

(c) City Manager

(1) Selection of and direction to staff concerning the Fiscal Year 2017 top five capital projects for inclusion in the Infrastructure Capital Improvements Plan (ICIP).---------- **11**

(d) City Attorney

(1) Presentation concerning Public Service Company of New Mexico's (PNM) request that the City consider issuing Pollution Control Revenue Refunding Bonds to refund all or a portion of the City's previously issued Pollution Control Revenue Bonds, 2003 Series A and 2003 Series B which were issued for PNM's benefit.---------- **12**

(2) Resolution No. 2016-1599
-authorizing consideration of the City Council of proposed ordinances pertaining to the issuance of the City's Pollution Control Revenue Refunding Bonds, 2016 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects) and the City's Pollution Control Revenue Refunding Bonds, 2016 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects) in one or more series; appointing counsel in connection therewith; authorizing publication of notice of the proposed ordinances; and specifying certain conditions concerning

the participation of the City in the transactions contemplated by the proposed ordinances. ---------- **13**

(3) Proposed Ordinance – Permission to Publish
-authorizing and providing for the issuance by the City of Farmington, New Mexico of its revenue bonds designated "Pollution Control Revenue Refunding Bonds, 2016 Series A (Public Service Company of New Mexico San Juan and Four Corners Project)" to be issued in an aggregate principal amount of $46,000,000 to be issued pursuant to the provisions of the Pollution Control Revenue Bond Act, Chapter 397, Laws of 1973 of the State of New Mexico, 31st Legislature, 1st Session, as amended for the purpose of refunding outstanding revenue bonds issued under such Act to refund previously issued revenue bonds under such Act to refund previously issued revenue bonds under such Act to finance a portion of the costs to Public Service Company of New Mexico Public Service Company of New Mexico (the "Company"), a corporation organized and existing under the laws of the State of New Mexico (the "State") of (i) acquiring, constructing, and installing certain air and water pollution control systems and facilities (the "San Juan Facilities") relating to Unit 3 at the San Juan Generating Station (the "San Juan Plant") located in San Juan County, New Mexico, interests in which are owned by the Company and (ii) acquiring, constructing, reconstructing, improving, maintaining, equipping or furnishing certain air and water pollution control facilities (the "Four Corners Facilities", and together with the San Juan Facilities, the "Facilities") relating to Units 4 and 5 at the Four Corners Generating Station (the "Four Corners Plant", and together with the San Juan Plant, the "Plants") an electric power generating plant located in San Juan County, New Mexico, interests in which are owned by the Company, said revenue bonds to be payable by the City solely from the revenues payable to the City by Public Service Company of New Mexico pursuant to certain Installment Sale Agreements dated as of April 1, 2003 between the City, as Vendor, and Public Service Company of New Mexico, as Vendee, and certain other moneys pledged therefor hereunder, said revenue bonds never to constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and never to constitute or give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers and declaring that emergency circumstances exist with respect thereto. - **14**

(4) Proposed Ordinance – Permission to Publish
-authorizing and providing for the issuance by the City of Farmington, New Mexico of its revenue bonds designated "Pollution Control Revenue Refunding Bonds, 2016 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects)" to be issued in an aggregate principal amount of $100,000,000 to be issued pursuant to the provisions of the Pollution Control Revenue Bond Act, Chapter 397, Laws of 1973 of the State of New Mexico, 31st Legislature, 1st Session, as amended for the purpose of

refunding outstanding revenue bonds issued under such Act to refund previously issued revenue bonds under such Act to refund previously issued revenue bonds under such Act to refund previously issued revenue bonds under such Act to finance the cost to Public Service Company of New Mexico (the "Company") a corporation organized and existing under the laws of the State of New Mexico (the "State") of (i) certain facilities (the "San Juan Facilities") for the abatement, control, reduction or prevention of air and water pollution caused by the operation of Units 1, 2, 3 and 4 ("Units 1, 2, 3 and 4") at the San Juan Generating Station (the "San Juan Plant") located in San Juan County, New Mexico, interests in which are owned by the Company and (ii) certain facilities (the "Four Corners Facilities" and together with the San Juan Facilities, the "Facilities") for the abatement, control, reduction or prevention of air and water pollution caused by the operation of Units 4 and 5 ("Units 4 and 5") at the Four Corners Generating Station, (the "Four Corners Plant", and together with the San Juan Plant, the "Plants"), an electric power generating plant located in San Juan County, New Mexico, interests in which are owned by the Company, said revenue bonds to be payable by the City solely from the revenues payable to the City by the Company pursuant to a certain Installment Sale Agreement between the City, as Vendor, and the Company, as Vendee, and certain other moneys pledged therefor hereunder, said revenue bonds never to constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and never to constitute or give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers and declaring that emergency circumstances exist with respect thereto. ---------- **15**

(5) Ordinance No. 2016-1290 – Final Action
-amending Section 23-2-7 of the City Code establishing residential and commercial charges for sanitation service (Published July 17, 2016) ---------- **16**

(e) City Clerk

14. Business from the Floor:

(1) Items removed from Consent Agenda for discussion.

(2) Any other Business from the Floor.

15. Closed Meeting to discuss request for proposals for solid waste collection services, pursuant to Section 10-15-1H(6) NMSA 1978.

16. Proposal: Recommendation from the Chief Procurement Officer to award the proposal for solid waste collection services (Public Works) to Waste Management of New Mexico, Inc. as the sole proposal is deemed to be advantageous and in the best interest of the City. Proposals opened February 3, 2016. ---------- **17**

17. Adjournment.

AGENDA ITEM SUPPORT MATERIALS ARE AVAILABLE FOR INSPECTION AND/OR PURCHASE AT THE OFFICE OF THE CITY CLERK, 800 MUNICIPAL DRIVE, FARMINGTON, NEW MEXICO.

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 599-1106 or 599-1101 prior to the meeting so that arrangements can be made.

CITY OF FARMINGTON
INTER-OFFICE MEMORANDUM

TO: Mayor Roberts and City Council

FROM: Kristi Benson, CPPO, CPPB
Chief Procurement Officer

DATE: August 4, 2016

SUBJECT: Police Uniforms, Bid #17-116569

USING DEPARTMENT: Police Department

==========

A bid opening was held on July 19, 2016 for Police Uniforms. Two (2) bidders responded.

The Central Purchasing Department concurs with the recommendation from the Police Department to award the bid to Neve's Uniform & Equipment from Albuquerque, New Mexico, a responsible bidder submitting the lowest responsive bid meeting specifications for a total awarded amount of $64,365.00. The in-state/veterans preference was given to qualified bidders.

Kristi Benson (Presenter)
Council Meeting/Consent agenda 08/09/2016

Copy to: H. Andrew Mason, Administrative Services Director
Steven Hebbe, Police Chief
Kim Millinder, Quarter Master

File – 17-116569 ct

CITY OF FARMINGTON - ABSTRACT SCHEDULE
BID: Police Uniforms #17-116569 OPENING DATE: July 19, 2016 @ 2:00 PM

Police Department				Neve's Uniforms Michael Driggers 2520 San Mateo NE Albuquerque, New Mexico 87110 505-266-0507 driggers@nevesuniforms.com		Capitol City Uniforms Benny Dimas, Jr. 531 West Cordova Road Santa Fe, New Mexico 87505 505-988-3782 gallopingrma@yahoo.com	
ITEM	QTY.	UOM	DESCRIPTION	UNIT	TOTAL	UNIT	TOTAL
A.	200	Each	BLAUER SUPER SHIRT, SHORT SLEEVE, POLY/WOOL, DARK NAVY PART #8446, NO SUBSTITUTES	$59.85	$11,970.00	$70.00	$14,000.00
B.	300	Each	BLAUER SUPER SHIRT, LONG SLEEVE, POLY/WOOL, DARK NAVY PART #8436, NO SUBSTITUTES	$68.00	$20,400.00	$75.00	$22,500.00
C.	400	Each	BLAUER STREET GEAR, SIDE POCKET PANTS, POLY/WOOL DARK NAVY PART #8565, NO SUBSTITUTES	$75.00	$30,000.00	$80.00	$32,000.00
D.	35	Each	BLAUER STREET GEAR, SIDE POCKET PANTS, POLY/WOOL DARK NAVY PART #8565, NO SUBSTITUTES	$57.00	$1,995.00	$75.00	$2,625.00
			TOTAL BID:	X	$64,365.00		$71,125.00
			TOTAL BID WITH IN-STATE OR VETERANS PREFERENCE APPLIED:		$61,146.75		$64,012.50
			IN-STATE OR VETERANS PREFERENCE:	YES NM #L1179919680		YES VETERANS #L0806065712	
			ESTIMATED APPLICABLE TAXES		$0.00		$0.00
			PAYMENT TERMS:	Net 30 Days		Net 30 Days	
			DELIVERY:	30 Days		30 Days	

NO BIDS:

MEMORANDUM

TO: Mayor and Council

FROM: City Clerk Dianne Smylie

DATE: August 4, 2016

RE: Proposed Resolution

Staff is recommending that Resolution No. 99-967 concerning the release of information from personnel files be replaced with an updated resolution that more accurately reflects today's standards. Specifically, we are recommending that the final sentence in Section (b) be amended to clarify that personal telephone numbers (instead of home telephone numbers) and emergency contact information listed in personnel files are not subject to release.

We are not proposing any other amendments.

RESOLUTION NO. 2016-1596

A RESOLUTION ESTABLISHING A POLICY FOR THE RELEASE OF OFFICIAL PERSONNEL RECORDS AND SUPERSEDING RESOLUTION NO. 99-967

WHEREAS, the City of Farmington is subject to certain state and federal laws concerning the release of public records; and

WHEREAS, the governing body of the City wishes to comply with these laws and, at the same time, respect the rights to privacy and safety of its employees; and

WHEREAS, the following policy is intended to balance the sometimes competing interests between the interest of the public to be informed as to the business of the City and the privacy and safety interests of its present and former employees.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Farmington that the following policy concerning the release of official personnel records is hereby adopted and approved.

(a) Procedures - Requests for the release or inspection of official personnel records shall be made and responded to in accordance with the provisions of the Inspection of Public Records Act, NMSA 1978 Compilation, Chapter 14, Article 2.

(b) Records Subject to Inspection or Release - Applications, resumes, date(s) of hire, date(s) of termination from employment, position title(s) and job descriptions(s) and date(s) held, and salaries or wages of current or former City employees. The following personal information will be deleted from any materials released: home addresses, personal telephone numbers, social security numbers and emergency contact information.

(c) Records Not Subject to Inspection or Release - (1) Medical records, including medical reports, doctors' opinions, psychological reports, drug testing results and records pertaining to illnesses, injuries, disabilities and sick leave usage; (2) Letters of reference; (3) Documents containing matters of opinion, such as records pertaining to infractions or discipline, performance evaluations, statements as to whether a person would or would not be rehired or reasons a person was not hired; and (4) Records protected by other provisions of law.

(d) Exceptions - Records not otherwise subject to disclosure shall be released if: (1) the City is provided with a written release signed by the employee or former employee directing that disclosure be made and releasing the City from any liability for such disclosure, or (2) the City or a City official is properly served with a subpoena or other order issued by a court of competent jurisdiction directing such disclosure.

PASSED, SIGNED, APPROVED AND ADOPTED this 9th day of August, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk

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PASSED, SIGNED, APPROVED AND ADOPTED this ~~9~~16th day of ~~November~~August, ~~1999~~2016.

~~William E. Standley, Mayor~~Tommy Roberts, Mayor

SEAL

ATTEST:

~~Gina R. Morris, Deputy City Clerk~~Dianne Smylie, City Clerk

* **Adoption** of the Planning and Zoning Commission Action as contained within the Community Development Petition Report and **approval** of SUP 16-57, a request from Vera Matthews for a Special Use Permit to allow three horses and a shade structure on 2.5 acres for property located at 7000 Hood Mesa Trail with the following conditions recommended by staff:

  a. Petitioner adheres to all Municipal Codes as set forth in Farmington's City Code Chapter 6, animals.
  b. Reduction in the area of the lot shall require a review of the SUP.

  (Steven Saavedra)

  Recommendation of approval by the Planning and Zoning Commission on July 28, 2016 with recommendations of staff passed by a vote of 6-0.

* **Adoption** of the Planning and Zoning Commission Action as contained within the Community Development Petition Report and **approval** of ZC 16-58, a request from Brandt Thrower, represented by Cheney-Walters-Echols, for a Zone Change from the combined Single-family Residential SF-7 and SF-10 Districts to the SF-7 Single-family Residential District for property located at 1921 Chilton Court. (Steven Saavedra)

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* **Adoption** of the Planning and Zoning Commission Action as contained within the Community Development Petition Report and **approval** of SUP 16-61, a request from Faraz Sandhu for a Special Use Permit to allow a second stove to be installed for a Family Care Unit (Mother-in-Law Quarters) on 0.43 acres for property located at 4002 San Paula Avenue. (Keith Neil)

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* **Adoption** of the Planning and Zoning Commission Action as contained within the Community Development Petition Report and **approval** of SUP 16-62, a request from Sandy Foxwell for a Special Use Permit for a nonconforming residential use in the CB Central Business District to allow the structure to be rebuilt if destroyed by more than 50% for the property located at 113 N. Wall Street. (Steven Saavedra)

  Recommendation of approval by the Planning and Zoning Commission on July 28, 2016 with recommendations of staff passed by a vote of 6-0.

COMMUNITY DEVELOPMENT
ACTION SUMMARY
PETITION SUP 16-57
Special Use Permit to allow three (3) horses and a shade structure on 2.5 acres at 7000 Hood Mesa TRL

A. STAFF REPORT, July 28, 2016

PROJECT INFORMATION

Applicant	Vera Mathews
Representative	None
Date of Application	June 24, 2016
Requested Action	The Community Development Department has received a request from Vera Matthews for a Special Use Permit to allow three (3) horses and a shade barn structure on 2.5 acres. Pursuant to UDC 11.1 a horse requires a minimum 1 acre of land in the RE-1 District. In addition, the petitioner is seeking a waiver to UDC 2.5.1 (A) to allow for a shade barn, prior to the construction of a principal residential structure.
Location	7000 Hood Mesa Trail
Existing Land Use	Undeveloped Land
Existing Zoning	RE-1 Residential Estate
Surrounding Zoning / Land Use	North: None/ Undeveloped South: RE-1 Residential Estate / Undeveloped East: RE-1 Residential Estate / Undeveloped West: RE-1 Residential Estate / Undeveloped
Notice	Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily Times on Sunday, July 10, 2016. Property owners within 100 feet were sent notice by certified mail on Tuesday, July 5, 2016 and a sign was posted on Friday, July 15, 2016.
Staff Planner	Steven Saavedra, Associate Planner

Project Description:

The petitioner requests a Special Use Permit to allow (3) horses within 2.5 acres. In addition, the petitioner is seeking a waiver to UDC 2.5.1 (A) to allow for a

shade structure for the horses prior to the construction of a principal residential structure and a waiver to UDC 11.1 to allow 3 horses on 2.5 acres.

The subject property is located in the RE-1 Residential Estate District. The RE-1 District is on the East, West, and South and all surrounding properties are vacant and undeveloped. There are no water lines, no sewer lines, Hood Mesa Trail is not paved, and access to the property is not paved. Infrastructure is scarce to none existent in and around the area. The property borders vacant land to the north owned by the Bureau of Land Management located outside of the City of Farmington municipal boundary. The subject property was annexed into the City in 2000 and the RE-1 Residential Estate zoning district was assigned to 28.62 square miles of land.

The petitioner indicated that there have been animals on the property in the past and plans to have three horses on the property in the future. According to Table 2.3 of the City of Farmington Unified Development Code (UDC), keeping horses (and other animals or fowl) is allowed in the RE-1 district with an approved special use permit. The applicant must comply with the use standards of Section 2.4.7, Animals or Fowl, of the UDC. According to this section, the minimum lot area per animal unit is determined by the SUP, but Section 11.1 of the UDC recommends that the minimum lot area per horse is 1 acre. An animal unit is defined in Article 11 of the UDC as one horse, or one mare with a foal; miniature horses are one-half an animal unit.

Section 2.4.7 D states:

> "Adequate fencing, screening or separation from adjoining premises shall be provided based upon the type, number and size of animals ... for protection of the animals; ... protection of the public; and for control of dust, noise, odors or similar nuisance factors."
>
> Also, the use shall be maintained in compliance with Chapter 6 of the Farmington City Code. Section 6-1-5 of the Farmington City Code states that:
>
> > (a) No person who is the owner, tenant or person in possession and control of any stable, corral, lot, pasture, stall, shed, apartment, yard or premises in the city in which any animal, including ...horses, is kept or maintained shall allow the accumulation of manure, water, moisture, animal droppings, or liquid discharges of such animal which create a stench or emit offensive odors or which are otherwise injurious to the public health and safety.
> >
> > (b) Stalls or stables, corrals, lots or pastures shall be kept sprayed with disinfectant to kill germs and to prevent the premises from becoming a breeding place for flies, mosquitoes or other insects."

ISSUES

Chief Building Official – Derrick Childers -599-1305

- A building permit will be required to construct the shade structure.

STAFF ANALYSIS

Special Use Permit Criteria – Section 8.9.4 of the UDC

Section 8.9.4 of the UDC sets forth the criteria for review of a special use permit. The section states that an SUP may be approved where it is reasonably determined that there will be no significant negative impact upon residents of surrounding property or upon the public. Criteria are listed as follows:

A. Effect on environment: The location, size, design and operation characteristics of the proposed use shall not be detrimental to the health, welfare and safety of the surrounding neighborhood or its occupants, not be substantially or permanently injurious to the neighboring property.

The collective characteristics of this permit will not be substantially detrimental to health, welfare, and/or safety of the surrounding neighborhood. The petitioner intends to keep three horses and will need to clean up their waste on a weekly basis. The property is surrounded on all sides by large vacant pastureland. The lack of residential density, development, and Infrastructure conforms to the requested special use permit. The subject property is rural in nature and abuts BLM property to the north, outside of city limits.

B. Compatible with surrounding area: The proposed site plan, circulation plan and schematic architectural designs shall be harmonious with the character of the surrounding area with relationship to scale, height, landscaping and screening and density.

The petitioner has submitted a conceptual site plan shows the barn and horses in the petitioner's front yard. The proposed site plan needs to be modified to account for dimensional standards of the RE-1 District to ensure the horses will not impact surrounding properties. The backyard will be fenced along the North, South, East, and West according the petitioner's site plan.

C. External impacts minimized: The proposed use shall not have negative impacts on existing uses in the area and in the city through the creation of noise, glare, fumes, dust, smoke, vibration, fire hazard or other injurious or noxious impact. The applicant shall provide adequate mitigation responses to the impacts.

The property is surrounded on all sides by large vacant pastureland. The proposed use should not have any negative impacts on existing uses in

the area. The applicant needs to follow Section 6-1-5 of the Farmington City Code: The accumulation of manure, water, moisture, animal droppings, or liquid discharges of such animal which create a stench or emit offensive odors or which are otherwise injurious to the public health and safety is not permitted. In addition, all stalls or stables, corrals, lots or pastures shall be kept sprayed with disinfectant to kill germs and to prevent the premises from becoming a breeding place for flies, mosquitoes or other insects.

D. Infrastructure impacts minimized: The proposed use shall not have negative impacts on existing uses in the area and in the city through impacts on public infrastructure such as roads, parking facilities and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to provide services adequately.

There are no negative impacts to infrastructure anticipated in relation to the proposed use. Infrastructure is scarce to none existent in and around the area. There are no water lines, no sewer lines, and Hood Mesa Trail is not paved.

E. Consistent with the UDC and Comprehensive Plan: The proposed use will be consistent with purposes of this UDC, the Comprehensive Plan, and any other statutes, ordinances or policies that may be applicable, and will support rather than interfere with the uses otherwise permitted in the zone in which it is located.

The 2020 Future Land Use Plan of the Farmington Comprehensive Plan identifies the subject property to be Residential Single Family Low Density (greater than or equal to 1.0 acre lot). A horse(s) is an allowed use with an approved special use permit.

F. Parcel size: The proposed use may be required to have additional land area, in excess of the minimum lot area otherwise required by the underlying zoning district, as necessary to ensure adequate mitigation of impacts on surrounding land uses and the zoning district.

According to Section 11.1 of the UDC, a lot, which is 1.00 acre, is recommended to be adequate for one horse. The petitioner requests to keep three horse on 2.5 acres of land. The petitioner is seeking a waiver to UDC 11.1, since three acres is needed for three horses. The area is consistent with the keeping of three horses.

G. Site Plan: The proposed use shall be required to comply with the site plan review procedures and standards of Section 8.5, site plan review, as specified.

The proposed conceptual site plan conforms to standards of Section 8.5. The petitioner is seeking a waiver to UDC 2.5.1 (A) to allow for a shade barn, prior to the construction of a principal residential structure.

STAFF CONCLUSION

Staff concludes that approval of SUP 16-57 is appropriate. The property is surrounded on all sides by large vacant pastureland. The closest residential structure is approximately 1,000 feet from 7000 Hood Mesa Trail. The petitioner needs to mitigate the impact of the horses by maintaining the corrals and removing the waste as proposed.

STAFF RECOMMENDATION

The Community Development Department recommends **approval** of Petition SUP 16-57, a request from Vera Mathews, for a Special Use Permit to allow (3) horses and a shade structure on 2.5 acres, subject to the following conditions:

A. Petitioner adheres to all Municipal Codes as set forth in Farmington's City Code Chapter 6, animals.

B. Reduction in the area of the lot shall require a review of the SUP, if granted.

B. FINDINGS OF THE PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission held a public hearing on July 28, 2016 and made the following findings:

1. The petitioner for SUP 16-57 is Vera Mathews.
2. The subject property is 2.5 acres, located at 7000 Hood Mesa Trail, and is in the RE-1 Residential Estate District.
3. The petitioner requested 3 horses on 2.5 acres and a waiver to UDC 2.5.1 (A) to allow for a shade structure for the horses prior to the construction of a principal residential structure.
4. The petitioner needs to mitigate the impact of the horses, by maintaining the corrals and removing waste.
5. The petitioner is required to obtain a building permit for all fences and structures for the subject property.
6. The petitioner was present at the hearing and agreed with the staff report's recommendations. No one was present nor objected to the request.

Planning & Zoning Commission Discussion of Petition SUP 16-57 on July 28, 2016

Associate Planner Steven Saavedra presented the staff report for SUP 16-57, a request from Vera Matthews for a Special Use Permit to allow three horses and a shade structure on 2.5 acres for property located at 7000 Hood Mesa Trail.

The petitioner is seeking a waiver to UDC 2.5.1 (A) to allow for a shade structure for the horses prior to the construction of a principal residential structure and a waiver to UDC 11.1 to allow 3 horses on 2.5 acres.

Mr. Saavedra said the property is located in the RE-1 Residential Estate District and is undeveloped. Surrounding the property is RE-1 on the east, west, and south. All surrounding properties are vacant and undeveloped. To the north is BLM, Bureau of Land Management, property and is outside the city limits.

Staff recommends approval with the following conditions:

a. Petitioner adheres to all Municipal Codes as set forth in Farmington's City Code Chapter 6, animals.
b. Reduction in the area of the lot shall require a review of the SUP.

Commissioner Freeman asked if a principle structure was built on the property, would three horses still be allowed. Cindy Lopez stated that a principle structure will not affect the SUP. The old cold stated that horses need 10,000 square feet of grazing area. The new code states 1 acre per horse. There is plenty of room for a principle structure.

Planning & Zoning Commission Action of Petition SUP 16-57 on July 28, 2016

A motion was made by Commissioner Langenfeld and seconded by Commissioner Ragsdale to **approve** Petition SUP 16-57, a request from Vera Matthews for a Special Use Permit to allow three horses and a shade structure on 2.5 acres for property located at 7000 Hood Mesa Trail with the following conditions recommended by staff:

a. Petitioner adheres to all Municipal Codes as set forth in Farmington's City Code Chapter 6, animals.
b. Reduction in the area of the lot shall require a review of the SUP.

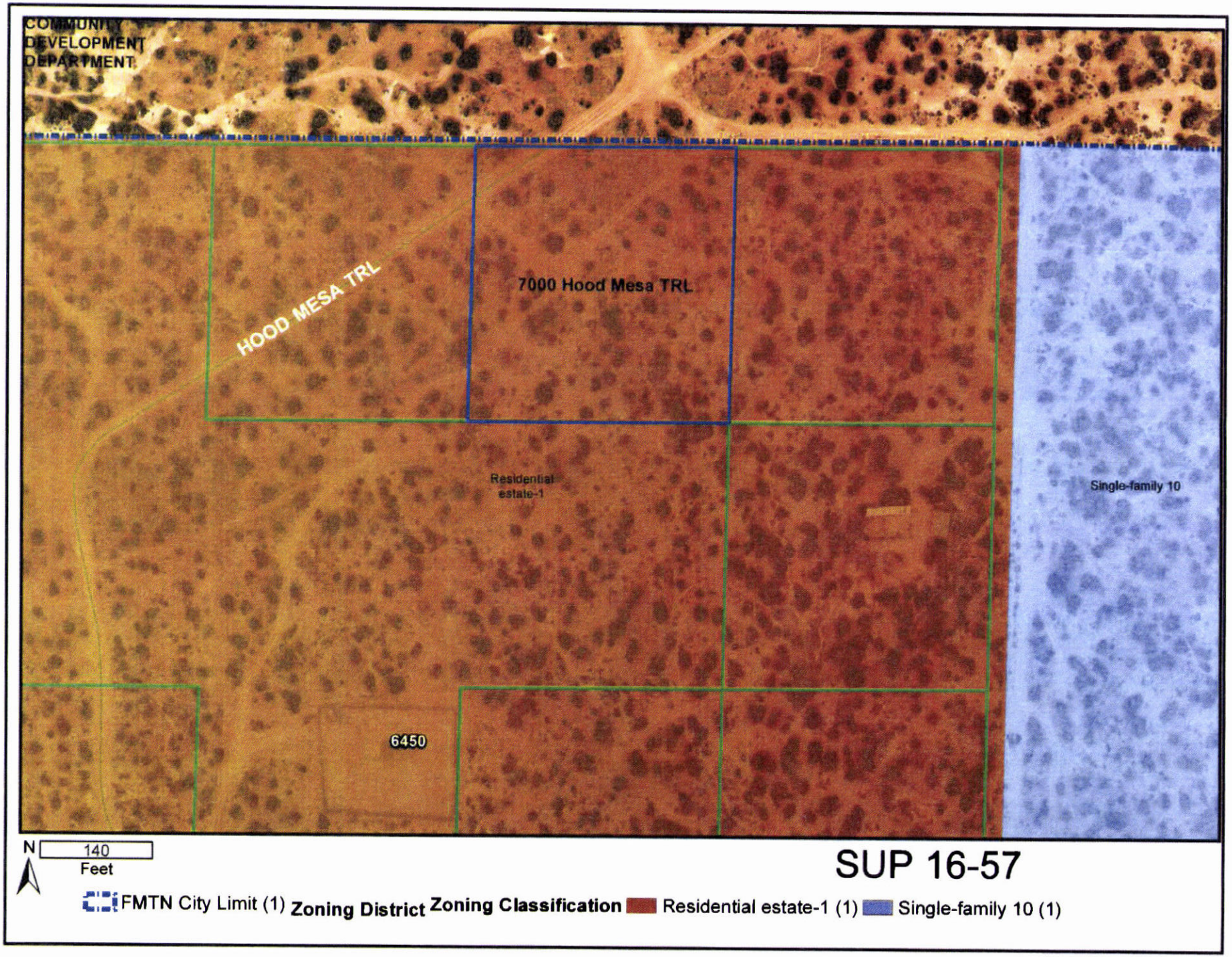
AYE: Chair Cardon, Commissioners Davis, Freeman, Langenfeld, Ragsdale, and Yazzie.

NAY: None

Abstained: None

Absent: Commissioners Brown, Thompson, Waldroup, and Washburn.

Motion passed 6-0


COMMUNITY DEVELOPMENT DEPARTMENT
HOOD MESA TRL
7000 Hood Mesa TRL
Residential estate-1
Single-family 10
6450
N
140
Feet
SUP 16-57
FMTN City Limit (1)
Zoning District
Zoning Classification
Residential estate-1 (1)
Single-family 10 (1)

PLANNING MEMO COMMENTS SUMMARY

SUP 16-57 SUP 16-57 VERA MATTHEWS-ALLOW BARN AND 3 HORSES ON 2.5 ACRES

Deadline: 7/12/16

City of Farmington Departments

CD	Director	Comments will be incorporated into the staff memo.
CD	Addressing – Planning Division	
CD	Chief Building Official	A building permit will be required to construct the shade barn.
CD	Long Range Planner	
CD	MPO	
CD	Oil & Gas Inspector	
CITY	City Manager's Office	No comment
ELEC	Customer Care Manager	
ELEC	Electrical Engineering	No conflict
ELEC	T & D	
FIRE	Fire Marshall	No comment
LEGAL	City Attorney	
LEGAL	Deputy City Attorney	Legal has no position or comment on a variance, and defers to the recommendations of Planning and Zoning and the position of surrounding neighbors.
POLICE	Code Compliance	
POLICE	Sergeant	
PRCA	Director	
PW	City Engineer	
PW	Engineering	No comment
PW	Streets Superintendent	
PW	Traffic Engineer	
PW	Water/Waste Water	No comment

Other Entities

New Mexico Gas Company	
CenturyLink	No comment
Enterprise Field Services	
Comcast Cable	
CH2MHILL OMI	
Field Services	
Farmington School District	

PETITION APPLICATION

Incomplete applications may not be accepted.

Return completed application to:

Planning Division
Community Development Department
City of Farmington
800 Municipal Drive
Farmington, NM 87401 (505) 599-1317

PROJECT TYPE (Check Those Applicable)

- ☐ Annexation / Zoning
- ☐ Preliminary Plat
- ☐ FinalPlan
- ☐ Summary Plat
- ☒ Special Use Permit
- ☐ Variance (ARB)
- ☒ Zone Change to
- ☐ Temporary Use Permit

Proposed Length of Use:

- ☐ Well site equipment modification

INFORMATION

T30N R13W sec 26

Applicant's Name: Vera Matthews	Project Location: NW1/4NE1/4NE1/4NE1/4
Address: 5991 Hood Mesa Trail	Existing Use: Vacant land
E-Mail: RoyalEasyL999@aol.com	Proposed Use: RA - to house personal Horses
Telephone: 719-320-6523	Current Zoning: RE
Relationship to Property Owner: Self	Assessor's Parcel I.D. and/or Tax I.D. Number: R 005 1233

Legal Description of Subject Property: T30N R13W sec.26 NW1/4NE1/4 NE1/4 NE1/4.

Is Property subject to deed restrictions, covenants, or homeowners' association agreements? Yes ☐ NO
If Yes, please provide copy with application.

REPRESENTATIVE / CONTACT PERSON (if other than applicant)

Name: Vera Matthews	E-Mail: RoyalEasyL999@aol.com
Phone: 7193206523	Address: 5991 Hood Mesa Trl. Farmington, NM 87401

OWNERSHIP

PROPERTY OWNER (Identify General Partners, Managing Partner, Corporation President and Secretary. Specify type of ownership interest: Fee, Real Estate Contract, Option to Purchase)		MORTGAGE HOLDERS (If any)	
Name:	Phone:	Name:	Phone:
Address:		Address:	

OWNER CERTIFICATION: I certify that I am an owner and the information and exhibits herewith are true and correct to the best of my knowledge in filing this application. I am acting with the knowledge and consent of all persons in interest and understand that without the consent of all persons in interest the requested action cannot lawfully be accomplished. I give my permission for authorized officials of the City of Farmington or Planning and Zoning Commission to enter the premises described in this application. I understand applications will generally be reviewed by City Council at their first regular session following the P&Z review.

Owner's Signature:

****** STAFF USE ONLY ******

Received By SS

Date 5/2/16 Fee Received $100 -

Project File No. ~~ZC16-54~~ Matthews SUP16-57

Date of Hearing/Meeting:

- ☐ Site Plan
- ☐ Ownership List (subject and surrounding properties)
- ☐ Legal Description
- ☐ Project Description

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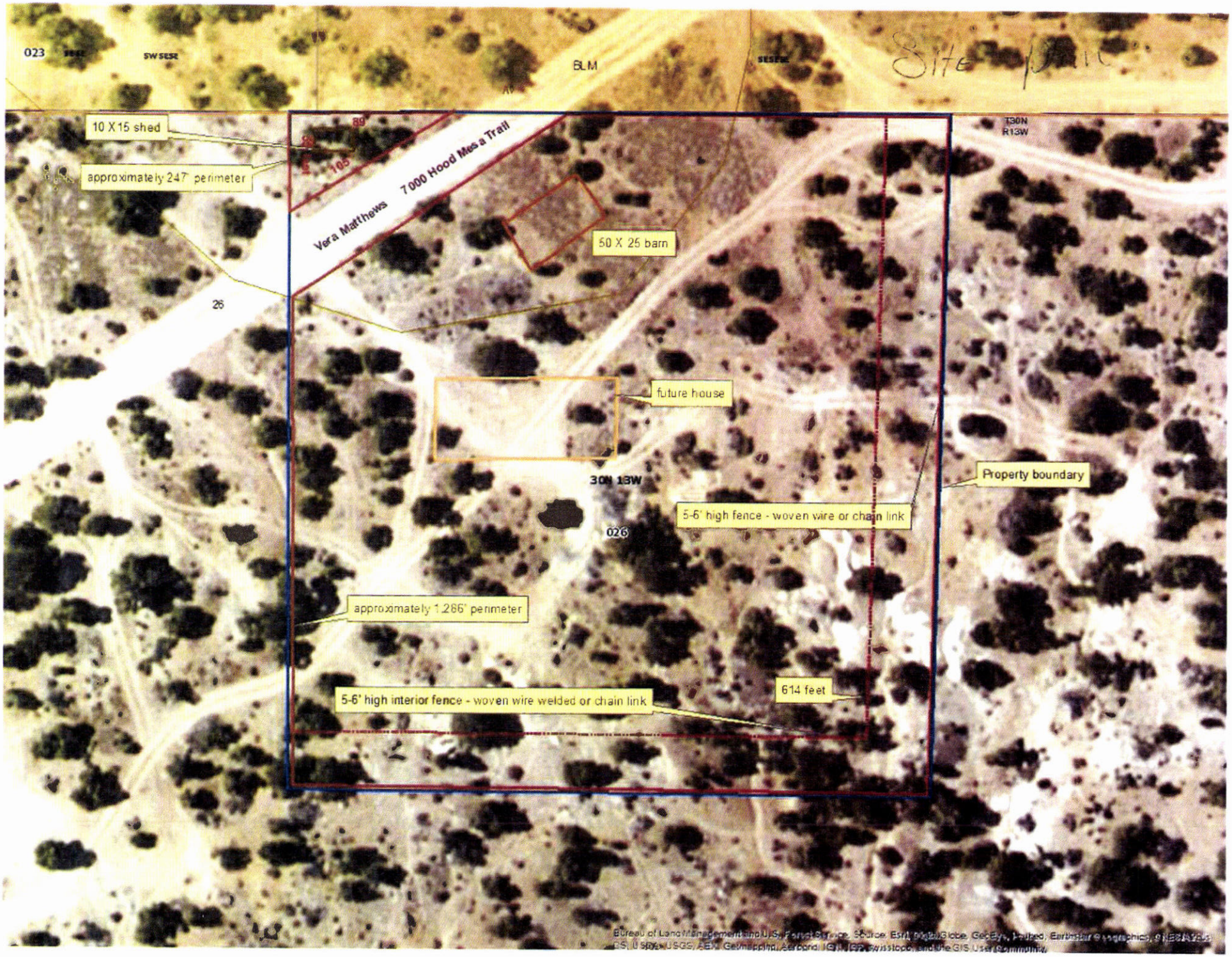


023
SW SESE
BLM
SESESE
Site plan
10 X 15 shed
approximately 247' perimeter
89
105
Vera Matthews
7000 Hood Mesa Trail
T30N
R13W
50 X 25 barn
26
future house
30N 13W
Property boundary
5-6' high fence - woven wire or chain link
026
approximately 1,286' perimeter
614 feet
5-6' high interior fence - woven wire welded or chain link

SAN JUAN COUNTY
NEW MEXICO
SINCE 1887

Legend

- County & City Addresses - Nur
- Searchable Parcels
- Parcels - No Labels
- RegionalHighways-US
- RegionalHighways-State
- City Roads
- Other Roads
  - County Maintained
  - Lesser County Maintained
  - Navajo Route
  - Oilfield Roads
  - Private Roads
- Lakes
- Rivers
- Aztec City Limits
- Bloomfield City Limits
- Farmington City Limits
- School Districts
- San Juan County Bounds
- Reservation

1: 2,951

The San Juan County Assessors Office provides no warranty, expressed or implied, as to the accuracy, reliability or completeness of furnished data. This map is not intended to be used as a survey. For assessment purposes only.

P&Z PLANNING & ZONING COMMISSION
NOTICE OF PUBLIC HEARING

Notice is hereby given that the following application has been filed with the Planning and Zoning Commission of the City of Farmington, New Mexico.

Petition No. SUP 16-57 - a request from Vera Matthews for a Special Use Permit to allow three horses and a barn on 2.5 acres. Pursuant to UDC 11.1, a horse requires 1 acre of land. The property is located at 7000 Hood Mesa Trail, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
T29N, R13W, Sec. 26, NW1/4NE1/4NE1/4 NE1/4, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 7000 Hood Mesa Trail

Petition No. ZC 16-58 - a request from Brandi Thrower, represented by Cheney-Walters-Echols, for a Zone Change from SF-10, Single Family minimum 10,000 sq. ft. to SF-7, Single Family minimum 7,000 sq. ft. for 1.71 acres located at Chilton Court and 20th Street, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Bryn Mawr Subdivision, Block 1 Lot 1 And T29N, R13W, Sec. 9, Pt. NE1/4NW1/4, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at Chilton Court /20th Street

Petition No. ZC 16-59 - a request from Residential Rentals, LLC, represented by Gayle Goeden, for a Zone Change from IND, Industrial to MU, Mixed-Use for 0.25 acres located at 115 E. Corcorran Drive, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lots 6 and 7, in Block 1, of the Riverside Addition, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 115 E. Corcorran Drive

Petition No. SUP 16-61 - a request from Faraz Sandhu for a Special Use Permit to allow a second stove to be installed for a Family Care (Mother-in-Law) Unit, for property located at 4002 San Paula Avenue, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 1, in Block 2, of the Cardon Robles Subdivision #3, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 4002 San Paula Avenue

Petition No. SUP 16-62 - a request from Sandy Foxwell, represented by Casa Linda Holdings, LLC, for a Special Use Permit for a nonconforming residential use in the CB, Central Business District, to allow a structure to be rebuilt if destroyed by more than 50% for property located at 113 N. Wall Street, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 30, Block 4, of the McHenry's 2nd Addition, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 113 N. Wall Avenue

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that these petitions will be considered at the regularly scheduled Public Hearing of the Planning and Zoning Commission of the City of Farmington on Thursday, July 28, 2016 at 3:00 p.m. in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, New Mexico. If forwarded by the Commission, this petition will be considered by the City Council on Tuesday, August 9, 2016 at 6:00 p.m. in the City Council Chambers. All interested individuals are invited to attend the hearing and shall have an opportunity to be heard with respect to the subject Petition.

Karen Walker
Administrative Assistant

Legal No 72900 published in The Daily Times on July 10, 2016.

NOTICE OF PUBLIC HEARING
ZONE CHANGE
PETITION NO. SUP 16-57

July 6, 2016

Dear Property Owner:

Notice is hereby given that an application has been filed with the Planning and Zoning Commission of the City of Farmington, New Mexico, a request from Vera Matthews for a Special Use Permit to allow three horses and a shade barn on 2.5 acres. Pursuant to UDC 11.1, a horse requires 1 acre of land and pursuant to UDC 2.5.1(A), an accessory structure must be associated with a primary use. The property is located at 7000 Hood Mesa Trail, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
T29N, R13W, Sec 26, NW1/4NE1/4NE1/4NE1/4, in the City of Farmington, San Juan County, New Mexico.

Otherwise located at 7000 Hood Mesa Trail

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that the petition will be heard in a public hearing by the Planning and Zoning Commission of the City of Farmington on **Thursday, July 28, 2016 at 3:00 p.m.** in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, New Mexico. If forwarded by the Commission, this item will be reviewed by the City Council on **Tuesday, August 9, 2016, at 6:00 p.m.,** in the City Council Chambers. All persons shall have an opportunity to be heard why said application should be granted or denied. All persons in interest and citizens are invited to attend said hearing.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed change. You are invited to attend the hearings noted above or submit written comments prior to the meeting to the Planning Division -- Community Development Department at 800 Municipal Drive, Farmington, New Mexico 87401. Please be advised that this petition could be cancelled or withdrawn prior to the meeting date.

If you have any questions regarding this notice, or would like additional information regarding this petition, please contact Steven Saavedra at 505-599-1282 or ssaavedra @fmtn.org.

Sincerely,

Karen Walker
Administrative Assistant

GUARDIAN ABSTRACT & TITLE CO., INC.
221 NORTH AUBURN
FARMINGTON, NEW MEXICO 87401

PROPERTY OWNERS WITHIN 100 FEET, EXCLUDING ROADWAYS AND ALLEYS OF THE FOLLOWING DESCRIBED PROPERTY: **T29N, R13W, Sec. 26**
NW1/4NE1/4NE1/4NE1/4

OWNER: Matthews, Vera
5991 Hood Mesa Trail
Farmington, NM 87401
1601/253

ADJOINING OWNER	ADDRESS	LEGAL DESCRIPTION
Dove, Rollin M. 384/13	6100 Gray St Arvada, CO 80003-5145	T30N, R13W, Sec. 26 NE1/4NE1/4NE1/4NE1/4
McBee, James W. Trustee 1265/420	1502 N Chaco Farmington, NM 87401-7006	T30N, R13W, Sec. 26 SE1/4NE1/4NE1/4NE1/4
City of Albuquerque 959/228	P.O Box 1293 Albuquerque, NM 87103-1293	T30N, R13W, Sec. 26 Pt. NE1/4
First State Bank 576/299	P.O Box Z Socorro, NM 87801-0479	T30N, R13W, Sec. 26 NE1/4NW1/4NE1/4NE1/4
United States of America (Federal Lands)	Attn: BLM Office 6251 College Blvd. Ste. A Farmington, NM 87402 (Per Phone Book) Note: No address in San Juan County records For United States of America	T30N, R13W, Sec. 23 Pt. SE1/4

1 of 1

COMMUNITY DEVELOPMENT
ACTION SUMMARY
PETITION ZC 16-58
Zone Change from SF-7 & SF-10 to SF-7
1921 Chilton Court

A. STAFF REPORT, April 28, 2016

PROJECT INFORMATION

Applicant	Brandt Thrower
Representative	Cheney, Walters, Echols
Date of Application	July 5, 2016
Requested Action	Zone Change from the combined Single-family Residential SF-7 & SF-10 Districts to the SF-7 Single-family Residential District.
Location	1921 Chilton Court
Existing Land Use	Vacant Land
Existing Zoning	Combined Single-family Residential SF-7 & SF-10 District
Surrounding Zoning / Land Use	North: SF-7 Single-family Residential / Residential South: SF-10 Single-family Residential / Residential East: SF-7 Single-family Residential / Residential West: SF-10 Single-family Residential / Vacant Land
Notice	Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily Times on Sunday, July 10, 2016. Property owners within 100 feet were sent notice by certified mail on Tuesday, July 5, 2016 and a sign was posted on Friday, July 15, 2016.
Staff Planner	Steven Saavedra, Associate Planner

Project Description:

The petitioner requests a zone change from the combined Single-family Residential SF-7 & SF-10 Districts to the Single-family Residential SF-7 District. The subject property is approximately 0.3199-acres (13,934.84 square feet) and is located at 1921 Chilton Court. The subject property is originally part of the Puesta Del Sol Subdivision, lot 9. Pursuant to UDC 2.2.3, whenever a lot of record is divided by a zoning boundary, the development of the lot shall conform to the land use and design criteria of the zoning district in place on the specification of the lot. Multiple zoning on a single parcel should be avoided. Where the opportunity arises to correct multiple zoning, such parcels should be

rezoned to a single district. The petitioner seeks this zone change to allow for a single zoning district on this lot. The San Juan County Assessor lists the property as a vacant land classification. Figure 4.2 2020 Future Land Use Map of the Comprehensive Plan recommends the subject property to be Single Family Residential Urban.

Single-family Residential District:

The single-family 10, 7, and 5 (SF-10, SF-7, and SF-5) districts are expected to accommodate a large percentage of the residential growth projected in the city over the 20-year planning horizon covered by the comprehensive plan. The districts are primarily intended to accommodate low to moderate density residential development that can be served by the full range of infrastructure. The districts are generally intended to be applied in areas with existing infrastructure. The uses and densities allowed in the SF-10, SF-7 and SF-5 districts (3.4 to 6.8 units per net acre) offer city residents a variety of housing choices in the low to moderate density range.

STAFF ANALYSIS

Planning Division: Steven Saavedra 599-1282

Section 8.7.4 of the UDC sets forth issues to be considered for a zone change request:

- Consistency with the Comprehensive Plan:
  The 2020 Future Land Use Plan of the Farmington Comprehensive Plan shows the subject property as residential single-family use with lots of less than 20,000 square feet. A zone change from the SF-10 district to the SF-7 district is consistent with the Comprehensive Plan.
- Compatibility of the proposed zoning and land uses with the present zoning and conforming uses of nearby property and the character of the neighborhood:
  A zone change from the SF-10 district to the SF-7 district is compatible with the existing development in the SF-10 district, though the subdivision can be more densely developed. Lots in the SF-10 district must have a minimum area of 10,000 square feet; lots in the SF-7 district must have a minimum area of 7,000 square feet. The subject zone change does not change the character of the neighborhood except for increasing the density of development.
- Creation of adverse impacts and the ability to mitigate these impacts:
  The zone change does not change the proposed land use: single-family residential. Staff does not anticipate any adverse impacts caused by the subject zone change.
- The ability of the proposed use to be accomplished by the proposed zoning district:
  Table 2.3, permitted uses, of the UDC indicates that single-family residential development is permitted in the SF-7 district.

- The suitability of the land for the proposed development:
  The subject property is vacant and no issues regarding its suitability for development have been identified.
- The existence of or the applicant's ability and willingness to provide adequate public facilities:
  The petitioner is responsible to provide all the necessary public facilities for the property. Access to the area of this zone change will be from Chilton Court.
- Whether the proposed zoning constitutes a spot zone as defined in Article 11 of the UDC:
  In Article 11 of the UDC, spot zoning is "where a particular tract within a larger area is specifically zoned so as to impose upon it restrictions not imposed upon the surrounding lands, or grant to it special privileges not granted generally, not done in pursuance of the Comprehensive Plan." The subject zone change does not change the land use or grant special privileges not granted but does increase the density of development. The subject zone change is consistent with the Comprehensive Plan. The SF-7 district is to the north and east of the subject property. Therefore, this zone change does not constitute a spot zone as defined in Article 11 of the UDC.

STAFF CONCLUSION

Staff concludes that approval of ZC 16-58 is appropriate. The proposal is consistent with the comprehensive plan and surrounding land uses. The majority of 1921 Chilton Court is in the SF-7 district. Pursuant to UDC 2.2.3, whenever a lot of record is divided by a zoning boundary, the development of the lot shall conform to the land use and design criteria of the zoning district in place on the specification of the lot. Multiple zoning on a single parcel should be avoided. Where the opportunity arises to correct multiple zoning, such parcels should be rezoned to a single district.

STAFF RECOMMENDATION

The Community Development Department recommends **approval** of Petition ZC 16-58, a request from Brandt Thrower, represented by Cheney, Walters, Echols, for a zone change from the combined Single-family Residential SF-7 & SF-10 Districts to the SF-7 Single-family Residential District for 0.3199-acres (13,934.84 square feet) located at 1921 Chilton Court.

B. FINDINGS OF THE PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission held a public hearing on July 28, 2016 and made the following findings:

1. The petitioner for ZC 16-58 is Brandt Thrower.

2. Pursuant to UDC 2.2.3, multiple zoning on a single parcel should be avoided. Where the opportunity arises to correct multiple zoning, such parcels should be rezoned to a single district.

3. The subject property is 0.39 acres, located at 1921 Chilton Court. The property currently has two zoning districts SF-10 and SF-7 Single Family.

4. The petitioner requested a zone change to the SF-7 District for the whole property.

5. The property is part of the Puesta Del Sol Subdivision

6. The petitioner was present and spoke in favor of the petitioner. No one was present to protest or object.

Planning & Zoning Commission Discussion of Petition ZC 16-58 on July 28, 2016

Associate Planner Steven Saavedra presented the staff report for ZC 16-58, a request from Brandt Thrower, represented by Cheney-Walters-Echols, for a Zone Change from the combined Single-family Residential SF-7 and SF-10 Districts to the SF-7, Single-family Residential District, on 0.3199 acres for property located at 1921 Chilton Court.

The property is part of the Puesta Del Sol Subdivision. According to UDC 2.2.3, multiple zoning on a single parcel should be avoided. The 2020 Future Land Use Map of the Comprehensive Plan recommends the property be Single Family Residential. The zone change will make the property compatible with the neighborhood. There are no adverse impacts and it is not a spot zone.

Staff concludes that approval of ZC 16-58 is appropriate.

Brandt Thrower of 1917 Chilton Court, stated that the house on the property was built in the 1960s. SF-7 and SF-10 have different setbacks, but that is academic in this case, said Mr. Thrower. In a survey that was done, the tennis court and a sidewalk were not on the correct lots. Mr. Thrower said he gave the neighbors the sidewalk and the tennis court needs to be with the house. Mr. Thrower stated that he would request that the Commissioners approve the petition so that he can go ahead and finish the subdivision so the neighbor can have their sidewalk and he can have the tennis court.

Planning & Zoning Commission Action of Petition ZC 16-58 on July 28, 2016

A motion was made by Commissioner Freeman and seconded by Commissioner Davis to **approve** Petition ZC 16-58, a request from Brandt Thrower, represented by Cheney-Walters-Echols, for a Zone Change from the combined Single-family Residential SF-7 and SF-10 Districts to the SF-7 Single-family Residential District for property located at 1921 Chilton Court.

AYE: Chair Cardon, Commissioners Davis, Freeman, Langenfeld, Ragsdale, and Yazzie.

NAY: None

Abstained: None

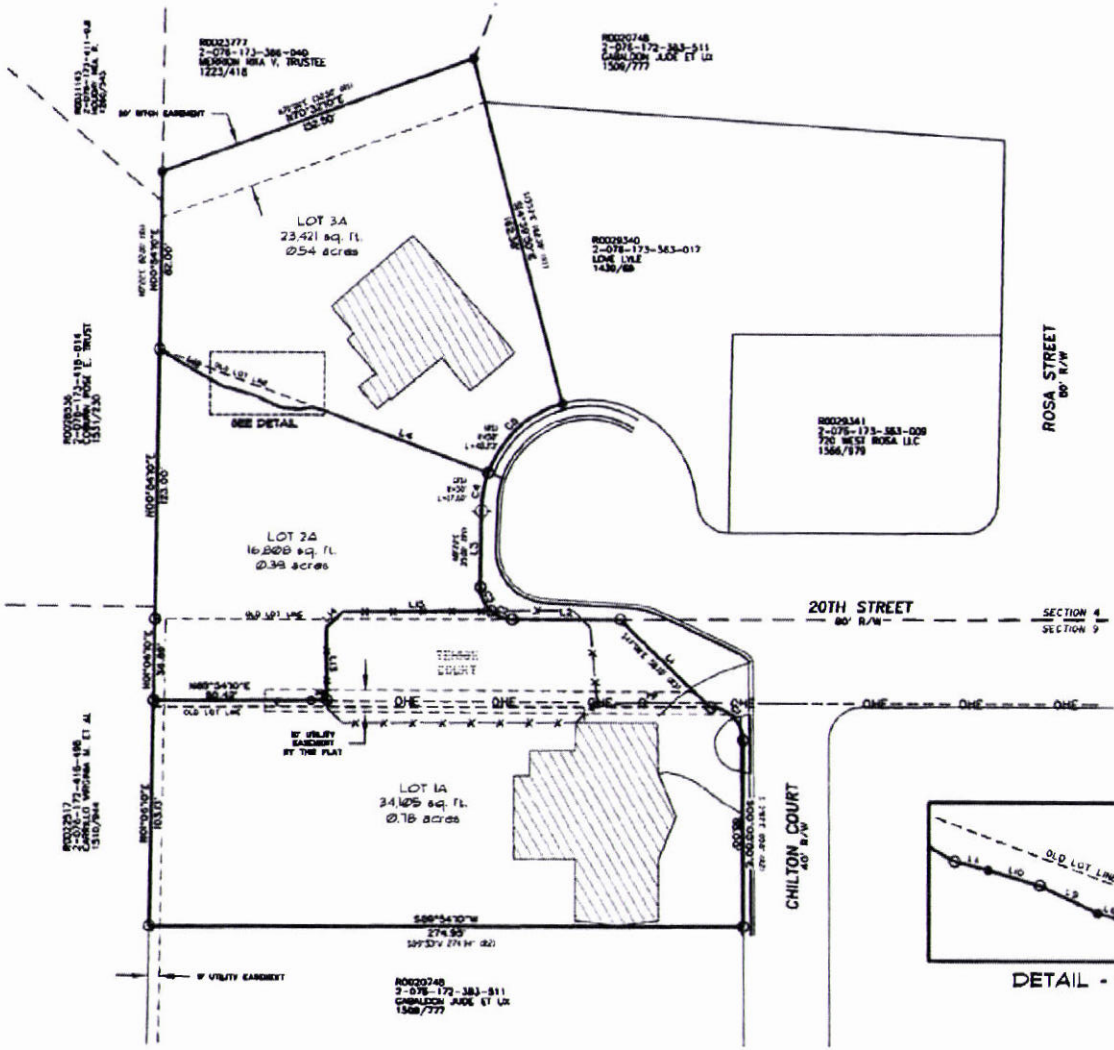
Absent: Commissioners Brown, Thompson, Waldroup, and Washburn.

Motion passed 6-0

Parcels
Zoning District
Zoning Classification
Single-family 10
Single-family 7
Roads Labels
N
60
Feet
Single-family 7
ROSA ST
W 20TH ST
Single-family 10
CHILTON CT
COMMUNITY DEVELOPMENT DEPARTMENT
Date: 6/2/2016

PUESTA DEL SOL SUBDIVISION NO. 2 REPLAT A

A LOT CONSOLIDATION AND BOUNDARY LINE ADJUSTMENT
LYING IN THE SE1/4 SW1/4 OF SECTION 4 AND THE NE1/4 NW1/4 OF SECTION 9, T29N R13W N.M.P.M.
IN THE CITY OF FARMINGTON, SAN JUAN COUNTY, NEW MEXICO
FOR MORRISON AND THROWER FAMILY COMPANY, LLC ET AL


LOT 3A
23,421 sq. ft.
0.54 acres
LOT 2A
16,888 sq. ft.
0.39 acres
LOT 1A
34,625 sq. ft.
0.78 acres
SEE DETAIL
20TH STREET
80' R/W
SECTION 4
SECTION 9
ROSA STREET
80' R/W
CHILTON COURT
40' R/W
TERRACE COURT
O/E
O/E
O/E

PLANNING MEMO COMMENTS SUMMARY

ZC 16-58 ZC 16-58 PUESTA DEL SOL SD #2 REPLAT A

Deadline: 7/12/16

City of Farmington Departments

CD	Director	Comments will be incorporated into the staff memo.
CD	Addressing – Planning Division	
CD	Chief Building Official	No comment
CD	Long Range Planner	
CD	MPO	
CD	Oil & Gas Inspector	
CITY	City Manager's Office	No comment
ELEC	Customer Care Manager	
ELEC	Electrical Engineering	No conflict
ELEC	T & D	
FIRE	Fire Marshall	No comment
LEGAL	City Attorney	Legal has no comment
LEGAL	Deputy City Attorney	
POLICE	Code Compliance	
POLICE	Sergeant	
PRCA	Director	
PW	City Engineer	
PW	Engineering	No comment
PW	Streets Superintendent	
PW	Traffic Engineer	
PW	Water/Waste Water	No comment

Other Entities

New Mexico Gas Company	
CenturyLink	No comment
Enterprise Field Services	
Comcast Cable	
CH2MHILL OMI	
Field Services	
Farmington School District	

PETITION APPLICATION

	Incomplete applications will not be accepted. Return completed application to:	**Planning Division** **Community Development Dept.** **City of Farmington** **800 Municipal Drive** **Farmington, NM 87401** **(505) 599-1317** **(505) 599-1299 (fax)**

PROJECT TYPE (Check Those Applicable)

☐ Annexation and / or Zoning ☐ Preliminary Plat ☐ Final Plan	☒ Summary Plat ☐ Special Use Permit ☐ Variance (ARB)	☒ Zone Change to SF-7 District ☐ Temporary Use Permit Proposed Length of Use:_____

INFORMATION

Applicant's Name: Brandt Thrower	Project Location: Chilton Court / 20th Street
Address: 412 W. Arrington, Farmington, NM, 87401	Existing Use: Residential
E-Mail:	Proposed Use: Residential
Telephone: 486-2625	Current Zoning: SF-10
Relationship to Property Owner:	Assessor's Parcel I.D. and/or Tax I.D. Number: **R0026843**

Legal Description of Subject Property: *See Attached Plat*

Is Property subject to deed restrictions, covenants, or homeowners' association agreements? If Yes, please provide copy with application. Yes ☐ No ☒

REPRESENTATIVE / CONTACT PERSON (if other than applicant)

Name: George T. Walters	Email: gtw@c-w-e.com
Phone: (505) 327-3303	Address: 909 West Apache, Farmington, NM, 87401

OWNERSHIP

PROPERTY OWNER (Identify General Partners, Managing Partner, Corporation President and Secretary. Specify type of ownership interest: Fee, Real Estate Contract, Option to Purchase)		MORTGAGE HOLDERS (If any)	
Name: Brandt Thrower	Phone: 486-2625	Name:	Phone:
Address: 412 W. Arrington, Farmington, NM, 87401		Address:	

OWNER CERTIFICATION * *(Physical and Mailing)*

I certify that I am an owner and the information and exhibits herewith are true and correct to the best of my knowledge in filing this application, I am acting with the knowledge and consent of all persons in interest and understand that without the consent of all persons in interest the requested action cannot lawfully be accomplished. I give my permission for authorized officials of the City of Farmington or Planning and Zoning Commission to enter the premises described in this application. I understand applications will generally be reviewed by City Council at their first regular session following the P&Z review.

Name: Brandt Thrower	Address: 412 W. Arrington, Farmington, NM, 87401
Owner's Signature: Brandt Thrower	Phone / Email: 486-2625

****** STAFF USE ONLY ******

Received By_____ Time_____ Date_____ Fee Received_____ Project File No._____ Date of Hearing/Meeting:_____	☐ Blueline Copies of Plans_____ ☐ Ownership Report (subject and surrounding properties) ☐ Legal Description_____ ☐ Detailed Statement of Proposed Use_____

P&Z PLANNING & ZONING COMMISSION
NOTICE OF PUBLIC HEARING

Notice is hereby given that the following application has been filed with the Planning and Zoning Commission of the City of Farmington, New Mexico.

Petition No. SUP 16-57 - a request from Vera Matthews for a Special Use Permit to allow three horses and a barn on 2.5 acres. Pursuant to UDC 11.1, a horse requires 1 acre of land. The property is located at 7000 Hood Mesa Trail, In the City of Farmington, San Juan County, New Mexico, as described below:

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T29N, R13W, Sec. 26, NW1/4NE1/4NE1/4 NE1/4, in the City of Farmington, San Juan County, New Mexico.
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Petition No. ZC 16-58 - a request from Brandi Thrower, represented by Cheney-Walters-Echols, for a Zone Change from SF-10, Single Family minimum 10,000 sq. ft. to SF-7, Single Family minimum 7,000 sq. ft. for 1.71 acres located at Chilton Court and 20th Street, in the City of Farmington, San Juan County, New Mexico, as described below:

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Bryn Mawr Subdivision, Block 1 Lot 1 And T29N, R13W, Sec. 9, Pt. NE1/4NW1/4, in the City of Farmington, San Juan County, New Mexico.
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Karen Walker
Administrative Assistant

Legal No 72900 published in The Daily Times on July 10, 2016.

NOTICE OF PUBLIC HEARING
ZONE CHANGE
PETITION NO. ZC 16-58

July 6, 2016

Dear Property Owner:

Notice is hereby given that an application has been filed with the Planning and Zoning Commission of the City of Farmington, New Mexico, a request from Brandi Thrower, represented by Cheney-Walters-Echols, for a Zone Change from SF-10, Single Family to SF-7, Single Family for 1.71 acres located at Chilton Court and 20th Street, in the City of Farmington, San Juan County, New Mexico, as described below:

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If you have any questions regarding this notice, or would like additional information regarding this petition, please contact Steven Saavedra at 505-599-1282 or ssaavedra @fmtn.org.

Sincerely,

Karen Walker
Administrative Assistant

GUARDIAN ABSTRACT & TITLE CO., INC.
221 NORTH AUBURN
FARMINGTON, NEW MEXICO 87401

PROPERTY OWNERS WITHIN 100 FEET, EXCLUDING ROADWAYS AND ALLEYS OF THE FOLLOWING DESCRIBED PROPERTY: ***Bryn Mawr Subdivision***
Block 1 Lot 1
And
T29N, R13W, Sec. 9
Pt. NE1/4NW1/4

OWNERS: Morrison and Thrower Family Company, LLC
412 W. Arrington
Farmington, NM 87401
1599/151

ADJOINING OWNER	ADDRESS	LEGAL DESCRIPTION
Morrison and Thrower Family Company, LLC 1599/151	412 W. Arrington Farmington, NM 87401	Puesta Del Sol Subdivision No. 2 Block 4 Lot 9
Love, Lyle 1439/69	P.O Box 279 Flora Vista, NM 87415-0279	Puesta Del Sol Subdivision No. 2 Block 4 Lots 5 and 7
720 West Rosa, LLC 1566/979	1300 Brynie Lane Farmington, NM 87401	Puesta Del Sol Subdivision No. 2 Block 4 Lot 6
Pruitt, Harold G. and Connie L. 863/169	1916 Chilton CT Farmington, NM 87401	Bryn Mawr Subdivision Block 1 Lot 16
Gent, Glenn N. and Debra 1363/61	1908 Chilton CT Farmington, NM 87401	Bryn Mawr Subdivision Block 1 Lot 15

Gabaldon, Jude and Lucero, Diana 1509/777	1909 Chilton CT Farmington, NM 87401	Bryn Mawr Subdivision Block 1 Lots 2 and 3
Carrillo, Virginia and Collard, James P. 1510/944	1908 Glade RD Farmington, NM 87401-5440	T29N, R13W, Sec. 9 Pt. NW1/4NW1/4
Bedford, Larry A. and Royce M. Living Trust 1244/351	1912 Glade RD Farmington, NM 87401-5440	T29N, R13W, Sec. 9 Pt. NW1/4NW1/4
Coburn, Rose E. Living Trust 1531/230	P.O Box 305 Farmington, NM 87499	Wildwood Glen Subdivision Block 1 Lot 10

COMMUNITY DEVELOPMENT DEPARTMENT
ACTION SUMMARY
ZONE CHANGE from IND to MU
Petition No. ZC 16-59

A. STAFF REPORT, July 19, 2016

PROJECT INFORMATION

Applicant	Residential Rentals, LLC
Representative	Gayle Goeden
Date of Application	6/29/16
Requested Action	Zone change from IND Industrial to MU Mixed Use
Location	115 E CORCORRAN DR FM
Existing Land Use	Private School and parking lot
Existing Zoning	IND Industrial
Surrounding Zoning & Land Use	**North:** IND Industrial/ Vacant Land **South:** IND Industrial/ City of Farmington Park **East:** IND Industrial/Vacant Land **West:** IND Industrial/Vacant Land
Notice	Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily Times on Sunday, July 17, 2016. Property owners within 100 feet were sent notice by certified mail, on Wednesday, July 20, 2016 and a sign was posted on Friday, July 15, 2016.
Staff Planner	Keith M. Neil, Associate Planner

STAFF ANALYSIS
Project Description

The petitioner is requesting a zone change from the IND Industrial zoning district to the MU Mixed Use district. The request is for the two adjoining properties owned by the petitioner, Residential Rentals, LLC., Lot 6 and Lot 7 of Block 1 of the Riverside Addition. Currently Lot 6 serves as the parking lot for the business located on Lot 7.

The building located on Lot 7 is currently being rented by a private school. According to Section 2.3 Permitted Use Table of the Unified Development Code (UDC), a private school is not a permitted use within the IND Industrial zoning district. This would constitute a legal, non-conforming use within the district. A zone change from IND to MU, Mixed Use would thereby bring the

use as a private school into conformity with the UDC and would permit the private school use by right.

When the use as a private school ceases, the petitioner would like have a wider variety of options for permitted uses which they believe will be made available with the change to Mixed Use.

The properties are surrounded by vacant parcels on three sides and have Boyd Park to the south. All properties in the immediate vicinity of these properties are zoned IND, however there are many vacant properties in the neighborhood.

These properties are located within the Animas District of the Metropolitan Redevelopment Area. According to the **MRA Plan: XIII. Catalyst Projects #1- Development Opportunity Area 1- Animas Riverfront:**

> *"This area represents the largest geographic opportunity of all the catalyst projects, has the greatest potential for transforming the MRA district over time. It leverages the critical advantage of the river with its attendant parks, trails and naturally enticing environment… Much of this plan has been implemented and the development suggested herein will serve to enhance, enliven, and further improve access and enjoyment of the Riverine Area. The positive influence the river area, once remediated, will have on market demand, developer interest, and long-term sustainability of projects summarized below cannot be underestimated. Every effort during implementation of the MRA Plan should be made to maximize this critical advantage."*
>
> *"This area will host a master-planned urban village in the southern quadrant that can include but not be limited to the following:*
> - *Mixed use components- retail and office*
> - *Residential- market rate single family detached homes, condominiums, townhouses, apartments*
> - *Office- Class 'A' park*
> - *Lodging/Hospitality- hotel and meeting space*
> - *Restaurants and entertainment"*

Additional consideration for the Animas District is made within the 2002 City of Farmington Comprehensive Plan-

> *"Animas Neighborhood Goal: Redevelop the Animas Neighborhood as a mixed-use development with new types of affordable housing, expanded medical and cultural facilities linking Downtown to the Riverwalk.*
>
> ***Objective 13C.9**: Encourage mixed-use residential and commercial by allowing creative housing types.*
>
> ***Objective 13C.10**: Connect Downtown neighborhoods with the Animas Riverwalk."*

Section 8.7.4 of the UDC outlines *Issues for consideration* in determining a proposed zone change as follows:

A. Is the proposed zoning consistent with the Farmington Comprehensive Plan?
B. Is the proposed zoning and land use(s) compatible with the present zoning and conforming uses of nearby property and the character of the neighborhood?
C. Will there be adverse impacts; and/or can any adverse impacts be adequately mitigated?
D. Is the proposed density and intensity of use permitted in the proposed zoning district?
E. Is the site physically suitable for development of uses and density permitted by the proposed zoning district?
F. Are adequate public facilities and services available to serve development for the type and scope suggested by the proposed zone? If utilities are not available, could they be reasonably extended by the applicant? Is the applicant willing to pay for the extension of public facilities and services necessary to service the proposed development?
G. Does the proposed change constitute "spot zoning" as defined in Article 11, definitions?

The 2020 Future Land Use Map of the Comprehensive Plan calls for Mixed-Use development in this location. With the large amount of vacant land surrounding these properties and their potential to be utilized as mixed use development as well, this proposed zone change would be in character with the area. The zone change to MU will not have adverse impacts on the neighborhood as the use is not changing. As the building currently sits on the property, it does not conform with IND density standards for setbacks. A zone change to MU will bring the building into conformity with MU setbacks on three sides. The continued use as a private school will be permitted by right with the approval of this zone change request. The facility is adequately served by city utilities. Further development or expansion of the footprint would require a lot consolidation and a Hydraulic and Hydrology Study to be completed. When considering the potential zone change in regards to "spot zoning," a consideration must be made for the Animas District as a whole as outlined in the MRA Plan and Comprehensive Plan. A distinct move towards the rezoning of areas in this district away from the IND Industrial zoning to the MU Mixed Use zoning district has been a priority for the Community Development Department. Although this property does not directly abut other properties in the neighborhood that are zoned Mixed Use, this change is part of the overall strategic goals and future land use plan for the Animas District.

ISSUES

Engineering staff has highlighted that the location of these properties is within the Zone AE Floodway of the Animas River. Any improvements to the existing building that increase the footprint area, fencing, secondary structures, etc. will

require a Hydraulic and Hydrology Study completed and submitted to FEMA for approval prior to the issuance of any building permits. These are FEMA requirements which cannot be waived by the City Engineer.

STAFF CONCLUSION

The Community Development Department believes that the requirements outlined in the City of Farmington Unified Development Code for zone changes have been fulfilled with this request. Staff believes that approval of this request would be appropriate based upon the MRA Plan and Future Land Use Plan recommendations for the area as well as the character and nature of the surrounding land uses.

STAFF RECOMMENDATION

The Community Development Department recommends **approval** of Petition ZC 16-59, a request from Residential Rentals, LLC for a zone change from the IND Industrial zoning district to the MU Mixed Use zoning district for Lots 6 and 7, Block 1 of the Riverside Addition, otherwise known as 115 E. Corcorran Drive.

B. FINDINGS AND ACTION OF THE PLANNING AND ZONING COMMISSION:

On July 28, 2016, the Planning and Zoning Commission held a public meeting for ZC 16-59 and made the following findings:

1. The petitioner is Residential Rentals, LLC.
2. The subject property is located at 115 E. Corcorran Drive and is located in the IND Industrial zoning district.
3. The petitioner is requesting a zone change from the IND, Industrial District to the MU, Mixed Use District.
4. The property is a legal, non-conforming use as a private school and is surrounded by vacant property on all sides.
5. The Future Land Use Plan map of the City's 2020 Comprehensive Plan suggested that the area be zoned as Mixed Use.
6. The MRA Plan categorizes the area for Redevelopment and is designated as part of the Catalyst Project #1 which calls for Mixed Use.
7. The zone change meets the requirements set forth for zone changes in Section 8.4.7 of the Unified Development Code.
8. Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily Times on Sunday, July 17, 2016. Property owners within 100 feet were sent notice by certified mail on Wednesday, July 20, 2016 and a sign was posted on Friday, July 15, 2016.
9. The petitioner was not present at the meeting. There was no one present to voice opposition to the zone change.

Planning and Zoning Commission Discussion of Petition ZC 16-59 on July 28, 2016

Associate Planner Keith Neil presented the staff report for ZC 16-59, a request from Residential Rentals, LLC, represented by Gayle Goeden for a zone change from IND Industrial zoning district to MU Mixed Use zoning district for 0.25 acres, located at 115 E. Corcorran Drive.

The request is for the two adjoining properties, Lot 6 and Lot 7. Currently Lot 6 is the parking lot for the business located on Lot 7. The building located on Lot 7 is currently being rented by a private school and is legal non-conforming because it is not allowed in the IND district. A zone change from IND to MU will bring the use as a private school into conformity with the UDC and would permit the private school use by right. If the private school ceases, the petitioner would have a wider variety of options of permitted uses with a MU zone.

Mr. Neil stated the surrounding properties to the north and west are vacant parcels. There is a playground for the school to the east, and Boyd Park is to the south. All properties in the immediate vicinity of these properties are zoned IND.

The 2020 Comprehensive Plan designates this area as MU, said Mr. Neil. The MRA, Metropolitan Redevelopment Agency's Catalyst Project 1 calls for this area to be MU. At the MRA meeting on July 21, 2016, the Commissioners discussed this petition and voted 5-0 for approval of MU. The overall goal of the MRA is to change this area to MU whenever possible. It would be a spot zone, but it would be the beginning of the goal of the MRA.

Staff recommends approval of Petition ZC 16-59.

Commissioner Freeman commented that he has an issue with voting on a petition when the petitioner is not present. Mr. Neil said Ms. Goeden, the petitioner has health issues and was concerned about attending the meeting. Ms. Goeden is agreeable with the recommendations.

Planning and Zoning Commission Action of Petition ZC 16-59 on July 28, 2016

A motion was made by Commissioner Davis and seconded by Commissioner Langenfeld to **approve** Petition ZC 16-59, a request from Residential Rentals, LLC for a zone change from the IND Industrial zoning district to the MU Mixed Use zoning district for Lots 6 and 7, Block 1 of the Riverside Addition, otherwise known as 115 E. Corcorran Drive.

AYE: Chair Cardon, Commissioners Davis, Freeman, Langenfeld, Ragsdale, and Yazzie.

NAY: None

Abstained: None

Absent: Commissioners Brown, Thompson, Waldroup, and Washburn.

Motion passed 6-0

60 Feet

N

AREA UNDER CONSIDERATION
ZC 16-59 E. Corcorran

COMMUNITY DEVELOPMENT DEPARTMENT

Date: 7/1/2016

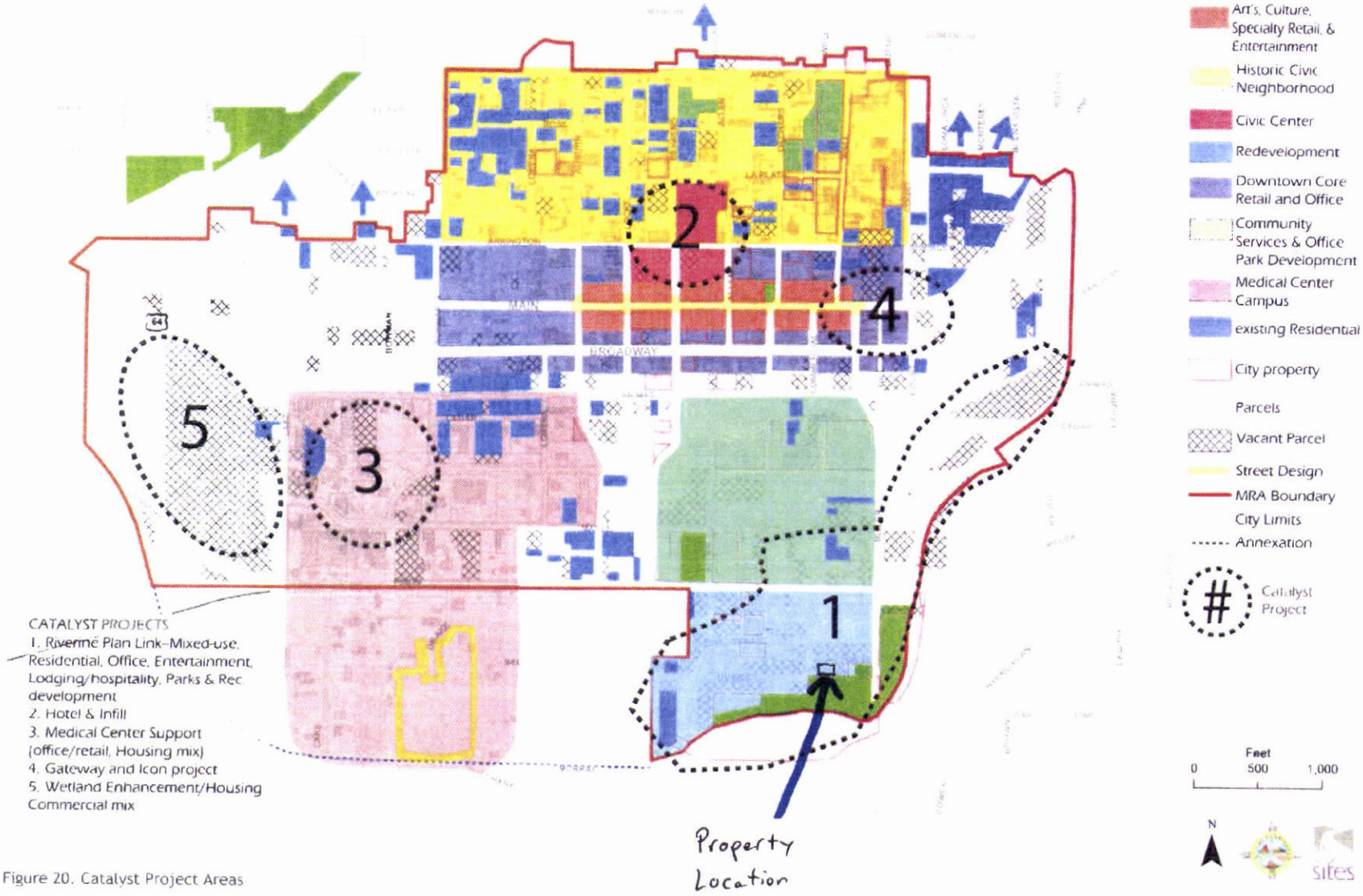

Figure 20. Catalyst Project Areas

PLANNING MEMO COMMENTS SUMMARY

ZC 16-59 ZC 16-59 115 E. CORCORRAN

Deadline: 7/8/16

City of Farmington Departments

CD	Director	The site appears to be a private school building– Is it associated with the adjacent parking lot to the west in Lot 8 and/or with the church to the east (Lots 4 & 5)? If so, why aren't those lots included in the rezoning request? The Tax Assessor's website identifies this land area as only Lot 6. Has this parcel been consolidated as Lot 6? If not, where is Lot 7? The site is located within the Animas District of the MRA. The project planner needs to cite applicable provisions in the MRA Plan to support staff's recommendation.
CD	Addressing – Planning Division	
CD	Chief Building Official	No comment
CD	Long Range Planner	
CD	MPO	
CD	Oil & Gas Inspector	
CITY	City Manager's Office	No comment
ELEC	Customer Care Manager	
ELEC	Electrical Engineering	No comment
ELEC	T & D	
FIRE	Fire Marshall	
LEGAL	City Attorney	
LEGAL	Deputy City Attorney	
POLICE	Code Compliance	No Comment from Code Compliance.
POLICE	Sergeant	
PRCA	Director	
PW	City Engineer	
PW	Engineering	- Please be advised that the property at 115 E Corcorran Drive is located within Zone AE Floodway of the Animas River. Any improvements to the existing building that increase the footprint area, any fencing, secondary structures, etc. will require a Hydraulic and Hydrology Study completed and submitted to FEMA for approval prior to the issuance of any building permits. These are FEMA requirements which cannot be waived by the City Engineer.

PW	Streets Superintendent	
PW	Traffic Engineer	
PW	Water/Waste Water	No comment

Other Entities

New Mexico Gas Company	
CenturyLink	No comment
Enterprise Field Services	
Comcast Cable	
CH2MHILL OMI	
Field Services	
Farmington School District	

PETITION APPLICATION

	Incomplete applications will not be accepted. **Return completed application to:**	**Planning Division** **Community Development Department** **City of Farmington** **800 Municipal Drive** **Farmington, NM 87401** **(505) 599-1317** **(505) 599-1299 (fax)**

PROJECT TYPE (Check Those Applicable)

☐ **Annexation and / or Zoning** ☐ **Preliminary Plat** ☐ **Final Plan**	☐ **Summary Plat** ☐ **Special Use Permit** ☐ **Variance (ARB)**	☒ **Zone Change to** mixed use **District** ☐ **Temporary Use Permit** **Proposed Length of Use:** _____ ☐ **Well site equipment modification**

INFORMATION

Applicant's Name: Residential Rentals, LLC	Project Location: 115 E. Corcorran
Address: 3340 Burson Lane	Existing Use: Christian School - IND
E-Mail: Gayle G29@gmail.com	Proposed Use: Mixed Use - MU
Telephone: 505-327-1313	Current Zoning: Industrial
Relationship to Property Owner: Prineiple Member	Assessor's Parcel I.D. and/or Tax I.D. Number: Tax Bill # R00020225

Legal Description of Subject Property: Riverside Addition, Lot 6 and 7, Block 1 Bk. 1576 pg. 354

Is Property subject to deed restrictions, covenants, or homeowners' association agreements? Yes ☐ No ☒
If Yes, please provide copy with application.

REPRESENTATIVE / CONTACT PERSON (if other than applicant)

Name: Gayle Goeden	E-Mail: Gayle G29@gmail.com
Phone: 327-1313	Address: 3340 Burson, Farmington NM 87402

OWNERSHIP

PROPERTY OWNER (Identify General Partners, Managing Partner, Corporation President and Secretary. Specify type of ownership interest: Fee, Real Estate Contract, Option to Purchase)		MORTGAGE HOLDERS (If any) None	
Name: Gayle Goeden	Phone: 505-327-1313	Name:	Phone:
Address: 3340 Burson Ln. Farmington, NM 87402-8382		Address: N/A	

OWNER CERTIFICATION * (Physical and Mailing)

I certify that I am an owner and the information and exhibits herewith are true and correct to the best of my knowledge in filing this application, I am acting with the knowledge and consent of all persons in interest and understand that without the consent of all persons in interest the requested action cannot lawfully be accomplished. I give my permission for authorized officials of the City of Farmington or Planning and Zoning Commission to enter the premises described in this application. I understand applications will generally be reviewed by City Council at their first regular session following the P&Z review.

Name: Gayle Goeden	Address: 3340 Burson Lane
Owner's Signature: Gayle Goeden	Phone / Email: 327-1313 / Gayle G29@gmail.com

****** STAFF USE ONLY ******

Received By Keith Neal
Date 6/29/16 Fee Received $100.00
Project File No. PZC16-59 115 E. Corcorran
Date of Hearing/Meeting: 7/28/16

☐ Blueline Copies of Plans _____
☐ Ownership Report (subject and surrounding properties)
☒ Legal Description _____
☒ Detailed Statement of Proposed Use

Document2

June 29, 2016

To: The City of Farmington

From: Residential Rentals, LLC

RE: Petition Application for zoning change
Property Address: 115 E. Corcorran
Farmington, NM 87401
Petition for a zone change from INDUSTRIAL to MIXED USE

To Whom It May Concern:

Residential Rentals, LLC is requesting a zone change from "Industrial" to "Mixed Use" for the purpose of long-term lease or sales planning. The principle member of the LLC is of retirement age and is seeking additional property options.

The "Mixed Use" zoning request is also in alignment with the City of Farmington's 2020 Comprehensive Plan for this property, which is in the MRA Animas District.

Gayle Goeden

Gayle Goeden, Principle
Residential Rentals, LLC

P&Z PLANNING & ZONING COMMISSION
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Karen Walker
Administrative Assistant

Legal No 72900 published in The Daily Times on July 10, 2016.

NOTICE OF PUBLIC HEARING
ZONE CHANGE
PETITION NO. ZC 16-59

July 6, 2016

Dear Property Owner:

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If you have any questions regarding this notice, or would like additional information regarding this petition, please contact Keith Neil at 505-599-1333 or kneil @fmtn.org.

Sincerely,

Karen Walker
Administrative Assistant

Names and Tax-Roll Addresses of Owners Within One Hundred (100) Feet (excluding roadways and easements) of the Following Described Property Referenced as TRACT 1:

Lots 6 and 7, in Block 1, of the RIVERSIDE ADDITION, in the City of Farmington, San Juan County, New Mexico, as shown on the Plat of said Addition filed for record March 11, 1958.

TRACT 1 Residential Rentals, LLC 3340 Burson Lane Farmington, NM 87401	Lots 6 & 7, in Block 1 of the RIVERSIDE ADDITION, filed March 11, 1958. Book 1576, page 354
TRACT 2 Graves Oil and Butane Company 118 West Holt Boulevard Ontario, CA 91762	Lots 4, 5, 6, 7, & 8, in Block 2 of the RIVERSIDE ADDITION, filed March 11, 1958. Book 1597, page 1005
TRACT 3 Ruff Rhodes LLC 618 Lester Street Houston, TX 77007	That part of the SE/4SE/4 of Section 16, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico. Book 1598, page 933
TRACT 4 & 5 New Haven Baptist Temple P.O. Box 3123 Farmington, NM 87499	Lot 4, in Block 1, of the RIVERSIDE ADDITION, filed March 11, 1958. Book 1261, page 892 AND Lot 4, in Block 1, of the RIVERSIDE ADDITION, filed March 11, 1958. Book 1261, page 893
TRACT 6 City of Farmington 800 Municipal Drive Farmington, NM 87401	That part of the S/2SE/4SE/4 of Section 16, Township 29 North, Range 13 West, N.M.P.M., San Juan County, New Mexico. Book 895, page 115

TRACT 7
New Haven Christian Academy
P.O. Box 3123
Farmington, NM 87499

Lot 8, in Block 1, of the RIVERSIDE ADDITION, filed March 11, 1958.

Book 1417, page 296

TRACT 8
Randy S. and Thipsuda Orbesen
29 Road 2290
Aztec, NM 87410

Lots 21 and 22, in Block 7, of the RIVERSIDE ADDITION, filed March 11, 1958.
AND a portion of an alley described in Book 1545, page 104

Book 1581, page 795

TRACT 9
William and Claytie Cole Trust
3105 McColm Drive
Farmington, NM 87402

Lot 1, in Block 7, of the RIVERSIDE ADDITION, filed March 11, 1958.
AND a portion of an alley described in Book 1545, page 104

Book 1528, page 817

TRACT 10
McInvestments, LLC
6200 Quail Run
Farmington, NM 87402

Lots 8 and 9, in Block 3, of the RIVERSIDE ADDITION, filed March 11, 1958.

Book 1473, page 630

TO: June 23, 2016. 4:30 p.m.

LIABILITY LIMITED TO THE AMOUNT PAID FOR THIS CERTIFICATE.

SAN JUAN COUNTY ABSTRACT & TITLE COMPANY

By: Jennifer Jenkins, Abstracter

COMMUNITY DEVELOPMENT DEPARTMENT
ACTION SUMMARY
SPECIAL USE PERMIT
Petition No. SUP 16-61

A. STAFF REPORT July 19, 2016

PROJECT INFORMATION

Applicant	Faraz Sandhu
Representative	
Date of Application	6/30/16
Requested Action	Special Use Permit to allow an attached family care unit with a second stove to be installed.
Location	4002 SAN PAULA AVE FM
Existing Land Use	Residential
Existing Zoning	SF-10
Surrounding Zoning & Land Use	**North:** SF-10/Vacant **South:** SF-7/Single Family Residential **East:** SF-10/Single Family Residential **West:** SF-10/Single Family Residential
Notice	Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily Times on Sunday, July 10, 2016. Property owners within 100 feet were sent notice by certified mail, on Wednesday, July 6, 2016 and a sign was posted on Friday, July 15, 2016.
Staff Planner	Keith M. Neil, Associate Planner

STAFF ANALYSIS
Project Description

The petitioner is requesting a Special Use Permit to allow a family care unit with the installation of an additional stove (natural gas) in a downstairs kitchenette area for property located at 4002 San Paula Ave. Currently the petitioner has a two-story home with a full kitchen on the upper floor. The lower floor contains a kitchenette with all the appliances typically associated with a full kitchen yet does not have a stove. The addition of a second stove at a residence in a single-family residential zoning district is permitted by Special Use Permit for a Family Care Unit (Mother-in-Law quarters). Family Care Units may be attached or detached from the principal structure.

The petitioner has stated that due to health concerns and the age of his parents more consistent and watchful care is needed, while offering a feeling of independence as

well. The petitioner plans to relocate his parents to the first floor of the residence with full, independent living considerations.

Pursuant to Section 2.5.7 of the UDC **Attached Family Care Units:**

> *"Units that are attached to or part of the principal building shall conform to the minimum height and setback requirements for the principal building. The floor area of an attached unit shall not exceed 30 percent of the floor of the principal dwelling up to a maximum of 700 square feet."*

The proposed family care unit portion of the first floor of the residence is approximately 622 square feet.

Special Use Permit Criteria – Section 8.9.4 of the UDC

Section 8.9.4 of the UDC sets forth the criteria for review of a special use permit. The section states that an SUP may be approved where it is reasonably determined that there will be no significant negative impact upon residents of surrounding property or upon the public. Criteria are listed as follows:

A. Effect on environment: The location, size, design, and operation characteristics of the proposed use shall not be detrimental to the health, welfare, and safety of the surrounding neighborhood or its occupants, not be substantially or permanently injurious to the neighboring property.

The use as an Attached Family Care Unit will have no impacts upon the surrounding neighborhood. Due to the unit being fully enclosed within the existing residence, there will be no expansion of the building footprint and there will be no visual change. The Family Care Unit will require one additional off-street parking space. There is sufficient space in the existing driveway area to provide the required parking space.

B. Compatible with surrounding area: The proposed site plan, circulation plan, and schematic architectural designs shall be harmonious with the character of the surrounding area with relationship to scale, height, landscaping and screening and density.

All amendments to the existing residence will be performed internally and present no external changes to the surrounding area.

C. External impacts minimized: The proposed use shall not have negative impacts on existing uses in the area and in the city through the creation of noise, glare, fumes, dust, smoke, vibration, fire hazard, or other injurious or noxious impact. The applicant shall provide adequate mitigation responses to the impacts.

The inclusion of the second stove will not create an increase of noise, glare, fumes, dust, smoke, vibration, fire hazard, or other injurious or noxious impact to the surrounding area.

D. Infrastructure impacts minimized: The proposed use shall not have negative impacts on existing uses in the area and in the city through impacts on public infrastructure such as roads, parking facilities and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to provide services adequately.

The necessary city services are existing on the parcel and will not require additional services to be provided.

E. Consistent with the UDC and Comprehensive Plan: The proposed use will be consistent with purposes of this UDC, the Comprehensive Plan, and any other statutes, ordinances or policies that may be applicable, and will support rather than interfere with the uses otherwise permitted in the zone in which it is located.

The Comprehensive Plan calls for this area to be residential. An SUP for a Family Care Unit in a residential district is consistent with the UDC and the Comprehensive Plan.

F. Parcel size: The proposed use may be required to have additional land area, in excess of the minimum lot area otherwise required by the underlying zoning district, as necessary to ensure adequate mitigation of impacts on surrounding land uses and the zoning district.

N/A

G. Site Plan: The proposed use shall be required to comply with the site plan review procedures and standards of Section 8.5, site plan review, as specified.

A conceptual site plan was provided to the Building Division of Community Development.

STAFF CONCLUSION

The Community Development Department believes that the requirements for an attached family care unit have been met by the petitioner and approval of the Special Use Permit is appropriate.

STAFF RECOMMENDATION

The Community Development Department recommends **approval** of Petition SUP 16-61, a request from Faraz Sandhu to allow a second stove to be located within an attached family care unit for a single-family residence located at 4002 San Paula Ave in the SF-10 zoning district.

B. FINDINGS AND ACTION OF THE PLANNING AND ZONING COMMISSION:

On July 28, 2016, the Planning and Zoning Commission held a public meeting for SUP 16-61 and made the following findings:

1. The petitioner is Faraz Sandhu.
2. The subject property is located at 4002 San Paula Avenue and is located in the SF-10 Single-Family zoning district.
3. The petitioner is requesting a special use permit to allow an attached family care unit to be located on the first floor of the primary residence.
4. The property is surrounded by SF-10 residential zoning with the exception of south of the property which is zoned SF-7 residential.
5. The Future Land Use Plan map of the 2020 Comprehensive Plan suggests the area be zoned for residential uses.

6. Section 2.5.7 of the City of Farmington Unified Development Code requires attached family care units to be less than 700 square feet of floor area. The proposed family care unit measures approximately 450 square feet.
7. Attached family care units are required to provide one additional off-street parking space. The property sufficiently provides ample parking for the required space.
8. The request for Special Use Permit meets all requirements outlined in Section 8.9.4 of the Unified Development Code.
9. Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily Times on Sunday, July 17, 2016. Property owners within 100 feet were sent notice by certified mail on Wednesday, July 20, 2016 and a sign was posted on Friday, July 15, 2016.
10. The petitioner was present at the meeting and spoke in favor of approval of the Special Use Permit. No one spoke in opposition to the petition.

Planning and Zoning Commission Discussion of Petition SUP 16-61 on July 28, 2016

Associate Planner Keith Neil presented the staff report for SUP 16-61, a request from Faraz Sandhu for a Special Use Permit to allow a second stove to be installed for a Family Care Unit (Mother-in-Law) on 0.43 acres for property located at 4002 San Paula Avenue.

The petitioner has stated, said Mr. Neil, that due to health concerns and the age of his parents, more consistent and watchful care is needed, while still offering a feeling of independence. The proposed family care unit portion of the first floor of the residence is approximately 622 square feet of living space.

The attached family care unit will have no adverse impacts upon the surrounding neighborhood. As it is a part of the existing home, it is compatible with the surrounding area and has no external impacts on the neighborhood. The addition of the second stove will not create an increase of noise, glare, fumes, dust, smoke, vibration, fire hazard, or other injurious or noxious impact to the surrounding area. It is consistent with the UDC and Comprehensive Plan.

Staff recommends approval of Petition SUP 16- 61.

Faraz Sandhu of 4002 San Paulo Avenue had no further questions.

Planning and Zoning Commission Action on Petition SUP 16-61 on July 28, 2016

A motion was made by Commissioner Langenfeld and seconded by Commissioner Ragsdale to **approve** Petition SUP 16-61, a request from Faraz Sandhu, for a Special Use Permit to allow an attached family care unit to be located in the first floor of the primary residence located at 4002 San Paula Ave.

AYE: Chair Cardon, Commissioners Davis, Freeman, Langenfeld, Ragsdale, and Yazzie.

NAY: None

Abstained: None

Absent: Commissioners Brown, Thompson, Waldroup and Washburn.

Motion passed 6-0

AREA UNDER CONSIDERATION
SUP 16-61 4002 San Paula

COMMUNITY
DEVELOPMENT
DEPARTMENT

Date: 7/5/2016

PLANNING MEMO COMMENTS SUMMARY

SUP 16-61 SUP 16-61 4002 SAN PAULA

Deadline: 7/11/16

City of Farmington Departments

CD	Director	Comments will be incorporated into the staff memo.
CD	Addressing – Planning Division	
CD	Chief Building Official	No comment
CD	Long Range Planner	
CD	MPO	
CD	Oil & Gas Inspector	
CITY	City Manager's Office	No comment
ELEC	Customer Care Manager	
ELEC	Electrical Engineering	No conflict
ELEC	T & D	
FIRE	Fire Marshall	
LEGAL	City Attorney	
LEGAL	Deputy City Attorney	Legal has no comment
POLICE	Code Compliance	
POLICE	Sergeant	
PRCA	Director	
PW	City Engineer	
PW	Engineering	No comment
PW	Streets Superintendent	
PW	Traffic Engineer	
PW	Water/Waste Water	No comment

Other Entities

New Mexico Gas Company	
CenturyLink	No comment
Enterprise Field Services	
Comcast Cable	
CH2MHILL OMI	
Field Services	
Farmington School District	

PETITION APPLICATION

	Incomplete applications will not be accepted. **Return completed application to:**	**Planning Division** **Community Development Department** **City of Farmington** **800 Municipal Drive** **Farmington, NM 87401** **(505) 599-1317** **(505) 599-1299 (fax)**

PROJECT TYPE (Check Those Applicable)

☐ **Annexation and / or Zoning** ☐ **Preliminary Plat** ☐ **Final Plan**	☐ **Summary Plat** ☒ **Special Use Permit** ☐ **Variance (ARB)**	☐ **Zone Change to _____District** ☐ **Temporary Use Permit** **Proposed Length of Use: _____** ☐ **Well site equipment modification**

INFORMATION

Applicant's Name: FARAZ SANDHU	Project Location: 1st floor of house
Address: 4002 SAN PAULA AVE; FARMINGTON, NM 87401	Existing Use: Kitchenette
E-Mail: farazsandhu@hotmail.com	Proposed Use: Full Kitchen (Inlaw Kitchen)
Telephone: 802-922-6755	Current Zoning: SF10
Relationship to Property Owner: Self	Assessor's Parcel I.D. and/or Tax I.D. Number:

Legal Description of Subject Property: Amended Cordon Robles SD #3 Block 2, Lot 1

Is Property subject to deed restrictions, covenants, or homeowners' association agreements? Yes ☐ No ☒
If Yes, please provide copy with application.

REPRESENTATIVE / CONTACT PERSON (if other than applicant)

Name:	E-Mail:
Phone:	Address:

OWNERSHIP

PROPERTY OWNER (Identify General Partners, Managing Partner, Corporation President and Secretary. Specify type of ownership interest: Fee, Real Estate Contract, Option to Purchase)		MORTGAGE HOLDERS (If any)	
Name: FARAZ SANDHU	Phone: 802-922-6755	Name:	Phone:
Address: 4002 SAN PAULA AVE; FARMINGTON, NM 87401		Address:	

OWNER CERTIFICATION * (Physical and Mailing)

I certify that I am an owner and the information and exhibits herewith are true and correct to the best of my knowledge in filing this application, I am acting with the knowledge and consent of all persons in interest and understand that without the consent of all persons in interest the requested action cannot lawfully be accomplished. I give my permission for authorized officials of the City of Farmington or Planning and Zoning Commission to enter the premises described in this application. I understand applications will generally be reviewed by City Council at their first regular session following the P&Z review.

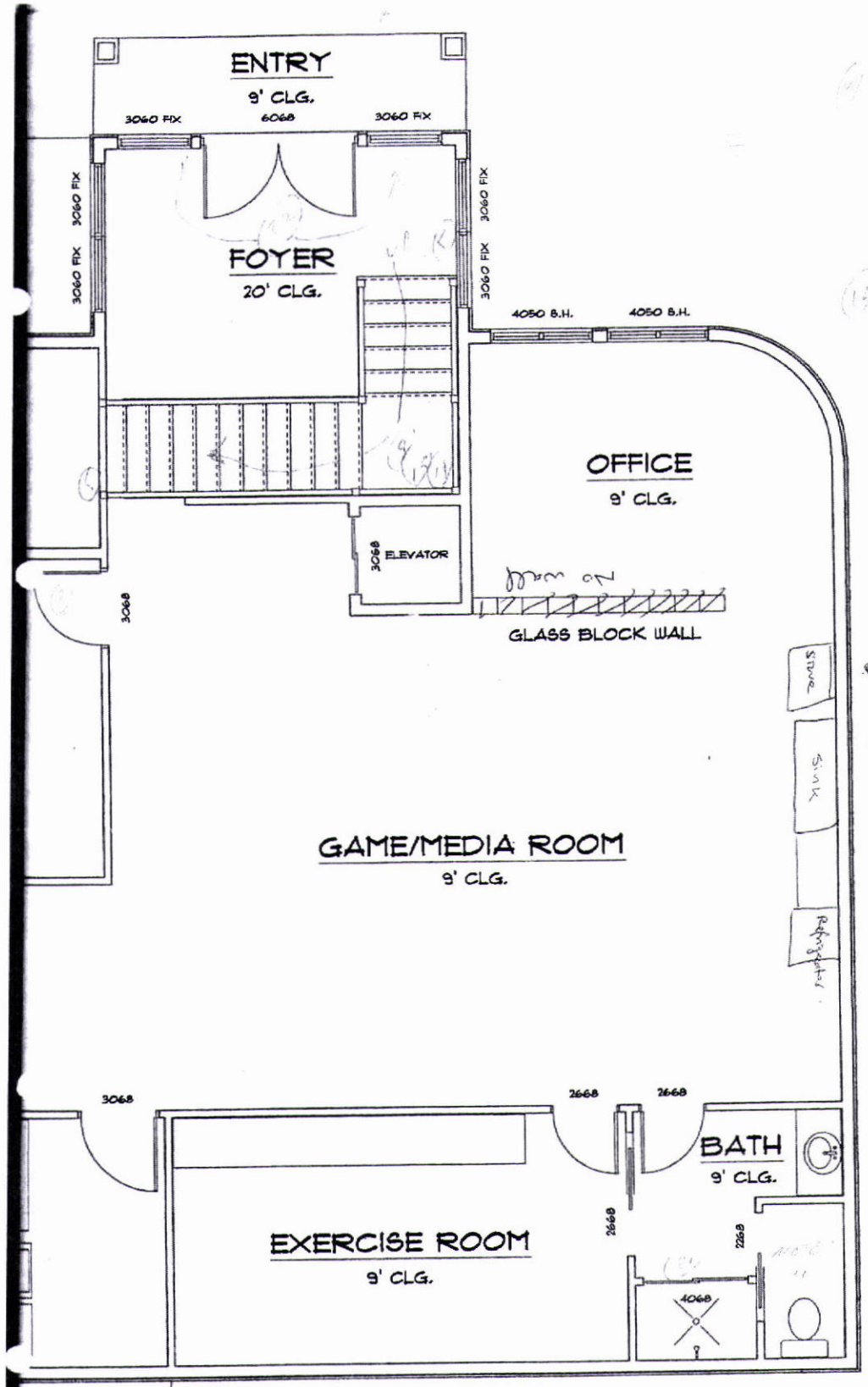
Name: FARAZ SANDHU	Address: 4002 SAN PAULA AVE; FARMINGTON, NM 87401
Owner's Signature: FARAZ	Phone / Email: 802-922-6755

****** STAFF USE ONLY ******

Received By Keith
Date 6/30/16 Fee Received _____
Project File No. SUP16-61 4002 San Paula
Date of Hearing/Meeting: 7/28 - 8/9
PtZ CC

- ☐ Blueline Copies of Plans _____
- ☐ Ownership Report (subject and surrounding properties)
- ☐ Legal Description _____
- ☐ Detailed Statement of Proposed Use

Document2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OFFICE
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ELEVATOR
GLASS BLOCK WALL
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SINK
GAME/MEDIA ROOM
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3068
2668
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BATH
9' CLG.
EXERCISE ROOM
9' CLG.
2668
2268
4068

Ci y of arm ngt n

Neil, Keith <kneil@fmtn.org>

RECEIVED
JUL 01 2016
COMM DEV DEPT

Full kitchen

1 message

Faraz Sandhu <farazsandhu@hotmail.com> Fri, Jul 1, 2016 at 12:43 AM
To: kneil@fmtn.org

To who it may concern,

I wish to install a stove in my kitchenette to make it a full kitchen. My aging parents have moved in to live with us and will need a kitchen to cook for themselves. I have therefore submitted an application to request permission to install a stove.
I do not intend to rent my house and the kitchen is for my parents use only. Please feel free to contact me with any questions.

Sincerely,
Faraz Sandhu,
4002 San Paula Ave.
Farmington, NM, 87401
802-922-6755

Sent from my iPad

P&Z PLANNING & ZONING COMMISSION
NOTICE OF PUBLIC HEARING

Notice is hereby given that the following application has been filed with the Planning and Zoning Commission of the City of Farmington, New Mexico.

Petition No. SUP 16-57 - a request from Vera Matthews for a Special Use Permit to allow three horses and a barn on 2.5 acres. Pursuant to UDC 11.1, a horse requires 1 acre of land. The property is located at 7000 Hood Mesa Trail, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
T29N, R13W, Sec. 26, NW1/4NE1/4NE1/4 NE1/4, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 7000 Hood Mesa Trail

Petition No. ZC 16-58 - a request from Brandi Thrower, represented by Cheney-Walters-Echols, for a Zone Change from SF-10, Single Family minimum 10,000 sq. ft. to SF-7, Single Family minimum 7,000 sq. ft. for 1.71 acres located at Chilton Court and 20th Street, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Bryn Mawr Subdivision, Block 1 Lot 1 And T29N, R13W, Sec. 9, Pt. NE1/4NW1/4, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at Chilton Court /20th Street

Petition No. ZC 16-59 - a request from Residential Rentals, LLC, represented by Gayle Goeden, for a Zone Change from IND, Industrial to MU, Mixed-Use for 0.25 acres located at 115 E. Corcorran Drive, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lots 6 and 7, in Block 1, of the Riverside Addition, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 115 E. Corcorran Drive

Petition No. SUP 16-61 - a request from Faraz Sandhu for a Special Use Permit to allow a second stove to be installed for a Family Care (Mother-in-Law) Unit, for property located at 4002 San Paula Avenue, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 1, in Block 2, of the Cardon Robles Subdivision #3, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 4002 San Paula Avenue

Petition No. SUP 16-62 - a request from Sandy Foxwell, represented by Casa Linda Holdings, LLC, for a Special Use Permit for a nonconforming residential use in the CB, Central Business District, to allow a structure to be rebuilt if destroyed by more than 50% for property located at 113 N. Wall Street, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 30, Block 4, of the McHenry's 2nd Addition, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 113 N. Wall Avenue

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that these petitions will be considered at the regularly scheduled Public Hearing of the Planning and Zoning Commission of the City of Farmington on Thursday, July 28, 2016 at 3:00 p.m. in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, New Mexico. If forwarded by the Commission, this petition will be considered by the City Council on Tuesday, August 9, 2016 at 6:00 p.m. in the City Council Chambers. All interested individuals are invited to attend the hearing and shall have an opportunity to be heard with respect to the subject Petition.

Karen Walker
Administrative Assistant

Legal No 72900 published in The Daily Times on July 10, 2016.

NOTICE OF PUBLIC HEARING
ZONE CHANGE
PETITION NO. SUP 16-61

July 6, 2016

Dear Property Owner:

Notice is hereby given that an application has been filed with the Planning and Zoning Commission of the City of Farmington, New Mexico, a request from Faraz Sandhu for a Special Use Permit to allow a second stove to be installed for a Family Care Unit (Mother-in Law Unit). The property is located at 4002 San Paula Avenue in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 1, in Block 2, of the Cardon Robles Subdivision #3, in the City of Farmington, San Juan County, New Mexico.

Otherwise located at 4002 San Paula Avenue

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that the petition will be heard in a public hearing by the Planning and Zoning Commission of the City of Farmington on **Thursday, July 28, 2016 at 3:00 p.m.** in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, New Mexico. If forwarded by the Commission, this item will be reviewed by the City Council on **Tuesday, August 9, 2016, at 6:00 p.m.,** in the City Council Chambers. All persons shall have an opportunity to be heard why said application should be granted or denied. All persons in interest and citizens are invited to attend said hearing.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed change. You are invited to attend the hearings noted above or submit written comments prior to the meeting to the Planning Division -- Community Development Department at 800 Municipal Drive, Farmington, New Mexico 87401. Please be advised that this petition could be cancelled or withdrawn prior to the meeting date.

If you have any questions regarding this notice, or would like additional information regarding this petition, please contact Keith Neil at 505-599-1333 or kneil @fmtn.org.

Sincerely,

Karen Walker
Administrative Assistant

GUARDIAN ABSTRACT & TITLE CO., INC.
221 NORTH AUBURN
FARMINGTON, NEW MEXICO 87401

PROPERTY OWNERS WITHIN 100 FEET, EXCLUDING ROADWAYS AND ALLEYS OF THE FOLLOWING DESCRIBED PROPERTY: ***Ammended Cardon Robles Subdivision Number Three Block 2, Lot 1***

OWNERS: Sandhu, Faraz and Cynthia Rapp
4002 N. San Paula Ave
Farmington, NM 87401
1520/524

ADJOINING OWNER	ADDRESS	LEGAL DESCRIPTION
Chilton, Webster A. and Karen S. 1402/1006	4100 N. Buena Vista Farmington, NM 87401	Ammended Cardon Robles Subdivision Number Three Block 2 Lot 2
Edwards, James F. and Rayleen J. 1317/560	2067 Spur Cross RD Grand Junction, CO 81507	Ammended Cardon Robles Subdivision Number Three Block 2 Lot 12
Englebrecht, Lloyd H. and Dorothy R. Trustees 1332/558	1605 Camina Placer Farmington, NM 87401-8019	Ammended Cardon Robles Subdivision Number Three Block 2 Lot 13
Hunter, Christopher M. and Kathryn M. Trustees 1597/180	614 E. Diamond ST Farmington, NM 87401	A Replat of Block 12, Lots 1-10 of Block 13 and Lots 1-6 of Block 14 in the Northridge Subdivision No. 2 Block 13 Lot 4

Van Klaveren, Brian C. 1528/838	612 E. Diamond ST Farmington, NM 87401-0000	A Replat of Block 12, Lots 1-10 of Block 13 and Lots 1-6 of Block 14 in the Northridge Subdivision No. 2 Block 13 Lot 3
Maule, Mark K. and Patricia A. 1181/862	610 E. Diamond Farmington, NM 87401-2385	A Replat of Block 12, Lots 1-10 of Block 13 and Lots 1-6 of Block 14 in the Northridge Subdivision No. 2 Block 13 Lot 2
Nicholson, Dennis L. and Carolyn J. 1279/708	608 E. Diamond ST Farmington, NM 87401-0000	A Replat of Block 12, Lots 1-10 of Block 13 and Lots 1-6 of Block 14 in the Northridge Subdivision No. 2 Block 13 Lot 1
Martin, Paul and Marie Trust 1443/718	606 E. Diamond ST Farmington, NM 87401-2322	A Replat of Block 12, Lots 1-10 of Block 13 and Lots 1-6 of Block 14 in the Northridge Subdivision No. 2 Block 12 Lot 7
Hartman, Raymond T. Living Trust 1376/1150	4010 N. Buena Vista AVE Farmington, NM 87401	Ammended Cardon Robles Subdivision Number Three Block 1 Lot 5
Young, Jeffrey Lynn and Deborah 1156/522	4008 N. Buena Vista AVE Farmington, NM 87401-0000	Ammended Cardon Robles Subdivision Number Three Block 1 Lot 4

COMMUNITY DEVELOPMENT
ACTION SUMMARY
Petition SUP 16-62
Special Use Permit for a Nonconforming Use located at 113 N. Wall Ave

A. STAFF REPORT July 28, 2016

PROJECT INFORMATION

Applicant	Sandy Foxwell
Representatives	Sandy Foxwell
Date of Application	July 1, 2016
Requested Action	Approval of a Special Use Permit for a nonconforming residence in the CB District to be rebuilt if destroyed by more than 50%
Location	113 N. Wall Avenue
Existing Land Use	Residential
Existing Zoning	CB Central Business District
Surrounding Zoning and Land Use	**North:** CB: Central Business / Residential **South:** CB: Central Business / Commercial **East:** GC: General Commercial / Office Use **West:** CB: Central Business / Commercial
Notice	Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily Times on Sunday, July 10, 2016. Property owners within 100 feet were sent notice by certified mail on Tuesday, July 5, 2016 and a sign was posted on Friday, July 15, 2016.
Staff Planner	Steven Saavedra, Associate Planner

STAFF ANALYSIS

Project Description:
The petitioners are requesting a Special Use Permit for a nonconforming residential use in the CB (Central Business) District to allow the residential structure to be rebuilt if destroyed by more than 50% for the property located at 113 N Wall Avenue. The petitioner was initially attempting to refinance the property when she was made aware of the non-conforming status. In order for the petitioner to gain refinancing and insurance for this property, certain stipulations must be met. An insurance company would not insure the property due to the potential situation in which the property would be destroyed by more than 50% of its value, and cannot be rebuilt as it exists currently. If destroyed by

more than 50% it must come into conformity with the Unified Development Code. Additionally, financing companies are unlikely to provide financing toward a residential purchase knowing that their investment is unable to be reconstructed in the event of more than 50% destruction.

The property is a residential parcel of land totaling approximately 0.1773 acres that is part of the McHenry's Addition Subdivision. The residential structure is a one-story house of approximately 819 square feet that was built in 1953. The subject property is approximately 205 feet north of East Main Street. Directly to the north and northeast are other legal, non-conforming residences located in the CB District.

With the approval of this Special Use Permit, the residential structure on the property would be allowed to be rebuilt to the current size and in the exact same location. These structures will not be allowed to be expanded.

Section 9.2.4 of the Unified Development Code states: "If a nonconforming use or structure containing a nonconforming use is destroyed by fire, the elements or other cause, it may not be rebuilt except in conformity with the provisions of this UDC. In the case of partial destruction of such a use not exceeding 50 percent of its replacement value, reconstruction may be permitted by special use permit, provided: the size and function of the nonconforming use shall not be expanded; and work on the restoration of the use must begin within six months and be completed within 12 months of the time of the calamity." However, Section 9.2.6(A) states: "Any lawful nonconforming use of a building shall be considered to be in conformity with the terms of this Code upon application and approval of a special use permit. In order to grant a special use permit, the City Council must find:

- The use is compatible, in terms of scale, building size and intensity of land use, with the existing and permitted uses in the local neighborhood;
- The use does not create excessive additional traffic in the neighborhood; and
- The use does not generate noise, smoke or other environmental pollutants that are foreign to the neighborhood."

The residential uses generate less traffic than commercial properties to the south. It will generate the same amount of traffic as the residential property to the immediate north. A residential use will not create excessive noise, smoke or other environmental pollutants. It will have a much less impact of the surrounding neighbors than the commercials uses that currently exist in the area.

The Future Land Use Plan of the City's Comprehensive Plan identifies the area of this request as Commercial in nature. The subject property is located in the Civic Center neighborhood of the Metropolitan Redevelopment Area (MRA); most of the area is zoned MU-RPO and is residential in nature.

CONSIDERATION BY THE MRA COMMISSION
DRAFT MRA MINUTES- July 27, 2016

Commissioner Barbeau recused herself due to a conflict of interest.
Steven Saavedra presented Petition SUP 16-62, a request from Sandy Foxwell, for a Special Use Permit for property located in the CB Central Business district at 113 N. Wall Avenue. The petitioner is requesting the SUP to allow the residential structure to be rebuilt as a residence if destroyed by more than 50% in the CB district. The residence is 1819 square feet and was built in 1886. It is one of the oldest residences in Farmington. Commissioner Dykeman asked if the SUP would stay with the property if it were sold. Mr. Saavedra said the SUP would remain with the property. The SUP would be beneficial for refinancing purposes. Cindy Lopez stated that if the residence becomes a commercial building, then it must remain commercial. As a commercial building, the owner could expand the building. As a residence in the CB district, the building cannot be expanded upon. Commissioner McNeill asked if a recommendation could be included in the motion that if the building were destroyed or damaged, the owner would rebuild in a historic style to represent the neighborhood. The discussed this recommendation and decided that would be overstepping as the SUP is intended only to offer assurances to the mortgage company. Commissioner McNeill asked that separate motions be made on Agenda Items 6 and 7. McNeill made a motion to approve the Zone Change for Petition ZC 16-59. Polston seconded the motion. The motion passed 5-0. Commissioner McNeill made a motion to approve Petition SUP 16-62 with a note in the minutes for Planning & Zoning and the City Council that the MRA discussed that the residence be rebuilt in the historic style if destroyed. Commissioner Dykeman seconded the motion. The motion passed 4-0. (Commissioner Barbeau has recused).

STAFF CONCLUSION

Staff concludes that approval of SUP 16-62 is appropriate. The petitioner's request is in compliance with Section 9.2.6(A) of the Unified Development Code.

STAFF RECOMMENDATION

The Community Development Department recommends **approval** of Petition SUP 16-62, a request from Sandy Foxwell to allow a nonconforming residential use to be rebuilt to the same size and location of the existing nonconforming use but not be expanded if destroyed by more than 50% in the CB Central Business District for property located at 113 N Wall Avenue.

B. FINDINGS OF THE PLANNING AND ZONING COMMISSION
The Planning and Zoning Commission held a public hearing on July 28, 2016 and made the following findings:

1. The petitioner for SUP 16-62 is Sandy Foxwell.

2. The subject property is 0.77 acres, located at 113 N. Wall Avenue and is in the CB (Central Business) District.
3. Section 9.2.4 of the Unified Development Code states: "If a nonconforming use or structure containing a nonconforming use is destroyed by fire, the elements or other cause, it may not be rebuilt except in conformity with the provisions of this UDC. In the case of partial destruction of such a use not exceeding 50 percent of its replacement value, reconstruction may be permitted by special use permit, provided: the size and function of the nonconforming use shall not be expanded; and work on the restoration of the use must begin within six months and be completed within 12 months of the time of the calamity."
4. The property is a legal nonconforming residence. The petitioner is requesting a Special Use Permit to allow the rebuilding of the structures on the property to the same size and in the same location in case it is destroyed by more than 50% of the value.
5. Section 9.2.6(A) states: "Any lawful nonconforming use of a building shall be considered to be in conformity with the terms of this Code upon application and approval of a special use permit. In order to grant a special use permit, the City Council must find:
    - The use is compatible, in terms of scale, building size and intensity of land use, with the existing and permitted uses in the local neighborhood;
    - The use does not create excessive additional traffic in the neighborhood; and
    - The use does not generate noise, smoke or other environmental pollutants that are foreign to the neighborhood.
6. The use is compatible with the scale, building size and intensity of land use with the surrounding area. It will not create excessive additional traffic and it will not generate noise, smoke or other environmental pollutants that are foreign to the neighborhood.
7. The petitioner was present at the hearing and spoke in favor of the petition. No one was present to object.

Planning & Zoning Commission Discussion of Petition SUP 16-62 on July 28, 2016

Associate Planner Steven Saavedra presented the staff report for SUP 16-62, a request from Sandy Foxwell for a Special Use Permit for a nonconforming

residential use in the CB Central Business District to allow the structure to be rebuilt if destroyed by more than 50% for 0.17 acres located at 113 N. Wall Street.

The house is approximately 819 square feet and the owner stated that it was built in 1886. The property is approximately 205 feet north of East Main Street. Directly to the north and northeast are other legal, nonconforming residences located in the CB District.

The petitioner is asking for the SUP for insurance and lending purposes, said Mr. Saavedra. With the approval of this SUP, the residential structure will be allowed to be rebuilt to the same size and location. It will not be allowed to be expanded.

The property is located north of Main Street in the Central Business district of the Metropolitan Redevelopment Area, MRA. This petition was presented at the July 21, 2016 MRA meeting and was approved by a 5-0 vote.

Staff recommends approval of Petition SUP 16-62.

Commissioner Langenfeld asked if a SUP had been done on the property to the north of this property. Cindy Lopez commented that the property to the north has an SUP for the same reason, that the residence could be rebuilt if destroyed by more than 50%. Mr. Saavedra added that the building cannot be expanded upon and the SUP is tied to the property if it is sold.

Commissioner Langenfeld noted that she has read the MRA minutes that were emailed to her by Community Development staff. The motion by the MRA included a discussion that if the house was destroyed that it should be rebuilt in the historic style. Ms. Lopez stated that there is concern about attaching a design standard to a property. She is not sure the UDC can support this type of condition.

Commissioner Langenfeld asked if a condition of a Residential Preservation Overlay, RPO, can be applied. Ms. Lopez stated an RPO affects the general look of the building in terms of scale and character. It also addresses putting parking in the rear if possible and locating low fencing in the front. The way that the legal nonconforming code is written, these concerns are already addressed. The structure cannot be expanded upon in terms of the footprint or height when it is rebuilt, which would restrict what it looks like. Commissioner Freeman

commented that the house appears to have been updated and modified through the years. A stipulation that the house be rebuilt in a historic style might put an extra burden on the owner. Ms. Lopez commented that an RPO would still allow the owner to change the color, roof, or siding on the residence. Currently the structure can be brought demolished and rebuilt as a commercial building.

Sandy Foxwell of 1900 Cliffside Drive, said the building is less likely to burn since it is adobe. She mentioned that the roof has been replaced due to a fire in the past.

Planning & Zoning Commission Action of Petition SUP 16-62 on July 28, 2016

A motion was made by Commissioner Freeman and seconded by Commissioner Davis to **approve** Petition SUP 16-62, a request from Sandy Foxwell for a Special Use Permit for a nonconforming residential use in the CB Central Business District to allow the structure to be rebuilt if destroyed by more than 50% for the property located at 113 N. Wall Street.

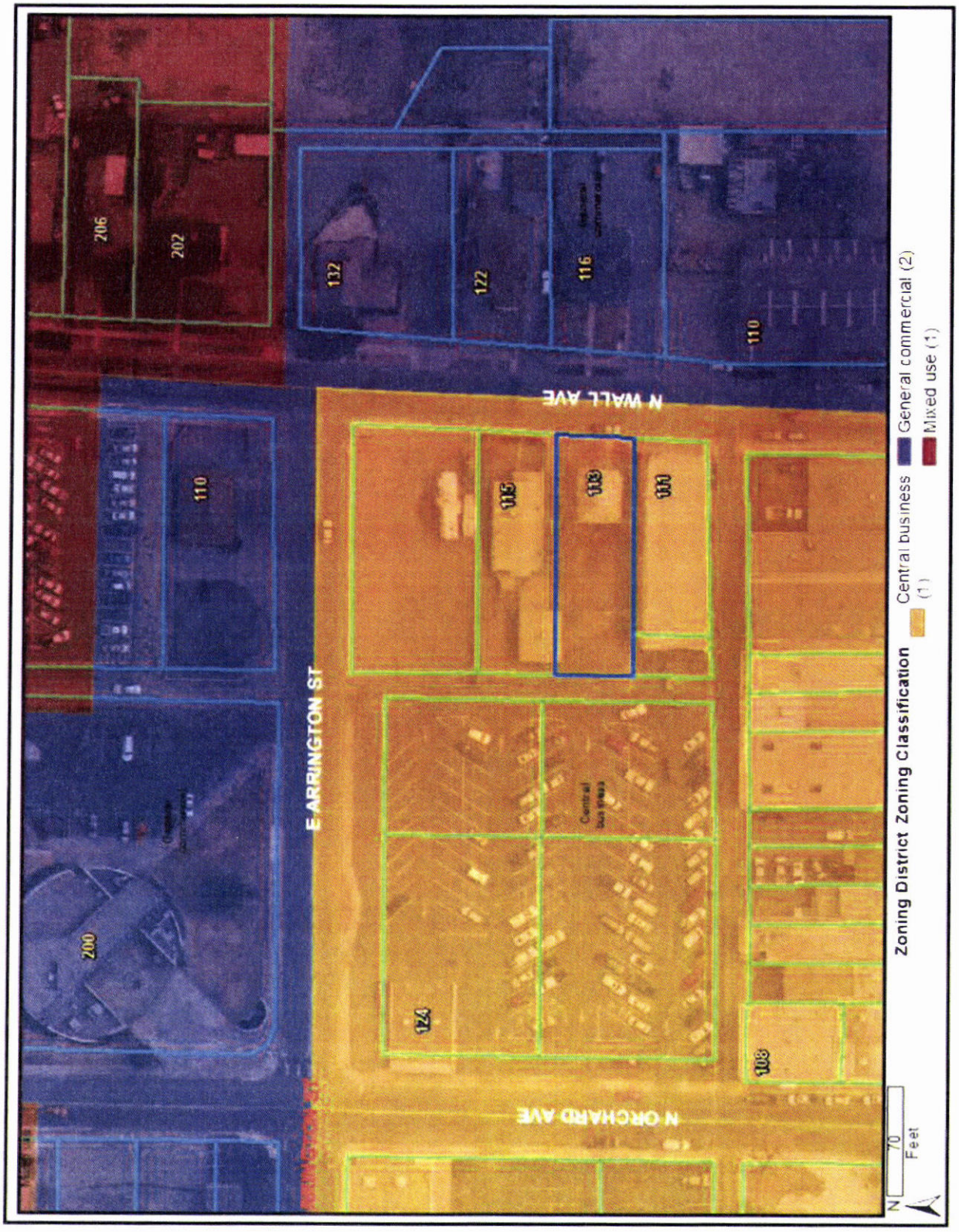
AYE: Chair Cardon, Commissioners Brown, Davis, Freeman, Langenfeld, Ragsdale, Waldroup, Washburn, and Yazzie.

NAY: None

Abstained: None

Absent: Commissioner Thompson.

Motion passed 6-0


Zoning District Zoning Classification
Central business (1)
General commercial (2)
Mixed use (1)
N
70
Feet
N WALL AVE
E ARRINGTON ST
N ORCHARD AVE
206
202
132
122
116
110
110
115
113
111
200
124
108

PLANNING MEMO COMMENTS SUMMARY

SUP 16-62 SUP 16-62 113 N. WALL AVE.

Deadline: 7/8/16

City of Farmington Departments

CD	Director	"The site is located within the Civic Center District of the MRA. The project planner should cite applicable provisions from the MRA Plan to support staff's recommendation."
CD	Addressing – Planning Division	
CD	Chief Building Official	No comment
CD	Long Range Planner	
CD	MPO	
CD	Oil & Gas Inspector	
CITY	City Manager's Office	No comment
ELEC	Customer Care Manager	
ELEC	Electrical Engineering	No comment
ELEC	T & D	
FIRE	Fire Marshall	No comment
LEGAL	City Attorney	
LEGAL	Deputy City Attorney	Legal is not opposed to allowing a special use permit to be granted to the individual property owner and not allow an exception to run with the property.
POLICE	Code Compliance	No comment
POLICE	Sergeant	
PRCA	Director	
PW	City Engineer	
PW	Engineering	No comment
PW	Streets Superintendent	
PW	Traffic Engineer	
PW	Water/Waste Water	No comment

Other Entities

New Mexico Gas Company	
CenturyLink	No comment
Enterprise Field Services	
Comcast Cable	
CH2MHILL OMI	
Field Services	
Farmington School District	

PETITION APPLICATION

	Incomplete applications will not be accepted. Return completed application to:	Planning Division Community Development Department City of Farmington 800 Municipal Drive Farmington, NM 87401 (505) 599-1317 (505) 599-1299 (fax)

PROJECT TYPE (Check Those Applicable)

☐ Annexation and / or Zoning ☐ Preliminary Plat ☐ Final Plan	☐ Summary Plat ☑ Special Use Permit ☐ Variance (ARB)	☐ Zone Change to _____ District ☐ Temporary Use Permit Proposed Length of Use: _____ ☐ Well site equipment modification

INFORMATION

Applicant's Name: SANDY Foxwell	Project Location: 113 N Wall AVE
Address: 1900 Cliffside Dr	Existing Use: Residental
E-Mail: Sandy.foxwell@coldwellbanker.com	Proposed Use: Residental
Telephone: 505-330-6163	Current Zoning: Commercial
Relationship to Property Owner:	Assessor's Parcel I.D. and/or Tax I.D. Number: 2076171046376 R00025216
Legal Description of Subject Property: McHenry's 2nd Add Lot 30 Block 4	

Is Property subject to deed restrictions, covenants, or homeowners' association agreements? Yes ☐ No ☑
If Yes, please provide copy with application.

REPRESENTATIVE / CONTACT PERSON (if other than applicant)

Name:	E-Mail:
Phone:	Address:

OWNERSHIP

PROPERTY OWNER (Identify General Partners, Managing Partner, Corporation President and Secretary. Specify type of ownership interest: Fee, Real Estate Contract, Option to Purchase)		MORTGAGE HOLDERS (If any)	
Name: Casa Linda Holdings LLC	Phone: 505 320 6094	Name: Linda Barbeau	Phone: 505 320 5094
Address: 6020 San Marcos Frmt NM 87402		Address: 6020 San Marcos Frmt NM 87402	

OWNER CERTIFICATION * (Physical and Mailing)

I certify that I am an owner and the information and exhibits herewith are true and correct to the best of my knowledge in filing this application. I am acting with the knowledge and consent of all persons in interest and understand that without the consent of all persons in interest the requested action cannot lawfully be accomplished. I give my permission for authorized officials of the City of Farmington or Planning and Zoning Commission to enter the premises described in this application. I understand applications will generally be reviewed by City Council at their first regular session following the P&Z review.

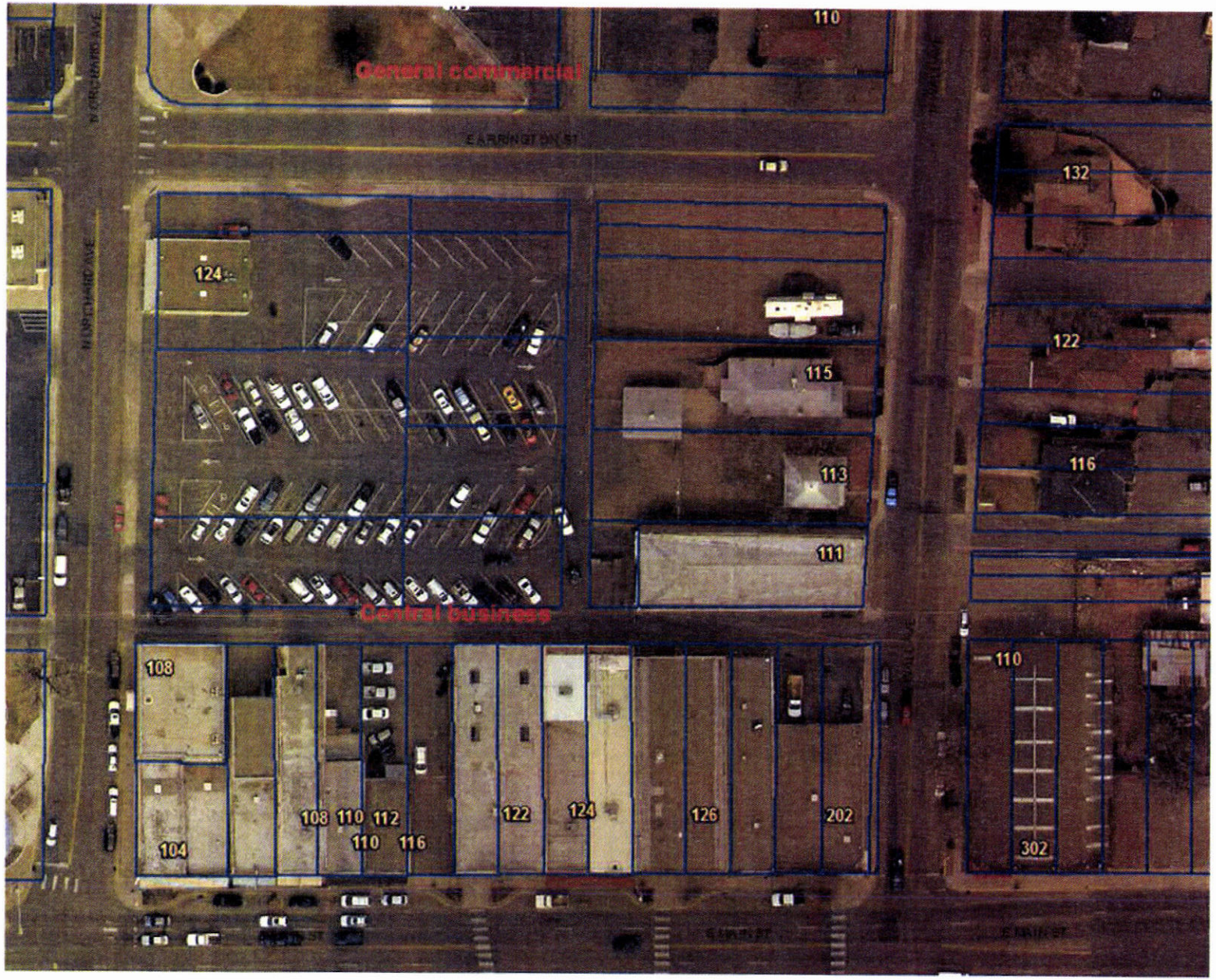
Name: LINDA BARBEAU Mgr. Casa Linda Holdings	Address: 6020 San Marcos Dr FMN NM 87402
Owner's Signature: Linda Barbeau	Phone / Email: 505 320-5094 barbeausomsw.com

****** STAFF USE ONLY ******

Received By Steven
Date 6/30/16 Fee Received _____
Project File No. SUP 16-62 N. Wall Ave
Date of Hearing/Meeting: 7/28 PEZ 8/9 CC

- ☐ Blueline Copies of Plans _____
- ☐ Ownership Report (subject and surrounding properties)
- ☐ Legal Description _____
- ☐ Detailed Statement of Proposed Use

Document2


General commercial
Central business
110
132
124
122
115
113
116
111
108
110
104
108
110
112
110
116
122
124
126
202
302

P&Z PLANNING & ZONING COMMISSION
NOTICE OF PUBLIC HEARING

Notice is hereby given that the following application has been filed with the Planning and Zoning Commission of the City of Farmington, New Mexico.

Petition No. SUP 16-57 - a request from Vera Matthews for a Special Use Permit to allow three horses and a barn on 2.5 acres. Pursuant to UDC 11.1, a horse requires 1 acre of land. The property is located at 7000 Hood Mesa Trail, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
T29N, R13W, Sec. 26, NW1/4NE1/4NE1/4 NE1/4, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 7000 Hood Mesa Trail

Petition No. ZC 16-58 - a request from Brandi Thrower, represented by Cheney-Walters-Echols, for a Zone Change from SF-10, Single Family minimum 10,000 sq. ft. to SF-7, Single Family minimum 7,000 sq. ft. for 1.71 acres located at Chilton Court and 20th Street, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Bryn Mawr Subdivision, Block 1 Lot 1 And T29N, R13W, Sec. 9, Pt. NE1/4NW1/4, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at Chilton Court /20th Street

Petition No. ZC 16-59 - a request from Residential Rentals, LLC, represented by Gayle Goeden, for a Zone Change from IND, Industrial to MU, Mixed-Use for 0.25 acres located at 115 E. Corcorran Drive, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lots 6 and 7, in Block 1, of the Riverside Addition, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 115 E. Corcorran Drive

Petition No. SUP 16-61 - a request from Faraz Sandhu for a Special Use Permit to allow a second stove to be installed for a Family Care (Mother-in-Law) Unit, for property located at 4002 San Paula Avenue, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 1, in Block 2, of the Cardon Robles Subdivision #3, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 4002 San Paula Avenue

Petition No. SUP 16-62 - a request from Sandy Foxwell, represented by Casa Linda Holdings, LLC, for a Special Use Permit for a nonconforming residential use in the CB, Central Business District, to allow a structure to be rebuilt if destroyed by more than 50% for property located at 113 N. Wall Street, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 30, Block 4, of the McHenry's 2nd Addition, in the City of Farmington, San Juan County, New Mexico.
Otherwise located at 113 N. Wall Avenue

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that these petitions will be considered at the regularly scheduled Public Hearing of the Planning and Zoning Commission of the City of Farmington on Thursday, July 28, 2016 at 3:00 p.m. in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, New Mexico. If forwarded by the Commission, this petition will be considered by the City Council on Tuesday, August 9, 2016 at 6:00 p.m. in the City Council Chambers. All interested individuals are invited to attend the hearing and shall have an opportunity to be heard with respect to the subject Petition.

Karen Walker
Administrative Assistant

Legal No 72900 published in The Daily Times on July 10, 2016.

NOTICE OF PUBLIC HEARING
ZONE CHANGE
PETITION NO. SUP 16-62

July 6, 2016

Dear Property Owner:

Notice is hereby given that an application has been filed with the Planning and Zoning Commission of the City of Farmington, New Mexico, a request from Sandy Foxwell, represented by Casa Linda Holdings, LLC for a Special Use Permit for a nonconforming residential use in the CB, Central Business District, to allow a structure to be rebuilt if destroyed by more than 50% for property located at 113 N. Wall Street, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 30, Block 4, of the McHenry's 2nd Addition, in the City of Farmington, San Juan County, New Mexico.

Otherwise located at 113 N. Wall Ave.

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that the petition will be heard in a public hearing by the Planning and Zoning Commission of the City of Farmington on **Thursday, July 28, 2016 at 3:00 p.m.** in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, New Mexico. If forwarded by the Commission, this item will be reviewed by the City Council on **Tuesday, August 9, 2016, at 6:00 p.m.,** in the City Council Chambers. All persons shall have an opportunity to be heard why said application should be granted or denied. All persons in interest and citizens are invited to attend said hearing.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed change. You are invited to attend the hearings noted above or submit written comments prior to the meeting to the Planning Division -- Community Development Department at 800 Municipal Drive, Farmington, New Mexico 87401. Please be advised that this petition could be cancelled or withdrawn prior to the meeting date.

If you have any questions regarding this notice, or would like additional information regarding this petition, please contact Steven Saavedra at 505-599-1282 or ssaavedra @fmtn.org.

Sincerely,

Karen Walker
Administrative Assistant

Names and Tax-Roll Addresses of Owners Within One Hundred (100) Feet (excluding roadways and easements) of the Following Described Property Referenced as TRACT 1:

Lot Thirty (30), in Block Four (4), of the MCHENRY'S 2nd ADDITION, in the City of Farmington, San Juan County, New Mexico, as shown on the Plat of said Addition filed for record September 1, 1905.

TRACT 1 Casa Linda Holdings, LLC 6020 San Marcos Drive Farmington, NM 87402	Lot Thirty (30), in Block Four (4), of the MCHENRY'S 2nd ADDITION, San Juan County, New Mexico, filed for record September 1, 1905; Book 1516, page 32
TRACT 2 Derrick C. Rangel 5901 West Main Street Farmington, NM 87401	Lot Twenty-Nine (29), in Block Four (4), of the MCHENRY'S 2nd ADDITION, San Juan County, New Mexico, filed for record September 1, 1905; Book 1563, page 244
TRACT 3 & 5 Glen W. Russell and Michele J. Russell 122 North Wall Avenue Farmington, NM 87401	Part of Lot Twenty-Seven (27), and all of Lot Twenty-Eight (28), in Block Four (4), of the MCHENRY'S 2nd ADDITION San Juan County, New Mexico, filed for record September 1, 1905; AND The North One-Half of Lot Eleven (11), and all of Lots Twelve (12), and Thirteen (13), in Block Two (2), of the MCHENRY'S FIRST ADDITION, San Juan County, New Mexico, filed for record December 10, 1897; Book 1478, page 628 Book 1438, page 106
TRACT 4 Bobby L. and Carrie S. Willis Trust P.O. Box 377 Kirtland, NM 87417	Lots Fourteen (14), Fifteen (15), Sixteen (16), and Seventeen (17), in Block Two (2), of the MCHENRY'S FIRST ADDITION, San Juan County, New Mexico, filed for record December 10, 1897; Book 1480, page 412

TRACT 6
Martha L. Rangle Revocable Trust
C/O Scott J. Ferrara and Edie E. Ferrara
217 East Comanche Street
Farmington, NM 87401

The North Ten feet of Lot Eight (8), all of Lots Nine (9) and Ten (10), and South One-Half (S1/2) of Lot Eleven (11), in Block Two (2), of the MCHENRY'S FIRST ADDITION, San Juan County, New Mexico, filed for record December 10, 1897;

Book 1590, page 799

TRACT 7
Thomas C. Taylor and Beverly D. Taylor
Revocable Trust
5909 Rinconada
Farmington, NM 87401

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), and Seven (7), in Block Two (2), of the MCHENRY'S FIRST ADDITION, San Juan County, New Mexico, filed for record December 10, 1897;

Book 1029, page 204

TRACT 8 & 13
Englebrecht Revocable Trust
1605 Camina Placer
Farmington, NM 87401

The East One-Half of Lot One (1), in Block Three (3), of the ORIGINAL TOWNSITE OF FARMINGTON, San Juan County, New Mexico, filed for record August 19, 1891;
AND
Lot Eight (8), in Block One (1), of the MCHENRY'S FIRST ADDITION, San Juan County, New Mexico, filed for record September 1, 1905;
AND
The East 125 feet of Lot Thirty-One (31), in Block Four (4), of the MCHENRY'S 2nd ADDITION, San Juan County, New Mexico, filed for record September 1, 1905;

Book 1332, page 558

TRACT 9 & 11
126 East Main, LLC
126 East Main Street
Farmington, NM 87401

Lot Thirty-One (31), in Block Four (4), of the MCHENRY'S 2nd ADDITION, San Juan County, New Mexico, filed for record September 1, 1905, Less the East 125 feet of said Lot 31;
AND
Lot Six (6), in Block One (1), of the MCHENRY'S FIRST ADDITION, San Juan County, New Mexico, filed for record September 1, 1905;

Book 1517, page 269

TRACT 10
Basin Development, Co.
P.O. Box 194
Farmington, NM 87499

Lots One (1), Two (2), Three (3), Four (4), and Five (5), in Block One (1), of the MCHENRY'S FIRST ADDITION, San Juan County, New Mexico, filed for record September 1, 1905;

Book 409, page 270

TRACT 12
124 East Main, LLC
126 East Main Street
Farmington, NM 87401

Lot Seven (7), in Block One (1), of the MCHENRY'S FRIST ADDITION, San Juan County, New Mexico, filed for record September 1, 1905;

Book 1517, page 267

TRACT 14, 15, 16 17
City of Farmington
800 Municipal Drive
Farmington, NM 87401

The West One-Half of Lot One (1), in Block Three (3), of the ORIGINAL TOWNSITE OF FARMINGTON, San Juan County, New Mexico, filed for record August 19, 1891;
AND
Lots One (1), Two (2), Five (5), and Six (6), in Block Four (4), of the MCHENRY'S 2nd ADDITION, San Juan County, New Mexico, filed for record December 10, 1899;
AND
All of Lots One (1), Two (2), and South Sixteen feet of Three (3), in Block One (1), of the HUNTERS ADDITION, San Juan County, New Mexico, filed for record March 17, 1893.
AND
Lots Three (3), and Four (4), in Block Four (4), of the MCHENRY'S 2nd ADDITION, San Juan County, New Mexico, filed for record December 10, 1899;

Book 676, page 21
Book 686, page 533
Book 900, page 417

TRACT 18
Mangum Properties, LLC
124 North Orchard Avenue
Farmington, NM 87401

Lot Four (4), and North Thirty-Four feet of Lot Three (3), in Block One (1), of the HUNTERS ADDITION, San Juan County, New Mexico, filed for record March 17, 1893.

Book 1379, page 349

TO: June 22, 2016. 4:30 p.m.

LIABILITY LIMITED TO THE AMOUNT PAID FOR THIS CERTIFICATE.

SAN JUAN COUNTY ABSTRACT & TITLE COMPANY

By: Rebekah Esmiol , Abstracter

RESOLUTION NO. 2016-1597

A RESOLUTION ADOPTING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) 2016 ANNUAL ACTION PLAN

WHEREAS, the City of Farmington was designated in 2003 an "Urbanized Area" and became a Metropolitan Statistical Area, thus becoming eligible for the CDBG entitlement grants; and

WHEREAS, the 2014-2018 Consolidated Plan was adopted by the City Council and approved by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the Department of Housing and Urban Development (HUD) requires that each entitlement city prepare and have approved by HUD an annual action plan, in order to receive entitlement grants; and

WHEREAS, the 2016 Annual Action Plan was made available for public review and comment and a public hearing was held in accordance with the adopted Citizen Participation Plan; and

WHEREAS, the City of Farmington annually certifies that it will affirmatively further fair housing goals, and implement the recommended action to affirmatively further fair housing as contained in the 2014 Analysis of Impediments to Fair Housing Choice; and

WHEREAS, the City of Farmington has recognized its broadened responsibilities as an entitlement city to identify critical needs within a wide variety of eligible program areas.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON:

That the City of Farmington does hereby adopt the CDBG 2016 Annual Action Plan, and directs staff to submit it to the U.S. Department of Housing and Urban Development by August 16, 2016.

PASSED, APPROVED, SIGNED AND ADOPTED this 9th day of August, 2016.

_____
Tommy Roberts, Mayor

SEAL

ATTEST:

_____
Diane Smylie, City Clerk

City of Farmington

DRAFT

2016 Annual Action Plan

Public Review/Comment Period

Tuesday, July 5 through August 9, 2016

The Public Hearing to hear comments regarding the Draft 2016 Action Plan and the Adoption of the 2016 Action Plan will occur on Tuesday, August 9, 2016 at 6:00 p.m. in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, NM 87401

If you have any questions, please contact Teri Clashin, CDBG Associate Planner, at (505) 599-1281 or tclashin@fmtn.org

DRAFT

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The Community Development Block Grant (CDBG) Program is administered by the U.S. Department of Housing and Urban Development (HUD). The CDBG program provides an annual grant to entitlement communities to carry out a wide range of activities directed towards providing decent, safe, and sanitary housing, a suitable living environment, and expandable economic opportunities. The amount of funds the City of Farmington receives is based on population size and the number of low-to-moderate income residents. This is the 13th year that the City will receive Block Grant funds. Each activity must meet one of the three following national objectives identified by HUD for the CDBG program before it is eligible for funding:

- Benefit to low- and moderate-income (LMI) persons;
- Aid in the prevention or elimination of slums and blight; or
- Address other community development needs that present a serious and immediate threat to the health and welfare of the community.

CDBG activities must also meet eligibility requirements set by HUD and address a priority need, goal, and objective established in the City's 2014-2018 Consolidated Plan. The priority needs established in the Consolidated Plan include: homelessness; special needs populations; community facilities; infrastructure; and, low-to-moderate income households. This Annual Action Plan identifies the projects recommended to receive funding for the 2016 CDBG program year and serves as the City's application for funding.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

The objectives of this Action Plan are based on those identified in the 2014-2018 Consolidated Plan's Strategic Plan. These objectives include providing decent housing, providing a suitable living environment, and expanding economic opportunities. More specifically:

- Providing decent housing means helping homeless persons obtain appropriate housing and assisting those at risk of homelessness; preserving the affordable housing stock; increasing availability of permanent housing that is affordable to low- and moderate-income persons without discrimination; and increasing the supply of supportive housing.
- Providing a suitable living environment entails improving the safety and livability of neighborhoods; increasing access to quality facilities and services; and reducing the isolation of income groups within an area through integration of low-income housing opportunities.
- Expanding economic opportunities involves creating jobs that are accessible to low- and moderate-income persons; making mortgage financing available for low- and moderate-income persons at reasonable rates; providing access to credit for development activities that promote long-term economic and social viability of the community; and empowering low-income persons to achieve self-sufficiency to reduce generational poverty in federally-assisted and public housing.

The City proposes to utilize the 2016 CDBG grant to fund capital improvements and public services to address the priority needs of the homeless, special needs populations, community facilities, infrastructure and low- to moderate income persons. The project outcomes will be based on the number of persons assisted in the nine (9) different projects.

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

The City of Farmington understands the value of CDBG dollars and the impact the funding has on those in need. The critical annual funding increases the services available in the community and allows eligible residents to be served.

The City of Farmington began receiving CDBG funds in 2004 and since then has developed three Consolidated Plans. Each plan has involved a citizen participation process to determine the community's needs. This process helped to establish the priorities, goals, and objectives.

The City of Farmington, as a recipient of CDBG funding, has completed the Consolidated Annual Performance and Evaluation Performance Reports (CAPER) at the end of each program year. These reports summarize end of year accomplishments and evaluates performance in regards to meeting goals set forth by the Consolidated Plan. CAPERS are published on the City website at: http://www.fmtn.org/266/Community-Development-Block-Grant.

The City has engaged in a variety of projects that help to meet the objectives of past Action Plans, including providing decent housing through rental assistance, suitable living environments through transitional housing, and economic opportunities through community projects. The accomplishments in

past program years have allowed the City to continue to meet the goals set forth by the Consolidated Plan.

Over the past year, the City began to provide technical assistance throughout the program year to assist organizations in successfully completing their projects. We make this service available for several reasons:

- To ensure that projects and reimbursable expenses are in compliance with federal regulations.
- To ensure accurate outcomes are provided in a timely manner.
- To keep projects moving forward so they are completed within the contracted timeframe.
- To make the reporting process as easy as possible for sub-recipients.
- To encourage current sub-recipients and new sub-recipients to apply for funds in the future.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The U.S. Department of Housing and Urban Development (HUD) requires entitlement communities under the federal Housing and Community Development Act of 1974, as amended, to develop a citizen participation plan as the first step in developing a new Consolidated Plan. The Citizen Participation Plan describes how the City of Farmington will involve residents in the planning, implementation, and assessment process for how to use Community Development Block Grant (CDBG) funds. It includes the City's policies and procedures for public participation in the Consolidated Plan process. The Consolidated Plan is a five-year plan required by HUD that assesses community needs and sets out a strategic plan with proposed projects for the five-year period. The main components of the Consolidated Plan include: housing affordability; housing needs; community needs; homeless needs; special needs; priority ranking; a strategic plan; and, an Analysis of Impediments to Fair Housing Choice. Also, included in the process is the development of the first year Annual Action Plan (2014).

The Citizen Participation Plan generally documents the process and public involvement for the development of the Consolidated Plan, the Annual Action Plans, and the Consolidated Annual Performance and Evaluation Reports (CAPER) over the next five years. All public meetings and public hearings are publicized in accordance with applicable HUD, state and local regulations.

A copy of the current Citizen Participation Plan (CPP) is included in the Appendix to this document.

5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Consolidated Plan.

The Public Comments received include the following: comments will be included during the Public Review of the document.

6. Summary of comments or views not accepted and the reasons for not accepting them

The City of Farmington makes every attempt to incorporate all comments into the formulation of this Action Plan. All public comments are included in the Action Plan's Appendix.

7. Summary

The City of Farmington will continue to receive annual CDBG allocations to benefit low-and-moderate income residents in the community. CDBG projects recommended for funding for the 2016 program year meet a priority, goal, and objective identified in the 2014-2018 Consolidated Plan. The City will evaluate past performance and make adjustments in the future to better serve the needs of the community. Residents and providers will continue to be informed and invited to participate in the CDBG process to ensure projects meet the needs of the community.

PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
CDBG Associate Planner	Farmington	Community Development Department

Table 1 – Responsible Agencies

Narrative (optional)

The City of Farmington is an entitlement community based on the 2000 U.S. Census population and was able to apply for CDBG funding. In order to continue to qualify, HUD requires entitlement communities to submit an Annual Action Plan outlining the projects recommended for funding. The 2016 Annual Action Plan serves as the City's application for funding for the 2016 program year. The Action Plan is based on input from the community in accordance with the Citizen Participation Plan and the 2014-2018 Consolidated Plan.

Consolidated Plan Public Contact Information

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AP-10 Consultation – 91.100, 91.200(b), 91.215(l)

1. Introduction

The Annual Action Plan identifies the organization and projects awarded with 2016 CDBG program year funds. These projects address the community needs identified in the 2014-2018 Consolidated Plan. Community needs were based on input received from services providers, clients, and residents during the Consolidated Plan process. The City additionally requested these stakeholders to review the Draft Action Plan and share their comments.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l))

The City of Farmington collaborates with, coordinates with, and supports a number of organizations in the area to provide activities related to housing, health, and other services. This includes the Cities of Aztec and Bloomfield, San Juan County, Four Corners Comprehensive Homeless Assistance Providers (CHAP), San Juan Safe Communities, San Juan Community PLACE MATTERS, San Juan Regional Medical Center, Totah Behavioral Health, Presbyterian Medical Services, Joint Intervention Program, ECHO Food Bank, Veterans Affairs Supportive Housing, Four Corners Foundations, Childhaven, Family Crisis Center, Four Winds Recovery Center, People Assisting the Homeless (PATH), The Roof, San Juan County Housing Authority, San Juan County Partnership, San Juan Center for Independence, Northwest New Mexico Seniors, other local organizations and businesses, and Red Apple Transit.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

The applicable Continuum of Care (CoC) is managed by the New Mexico Coalition to End Homelessness, in Albuquerque. While the City's CDBG Program does not received funding from the CoC, one of our sub-recipients, San Juan County Partnership, receives funding through their program. Staff participates in the local CHAP (Comprehensive Homeless Assistance Providers) meetings with staff from the New Mexico Coalition to End Homelessness.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

N/A

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

Table 2 – Agencies, groups, organizations who participated

1	**Agency/Group/Organization**	San Juan County
	Agency/Group/Organization Type	Other government - County
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homelessness Strategy Consolidated Plan – Housing Sections Draft 2016 Action Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct request; Input; Staff consults on a regular basis regarding area issue.
2	**Agency/Group/Organization**	San Juan County Partnership
	Agency/Group/Organization Type	Services - Housing Regional organization
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homelessness Strategy Consolidated Plan – Housing Sections Draft 2016 Action Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct request; Input; Staff consults on a regular basis.
3	**Agency/Group/Organization**	City of Bloomfield
	Agency/Group/Organization Type	Other government - Local
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Consolidated Plan – Housing Sections Draft 2016 Action Plan

	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct Request; Input; Staff consults on a regular basis regarding area issues.
4	**Agency/Group/Organization**	City of Aztec
	Agency/Group/Organization Type	Other government - Local
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Consolidated Plan – Housing Sections Draft 2016 Action Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct Request; Input; Staff consults on a regular basis regarding area issues.
5	**Agency/Group/Organization**	San Juan Center for Independence
	Agency/Group/Organization Type	Services-Persons with Disabilities Regional organization
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Non-Homeless Special Needs Consolidated Plan – Housing Sections Draft 2016 Action Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct Request; Input; Staff consults on a regular basis regarding area issues.
6	**Agency/Group/Organization**	City of Farmington Police Dept.
	Agency/Group/Organization Type	Other government - Local

	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homeless Needs - Chronically homeless Homelessness Strategy Consolidated Plan – Housing Sections Draft 2016 Action Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct Request; Input; Staff consults on a regular basis regarding area issues.
7	**Agency/Group/Organization**	Northwest New Mexico Seniors
	Agency/Group/Organization Type	Services-Elderly Persons Regional organization
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Non-Homeless Special Needs Consolidated Plan – Housing Sections Draft 2016 Action Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct Request; Input; Staff consults on a regular basis regarding area issues.
8	**Agency/Group/Organization**	New Mexico VA Health Care System
	Agency/Group/Organization Type	Housing Services - Housing Services-Persons with Disabilities Services-homeless Health Agency Regional organization

	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homelessness Needs - Veterans Homelessness Strategy Consolidated Plan – Housing Sections Draft 2016 Action Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct Request; Input; Staff consults on a regular basis regarding area issues.
9	**Agency/Group/Organization**	Native American Disability Law Center
	Agency/Group/Organization Type	Services-Persons with Disabilities
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Non-Homeless Special Needs Consolidated Plan – Housing Sections Draft 2016 Action Plan
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct Request; Input; Staff consults on a regular basis regarding area issues.
10	**Agency/Group/Organization**	Totah Behavioral Health
	Agency/Group/Organization Type	Services-homeless Services-Health Regional organization
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homeless Needs - Chronically homeless Homelessness Needs - Veterans Homelessness Strategy Consolidated Plan – Housing Sections Draft 2016 Action Plan

	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Direct Request; Input; Staff consults on a regular basis regarding area issues.

Identify any Agency Types not consulted and provide rationale for not consulting

The City's outreach efforts were comprehensive to ensure that all citizens and service providers had access to the Draft Action Plan and an opportunity to share comments. There were no organizations that were specifically not consulted. CDBG staff emailed its contact list of service providers and interested individuals to encourage them to participate in the review of the Draft Action Plan.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	N/A	N/A
2012 San Juan County Needs Assessment	San Juan County Partnership	Top identified needs are included in the potential projects list and considered high priority projects.
2011 PRC Community Report	San Juan Regional Medical Center, San Juan Regional Rehabilitation Hospital	Utilized information to identify needs in the community.
Affordable Housing Plan for Northeast San Juan Co.	City of Farmington, San Juan County	Identified need for affordable housing.

Table 3 – Other local / regional / federal planning efforts

Narrative (optional)

N/A

AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation

Summarize citizen participation process and how it impacted goal-setting

The priorities, goals and objectives identified in the 2014-2018 Consolidated Plan were a direct result of implementing the Citizen Participation Plan utilizing the data and comments collected through surveys and public meetings. Survey results determined the initial priorities. Attendees at public meetings expressed agreement with the priority levels. All projects proposed for the 2016 CDBG program year meet one of these priorities, goal, and objectives. The City's Action Plan outreach efforts comply with the Citizen Participation Plan and were comprehensive to ensure that all had an opportunity to participate.

Citizen participation utilized in developing this Action Plan included:

- Consultation with the City Council during scheduled and noticed public meetings on March 13, June 14 and June 21 for direction and discussion regarding possible projects.
- A public and competitive bid process through a Request for Proposals for the public service projects.
- Presentation to the City Council during a scheduled and noticed public meeting by offerors who responded to the RFP on June 14 and June 21, 2016.
- Consideration of the public service grant awards during a scheduled and noticed public meeting.
- Publication and posting of the public notice of the public comment period, as well as, a notice for the public hearing. The notices were printed in the legal section of the local newspaper. Posting locations included: City Hall; Community Development Department; San Juan Center for Independence; Sycamore Park Community Center; Bonnie Dallas Senior Center; Farmington Indian Center; and, the Farmington Civic Center. In the notices, citizens were given the opportunity to request accommodation for special needs or interpreters to review the draft and in advance of the public hearing.
- The public notices were additional emailed to service providers and interested parties, and were posted on the City's website.
- A 30-day public comment period beginning July 5 and ending August 9, 2016, provided an opportunity for the public to review and comment on the proposed 2016 Action Plan.
- Copies of the Draft 2016 Action Plan were located at the following public places: the City Clerk's office, the Community Development Department office, the City's website, and the reference desk at the Farmington Public Library.
- Public Service grant awards were made in a public meeting on June 21, 2016.

- Presentation of the Draft 2016 Action Plan was made during the Council's meeting on July 19, 2016.
- Public Hearing: A public hearing was held with the City Council to hear public comments, and to review and adapt the 2016 Action Plan on August 9, 2016.

The citizen participation process detailed here is expected to reinforce the goals set forth in the 2014-2018 Consolidate Plan.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Public Meeting Council Discussion on March 13 and June 21, 2016	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	No members of the public spoke.	Meeting minutes to be included in the 2016 Action Plan Appendix.	N/A	http://www.fmtn.org/AgendaCenter

2	Request for Proposals (RFP) Process for Public Service Awards	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	Received eight (8) RFP response proposals.	N/A	N/A	http://www.fmtn.org/bids.aspx

OMB Control No: 2506-0117 (exp. 07/31/2015)

3	Public Meeting On June 14, 2016	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	Offerors presented projects to City Council.	No members of the public spoke. Meeting minutes to be included in the Appendix.	N/A	http://www.fmtn.org/AgendaCenter

OMB Control No: 2506-0117 (exp. 07/31/2015)

4	Newspaper Ad Public Notice for review	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	N/A

OMB Control No: 2506-0117 (exp. 07/31/2015)

5	Posting Public Notice at City location for Public Review/Comment Period	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	N/A

OMB Control No: 2506-0117 (exp. 07/31/2015)

6	Posting location of Draft Action Plan Notice for Public Review/Comment	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	N/A

OMB Control No: 2506-0117 (exp. 07/31/2015)

7	Internet Outreach	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	http://www.fmtn.org/266/Community-Development-Block-Grant

OMB Control No: 2506-0117 (exp. 07/31/2015)

8	Providing printed copies of the Draft Action Plan at various locations	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	N/A

OMB Control No: 2506-0117 (exp. 07/31/2015)

9	Public Meeting on June 21, 2016	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	Meeting minutes to be included in Appendix.	N/A	N/A

OMB Control No: 2506-0117 (exp. 07/31/2015)

10	Public Meeting Presentation of the Draft 2016 Action Plan to Council on July 19, 2016	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	N/A

OMB Control No: 2506-0117 (exp. 07/31/2015)

11	Newspaper Ad Public Hearing Notice in Daily Times on July 31, 2016	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	N/A

12	Post Public Hearing notices at additional locations	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	N/A

OMB Control No: 2506-0117 (exp. 07/31/2015)

13	Public Hearing And adoption in a Public Meeting on August 9, 2016	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	N/A	N/A	N/A	N/A

Table 4 – Citizen Participation Outreach

Expected Resources

OMB Control No: 2506-0117 (exp. 07/31/2015)

AP-15 Expected Resources – 91.220(c) (1, 2)

Introduction

The U.S. Department of Housing and Urban Development (HUD) has awarded the City of Farmington $368,653 to fund projects during the 2016 program year from October 1, 2016 to September 30, 2017. Projects must benefit low- and moderate –income residents or special needs population and meet a priority need, goal, and national objective in the 2014-2018 Consolidated Plan.

Priority Table

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	368,653	0	0	368,653	0	CDBG 2016 program year funds will be allocated to nine (9) projects.

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

While there are no specific requirements for leveraging CDBG grant funds, the City has found that sub-recipients typically leverage other grant and private funds. The exact amounts are not known until projects are fully implemented.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

N/A

Discussion

The City expects to receive $368,653 in CDBG funding during the HUD Federal Fiscal Year 2016. Of this total, $239,626 is to be spent on one (1) capital project, accounting for 65 percent of the CDBG Funds. Eight (8) public service projects will be allotted 15 percent with $55,297. Planning and Administration will account 20 percent with $73,730.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

Goals Summary Information

No Goals Found

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Infrastructure: Water and Streets; Infrastructure: Transportation Facilities	2016	2017	Non-Housing Community Development	City of Farmington-Metropolitan Redevelopment Area (MRA)	Infrastructure	CDBG: $239,626	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit
2	Public Services	2016	2017	Affordable Housing Homeless Non-Homeless Special Needs	Varies within the City of Farmington	Homelessness Special Needs Populations Low-to-Moderate Income Households	CDBG: $55,297	Public service activities to benefit Low/Moderate Income persons, Homeless persons, special needs populations, and homeless prevention.

Table 6 – Goals Summary

Goal Descriptions

1	**Goal Name**	Infrastructure: Water and Streets; Infrastructure: Transportation Facilities
	Goal Description	Provide improved street infrastructure to local residents utilizing the complete streets concept.
2	**Goal Name**	Public Services
	Goal Description	Provide service to eligible citizens through agencies/organizations.

Table 7 – Goal Descriptions

Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.215(b):

N/A

AP-35 Projects – 91.220(d)

Introduction

The 2016 Annual Action Plan includes one (1) Capital Project and eight (8) Public Service projects.

Utilizing CDBG capital funds, the Downtown Farmington Revitalization project will address critically needed improvements to the street area. The Downtown Farmington Revitalization project will comprise of the transformation of 2,400 lineal feet of downtown streetscape. The goal of the project is to revitalize downtown by creating a visual and functional identity as the heart of the Four Corners area and to provide safety features within the corridor by slowing down traffic and constructing pedestrian friendly streets. The City Council has recommended that staff look into the HUD Section 108 loan for additional funds for the Downtown Farmington Revitalization project. Staff will begin conversations with the local HUD CDBG office in Albuquerque.

The Public Service funding will address the priority needs outlined in the 2014-2018 Consolidated Plan, which include operational funds for a homeless shelter and for homeless assistance, mentoring/educational programming to low-to-moderate income (LMI) youth, respite care services to elderly persons, food bank, domestic violence shelter, emergency rental assistance to prevent homelessness, child care assistance for LMI college students, including homeless youth. The eight (8) Public Service projects, which were submitted as part of the 2016 Request for Proposals (RFP) process, were selected for funding by the City Council on June 21, 2016.

#	Project Name
1	Downtown Farmington Revitalization – Complete Streets
2	People Assisting the Homeless (PATH)
3	Northwest New Mexico Seniors
4	San Juan County Partnership
5	San Juan College Daycare
6	Identity, Inc.
7	Big Brothers Big Sisters
8	New Beginnings Program – Navajo United Methodist Center
9	Frontline Missions

Table 8 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

CDBG funds and associated activities must address a priority need, goal, and objective established in the 2014-2018 Consolidated Plan. A number of factors are taken into consideration in determining how

funds are allocated. Funding levels are highly dependent upon the critical needs in the community, the number of RFP applications received, and the types of projects submitted through the RFP application process. Staff met with the City Council during scheduled and noticed public meetings on March 15, 2016 and June 21, 2016, to determine this year's capital project.

The City received eight (8) public service applications for the 2016 CDBG program year. HUD limits the amount of funding for public service projects to 15% of the jurisdiction's total annual CDBG allocation making the application process highly competitive. The applications are accepted through a Request for Proposals (RFP) process that included evaluation from a three-person committee. The committee reviews, scores, and ranks the applications based on criteria set in the RFP. The City Council makes the final determination on public service projects including the funding allocation. The final determination occurred during a public meeting on June 21, 2016.

The City of Farmington is committed to revitalizing its downtown. This project consists of both infrastructure improvements and aesthetic changes (i.e. removing traffic signals and replacing them with roundabouts, reducing lanes, sidewalk improvement, etc.) that will work to prepare for the full transition to the complete streets concept. The complete streets project transforms the street by addressing all modes of transportation (pedestrian, bicycles, and vehicles, etc.) and drawing residents and new businesses to the downtown area to promote economic development. Therefore, staff will look into Section 108 loan funds as a resource to leverage additional funding sources to cover the overall cost of the project.

The overarching obstacles that exist in meeting the City's underserved needs are the limited amounts of funding available, including CDBG funds allowed to be utilized for both capital projects and public service projects and the economic downturn that still persists in the region.

Projects

AP-38 Projects Summary

Project Summary Information

Table 9 – Project Summary

1	**Project Name**	Downtown Farmington Revitalization - Complete Streets
	Target Area	N/A
	Goals Supported	Infrastructure: Water and Streets Infrastructure: Transportation Facilities
	Needs Addressed	Infrastructure
	Funding	$239,626
	Description	Provide safety features within the MRA corridor by slowing down traffic and constructing pedestrian friendly streets. LMC/Creating Suitable Living Environments/Availability Accessibility/03K
	Target Date	9/30/17
	Estimate the number and type of families that will benefit from the proposed activities	8,500 persons
	Location Description	Metropolitan Redevelopment Area
	Planned Activities	Construction improvements to downtown street area.
2	**Project Name**	People Assisting the Homeless (PATH)
	Target Area	N/A

	Goals Supported	Public Services
	Needs Addressed	Homelessness
	Funding	$9,000
	Description	Provide operational funds for a homeless shelter and provide food and counseling to the homeless. LMC/Creating Suitable Living Environments/Availability Accessibility/03T
	Target Date	9/30/2017
	Estimate the number and type of families that will benefit from the proposed activities	Twenty (20) homeless persons in the emergency shelter or in transitional housing; 1,298 meals to homeless persons.
	Location Description	520 Hydro Plant Road
	Planned Activities	Case management; counseling; staff cost; utilities; supplies; administrative cost (max. 10%)
3	**Project Name**	Northwest New Mexico Seniors
	Target Area	N/A
	Goals Supported	Public Services
	Needs Addressed	Special Needs Populations – Elderly, Frail Elderly; Non-Homeless
	Funding	$7,000
	Description	Providing respite care services for elderly, frail elderly so that they can remain in their own homes. LMC/Creating Suitable Living Environments/Availability Accessibility/05A
	Target Date	9/30/2017
	Estimate the number and type of families that will benefit from the proposed activities	Nine (9) elderly or frail elderly households/families.
	Location Description	Varies
	Planned Activities	Provision of homemaker services to elderly and frail elderly; staff cost; administrative cost (max. 10%)

4	**Project Name**	San Juan County Partnership
	Target Area	N/A
	Goals Supported	Public Services
	Needs Addressed	Homelessness
	Funding	$9,000
	Description	Provide emergency rental assistance to prevent homelessness. LMC/Providing Decent Housing/Availability Accessibility/05Q
	Target Date	9/30/2017
	Estimate the number and type of families that will benefit from the proposed activities	Six (6) LMI families
	Location Description	Varies
	Planned Activities	Provide rent and deposits to prevent homelessness; administrative cost (max. 10%).
5	**Project Name**	San Juan College Daycare
	Target Area	N/A
	Goals Supported	Public Services
	Needs Addressed	Low-to-Moderate Income Households
	Funding	$7,000
	Description	Provide child care assistance to LMI college students so that they can attend college. LMC/Creating Suitable Living Environments/Availability Accessibility/05L
	Target Date	9/30/2017
	Estimate the number and type of families that will benefit from the proposed activities	Ten (10) LMI families.
	Location Description	4601 College Blvd.

	Planned Activities	Childcare cost; staff cost; administrative costs (max. 10%).
6	**Project Name**	Identity, Inc.
	Target Area	Low Mod Targeted Neighborhood City of Farmington's Metropolitan Development Area
	Goals Supported	Public Services
	Needs Addressed	Low-to-Moderate Income Households
	Funding	$3,297
	Description	Provide social services referral assistance to homeless and LMI persons, including homeless youth. LMC/Creating Suitable Living Environments/Availability Accessibility/05D
	Target Date	9/30/2017
	Estimate the number and type of families that will benefit from the proposed activities	Twenty (20) youth.
	Location Description	218 West Main Street (Low Mod. Targeted Neighborhood; MRA)
	Planned Activities	Provide teen support group services; staff cost; administrative cost (max. 10%)
7	**Project Name**	Big Brothers Big Sisters
	Target Area	N/A
	Goals Supported	Public Services
	Needs Addressed	Low-to-Moderate Income Households
	Funding	$9,000
	Description	Provide mentoring and educational services to LMI children and youth. LMC/Creating Suitable Living Environments/Availability Accessibility/05D
	Target Date	9/30/2017

	Estimate the number and type of families that will benefit from the proposed activities	Fifteen (15) LMI children/youth.
	Location Description	Varies
	Planned Activities	Provide mentoring programs with educational components to LMI children and youth; staff cost; administrative cost (max. 10%).
8	**Project Name**	New Beginning Program – Navajo United Methodist Center
	Target Area	N/A
	Goals Supported	Public Services
	Needs Addressed	Homeless; Special Needs Populations
	Funding	$7,000
	Description	Provide shelter to families who have been displaces due to domestic violence circumstances. LMC/Creating Suitable Living Environments/Availability Accessibility/05G
	Target Date	9/30/2017
	Estimate the number and type of families that will benefit from the proposed activities	Fifteen (15) persons/families
	Location Description	1200 West Apache Street
	Planned Activities	Support services; utilities; food; administrative cost (max. 10%)
9	**Project Name**	Frontline Missions
	Target Area	N/A
	Goals Supported	Public Services
	Needs Addressed	Homelessness

	Funding	$4,000
	Description	Provide and distribute food boxes and hot meals to homeless persons. LMC/Creating Suitable Living Environments/Availability Accessibility/05W
	Target Date	9/30/2017
	Estimate the number and type of families that will benefit from the proposed activities	1,000 persons
	Location Description	129 North Behrend Street
	Planned Activities	Purchase food for distribution; food; supplies; administrative cost (max. 10%

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

All CDBG funding will be used within the boundaries of the City of Farmington. The capital project will be located in the City's Metropolitan Redevelopment Area (MRA). The public service projects for the 2016 program year are clientele-based, as opposed to location based. The exact percentage of funds distributed geographically will not be known until the projects are complete.

Geographic Distribution

Target Area	Percentage of Funds
Low Mod Targeted Neighborhood	
City of Farmington's Metropolitan Redevelopment Area	

Table 10 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

Geography was not used to determine funding allocation priorities for the City. Both the capital project and public service projects provided services within the City of Farmington boundaries. Allocations and use of funds were determined by community priorities, and in the case of public service awards, by a competitive application process open to all eligible organizations.

Discussion

N/A

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

While there are sufficient numbers of households with unmet housing needs, the City does not anticipate utilizing CDBG funds for rehab or new housing construction.

The City has utilized CDBG funding in the past to partially fund an affordable housing project. The project required carrying over CDBG funds for 2-3 years, which unfortunately, resulted in the City exiting HUD's 1.5 Timeliness Standard. Through annual CDBG funding is sufficient to support such projects, the City continues to encourage, and assist where possible, the efforts of developers to construct affordable housing projects throughout the City.

One Year Goals for the Number of Households to be Supported	
Homeless	0
Non-Homeless	0
Special-Needs	0
Total	0

Table 11 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	0
Rehab of Existing Units	0
Acquisition of Existing Units	0
Total	0

Table 12 - One Year Goals for Affordable Housing by Support Type

Discussion

N/A

AP-60 Public Housing – 91.220(h)

Introduction

There is no public housing in Farmington or San Juan County. The limited amount of the typical annual CDBG grant and the wide variety of needs identified does not allow the CDBG grant to create a public housing project.

Actions planned during the next year to address the needs to public housing

N/A

Actions to encourage public housing residents to become more involved in management and participate in homeownership

N/A

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

N/A

Discussion

N/A

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

The Action Plan will reach the needs of homeless and other special needs populations through a variety of outlets. The public service projects will meet the needs of homeless and other special needs populations through providing services that can be accessed by community members.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

Four (4) public service projects in the year's Action Plan will provide direct services to the homeless. These projects include People Assisting the Homeless (PATH) and the New Beginnings Program (Navajo United Methodist Center). The PATH project entails providing operational funds for a homeless shelter, a transitional living facility, and providing other assistance to the homeless. The New Beginnings Program will provide transitional housing for men, women and children who have been displaced due to domestic violence circumstances.

Additionally, the San Juan County Partnership will also address homelessness in the community. The San Juan County Partnership project will provide emergency rental assistance to prevent homelessness. The Frontline Missions project will distribute food boxes from its food pantry and provides hot meals to homeless persons and families.

Addressing the emergency shelter and transitional housing needs of homeless persons

Both the People Assisting the Homeless (PATH) and the New Beginnings Program project include case management, counseling, and education components. The majority of social services agencies in the community work collaboratively to reach out to homeless persons and provide individual assessments.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The People Assisting the Homeless (PATH) project provides an emergency shelter, a transitional living facility, a daily meals to the homeless. For residents of the emergency shelter and the transitional living facility, PATH provides guidance and support to prevent homelessness in the future. Weekly

group/individual meetings are scheduled to provide education on housing, budgeting, nutrition, employment, and health care. Residents can take advantage on learning basic computer literacy, learning how to save money, learning skills for living independently, and use of a daycare while job searching.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The San Juan County Partnership will provide emergency rental assistance to prevent homelessness. In addition, the New Beginnings Program will provide transitional housing for individuals or families that have been displaced from domestic violence circumstances.

Discussion

N/A

One year goals for the number of households to be provided housing through the use of HOPWA for:	
Short-term rent, mortgage, and utility assistance to prevent homelessness of the individual or family	0
Tenant-based rental assistance	0
Units provided in housing facilities (transitional or permanent) that are being developed, leased, or operated	0
Units provided in transitional short-term housing facilities developed, leased, or operated with HOPWA funds	0
Total	0

AP-75 Barriers to affordable housing – 91.220(j)

Introduction

The City of Farmington continues to identify and address barriers to affordable housing in order to increase the availability of affordable housing units.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The 2016 Action Plan does not include specific actions planned that specifically address barriers to affordable housing.

The City plans to address Affordable Housing by utilizing City resources to fully implement its Affordable Housing Ordinance by establishing the application process and by marketing it, and by working with the private sector to identify land areas the City owns for private development of affordable housing projects. In the event that sufficient funding becomes available in future Action Plan years, the City wants the ability to partner with the private sector, as it has done in a past Action Plan year, to provide new housing unit production or housing rehabilitation.

Discussion

The City of Farmington has taken the following action to ameliorate the barriers to affordable housing:

- The City of Farmington adopted its Affordable Housing Strategic Plan on May 24, 2011. This document built upon the City's Housing Affordability 2010 Update and Housing Needs Assessment in the 2009-2014 Consolidated Plan.
- City staff additionally worked with the New Mexico Mortgage Finance Authority to develop an Affordable Housing Ordinance (No. 2012-1261), which was adopted on November 27, 2012.
- The City plans to address Affordable Housing by utilizing City resources to fully implement its Affordable Housing Ordinance by establishing the application process and by making it available, and by working with the private sector to identify land areas the City owns for private development of affordable housing projects.
- In the event that sufficient funding becomes available in future Action Plan years, the City wants the ability to partner with the private sector, as it has done in a past Action Plan years, to provide new housing unit production or housing rehabilitation.

Additionally, the City intends to continually update its zoning regulations and zoning map purposely to support increasing the availability of affordable housing in the City.

Land availability is an issue in Farmington. The Navajo Nation, as well as numerous state and Federal properties surround the City. The City will work with the BLM and the State to secure the release of public property for the development of affordable housing.

The City continues to promote homebuyer education and credit counseling that assist persons to work towards qualifying for mortgages and in public outreach efforts.

AP-85 Other Actions – 91.220(k)

Introduction

The City plans to establish the application process for the affordable housing ordinance and begin outreach to opportunities to potential developers.

Actions planned to address obstacles to meeting underserved needs

There is an undeserved need across most categories, including homelessness, special needs populations, and low income residents. Obstacles to meeting these needs include the lack of funding required to meet all the needs. This Action Plan strategically places an emphasis on projects that will have the most impact for high needs populations. This means that an emphasis is placed on projects that utilize a high degree of coordination with other agencies, that meet the highest-rated needs, and that can have a measureable impact on the persons served.

Actions planned to foster and maintain affordable housing

The Housing Needs Assessment in the Consolidated Plan complies with 91.205 (b) by looking in depth at affordable housing. The assessment provides projections for the number and type of families in need of housing assistance for extremely low-income, low-income, moderate-income, and middle-income families, for renters and owners, for elderly persons, for single persons, for large families, and for persons with disabilities. The assessment details the affordability, or cost burden, for a variety of housing types.

A key recommendation of the Housing Need Assessment in the Consolidated Plan is to specifically address the needs of the families in greatest need, as defined by HUD.

HUD defines Greatest Need as those in the greatest need for affordable housing as "families and individuals whose income falls 50 percent below an area's median income, who either pays 50 percent or more of their monthly income for rent, or who live in substandard housing." Substandard housing is defined as housing without complete kitchens or plumbing facilities or families who live in overcrowded conditions. Overcrowding is defined as more than one person per room in a household.

The Farmington MSA has a significant number of households that are considered greatest need families. Any affordable housing project conducted in the Farmington MSA should directly affect the families in greatest need.

Obviously, the limited annual CDBG Formula Grant that the City of Farmington received does not allow any significant impact on the number of households in greatest needs; however, the information in the Housing Needs Assessment does provide a rational justification for any housing affordability project, rental or purchase.

The Consolidated Plan regulations require specific objectives that describe proposed accomplishments the jurisdiction hopes to achieve and must specify the number of extremely low-income and moderate-income families that should be provided assistance. Given the variety of potential projects, the limited annual grant resources, the need to find or develop a partner to create a housing project, it is difficult to identify realistic affordable housing goals for the 2016 Action Plan.

Actions planned to reduce lead-based paint hazards

There are no Action Plan projects related to lead-based paint. The City does not intend to fund renovations. However, the City will continue to ensure that capital projects funded by CDBG, which involve rehabilitations, require the mitigation of lead based paint appropriately by including the requirement in applicable contracts with sub-recipients.

Actions planned to reduce the number of poverty-level families

The Action Plan will reduce the number of poverty-level families through the implementation of funding to the Public Service projects. These projects will provide support for household that can assist them on the road to self-sufficiency and allow families to access new opportunities plus the support and education needed to be able to exit out of poverty.

Actions planned to develop institutional structure

Funding the Administration of CDBG funds will allow the City to monitor and guide the implementation of goals. The guidance will ensure the City can meet its obligations as outlined by HUD.

The City of Farmington's Mayor and City Council serves as the legislative, policy-making and administrative body governing the City. The Mayor and City Council performs legislative and quasi-judicial functions, which include adopting ordinance and resolutions for the safety, health, and well-being of the community.

The Mayor and City Council appoints a City Manager to carry out the policy directions of the City Council and to supervise and coordinate the work of department staff. With the exception of the City attorney and City Clerk, the City Manager has line authority over all City departments. The Community Development Department, which administers the CDBG program, is one of these departments.

Action planned to continue to develop institutional structure include:

- Provide data and other information through the appropriate channels to ensure that leaders are aware of issues and can make decisions accordingly.
- Implement the 2014-2018 Consolidated Plan and the 2016 Annual Action Plan for the CDBG program.
- Update the Mayor and City Council regarding the CDBG program, request approvals and provide

project information as needed.

- Include other local jurisdictions in the CDBG process.
- Continue engaging sub-recipients and eligible organization in the annual application process, provide updates on funded projects, new rules and regulations from HUD, as well as fair housing information.
- Continue providing training and technical assistance to sub-recipients.
- Continue to encourage collaboration amongst agencies and organizations.
- Encourage, facilitate and foster relationships throughout San Juan County to strengthen the service available to the public.

All development in the City must comply with the City's 2020 Comprehensive Plan, which contains information on the housing needs in the community. Chapter 7, Housing, provides the following overarching goal: "Promote quality, affordable, and safe housing that meets the needs of the community and assures implementation of sound standards for orderly development and growth."

Actions planned to enhance coordination between public and private housing and social service agencies

Coordination among all providers is essential in improving the conditions and addressing service gaps for the City's citizens. Action planned to enhance coordination between public and private housing and social service agencies include:

- Award CDBG funds to eligible projects for housing for social services.
- Encourage agencies to work together to apply for CDBG funds to leverage resources to the fullest extent.
- Continue working with agencies to address issues of poverty and homelessness.
- Continue to attend and be involved in meetings, events and training opportunities for housing and social service agencies.
- Continue to conduct outreach at public events on fair housing.

Discussion

N/A

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1, 2,4)

Introduction

N/A

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	**0**

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	80.00%

Discussion

N/A

RESOLUTION NO. 2016-1598

A RESOLUTIONS ADOPTING THE 2014 ACTION PLAN SUBSTANTIAL AMENDMENT, WHICH IS THE 2014-2018 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED PLAN'S, PROGRAM YEAR ONE ACTION PLAN.

WHEREAS, on August 12, 2014 (Resolution No. 2014-1525), the City Council approved the City of Farmington's 2014-2018 Consolidated Plan , which includes a five-year strategic plan, the program year one action plan, and an analysis of impediments to fair housing choice in order to receive entitlement grants; and

WHEREAS, an amendment to the 2014 Annual Action Plan is required when there is a substantial change in the allocation priorities or methods of distribution of projects funded with CDBG funds; and

WHEREAS, the 2014 Action Plan substantial amendment is to revise public service activities listed in the Action Plan, with activities that were selected through a Request for Proposals (RFP) process by Council on November 11, 2014. The CDBG funds have already been spent on the public service projects for the 2014 Action Plan; and

WHEREAS, in accordance with federal regulations and the Citizen Participation Plan for the City of Farmington's Community Development Block Grant program, notice of this requested change in the allocation of funds for the public service projects has been duly posted for public comment for thirty days and a public hearing was held to allow citizens additional opportunities to comment on the proposed plan changes.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON:

The City does adopt the following substantial changes to the public service project in the 2014 Action Plan.

1. San Juan College Daycare - $7,000
2. Northwest New Mexico Seniors - $10,825
3. San Juan County Partnership - $12,000
4. People Assisting the Homeless (PATH) - $13,000
5. Masada House - $13,000

PASSED, APPROVED, SIGNED AND ADOPTED this 9th day of August, 2016.

_____
Tommy Roberts, Mayor

SEAL

ATTEST

_____
Dianne Smylie, City Clerk

City of Farmington

SUBSTANTIAL AMENDMENT

to the 2014 Annual Action Plan

Public Review/Comment Period

Monday, July 11 through August 9, 2016

The Public Hearing to hear comments regarding the Substantial Amendment to the 2014 Action Plan and the Amendment Adoption of the 2014 Action Plan will occur on Tuesday, August 9, 2016 at 6:00 p.m. in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, NM 87401

If you have any questions, please contact Teri Clashin, CDBG Associate Planner, at (505) 599-1281 or tclashin@fmtn.org.

CITY OF FARMINGTON
COMMUNITYD DEVELOPMENT BLOCK GRANT (CDBG)
2014 Action Plan – Substantial Amendment

The City of Farmington proposes to revise CDBG activities previously described in the **2014 Action Plan**. Pursuant to the U.S. Department of Housing and Urban Development (HUD) regulations and the City of Farmington Citizen Participation Plan adopted in 2013, these changes are considered a "Substantial Amendment" to the **2014 Action Plan** that require specific citizen participation action before the change may be approved by the City Council and submitted to HUD. To allow community members the opportunity to review and comment on the proposed changes, the City will publish a public notice in the Farmington Daily Times on July 10, 2016 informing residents of the availability of the Substantial Amendment document for public review and comment for a period of 30 days from July 11, 2016 to August 9, 2016. The public review and comment period concludes with a public hearing and the amendment adoption before the City Council on August 9, 2016 at 6:00 p.m.

PROPOSED AMENDMENT TO THE 2014 ACTION PLAN

This amendment is to revise public service activities listed in the **2014 Action Plan**, with activities that were selected through a Request for Proposals (RFP) process by Council on November 11, 2014. The CDBG funds have already been spent on the public service projects for the 2014 Action Plan.

The 2014 Annual Action Plan indicated that the "Projects will be awarded funds during the 2014 Request for Proposals (RFP) process beginning in September 2014." The City at the time was working on the 2014-2018 Consolidated Plan, which needed to be approved before the RFP process could begin. Staff made an estimated guess at the number of public service projects for the 2014 Annual Action Plan. Therefore, the capital and public service projects in the 2014 Action Plan included the following projects with the assigned funding amounts.

APPROVED AUGUST 12, 2014 (Resolution No. 2014-1525):		
1	**Project Name**	Joint Intervention Program Shelter & Transitional Living Facility
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Facilities
	Needs Addressed	Homelessness
	Funding	CDBG: $241,908
	Description	Provide a recovery shelter for homeless individuals in an active substance abuse counselling program. The 4,692 sq. ft. modular building would provide transitional housing for 40 individuals. CDBG money will be used for site development and the purchase, delivery and set-up of the five unit modular structure with associated taxes. Currently there is an Environmental Assessment being conducted by Souder Miller Engineering. JIP was awarded $241,908 by the 2014 Annual Action Plan and was awarded $77,800 from an amendment to the 2013 Annual Action Plan for the Masada Men's Treatment Facility that was unable to get off the ground.

	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	An estimated 40 persons will be assisted with the addition of 40 shelter beds. Another 40 persons will be assisted through transitional living. This program will target homeless persons that are utilizing the services through the Joint Intervention Program.
	Location Description	1615 Ojo Court, Farmington, NM 87401 The land is owned by the City, and is located within a Targeted Neighborhood.
	Planned Activities	The Joint Intervention Program Shelter & Transitional Living Facility will create 40 emergency shelter beds and 40 transitional living facility beds. The Joint Intervention Program Shelter would be an overnight shelter for persons utilizing the Joint Intervention Program that is a joint effort by Presbyterian Medical Services, San Juan Regional Medical Center, Totah Behavioral Health, City of Farmington Police Department, City of Farmington Municipal Court, and Four Winds Recovery. Participants would have access to a wide array of services including mental health, substance addiction treatment, medical and dental care, employment and educational support, case management and Traditional Healing, as many of the participants are Native American.
2	**Project Name**	Child Care Services
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Homelessness Low-to-Moderate Income Households
	Funding	CDBG: $7,000
	Description	Providing child care services for individuals and families in transitional living so they can get job training and look for work.
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	The child care services is estimated to benefit 10 persons that are in transitional housing so they have the opportunity to get job training or look for work.
	Location Description	
	Planned Activities	
3	**Project Name**	San Juan College Daycare
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Low-to-Moderate Income Households
	Funding	CDBG: $7,000
	Description	Child care for low-to-moderate income eligible students in college for Employment Training.
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	These child care services would benefit 10 persons attending employment training annually.
	Location Description	

	Planned Activities	
4	**Project Name**	Northwest New Mexico Seniors
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Special Needs Populations Low-to-Moderate Income Households
	Funding	CDBG: $7,000
	Description	Home and Respite Care
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit 10 elderly persons annually.
	Location Description	
	Planned Activities	
5	**Project Name**	San Juan County Partnership
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Homelessness Low-to-Moderate Income Households
	Funding	CDBG: $7,000
	Description	Emergency rental assistance
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	The rental assistance would benefit 10 persons at risk of homelessness annually.
	Location Description	
	Planned Activities	
6	**Project Name**	People Assisting the Homeless (PATH)
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Homelessness
	Funding	CDBG: $7,000
	Description	Operational funds for services targeting homeless individuals, families and children. Temporarily provide for the basic needs of homeless persons, to provide information, guidance and supportive services empowering homeless individuals to regain productive, self-supportive lifestyles.
	Target Date	

	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit an estimated 10 homeless persons annually.
	Location Description	
	Planned Activities	
7	**Project Name**	Masada House Women's Treatment
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Special Needs Populations Low-to-Moderate Income Households
	Funding	CDBG: $7,000
	Description	Operational funds for treatment center and shelter for women with substance and domestic abuse challenges.
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit an estimated 10 persons with chronic substance abuse problems annually
	Location Description	
	Planned Activities	
8	**Project Name**	Operational Funds for Domestic Violence Shelter
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Homelessness Special Needs Populations Low-to-Moderate Income Households
	Funding	CDBG: $7,000
	Description	Operational funds for shelters that serve victims of domestic violence
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	These activities would benefit an estimated 10 victims of domestic violence annually.
	Location Description	
	Planned Activities	
9	**Project Name**	Youth Transitional Living Operation Funds
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Special Needs Populations Low-to-Moderate Income Households

	Funding	CDBG: $6,825
	Description	Transitional living operational funds - Adolescents who are transitioning out of foster care/juvenile justice to prepare them to live independently or in supportive housing.
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	These activities will benefit an estimated 10 youth during the course of one year.
	Location Description	
	Planned Activities	

The eight (8) public service projects were an estimated guess based on projects from the past Action Plans. The Request for Proposal (RFP) process for the City is minimum sixty (60) day process. The City Council has the ultimate decision on selecting projects and awarding funds.

Although, the 2014 Annual Action Plan indicated eight public service projects, the following were eliminated due to the number of RFP applications received: #2 Child Care Services, #8 Operational Funds for Domestic Violence Shelter and #9 Youth Transitional Living Operational Funds. On November 11, 2015, the City Council selected five (5) public service projects that met the CDBG requirements. In addition, the funding amount for each project changed. The allocation for the public service project was $55,825. Council awarded the funds to the following projects:

The table outlines the proposed changes to the **2014 Action Plan**.

SUBSTANTIAL AMENDMENT AUGUST 9, 2016:		
1	**Project Name**	Joint Intervention Program Shelter & Transitional Living Facility
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Facilities
	Needs Addressed	Homelessness
	Funding	CDBG: $241,908
	Description	Provide a recovery shelter for homeless individuals in an active substance abuse counselling program. The 4,692 sq. ft. modular building would provide transitional housing for 40 individuals. CDBG money will be used for site development and the purchase, delivery and set-up of the five unit modular structure with associated taxes. Currently there is an Environmental Assessment being conducted by Souder Miller Engineering. JIP was awarded $241,908 by the 2014 Annual Action Plan and was awarded $77,800 from an amendment to the 2013 Annual Action Plan for the Masada Men's Treatment Facility that was unable to get off the ground.
	Target Date	

	Estimate the number and type of families that will benefit from the proposed activities	An estimated 40 persons will be assisted with the addition of 40 shelter beds. Another 40 persons will be assisted through transitional living. This program will target homeless persons that are utilizing the services through the Joint Intervention Program.
	Location Description	1615 Ojo Court, Farmington, NM 87401 The land is owned by the City, and is located within a Targeted Neighborhood.
	Planned Activities	The Joint Intervention Program Shelter & Transitional Living Facility will create 40 emergency shelter beds and 40 transitional living facility beds. The Joint Intervention Program Shelter would be an overnight shelter for persons utilizing the Joint Intervention Program that is a joint effort by Presbyterian Medical Services, San Juan Regional Medical Center, Totah Behavioral Health, City of Farmington Police Department, City of Farmington Municipal Court, and Four Winds Recovery. Participants would have access to a wide array of services including mental health, substance addiction treatment, medical and dental care, employment and educational support, case management and Traditional Healing, as many of the participants are Native American.
2	**Project Name**	San Juan College Daycare
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Low-to-Moderate Income Households
	Funding	CDBG: $7,000
	Description	Child care for low-to-moderate income eligible students in college for Employment Training.
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	These child care services would benefit 10 persons attending employment training annually.
	Location Description	4601 College Blvd.
	Planned Activities	Childcare costs; staff cost; administrative costs (max. 10%)
3	**Project Name**	Northwest New Mexico Seniors
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Special Needs Populations Low-to-Moderate Income Households
	Funding	CDBG: $10,825
	Description	Home and Respite Care
	Target Date	September 30, 2015

	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit 10 elderly persons annually.
	Location Description	Varies
	Planned Activities	Provision of homemaker services to elderly and frail elderly; staff costs; administrative cost (max. 10%).
4	**Project Name**	San Juan County Partnership
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Homelessness Low-to-Moderate Income Households
	Funding	CDBG: $12,000
	Description	Emergency rental assistance
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	The rental assistance would benefit 10 persons at risk of homelessness annually.
	Location Description	Varies
	Planned Activities	Provide rent and deposits to prevent homelessness; administrative cost (max. 10%).
5	**Project Name**	People Assisting the Homeless (PATH)
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Homelessness
	Funding	CDBG: $13,000
	Description	Operational funds for services targeting homeless individuals, families and children. Temporarily provide for the basic needs of homeless persons, to provide information, guidance and supportive services empowering homeless individuals to regain productive, self-supportive lifestyles.
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit an estimated 10 homeless persons annually.
	Location Description	520 Hydro Plant Road
	Planned Activities	Case management; counseling; staff costs; utilities; supplies; administration cost (max. 10%)

6	**Project Name**	Masada House Women's Treatment
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Special Needs Populations Low-to-Moderate Income Households
	Funding	CDBG: $13,000
	Description	Operational funds for treatment center and shelter for women with substance and domestic abuse challenges.
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit an estimated 10 persons with chronic substance abuse problems annually
	Location Description	610 North Dustin Avenue
	Planned Activities	Case management; counseling; substance abuse education; relapse prevention; life skills; job preparation skills; goal setting; financial management; physical & emotional health; mental health support; staff costs; administrative cost (max. 10%).

CITY OF FARMINGTON
2014-2018
CONSOLIDATED PLAN

CERTIFICATE

I certify that I am the City Clerk of the City of Farmington, a municipal corporation and a political subdivision of the State of New Mexico, having custody of the original of Resolution No. 2014-1525, as adopted by the City Council on August 12, 2014, and that the attached document is a true and correct copy of the original.

WITNESS my hand and the seal of the City of Farmington, New Mexico this 12th day of August, 2014.

Dianne Smylie, City Clerk

SEAL

RESOLUTION NO. 2014-1525

A RESOLUTION ADOPTING THE 2014-2018 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED PLAN, PROGRAM YEAR ONE ACTION PLAN, AND THE 2014 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

WHEREAS, the City of Farmington was designated in 2003 an "Urbanized Area" and became a Metropolitan Statistical Area, thus becoming eligible for the CDBG entitlement grants; and

WHEREAS, the Department of Housing and Urban Development (HUD) requires that each entitlement city prepare and have approved by HUD a consolidated plan which includes a five-year strategic plan, the program year one action plan, and an analysis of impediments to fair housing choice, in order to receive entitlement grants; and

WHEREAS, the City of Farmington adopted on April 23, 2013, a Citizen Participation Plan to shape its Consolidated Plan public participation process, and the 2014-2018 Consolidated Plan, the First Year Action Plan, and the 2014 Analysis of Impediments to Fair Housing Choice were made available for public review and comment and a public hearing was held in accordance with the Citizen Participation Plan; and

WHEREAS, City staff has networked and collaborated with numerous local agencies to develop a realistic five-year plan for addressing the most urgent needs of our community; and

WHEREAS, the City of Farmington annually certifies that it will affirmatively further fair housing goals, and the development of the 2014 Analysis of Impediments to Fair Housing Choice and implementing its recommended actions does affirmatively further fair housing goals; and

WHEREAS, the City of Farmington has recognized its broadened responsibilities as an entitlement city and did develop and carry out an extensive public participation program and needs assessment to identify critical needs within a wide variety of eligible program areas.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON:

That the City does hereby adopt the 2014-2018 Consolidated Plan, the First Year Action Plan, and the 2014 Analysis of Impediments to Fair Housing Choice, and directs staff to submit the documents to HUD in order to secure the funding and to thereafter take any and all steps required by the regulations to secure the release of funds and begin plan implementation.

PASSED, APPROVED, SIGNED AND ADOPTED this 12th day of August, 2014.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk

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Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	372,166	0	0	372,166	0	

Table 53 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

There is no specific requirement for leveraging with CDBG grant funds. The implemented projects have the potential to leverage other grant funds and private funds. However, the exact amounts will not be known until projects are awarded and contracts are finalized.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

Discussion

The City expects to receive $372,166 in CDBG funding during the HUD FY 2014. Of this total, $241,908 is to be spent on Capital Improvement Projects, which accounts for 65 percent. Public services will be allotted 15 percent with $55,825. Planning and Administration will account for 20 percent with $74,433.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Public Facilities	2014	2018	Affordable Housing Public Housing Homeless Non-Homeless Special Needs	Low Mod Targeted Neighborhood	Homelessness Special Needs Populations Low-to-Moderate Income Households	CDBG: $241,908	Homeless Person Overnight Shelter: 40 Persons Assisted Overnight/Emergency Shelter/Transitional Housing Beds added: 40 Beds
2	Public Services	2014	2018	Affordable Housing Homeless Non-Homeless Special Needs	Low Mod Targeted Neighborhood	Homelessness Special Needs Populations Low-to-Moderate Income Households	CDBG: $55,825	Public service activities other than Low/Moderate Income Housing Benefit: 70 Persons Assisted Homelessness Prevention: 10 Persons Assisted

Table 54 – Goals Summary

Goal Descriptions

1	**Goal Name**	Public Facilities
	Goal Description	
2	**Goal Name**	Public Services
	Goal Description	

Projects

AP-35 Projects – 91.220(d)

Introduction

The 2014 Annual Action Plan includes a Public Facilities project and Public Service funding. Joint Intervention Program Shelter & Transitional Living Facility would be an overnight shelter for persons utilizing the Joint Intervention Program that is a joint effort by Presbyterian Medical Services, San Juan Regional Medical Center, Totah Behavioral Health, City of Farmington Police Department, City of Farmington Municipal Court, and Four Winds Recovery. Participants would have access to a wide array of services including mental health, substance addiction treatment, medical and dental care, employment and educational support, case management and Traditional Healing, as many of the participants are Native American.

The Public Service funding will address some of the many needs outlined in this Plan of residents in Farmington, including child care services, senior services, rental assistance, operational funds for homeless shelters, and operational funds for ~~substance abuse~~ treatment centers~~, operational funds for domestic violence shelters, and youth transitional living operational funds.~~ Projects will be awarded funds during the 2014 Request for Proposals (RFP) process beginning in September.

Projects

#	Project Name
1	Joint Intervention Program Shelter & Transitional Living Facility
~~2~~	~~Child Care Services~~
2~~3~~	San Juan College Daycare
3~~4~~	Northwest New Mexico Seniors
4~~5~~	San Juan County Partnership
5~~6~~	People Assisting the Homeless (PATH)
6~~7~~	Masada House Women's Treatment
~~8~~	~~Operational Funds for Domestic Violence Shelter~~
~~9~~	~~Youth Transitional Living Operation Funds~~

Table 55 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

AP-38 Project Summary

Project Summary Information

1	**Project Name**	Joint Intervention Program Shelter & Transitional Living Facility
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Facilities
	Needs Addressed	Homelessness
	Funding	CDBG: $241,908
	Description	Provide a recovery shelter for homeless individuals in an active substance abuse counselling program. The 4,692 sq. ft. modular building would provide transitional housing for 40 individuals. CDBG money will be used for site development and the purchase, delivery and set-up of the five unit modular structure with associated taxes. Currently there is an Environmental Assessment being conducted by Souder Miller Engineering. JIP was awarded $241,908 by the 2014 Annual Action Plan and was awarded $77,800 from an amendment to the 2013 Annual Action Plan for the Masada Men's Treatment Facility that was unable to get off the ground.
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	An estimated 40 persons will be assisted with the addition of 40 shelter beds. Another 40 persons will be assisted through transitional living. This program will target homeless persons that are utilizing the services through the Joint Intervention Program.
	Location Description	1615 Ojo Court, Farmington, NM 87401 The land is owned by the City, and is located within a Targeted Neighborhood.
	Planned Activities	The Joint Intervention Program Shelter & Transitional Living Facility will create 40 emergency shelter beds and 40 transitional living facility beds. The Joint Intervention Program Shelter would be an overnight shelter for persons utilizing the Joint Intervention Program that is a joint effort by Presbyterian Medical Services, San Juan Regional Medical Center, Totah Behavioral Health, City of Farmington Police Department, City of Farmington Municipal Court, and Four Winds Recovery. Participants would have access to a wide array of services including mental health, substance addiction treatment, medical and dental care, employment and educational support, case management and Traditional Healing, as many of the participants are Native American.
~~2~~	~~**Project Name**~~	~~Child Care Services~~
	~~**Target Area**~~	~~Low Mod Targeted Neighborhood~~

	~~Goals Supported~~	~~Public Services~~
	~~Needs Addressed~~	~~Homelessness~~ ~~Low-to-Moderate Income Households~~
	~~Funding~~	~~CDBG: $7,000~~
	~~Description~~	~~Providing child care services for individuals and families in transitional living so they can get job training and look for work.~~
	~~Target Date~~	
	~~Estimate the number and type of families that will benefit from the proposed activities~~	~~The child care services is estimated to benefit 10 persons that are in transitional housing so they have the opportunity to get job training or look for work.~~
	~~Location Description~~	
	~~Planned Activities~~	
~~2~~3	**Project Name**	San Juan College Daycare
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Low-to-Moderate Income Households
	Funding	CDBG: $7,000
	Description	Child care for low-to-moderate income eligible students in college for Employment Training.
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	These child care services would benefit 10 persons attending employment training annually.
	Location Description	4601 College Blvd.
	Planned Activities	Childcare costs; staff cost; administrative cost (max. 10%).
~~3~~4	**Project Name**	Northwest New Mexico Seniors
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Special Needs Populations Low-to-Moderate Income Households

	Funding	CDBG: ~~$7,000~~$10,825
	Description	Home and Respite Care
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit 10 elderly persons annually.
	Location Description	Varies
	Planned Activities	Provision of homemaker services to elderly and frail elderly; staff costs; administrative cost (max. 10%).
~~4~~5	**Project Name**	San Juan County Partnership
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Homelessness Low-to-Moderate Income Households
	Funding	CDBG: ~~$7,000~~$12,000
	Description	Emergency rental assistance
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	The rental assistance would benefit 10 persons at risk of homelessness annually.
	Location Description	Varies
	Planned Activities	Provide rent and deposits to prevent homelessness; administrative cost (max. 10%).
~~5~~6	**Project Name**	People Assisting the Homeless (PATH)
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Homelessness
	Funding	CDBG: ~~$7,000~~$13,000

	Description	Operational funds for services targeting homeless individuals, families and children. Temporarily provide for the basic needs of homeless persons, to provide information, guidance and supportive services empowering homeless individuals to regain productive, self-supportive lifestyles.
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit an estimated 10 homeless persons annually.
	Location Description	520 Hydro Plant Road
	Planned Activities	Case management; counseling; staff cost; utilities; supplies; administrative cost (max. 10%).
~~6~~7	**Project Name**	Masada House Women's Treatment
	Target Area	Low Mod Targeted Neighborhood
	Goals Supported	Public Services
	Needs Addressed	Special Needs Populations Low-to-Moderate Income Households
	Funding	CDBG: ~~$7,000~~$13,000
	Description	Operational funds for treatment center and shelter for women with substance and domestic abuse challenges.
	Target Date	September 30, 2015
	Estimate the number and type of families that will benefit from the proposed activities	This project would benefit an estimated 10 persons with chronic substance abuse problems annually
	Location Description	610 North Dustin Avenue
	Planned Activities	Case management; counseling; substance abuse education; relapse prevention; life skills; job preparation skills; goal setting; financial management; physical and emotional health; mental health; staff costs; administrative cost (max. 10%).
~~8~~	~~**Project Name**~~	~~Operational Funds for Domestic Violence Shelter~~
	~~**Target Area**~~	~~Low Mod Targeted Neighborhood~~
	~~**Goals Supported**~~	~~Public Services~~

	~~Needs Addressed~~	~~Homelessness~~ ~~Special Needs Populations~~ ~~Low-to-Moderate Income Households~~
	~~Funding~~	~~CDBG: $7,000~~
	~~Description~~	~~Operational funds for shelters that serve victims of domestic violence~~
	~~Target Date~~	
	~~Estimate the number and type of families that will benefit from the proposed activities~~	~~These activities would benefit an estimated 10 victims of domestic violence annually.~~
	~~Location Description~~	
	~~Planned Activities~~	
~~9~~	~~Project Name~~	~~Youth Transitional Living Operation Funds~~
	Target Area	~~Low Mod Targeted Neighborhood~~
	~~Goals Supported~~	~~Public Services~~
	~~Needs Addressed~~	~~Special Needs Populations~~ ~~Low-to-Moderate Income Households~~
	~~Funding~~	~~CDBG: $6,825~~
	~~Description~~	~~Transitional living operational funds - Adolescents who are transitioning out of foster care/juvenile justice to prepare them to live independently or in supportive housing.~~
	~~Target Date~~	
	~~Estimate the number and type of families that will benefit from the proposed activities~~	~~These activities will benefit an estimated 10 youth during the course of one year.~~
	~~Location Description~~	
	~~Planned Activities~~	

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

The 2014 Action Plan includes the Joint Intervention Program Shelter & Transitional Living Facility, which will be located in a Targeted Neighborhood. As a Capital Improvement project, this will account for 65 percent of the funding for FFY 2014.

Geographic Distribution

Target Area	Percentage of Funds
Low Mod Targeted Neighborhood	65
City of Farmington's Metropolitan Development Area	

Table 56 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

This project will be located in a Low Mod Targeted Neighborhood to allow for direct access to the individuals the project will serve.

Discussion

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

While there are sufficient numbers of households with unmet housing needs, the City does not anticipate utilizing CDBG funding for rehab or new housing construction.

One Year Goals for the Number of Households to be Supported	
Homeless	0
Non-Homeless	0
Special-Needs	0
Total	0

Table 17 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	0
Rehab of Existing Units	0
Acquisition of Existing Units	0
Total	0

Table 58 - One Year Goals for Affordable Housing by Support Type

Discussion

AP-60 Public Housing – 91.220(h)

Introduction

There is no public housing in Farmington or San Juan County. The limited amount of the typical annual CDBG grant and the wide variety of needs identified does not allow the CDBG grant to create a public housing project.

Actions planned during the next year to address the needs to public housing

Actions to encourage public housing residents to become more involved in management and participate in homeownership

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

Discussion

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

The Action Plan will reach the needs of homeless and special needs populations through a variety of outlets. The Joint Intervention Program Shelter & Transitional Living Facility will provide shelter to the joint effort services to help end the cycle of homelessness, street inebriation, incarceration, emergency and detox services utilization through collaboration among agencies. Planned public service projects will also be designed to meet the needs of special populations through providing services that can be accessed by community members.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The Joint Intervention Program Shelter & Transitional Living Facility, supporting the Joint Intervention Program reaches out to homeless persons and those being discharged from public and health facilities by offering treatment and supportive services.

Addressing the emergency shelter and transitional housing needs of homeless persons

The Joint Intervention Program Shelter & Transitional Living Facility will support the Joint Intervention Program's mission to address the hundreds of people in Farmington with chronic addiction and health conditions who are homeless who cycle in and out of county jail, the hospital emergency department and other crisis systems of care and homelessness. This is accomplished through a wide array of services for recovery and harm reduction including mental health, substance addiction treatment, medical and dental care, employment and educational support, case management and Traditional Healing, as many of the participants are Native American. The shelter for this program will house the participants overnight in order to provide them with the structure and consistency necessary for recovery.

The operational funds for homeless shelters, and operational funds for domestic violence shelter~~, and operational funds for youth transitional housing~~ will also ~~all~~ offer funding to help house homeless persons within Farmington.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were

recently homeless from becoming homeless again

The Joint Intervention Program Shelter will provide a space for homeless persons to sleep at night while accessing services to help ensure self-sufficiency. Utilizing a joint effort including mental health, substance addiction treatment, medical and dental care, employment and educational support, and case management, the Program helps ensure Shelter residents will be able to exit the program with skills needed to retain self-sufficiency.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The Joint Intervention Program Shelter, supporting the Joint Intervention Program is designed to identify those who cycle between "street life," arrests, incarceration, detox and the emergency room and placing these people in structured substance abuse treatment programs, including utilizing transitional housing in the area, which are designed to improve life outcomes for the individuals, more efficiently utilize public resources, and reduce system costs.

There are various public service projects designated for the FY 2014 CDBG funding. These include offering operational funding for treatment centers for persons with chronic substance abuse ~~and funding transitional living operational funds for youth that are transitioning out of foster care or the juvenile justice system~~. In addition, rental assistance will be available to provide relief to households that are at risk of homelessness.

Discussion

AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

This 2014 Action Plan does not have any actions planned that specifically address barriers to affordable housing.

The City plans to address Affordable Housing by utilizing City resources over the First Action Plan Year by working to fully implement its Affordable Housing Ordinance by establishing the application process and by marketing it and working with the private sector to identify land areas the City owns for private development of affordable housing projects. In the event that additional funding becomes available in future Action Plan Years, the City wants the ability to partner with the private sector to provide new housing unit production or housing rehabilitation.

Discussion:

The City of Farmington has taken the following actions to ameliorate the barriers to affordable housing:

The City of Farmington adopted its first Affordable Housing Strategic Plan on May 24, 2011. This document built upon the City's Housing Affordability 2010 Update and Housing Needs Assessment in the 2009-2014 Consolidated Plan. City staff additionally worked with the New Mexico Mortgage Finance Authority to develop an Affordable Housing Ordinance (No. 2012-1261), which was adopted on November 27, 2012. The City plans to address Affordable Housing by utilizing City resources over the First Action Plan Year by working to fully implement its Affordable Housing Ordinance by establishing the application process and by marketing it and working with the private sector to identify land areas the City owns for private development of affordable housing projects. In the event that additional funding becomes available in future Action Plan Years, the City wants the ability to partner with the private sector to provide new housing unit production or housing rehabilitation.

The City of Farmington intends to continually update its zoning regulations and map purposely to support increasing the availability of affordable housing in the City.

Land availability is an issue in Farmington. The Navajo Reservation, State, and Federal BLM properties surround the City of Farmington. The City will work with the BLM and the State to secure the release of public property specifically for the development of affordable housing.

The City continues to promote homebuyer education and credit counseling as projects that assist persons to work towards qualifying for mortgages.

AP-85 Other Actions – 91.220(k)

Introduction:

The City plans to establish the application process for the affordable housing ordinance and begin outreach to promote the opportunities to potential developers.

Actions planned to address obstacles to meeting underserved needs

There is an underserved need across most categories, including the homeless, special needs populations, and low income residents. Obstacles to meeting these needs include lack of funding to meet all need. This Action Plan strategically places an emphasis on projects that will have the most impact for high needs populations. This means that an emphasis is placed on projects that utilize a high degree of coordination with other agencies, meet some of the highest rates needs, and can have a measureable impact on the persons served.

Actions planned to foster and maintain affordable housing

The Housing Needs Assessment complies with 91.205 (b) by looking in depth at affordable housing. The assessment provides projections for the number and type of families in need of housing assistance for extremely low-income, low-income, moderate-income, and middle-income families, for renters and owners, for elderly persons, for single persons, for large families, and for persons with disabilities. The assessment details the affordability, or cost burden, for a variety of housing types.

A key recommendation of the Housing Needs Assessment is to specifically address the needs of the families in greatest need, as defined by HUD.

Greatest Need - HUD defines those in the greatest need for affordable housing as "families and individuals whose incomes fall 50 percent below an area's median income, who either pay 50 percent or more of their monthly income for rent, or who live in substandard housing." Substandard housing is defined as housing without complete kitchen or plumbing facilities or families who live in overcrowded conditions. Overcrowding is defined as more than one person per room in a household.

The Farmington MSA has a significant number of households that are considered greatest need families. Any affordable housing project conducted in the Farmington MSA should directly affect the families in greatest need.

Obviously, the limited annual CDBG Formula Grant that the City of Farmington receives does not allow any significant impact on the number of households in greatest needs, however, the information in the Housing Needs Assessment does provide a rational justification for any housing affordability project, rental or purchase.

The Consolidated Plan regulations require specific objectives that describe proposed accomplishments the jurisdiction hopes to achieve and must specify the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide. Given the variety of potential projects, the limited annual grant resources, the need to find or develop a partner to create a housing project, it is difficult to identify realistic affordable housing goals.

The Action planned to fund the Joint Intervention Program Shelter will create a housing opportunity for persons accessing treatment and supportive services, thus ensuring these persons do not become homeless during the treatment process.

Actions planned to reduce lead-based paint hazards

There are no Action Plan goals related to Lead-based paint, and the City does not intend on funding renovations.

The City will ensure that capital projects funded by CDBG funding which involve rehabilitations require the mitigation of lead based paint appropriately by including the requirement in applicable contracts with sub-recipients.

Actions planned to reduce the number of poverty-level families

This Action Plan will reduce the number of poverty-level families through the implementation of funding to the Joint Intervention Program shelter and Public Services. These projects provide services to help families access the support and education needed to be able to exit out of poverty. The Joint Intervention Program Shelter helps persons access supportive services to move out of poverty through the acquisition of life skills. Public Services provide support for households that can assist them on the road to self-sufficiency by providing services that allow families to access new opportunities.

Actions planned to develop institutional structure

Funding to Administration of CDBG funds will allow the City to monitor and guide the implementation of goals. This guidance will ensure the City can meet its obligations as outlined by CDBG and HUD.

Actions planned to enhance coordination between public and private housing and social service agencies

The capital improvement action planned for the Joint Intervention Program Shelter will help connect housing to service providers by offering temporary housing to persons going through the Program. This will help connect the service agencies to housing through a direct line of access.

Discussion:

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction:

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	**0**

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income.Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	80.00%

Discussion:

The City of Farmington
ICIP Project Listing for FY2017-2021
FY2017

Priority #	Top Six (6) Projects Listed in Order of Priority	
1	**Villa View Detention Pond**	$ 1,700,000
	These improvements will consist of the construction of a detention pond on vacant school property at Country Club Elementary and additional pipe and inlet infrastructure to capture and direct water to the detention pond. In addition, the purchase of a vacant lot in the upper system will be used as a catchment basin for a lower release of flow rate to Tarry Terrace. Storm drain infrastructure will also be provided at Main Street (NM 516) and Villa View Drive. This construction addresses storm drainage improvements near Villa View Drive for capture and control of storm water that has historically resulted in major flooding at the intersection of Villa View Drive and Main Street, along Rancho De Animas, Villa View Drive from Main Street to Tarry Terrace, and Hill n' Dale. Remaining funding needed for the Villa View Detention Pond is $1,700,000 which is the total project cost of $2,455,902 less the $700,000 of 2015 Capital Outlay received for this project less planning expenditures of $55,902 that have already been spent on this project from local funds. The 2015 Capital Outlay will be used to fund archaeological and environmental studies, land acquisitions, design and initial construction expenditures.	
2	**Zone 2P Waterline**	$ 8,160,000
	This improvement to the aging water infrastructure is one of many phased improvements to the City of Farmington potable water system. The Murray Drive 2P Waterline is a multi-phase project. The City grew rapidly in the decade of the 1950's, with the population expanding from approximately 3,600 to more than 23,000. With that rapid expansion came installation of many miles of sewer and water lines. While many of these older utility lines have since been replaced, many more remain in the system and are either undersized, nearing their 50-year life expectancy, or both. The tuberculating cast iron waterline are restricting the effective inside diameter and thus the capacity. The project will also upsize the pipeline to meet growing demands on the system to improve fire suppression capabilities in South Farmington. The City has adopted water and sewer rate changes and implemented a new, essential "renewal and replacement (R&R)" charge for the purpose of funding an aggressive replacement program for this aging infrastructure. Nevertheless, it is apparent that the scale of the replacements needed over the next ten years exceeds the projected R&R revenues.	
3	**Foothills Enhancements (Rinconada-Lakewood)**	$ 3,000,000
	The Foothills Enhancements project includes resurfacing the roadway, adding on street bike lanes and a separated multi-use path on the East side of Farmington. As a result of the completion of this project, drainage issues are mitigated and traffic calming features are installed. Traffic calming features include a roundabout at Lakewood, medians at Johnson Terrace, wider striping and narrower lanes. The design is complete and the right of way acquisition is pending NMDOT approval of proposed takes. The portion between Holmes and Rinconada was particaly funded by a MAP grant from NMDOT. Additional funding of $3 million is needed to complete the project as designed.	
4	**Downtown Farmington Revitalization - Complete Streets Phase I**	$ 5,000,000
	The City of Farmington is committed to revitalizing Downtown Farmington. This first phase combines the execution of both infrastructure improvements and aesthetic changes (i.e. repainting of lanes, sidewalk improvements, etc.) that work to prepare for the full transition to the Complete Streets concept. Complete Streets transforms streets by addressing all modes of transportation (pedestrian, bicycles, and vehicles, etc.) and drawing residents and new businesses to the area to promote economic development.	
5	**Pinon Hills Bridge & Extension**	$ 18,405,000
	The extension of Pinon Hills Boulevard (PHB) East from NM Highway 516 South to County Road 3000 will provide a key transportation link between northeast Farmington and the rapidly-growing Crouch Mesa area. The bridge and PHB extension will significantly reduce traffic congestion on Browning Parkway.	
6	**River Trail and Walking Bridges**	$ 2,400,000
	The trail system would connect East Farmington and West Farmington along the Animas River. The bridges provide north and south connectivity to the community and sets the framework to build the trail systems to specific destinations in the community. The trail provides alternative transportation routes in the community as well as encourages walking, running and social events along the river.	

The City of Farmington
ICIP Potential Project Listing for FY2018-2022
FY2017
(Listed in Alphabetic Order)

City Hall 70,000 sq. ft. Construction Including PRCA **$ 21,000,000**

Aging buildings that do not offer adequate space to properly conduct operations have mandated the need to replace the current City Hall complex. Rather than being spread over the City, operation management would be centrally located to increase communication and customer service.

Possible funding sources: City and State of New Mexico funds

Hood Arroyo Detention Pond **$ 1,211,070**

These improvements will consist of the construction of a detention pond on a 7.5 acre vacant property at Hood Arroyo, north of Crestwood Drive. The vacant property was acquired by the City of Farmington in January 2015. Floyd Hinesley plans to develop the land to the north and east of the existing Crestwood Estates Subdivision. Mr. Hinesley has agreed to contribute costs for the construction of the Culpepper Detention Pond. A contribution of $3,850 per lot, at the time of closing, is expected. Assuming 78 lots are created, a total of $300,300 is likely to be contributed to the pond construction by buildout. This construction will address storm drainage improvements near Crestwood Drive for capture and control of storm water that has historically resulted in major flooding and overtopping of roadways at Crestwood Drive, Hill-N-Dale Drive, Pinon Hills Boulevard and Hubbard Road.

Possible funding sources: Remaining funding needed for the Culpepper Detention Pond is $910,770 which is the total project cost of $1,211,070 less the $300,300 of developer contribution received for this project. It is anticipated that the balance will be funded through the Infrastructure Capital Improvement Plan (ICIP) and local match funds.

Downtown Farmington Revitalization - Complete Streets Phase I **$ 5,000,000**

The City of Farmington is committed to revitalizing Downtown Farmington. This first phase combines the execution of both infrastructure improvements and aesthetic changes (i.e. repainting of lanes, sidewalk improvements, etc.) that work to prepare for the full transition to the Complete Streets concept. Complete Streets transforms streets by addressing all modes of transportation (pedestrian, bicycles, and vehicles, etc.) and drawing residents and new businesses to the area to promote economic development.

Possible funding sources: City, State, MRA Funding

Family Aquatic Center **$ 4,600,000**

The designed development of a family water park that would include slide, amenities, birthday party areas, lazy river and such that would benefit our citizens as well as create a regional draw for tourism in Farmington.

Possible funding sources: City, state and federal funds are desirable.

Fire Station #7 & Apparatus/Equipment (does not include $1.2M recurring annual operating costs) **$ 4,000,000**

The North Foothills section of Farmington has been identified as a region of substantial growth in the past 9 years.

Possible funding sources: Possible Federal AFG grant to assist in funding the apparatus required. The NM State Fire Fund grant with a maximum award of $100,000 could also be used to fund the project.

Lake Farmington Recreational Amenities **$ 2,750,000**

Develop and construct recreational amenities at Lake Farmington. Amenities to include dock, restrooms, road improvements, boat house concession area, playground and day use facilities.

Possible funding sources: City, state and federal funds are desirable.

Multi-Generational Recreation Facility **$ 12,000,000**

Develop and Construct a multi-generational facility that includes adult, senior, and young adult recreational programming. This would replace the Bonnie Dallas Senior Center and Farmington Recreation Center

Possible funding sources: City, state and federal funds are desirable.

The City of Farmington
ICIP Potential Project Listing for FY2018-2022
FY2017
(Listed in Alphabetic Order)

Pinon Hills Bridge & Extension **$ 18,405,000**

The extension of Pinon Hills Boulevard (PHB) East from NM Highway 516 South to County Road 3000 will provide a key transportation link between northeast Farmington and the rapidly-growing Crouch Mesa area. The bridge and PHB extension will significantly reduce traffic congestion on Browning Parkway.
Possible funding sources: NMDOT; FHWA 2016 Tiger Grant

Police Station 65,000 sq. ft. Construction **$ 21,000,000**

Current facility is structurally inadequate, subject to significantly increasing maintenance costs, incapable of meeting requisite facilities for a diversified workforce, incapable of meeting technological requirements of a modern police department, and contributes to an overall management inefficiency caused by forced segregation of critical Divisions and Units due inadequate availability of workspace. Current structure was created for a Police workforce one quarter of current staffing and existing building can no longer sustain significant remodeling or expansion of the footprint.
Possible funding sources: City and State of New Mexico Funding

Red Apple Transit "Hub" Center **$ 3,000,000**

The Orchard Plaza strip mall houses the existing transit center which was never intended to be a permanent location. The parking lot at the strip mall is used for bus arrivals and departures, which is also a potential hazard to the riders as they have to maneuver in-between the buses and cars that bring people there for shopping. Therefore, a need for a permanent transit center with its own bus parking lanes was identified. Transit centers are sheltered waiting areas for riders and dedicated parking islands for the buses. Customers converge at the center to take advantage of route-to-route transfers. The structures usually include basic amenities such as public restrooms, waiting area, a climate control lobby, ticketing counter, bicycle storage, and enhanced transit information such as next trip real time departure signs. The dedicated lanes inside the facility provide segregation between maneuvering buses and keeps riders on an island to keep them from walking in between buses. The Farmington MPO hired Huitt-Zollars, a full-service architecture and Engineering firm to prepare a feasibility study which analyzes potential locations for a new transit center within the City of Farmington. Three site locations were carried forward in the study based on the sites being able to meet minimum space requirements necessary. Two of the locations are within the City of Farmington's Metropolitan Redevelopment Area (MRA) and a third is at the former Family Fun Center site on Scott Ave. Based on the rankings, the downtown sites scored the highest.
Possible funding sources: FAA capital grants fund 80%. The remaining 20% would need to be funded from City, State or MRA Funding sources.

Ricketts Park Bleacher Addition **$ 1,800,000**

Rickett's Park is the home to the Connie Mack World Series and draws amateur baseball fans from around the country to the week-long tournament. The bleacher addition would provide more room for spectator seating. These individuals would provide economic impact for the area through lodging, food & beverage sales, and other retail shopping.
Possible funding sources: City and state funds would be preferable. Additional funds may be offered by the Connie Mack World Series organization.

River Trail and Walking Bridges **$ 2,800,000**

The trail system would connect East Farmington and West Farmington along the Animas River. The bridges provide north and south connectivity to the community and sets the framework to build the trail systems to specific destinations in the community. The trail provides alternative transportation routes in the community as well as encourages walking, running and social events along the river. This would complete all four phases of the trail.
Possible funding sources: City, state and federal funds are desirable.

The City of Farmington
ICIP Potential Project Listing for FY2018-2022
FY2017
(Listed in Alphabetic Order)

Sycamore Community Center Phase II Gym and Classrooms **$ 1,500,000**

The success of the Sycamore Park Community Center has outgrown the current capacity for residents in this area of town. The additional classrooms and gym will provide greater opportunities for active lifestyles, and enrichment activities for members of the low-income demographic and underserved area of the community.
Possible funding sources: City, state and federal funds are desirable.

T-Hangars **$ 400,000**

Current t-hangars are outdated and in a perpetual state of deterioration. Created out of scrap metal, the hangars are in need of constant maintenance for leaks, roofs and door issues.
Possible funding sources: City and State of New Mexico Funds-(possible condo development if interest exists)

Totah River Park **$ 3,500,000**

This project is for the acquisition and development of approximately 31 acres along the Animas River which is located in the MRA. This project would create a downtown green space and plaza area similar to Millennium Park in Chicago or Olympic Park in Atlanta. The project could be a catalyst to economic impact of downtown. Key elements could be a marketplace, plaza, green and amphitheater to drive events and traffic to downtown.
Possible funding sources: City, State, MRA Funding

Villa View Detention Pond **$ 1,700,000**

These improvements will consist of the construction of a detention pond on vacant school property at Country Club Elementary and additional pipe and inlet infrastructure to capture and direct water to the detention pond. In addition, the purchase of a vacant lot in the upper system will be used as a catchment basin for a lower release of flow rate to Tarry Terrace. Storm drain infrastructure will also be provided at Main Street (NM 516) and Villa View Drive. This construction addresses storm drainage improvements near Villa View Drive for capture and control of storm water that has historically resulted in major flooding at the intersection of Villa View Drive and Main Street, along Rancho De Animas, Villa View Drive from Main Street to Tarry Terrace, and Hill n' Dale.
Possible funding sources: Remaining funding needed for the Villa View Detention Pond is $1,700,000 which is the total project cost of $2,455,902 less the $700,000 of 2015 Capital Outlay received for this project less planning expenditures of $55,902 that have already been spent on this project from local funds. The 2015 Capital Outlay will be used to fund archaeological and environmental studies, land acquisitions, design and initial construction expenditures. The $550,000 from 2016 Capital Outlay will be used for construction fo phase 1 which is under design.

Widening Foothills (Rinconada-Lakewood) with Bike Paths and Waterline **$ 2,150,000**

This project includes resurfacing the roadway, adding on street bike lanes and a separated multi-use path on the east side. Drainage issues are mitigated. Traffic Calming features include a roundabout at Lakewood, medians at Johnson Terrace, wider striping and narrower lanes. Design is complete, right of way acquisition is pending NMDOT approval of proposed takes.

Possible funding sources: NMDOT-MAP Program, TCSP, CMAQ. The portion between Holmes and Rinconada was partially funded by a MAP grant from NMDOT. Additional funding of $2.15 million is needed to complete the project as designed.

Zone 2P Waterline **$ 6,460,000**

This improvement to the aging water infrastructure is one of many phased improvements to the City of Farmington Waterline system.
Possible funding sources: NMED-State Drinking water Revolving Loan Fund

City of Farmington
ICIP Process
Focus Items to select ICIP Projects

Guidelines to selelct ICIP projects-

1 Create a new fixed asset
2 Enhance an existing fixed asset
3 Life expectancy of 10+ years
4 Regional effect preferred & strongly encouraged
5 Shovel ready project preferred
6 May be phased
7 Provides for economic development
8 Provides for health / public safety benefit
9 Aids in attracting other funding sources
10 Grant agreements require project listed on the ICIP (STIP-TIP)

The City of Farmington
ICIP Potential Project Listing for FY2018-2022
FY2017

Priority #	Top Ten (10) Projects	
1	Project Title:	$ -
	Notes:	
2	Project Title:	$ -
	Notes:	
3	Project Title:	$ -
	Notes:	
4	Project Title:	$ -
	Notes:	
5	Project Title:	$ -
	Notes:	
6	Project Title:	$ -
	Notes:	
7	Project Title:	$ -
	Notes:	
8	Project Title:	$ -
	Notes:	
9	Project Title:	$ -
	Notes:	
10	Project Title:	$ -
	Notes:	

Public Service Company of New Mexico
414 Silver Ave. SW
Albuquerque, NM 87102-3289
PNM.com

August 3, 2016

The Honorable Mayor and City Council
City of Farmington
City Hall
800 Municipal Drive
Farmington, New Mexico 87401

Ladies and Gentlemen:

Public Service Company of New Mexico (the "Company") respectfully requests that the City consider issuing Pollution Control Revenue Refunding Bonds to refund all or a portion of the City's previously issued and outstanding (a) $46,000,000 aggregate principal amount of the Pollution Control Revenue Bonds, 2003 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects), and (b) $100,000,000 aggregate principal amount of the Pollution Control Revenue Bonds, 2003 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects), that the City issued for the benefit of the Company.

The Company understands and acknowledges that neither the City's pollution control revenue bonds for the benefit of the Company, nor any ordinance, resolution, other action or any documents that relate to the participation by the City in the transactions contemplated thereby shall ever constitute general obligations of the City within the meaning of the New Mexico Constitution, or constitute an indebtedness or pledge of the general credit of the City within the meaning of any constitutional provision or statutory limitation, or constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers. The Company agrees that it will hold the City (including its officials, officers and employees) free and harmless from, and will indemnify the City from, any loss, damage, expenses, attorneys' fees or court costs arising out of any ordinance, resolution, other action or document or transactions contemplated thereby and will pay for or reimburse the City (including its officials, officers and employees) for any reasonable expenses, fees and disbursements of its attorneys (including Bond counsel and Special Counsel), other consultants, officials, officers and employees therefor in connection with the issuance of such bonds and the performance or attainment of the City of its obligations and rights under the bonds and ordinances, resolutions and documents relating thereto. Such reimbursement may include, but is not necessarily limited to, the reasonable value of services of any City employees utilized in connection therewith.

Very truly yours,

Michael W. Rico
Assistant Treasurer

RESOLUTION NO. 2016-1599

A RESOLUTION AUTHORIZING CONSIDERATION OF THE CITY COUNCIL OF PROPOSED ORDINANCES PERTAINING TO THE ISSUANCE OF THE CITY'S POLLUTION CONTROL REVENUE REFUNDING BONDS, 2016 SERIES A (PUBLIC SERVICE COMPANY OF NEW MEXICO SAN JUAN AND FOUR CORNERS PROJECTS) AND THE CITY'S POLLUTION CONTROL REVENUE REFUNDING BONDS, 2016 SERIES B (PUBLIC SERVICE COMPANY OF NEW MEXICO SAN JUAN AND FOUR CORNERS PROJECTS) IN ONE OR MORE SERIES; APPOINTING COUNSEL IN CONNECTION THEREWITH; AUTHORIZING PUBLICATION OF NOTICE OF THE PROPOSED ORDINANCES; AND SPECIFYING CERTAIN CONDITIONS CONCERNING THE PARTICIPATION OF THE CITY IN THE TRANSACTIONS CONTEMPLATED BY THE PROPOSED ORDINANCES.

WHEREAS, the City has heretofore issued and sold $46,000,000 aggregate principal amount of its Pollution Control Revenue Bonds, 2003 Series (Public Service Company of New Mexico San Juan and Four Corners Projects) (the "2003 A Bonds") to refund certain outstanding bonds that were issued to refund bonds issued to defray a portion of the cost to the Public Service Company of New Mexico (the "Company") of acquiring, constructing, reconstructing, improving, maintaining, equipping or furnishing certain pollution control facilities at the San Juan Generating Station and the Four Corners Plant (the "Facilities"); and

WHEREAS, the City has heretofore issued and sold $100,000,000 aggregate principal amount of its Pollution Control Revenue Bonds, 2003 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects) (the "2003 B Bonds") to refund certain outstanding bonds which had refunded bonds which had also refunded bonds that were issued to defray a portion of the cost to the Company of acquiring, constructing, reconstructing, improving, maintaining, equipping or furnishing certain pollution control facilities at the Facilities; and

WHEREAS, the Company has requested that the City now consider adoption of an ordinance which authorizes the issuance of pollution control revenue refunding bonds of the City in one or more series so as to designate such bonds as Pollution Control Revenue Refunding Bonds, 2016 A Series (Public Service Company of New Mexico San Juan and Four Corners Projects) with such further designations as necessary to distinguish among the series (the "2016 A Bonds") to be issued in an aggregate principal amount sufficient to refund all or a portion of the 2003 A Bonds; and

WHEREAS, the Company has also requested that the City also consider adoption of a separate ordinance authorizing the issuance of pollution control revenue refunding bonds of the City in one or more series to be designated Pollution Control Revenue Refunding Bonds, 2016 B Series (Public Service Company of New Mexico San Juan Project) (with such further designations as necessary to distinguish among the series) (the "2016 B Bonds"; and collectively with the 2016 A Bonds, the "Bonds") to be issued in an aggregate principal amount sufficient to refund all or a portion of the 2003 B Bonds; and

WHEREAS, the City has received a letter from the Company acknowledging that this resolution and actions taken by the City pursuant to this resolution will not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers and providing that the Company will hold the City (including its officials, officers and employees) free and harmless from, will indemnify the City from, any loss, damage, expenses, attorney's fees or court costs arising out of this resolution or transactions contemplated by it, and will pay and reimburse the City (including its officials, officers and employees) for any reasonable expenses, fees and disbursements of its attorneys (including Bond Counsel and Special Counsel herein appointed), other consultants and officials, officers and employees of the City.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON, NEW MEXICO:

Section 1. Sherman & Howard L.L.C., Denver, Colorado, is hereby appointed and retained as special counsel to the City ("Special Counsel") in connection with the transactions contemplated above and to advise the City on such matters as the Mayor or other authorized official shall determine to be appropriate; and Katten Muchin Rosenman LLP, New York,

New York, shall act as bond counsel to the City ("Bond Counsel") in connection with the initial issuance of the Bonds.

Section 2. The Mayor or other authorized official and the City Clerk or Deputy City Clerk are hereby authorized to give notice by publication of the title and subject matter of the Ordinances, as a legal advertisement pursuant to Section 3-17-3 N.M.S.A. 1978, in the Daily Times, a newspaper which maintains an office in and is of general circulation in the City, and are hereby directed to give such notice at such time as the Mayor shall determine to be appropriate.

Section 3. All opinions, certificates and other documents relating to the participation by the City in the transactions contemplated by the Proposed Ordinances shall be satisfactory in form and substance to the City, its Special Counsel and Bond Counsel and shall specifically include, without limitation, appropriate provision for the indemnification of the City by the Company, or otherwise, against any and all loss, liability, claim, damage and expense incurred by the City as a result of such transactions.

Section 4. The use by the proposed underwriters of the Bonds to be issued under the Proposed Ordinances of preliminary official statements describing such transactions is hereby acknowledged. Neither the City nor any official or employee thereof shall assume any responsibility as to the accuracy or completeness of the information in such preliminary official statements.

Section 5. The City has received a letter from the Company wherein the Company has acknowledged that neither the City's pollution control revenue bonds for the benefit of the Company, nor any ordinance, resolution, other action or documents which relate to the participation by the City in the transactions contemplated thereby shall ever constitute general obligations of the City within the meaning of the New Mexico Constitution, or constitute an indebtedness or pledge of the general credit of the City within the meaning of any constitutional provision or statutory limitation, or constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers. The Company has agreed that it will hold the City (including its officials, officers and employees) free and harmless from, and will indemnify the City from, any loss, damage, expenses, attorneys' fees or court costs arising out of any ordinance, resolution, other action or document or transactions contemplated thereby and will pay for or reimburse the City (including its officials, officers and employees) for any reasonable expenses, fees and disbursements of its attorneys (including Bond Counsel and Special Counsel), other consultants, officials, officers and employees therefor in connection with the issuance of such bonds and the performance or attainment of the City of its obligations and rights under the bonds and ordinances, resolutions and documents relating thereto. Such reimbursement may include, but is not necessarily limited to, the reasonable value of services of any City employees utilized in connection therewith.

PASSED, ADOPTED, SIGNED AND APPROVED this 9th day of August, 2016.

_____
Tommy Roberts, Mayor

SEAL

ATTEST:

_____
Dianne Smylie, City Clerk

ORDINANCE NO. 2016-XXXX

An Ordinance authorizing and providing for the issuance by the City of Farmington, New Mexico of its revenue bonds designated "Pollution Control Revenue Refunding Bonds, 2016 Series A (Public Service Company of New Mexico San Juan and Four Corners Project)" to be issued in an aggregate principal amount of $46,000,000 to be issued pursuant to the provisions of the Pollution Control Revenue Bond Act, Chapter 397, Laws of 1973 of the State of New Mexico, 31st Legislature, 1st Session, as amended for the purpose of refunding outstanding revenue bonds issued under such Act to refund previously issued revenue bonds under such Act to refund previously issued revenue bonds under such Act to finance a portion of the costs to Public Service Company of New Mexico Public Service Company of New Mexico (the "Company"), a corporation organized and existing under the laws of the State of New Mexico (the "State") of (i) acquiring, constructing, and installing certain air and water pollution control systems and facilities (the "San Juan Facilities") relating to Unit 3 at the San Juan Generating Station (the "San Juan Plant") located in San Juan County, New Mexico, interests in which are owned by the Company and (ii) acquiring, constructing, reconstructing, improving, maintaining, equipping or furnishing certain air and water pollution control facilities (the "Four Corners Facilities", and together with the San Juan +Facilities, the "Facilities") relating to Units 4 and 5 at the Four Corners Generating Station (the "Four Corners Plant", and together with the San Juan Plant, the "Plants") an electric power generating plant located in San Juan County, New Mexico, interests in which are owned by the Company, said revenue bonds to be payable by the City solely from the revenues payable to the City by Public Service Company of New Mexico pursuant to certain Installment Sale Agreements dated as of April 1, 2003 between the City, as Vendor, and Public Service Company of New Mexico, as Vendee, and certain other moneys pledged therefor hereunder, said revenue bonds never to constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and never to constitute or give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers and declaring that emergency circumstances exist with respect thereto.

WHEREAS, the City of Farmington, an incorporated municipality, a body politic and corporate, existing under the Constitution and laws of the State of New Mexico (the "City"), is authorized and empowered under the Pollution Control Revenue Bond Act, Chapter 397, Laws of 1973 of the State of New Mexico, 31st Legislature, 1st Session, as amended (the "Act"), to issue revenue bonds for and to acquire, whether by construction, purchase, gift or lease, one or more projects consisting of any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment or any combination thereof, or any interest in any one or more of the foregoing, whether or not presently in existence or under construction, used by an individual, partnership, firm, company, corporation (including a public utility), association, trust, estate, political subdivision, state agency or any legal entity, or its legal representative, agent or assigns, substantially for the reduction, abatement or prevention of pollution including, but not limited to, the removal of pollutants, contaminants or foreign substances from land, air or water, or for the removal or treatment of any substance in a processed material which would otherwise cause pollution when such material is used, provided that any such project shall be located within the State of New Mexico and within or without or partially within or without the City, but not more than fifteen miles outside of the corporate limits of the City (or that, if there is no municipality within fifteen miles of the project, the City is in the county in which the project is or may be located) and to sell or lease or otherwise dispose of any or all of such projects upon such terms and conditions as the governing body of the City (hereinafter called the "City Council") may deem advisable and as shall not conflict with the provisions of the Act; and

WHEREAS, the City is therefore authorized and empowered under the Act to issue refunding bonds to refund bonds issued and outstanding under the Act; and

WHEREAS, the City has heretofore issued and sold $20,000,000 aggregate principal amount of its Pollution Control Revenue Bonds, Series 1976 (Public Service Company of New Mexico San Juan Project) (the "1976 Bonds) the proceeds of which were used to defray a portion of the cost to the Company of acquiring, constructing and installing the San Juan Facilities at the San Juan Plant; and

WHEREAS, the City has heretofore issued and sold $26,000,000 aggregate principal amount of its Pollution Control Revenue Bonds, 1980 Series A (Public Service Company of New Mexico Four Corners Project) (the "1980 Bonds") the proceeds of which were used to defray a portion of the cost to the Company of acquiring, constructing, reconstructing, improving, maintaining, equipping or furnishing the Four Corners Facilities located at the Four Corners Plant; and

WHEREAS, the City has heretofore issued and sold $46,000,000 aggregate principal amount of its Pollution Control Revenue Refunding Bonds, 1992 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects) (the "1992 Bonds") the proceeds of which were used to refund the outstanding 1976 Bonds and 1980 Bonds; and

WHEREAS, the City has heretofore issued and sold $46,000,000 aggregate principal amount of its Pollution Control Revenue Refunding Bonds, 2003 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects) (the "Prior Bonds") the proceeds of which were used to refund the outstanding 1992 Bonds; and

WHEREAS, the Company has advised the City and the 2003 Trustee (as hereinafter defined) of its election to prepay the unpaid balance of the purchase price of the Project (as hereinafter defined) by taking the actions required by the 2003 Ordinance (as hereinafter defined) to cause to be redeemed the entire principal amount of the Prior Bonds then outstanding, subject to the Company's right to revoke such election; and

WHEREAS, the Company has requested the City to consider taking steps necessary for the issuance of revenue bonds designated "Pollution Control Revenue Refunding Bonds, 2016 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects)" (the "Bonds") to be issued in an aggregate principal amount of $46,000,000 under the Act, the proceeds of which (other than any accrued interest on the Bonds) are to be used to refund the outstanding Prior Bonds; and

WHEREAS, the City will adopt a resolution approving and authorizing the execution and delivery by the Mayor and the City Clerk of the City, on behalf of the City, of (i) that certain Third Amended and Restated Installment Sale Agreement related to the San Juan Plant dated as of _____, between the City, as Vendor, and the Company, as Vendee (amending and restating the Second Amended and Restated Installment Sale Agreement dated as of April 1, 2003 between the City, as Vendor and the Company, as Vendee, which amended and restated the Amended and Restated Installment Sale Agreement, dated as of December 1, 1992, between the City, as Vendor and the Company, as Vendee which amended and restated the Installment Sale Agreement dated as of April 1, 1976, between the City, as Vendor, and the Company, as Vendee) (the "San Juan Installment Sale Agreement") and (ii) that certain Third Amended and Restated Installment Sale Agreement, dated as of _____ related to the Four Corners Plant between the City as Vendor, and the Company, as Vendee (amending and restating the Second Amended and Restated Installment Sale Agreement, dated as of April 1, 2003 between the City, as Vendor, and the Company, as Vendee, which amended and restated the Amended and Restated Installment Sale Agreement, dated as of December 1, 1992, between the City, as Vendor and the Company, as Vendee which amended and restated the Installment Sale Agreement, dated as of May 15, 1980, between the City, as Vendor, and the Company, as Vendee) (the "Four Corners Installment Sale Agreement" and together with the San Juan Installment Sale Agreement, the "Installment Sale Agreements"), setting forth the undertaking by the City to issue and sell the Bonds; and

WHEREAS the Company has requested that the City adopt an ordinance in the following form and containing the following terms and provisions; and

WHEREAS, in the Installment Sale Agreements the Company will release the City and agree that the City shall not be liable for, and

will agree to indemnify and hold the City harmless from, certain matters; and

WHEREAS, certain findings and determinations relating to Installment Sale Agreements and the Facilities have heretofore been made and are set forth in this Ordinance; and

WHEREAS, this Ordinance shall serve as an indenture of trust.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON, NEW MEXICO that the City, in consideration of the covenants herein contained and of the purchase and acceptance of the Bonds by the holders thereof, in order to secure the payment of all Bonds at any time outstanding under this Ordinance, according to their tenor and effect, and the performance and observance of all the covenants and conditions in the Bonds and herein contained, and to declare the terms and conditions upon and subject to which the Bonds are issued and secured, does grant a security interest in and pledge to the Trustee (as hereinafter defined), and to its successors and assigns forever, upon written acceptance of this Ordinance by the Trustee, the Trust Estate (as hereinafter defined) for the equal and proportionate benefit, security and protection of all holders and owners of the Bonds issued under and secured by this Ordinance without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any other of the Bonds, all upon the terms stated in this Ordinance.

ARTICLE I

Definitions; Findings, Declarations, Determinations, Approvals and Authorizations

Section 1.01 Definitions. The terms defined in this Article I shall, for all purposes of this Ordinance, have the meanings herein specified, unless the context clearly requires otherwise:

Act:

"Act" shall mean the Pollution Control Revenue Bond Act, Chapter 397, Laws of 1973 of the State of New Mexico, 31st Legislature, 1st Session, as amended by Chapter 312, Laws of 1977 of the State of New Mexico, 33rd Legislature, 1st Session, and Chapter 181, Laws of 1978 of the State of New Mexico, 33rd Legislature, 2nd Session, and Chapter 114, Laws of 1983 of the State of New Mexico, 36th Legislature, 1st Session, and all acts supplemental thereto or amendatory thereof.

Act of Bankruptcy:

"Act of Bankruptcy" shall mean the filing of a petition in bankruptcy, liquidation, or reorganization by or against the Company or the City under the United States Bankruptcy Code or any successor act thereto, unless such petition shall have been dismissed and such dismissal shall be final and not subject to appeal.

Administration Expenses:

"Administration Expenses" shall mean the reasonable and necessary expenses incurred by the City with respect to the Installment Sale Agreements, this Ordinance and any transaction or event contemplated by the Installment Sale Agreements or this Ordinance, including the compensation and expenses paid to the Trustee (including the fees and expenses of counsel) and any other compensation paid to the City including the City's fees imposed under its Ordinance No. 82-769 and No. 88-891 (now cited as Sections 2-5-66 through 2-5-69 of the Farmington City Code).

Alternate Letter of Credit:

"Alternate Letter of Credit" shall mean an irrevocable direct pay letter of credit provided in accordance with Section 5.14 of the Installment Sale Agreements.

Alternate Security:

"Alternate Security" shall mean any credit facility, insurance policy, guarantee or other credit support agreement or security or liquidity mechanism (other than a Municipal Bond Insurance Policy, if any) provided by the Company in accordance with Section 5.14 of the Installment Sale Agreements.

Arbitrage Rebate Fund:

"Arbitrage Rebate Fund" shall mean the Arbitrage Rebate Fund created by Section 4.10 hereof.

Authorized Company Representative:

"Authorized Company Representative" shall mean any person at the time designated to act on behalf of the Company by written certificate furnished to the City, the Remarketing Agents, if any, and the Trustee containing the specimen signature of such person and signed on behalf of the Company by its President or any Vice President together with its Secretary or any Assistant Secretary. Such certificate may designate one or more alternates. An Authorized Company Representative may be an employee of the Company.

Available Moneys:

"Available Moneys" shall mean (i) moneys which have been paid to the Trustee by the Company and have been on deposit with the Trustee for at least 123 days during and prior to which no Act of Bankruptcy shall have occurred and have not been commingled with any other moneys held for less than such 123 days during or prior to which no Act of Bankruptcy shall have occurred, (ii) moneys on deposit with the Trustee representing proceeds from the issuance and sale of Bonds or representing proceeds from the resale by the Remarketing Agents of Bonds purchased by the Remarketing Agents or the Trustee (other than any moneys representing proceeds from the sale or resale of Bonds to the Company, the City or any affiliate of either of the foregoing), which in each case were at all times since their deposit with the Trustee held in a separate and segregated account or accounts or sub-account or sub-accounts in which no moneys which were not Available Moneys were at any time held, (iii) moneys drawn under a Letter of Credit which in each case were at all times since their deposit with the Trustee held in a separate and segregated account or accounts or sub-account or sub-accounts in which no money other than those drawn under such Letter of Credit were at any time held, (iv) moneys which are derived from any other source if the Trustee has received an unqualified opinion of nationally recognized bankruptcy counsel acceptable to the Trustee and the Rating Agencies then rating the Bonds that payment of such amounts to the Trustee does not constitute a voidable preference pursuant to the provisions of the United States Bankruptcy Code, (v) proceeds from the investment of the foregoing types of moneys once such moneys have become Available Moneys; provided that such proceeds, moneys or income shall not be deemed to be Available Moneys if, among other things, an injunction, restraining order or stay is in effect preventing such proceeds, moneys or income from being applied to make such payment or purchase, and (vi) for all Bonds which are not Credit Supported Bonds, any moneys which are held by the Trustee and made available for the purposes herein.

Bank; Principal Office of the Bank:

"Bank" shall mean the issuer of a Letter of Credit, its successors in such capacity, and their assigns. If an Alternate Letter of Credit has been issued and delivered and the initial Letter of Credit canceled and surrendered, "Bank" shall mean the issuer of an Alternate Letter of Credit, its successors in such capacity, and their assigns, and if one or more Alternate Letters of Credit are issued or the initial Letter of Credit is still outstanding (in a lower aggregate principal amount than initially issued) and an Alternate Letter of Credit has also been delivered, "Bank" shall mean each issuer of the Letter of Credit or Alternate Letter of Credit relating to the Bonds unless the context clearly provides otherwise. "Principal Office" of the Bank shall mean the office of the Bank specified in a Letter of Credit as the office where drawing requests are to be delivered or such other office as may be designated in writing to the Trustee.

Bank Rate:

"Bank Rate" shall mean, with respect to any Reimbursement Agreement, the rate or rates of interest set forth therein to be borne by any Company Bonds pledged thereunder or under a pledge agreement entered into pursuant thereto; provided, however, that such rate or rates of interest shall in no event exceed the higher of the Maximum Interest Rate or the maximum rate permitted by law.

Bond Counsel:

"Bond Counsel" shall mean any firm of nationally recognized bond counsel which is experienced in the financing of pollution control

facilities and acceptable to the City, the Remarketing Agents (if any), the Trustee and the Company.

Bond Fund:
"Bond Fund" shall mean the Bond Fund, created by Section 4.01 hereof in which there shall be established a General Account, an Alternate Security Account and a Letter of Credit Account, and all subaccounts therein.

Bond Insurer:
"Bond Insurer" shall mean the company, if any, designated the bond insurer in a resolution of the City Council adopted prior to the issuance of the Bonds and its successors in such capacity, and their assigns.

Bondholder; holder; Owner:
"Bondholder" or "holder" or "Owner" shall mean the person in whose name any Bond is registered upon the books of the Registrar.

Bond Purchase Fund:
"Bond Purchase Fund" shall mean the Bond Purchase Fund, created by Section 4.04 hereof in which there shall be established a General Purchase Price Account, an Alternate Security Purchase Price Account and a Letter of Credit Purchase Price Account, and all subaccounts therein.

Bonds:
"Bond" or "Bonds" or "2016 Series A Bonds" shall mean the bonds authorized under this Ordinance.

Business Day:
"Business Day" shall mean, a day of the year on which banks located in all of the cities in which the Principal Offices of the Trustee, the Bank or provider of Alternate Security, if any, for the Bonds, the Paying Agent and the Remarketing Agent for the Bonds are located are not required or authorized to remain closed and on which The New York Stock Exchange is not closed.

City:
"City" shall mean the City of Farmington, in the County of San Juan, an incorporated municipality, a body politic and corporate, existing under the Constitution and the Laws of the State of New Mexico, and its successors and assigns.

City Clerk:
"City Clerk" shall mean the City Clerk of the City or the officer succeeding to the principal functions of such office.

City Council:
"City Council" shall mean the City Council of the City or the board or body in which general legislative powers of the City may subsequently be vested.

Code:
"Code" shall mean the Internal Revenue Code of 1986, as amended.

Company:
"Company" shall mean Public Service Company of New Mexico, a corporation organized and existing under the laws of the State of New Mexico, and its successors and assigns under the Installment Sale Agreements and Guaranty.

Company Bonds:
"Company Bonds" shall mean, any Bonds owned by or held in the name of the Company or its designee (including, without limitation, any such Bonds beneficially owned by the Company or its designee) or held by the Trustee for the account of the Company or its designee.

Company Indenture:
"Company Indenture" shall mean that certain Indenture, dated as of March 11, 1998, for Senior Unsecured Notes, as from time to time amended and supplemented, of the Company to JPMorgan Chase Bank (formerly known as The Chase Manhattan Bank), as trustee.

Company Securities:
"Company Securities" shall have the meaning ascribed to such term in Section 12.09(b) hereof.

Conversion:
"Conversion" shall mean any conversion from time to time in accordance with the terms of this Ordinance of the Bonds from one Mode to another Mode.

Conversion Date:
"Conversion Date" shall mean the date on which a new Mode becomes effective with respect to a Bond, and with respect to a Bond in the Multiannual Mode, the date on which a new Rate Period becomes effective.

Corresponding Securities:
"Corresponding Securities" shall have the meaning ascribed to such term in Section 12.09(b) hereof.

Counsel:
"Counsel" shall mean an attorney at law selected by the Company (who may be counsel to either or both of the City and the Company) and satisfactory to the Trustee or, if not selected by the Company within a reasonable time following any request therefor by the City, shall mean an attorney at law selected by the City and satisfactory to the Trustee.

Credit Supported Bonds:
"Credit Supported Bonds" shall mean any Bonds that are entitled to the benefits of a Letter of Credit or an Alternate Security.

Daily Mode:
"Daily Mode" shall mean the Mode in which the interest rate on the Bonds is set at the Daily Rate, all as set forth in the form of the Daily Bonds in Exhibit B hereto.

Daily Rate:
"Daily Rate" shall mean the rate of interest that is set on the Bonds while they are in the Daily Mode.

Default:
"Default" shall mean an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default under clause (a), (b), (c) or (d) of Section 9.01(1) hereof.

Delivery Date:
"Delivery Date" shall mean, with respect to a Bond tendered for purchase, the Purchase Date or any subsequent Business Day on which such Bond is delivered to the Paying Agent as provided in the forms of Flexible, Weekly, Daily and Multiannual Bonds.

Effective Date:
"Effective Date" shall mean, with respect to a Bond in the Flexible, Daily, Weekly and Multiannual Modes, the date on which a new Rate Period for that Bond takes effect or the date on which that Bond is converted to a new Mode.

Effective Period of a Letter of Credit:
"Effective Period of a Letter of Credit" shall mean with respect to any Bonds to which such Letter of Credit relates any period during which a Letter of Credit or Alternate Security is in effect, commencing on the effective date of such Letter of Credit or Alternate Security, as the case may be, and ending on the expiration or termination date thereof.

Event of Default:
"Event of Default" shall mean any of the events set forth in Section 9.01 hereof.

Exchange Date:
"Exchange Date" shall have the meaning ascribed to such term in Section 12.09(b) hereof.

Extraordinary Services; Extraordinary Expenses:
"Extraordinary Services" and "Extraordinary Expenses" shall mean all services rendered and all expenses incurred by the Trustee hereunder other than Ordinary Services and Ordinary Expenses.

Facilities:
"Facilities" shall mean collectively the Four Corners Facilities and San Juan Facilities.

Flexible Mode:

"Flexible Mode" shall mean the Mode in which the interest rate on the Bonds is set at the Flexible Rate, all as set forth in the form of Flexible Bonds in Exhibit A hereto.

Flexible Rate:

"Flexible Rate" shall mean a rate of interest on a Bond in the Flexible Mode set by the Remarketing Agent for periods of from one to 180 days or as set forth in the Reimbursement Agreement.

Four Corners Facilities:

"Four Corners Facilities" shall mean the Company's interest in the pollution control systems and facilities at the Four Corners Plant, which are described in Exhibit A to the Four Corners Installment Sale Agreement, and related improvements and any substitutions therefor.

Four Corners Installment Sale Agreement:

"Four Corners Installment Sale Agreement" shall mean that certain Third Amended and Restated Installment Sale Agreement, dated as of _____, 2016, between the City, as Vendor, and the Company, as Vendee, related to the Four Corners Plant (amending and restating the Second Amended and Restated Installment Sale Agreement, dated as of April 1, 2003, between the City, as Vendor, and the Company, as Vendee (the "2003 Installment Sale Agreement") which amended and restated the Amended and Restated Installment Sale Agreement, dated as of December 1, 1992, between the City, as Vendor and the Company, as Vendee (the "1992 Installment Sale Agreement") which amended and restated the Installment Sale Agreement dated as of May 15, 1980, between the City, as Vendor, and the Company, as Vendee), as amended and supplemented pursuant to the terms thereof.

Four Corners Plant:

"Four Corners Plant" shall mean the Four Corners Generating Station, an electric power generating plant located within fifteen miles of the corporate limits of the City in San Juan County, New Mexico, but not within the corporate limits of any municipality.

Governing Instrument:

"Governing Instrument" shall have the meaning ascribed to such term in Section 12.09(b) hereof.

Government Obligations:

"Government Obligations" shall mean the Investment Securities described in paragraph (a) of Section 6.01 hereof.

Guaranty:

"Guaranty" shall mean that certain Guaranty Agreement dated as of _____, 2016 relating to the 2016 Series A Bonds which is between the Company and the Trustee, as amended or supplemented by any Supplemental Guaranty.

Installment Sale Agreements:

"Installment Sale Agreements" shall mean collectively, the Four Corners Installment Sale Agreement and the San Juan Installment Sale Agreement.

Insurance Trustee:

"Insurance Trustee" shall mean the insurance trustee for the Bond Insurer, if any, designated as the insurance trustee in a resolution of the City Council adopted prior to the issuance of the applicable Bonds and its successors in such capacity, and their assigns.

Interest Payment Date:

"Interest Payment Date" shall have the meaning set forth on the form of Bonds in Exhibits A through D hereto.

Investment Securities:

"Investment Securities" shall have the meaning set forth in Sections 6.01 and 14.05 hereof.

Letter of Credit:

"Letter of Credit" shall mean an irrevocable direct pay Letter of Credit issued by a Bank to the Trustee relating to the Bonds, if any, as amended from time to time; provided that upon the issuance and delivery

of an Alternate Letter of Credit relating to the Bonds and termination of the initial Letter of Credit, "Letter of Credit" shall mean such Alternate Letter of Credit relating to the Bonds, as amended from time to time. In addition, if one or more Letters of Credit relating to the Bonds are issued by one or more Banks, references to the Letter of Credit shall include all such Letters of Credit for the Bonds unless the context clearly provides otherwise.

Maximum Interest Rate:

"Maximum Interest Rate" shall mean, if the Bonds bear interest in the Multiannual Mode to maturity, the actual rate of interest thereon or, otherwise, the maximum interest rate on the Bonds, which rate is 12% per annum.

Mode:

"Mode" shall mean the period for and the manner in which the interest rates on the Bonds are set and includes the Flexible Mode, the Daily Mode, the Weekly Mode and the Multiannual Mode.

Moody's:

"Moody's" shall mean Moody's Investors Services, Inc. and its successors and assigns so long as they are then rating the Bonds.

Multiannual Mode:

"Multiannual Mode" shall mean the Mode in which the interest rate on the Bonds is (a) fixed for periods of one year or integral multiples thereof (except with respect to the first Multiannual Rate Period occurring after initial issuance of the Bonds as set forth in an authorizing resolution or conversion to such Mode in which case such period can be less than one year) designated by the Remarketing Agent, after consultation with the Company, or (b) fixed, in a resolution of the City Council adopted prior to the date of issuance of such Bonds for a Rate Period beginning on the date of issuance of the Bonds, and ending on the final maturity date of the Bonds, as set forth in the form of Multiannual Bonds in Exhibit D hereto.

Multiannual Rate:

"Multiannual Rate" shall mean the rate of interest that is set on the Bonds while they are in the Multiannual Mode.

Municipal Bond Insurance Policy:

"Municipal Bond Insurance Policy" shall mean a municipal bond insurance policy issued by a Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as provided therein.

2003 Ordinance:

"2003 Ordinance" shall mean Ordinance No. 2003-1139 adopted by the City on March 25, 2003 creating and, securing the Prior Bonds, as modified, altered, amended, supplemented or confirmed by any and all ordinances or resolutions supplemental thereto or amendatory thereof adopted pursuant thereto.

2003 Trustee:

"2003 Trustee" shall mean Bank of Albuquerque N.A., as trustee under the 2003 Ordinance, and its successors and assigns.

Ordinance:

"Ordinance" shall mean this Ordinance No. 2016-_____ adopted by the City on _____, 2016 creating and securing the Bonds, as modified, altered, amended, supplemented or confirmed by any and all ordinances or resolutions supplemental thereto or amendatory thereof adopted pursuant thereto.

Ordinary Services, Ordinary Expenses:

"Ordinary Services" and "Ordinary Expenses" shall mean those reasonable services rendered and those reasonable expenses incurred by the Trustee in the performance of its duties hereunder of the types ordinarily performed by corporate trustees under like ordinances.

Original 1980 Installment Sale Agreement:

"Original 1980 Installment Sale Agreement" shall mean the Installment Sale Agreement, dated as of May 15, 1980, between the City, as Vendor, and the Company, as Vendee, as amended and supplemented pursuant to the terms thereof prior to the date hereof.

Original 1976 Installment Sale Agreement:

"Original 1976 Installment Sale Agreement" shall mean the Installment Sale Agreement, dated as of April 1, 1976, between the City, as Vendor, and the Company, as Vendee, as amended and supplemented pursuant to the terms thereof prior to the date hereof.

Outstanding under this Ordinance:

"Outstanding under this Ordinance," "Outstanding hereunder," or "Outstanding" when used in reference to the Bonds shall mean, as at any particular date, the aggregate of all the Bonds authenticated and delivered under this Ordinance except:

(a) those canceled at or prior to such date or delivered to or acquired by the Trustee at or prior to such date for cancellation, including those Bonds owned by the Company which the Company has at any time delivered to the Trustee for cancellation;

(b) those for the payment of which cash shall have been theretofore deposited with the Trustee in an amount equal to the principal amount thereof and premium, if any, and interest thereon to the redemption date or maturity;

(c) those otherwise deemed to be paid in full in accordance with Section 8.02 hereof subject to Section 14.06 hereof;

(d) Undelivered Bonds;

(e) Bonds not yet presented for payment when due as described in Section 4.07 hereof; and

(f) those in lieu of or in exchange or substitution for which other Bonds shall have been authenticated and delivered pursuant to this Ordinance, unless proof satisfactory to the Trustee and the Company is presented that such Bond is held by a bona fide holder in due course.

Paying Agent; Co-Paying Agent; Principal Office of a Paying Agent:

"Paying Agent" shall mean the Trustee acting in its capacity as Paying Agent of the Bonds and Co-Paying Agent shall mean any Co-Paying Agent appointed in accordance with Section 10.22 hereof. "Principal Office" of a Paying Agent or Co-Paying Agent shall mean the office of such Paying Agent or Co-Paying Agent designated in writing to the Trustee, the City and the Company.

Payment in Full of the Bonds:

"Payment in Full of the Bonds" shall mean payment in full of the principal of, premium, if any, and interest on the Bonds or the deemed payment thereof as provided in Section 8.02 hereof.

Plants:

"Plants" shall mean collectively the Four Corners Plant and San Juan Plant.

Prior Bonds:

Prior Bonds" shall mean the City's $46,000,000 aggregate principal amount of its Pollution Control Revenue Refunding Bonds, 2003 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects).

Project:

"Project" shall mean the undivided interest in the Facilities acquired by the City and sold by the City to the Company pursuant to the Original 1976 Installment Sale Agreement and the Original 1980 Installment Sale Agreement.

Project Purchase Price:

"Project Purchase Price" shall mean the purchase price determined pursuant to Section 5.02(a) of the Installment Sale Agreements.

Purchase Date:

"Purchase Date" shall mean the date on which Bonds shall be required to be purchased pursuant to a mandatory or optional tender in accordance with the provisions in the forms of Flexible, Daily, Weekly and Multiannual Rate Bonds.

Purchase Price:

"Purchase Price" shall have the meaning set forth in the forms of Flexible, Daily, Weekly and Multiannual Rate Bonds.

Rate Period or Period:

"Rate Period" or "Period" shall mean, when used with respect to any particular rate of interest for a Bond in the Flexible, Daily, Weekly or Multiannual Mode, the period during which such rate of interest determined for such Bond will remain in effect as described herein.

Rating Agencies:

"Rating Agencies" shall mean Moody's and S&P.

Receipts and Revenues of the City from the Installment Sale Agreements:

"Receipts and Revenues of the City from the Installment Sale Agreements" shall mean, all moneys paid to the City pursuant to Section 5.02 of the Installment Sale Agreements relating to the Bonds, and all receipts of the Trustee credited under the provisions of this Ordinance against such payments relating to the Bonds, including payments to the Trustee under any Letter of Credit or Alternate Security relating to, the Bonds with respect to the Credit Supported Bonds.

Record Date:

"Record Date" shall have the meaning set forth on the form of the Bond for the Flexible Mode, Daily Mode, Weekly Mode and Multiannual Mode.

Redemption Fund:

"Redemption Fund" shall mean the Redemption Fund, created by Section 4.11 hereof.

Registrar; Principal Office of the Registrar:

"Registrar" shall mean the Trustee acting in its capacity as Registrar of the Bonds. "Principal Office of the Registrar" shall mean the Principal Office of the Trustee.

Reimbursement Agreement:

"Reimbursement Agreement" shall mean from and after the issuance of a Letter of Credit, Alternate Letter of Credit or Alternate Security relating to the Bonds, any letter of credit reimbursement agreement or other arrangement between the Company and a Bank or other issuer of any Alternate Letter of Credit or Alternate Security, and any amendments, modifications and supplements thereto.

Remarketing Agent; Principal Office of the Remarketing Agent:

"Remarketing Agent" shall mean any remarketing agent or co-remarketing agents appointed and serving in such capacity pursuant to this Ordinance relating to the Bonds. "Principal Office of the Remarketing Agent" shall mean the office or offices thereof designated in writing to the Trustee, the City and the Company.

Remarketing Agent Agreement:

"Remarketing Agent Agreement" shall mean any remarketing agent agreement between the Company and any Remarketing Agent appointed pursuant to Section 13.02 hereof relating to the Bonds.

S&P:

"S&P" shall mean Standard & Poor's Ratings Services and its successors and assigns so long as they are then rating the Bonds.

San Juan Facilities:

"San Juan Facilities" shall mean the Company's interest in the pollution control systems and facilities at the San Juan Plant, which are described in Exhibit A to the San Juan Installment Sale Agreement, and related improvements and any substitutions therefor.

San Juan Installment Sale Agreement:

"San Juan Installment Sale Agreement" shall mean that certain Third Amended and Restated Installment Sale Agreement between the City, as Vendor, and the Company, as Vendee, dated as of _____, 2016 related to the San Juan Plant (amending and restating the Second Amended and Restated Installment Sale Agreement, dated as of April 1, 2003 which amended and restated the Amended and Restated Installment Sale Agreement, dated as of December 1, 1992, (the "1992 Installment Sale Agreement") between the City, as Vendor and the Company, as Vendee which amended and restated the Installment Sale Agreement, dated as of April 1, 1976,

between the City, as Vendor, and the Company, as Vendee (the "Original 1976 Installment Sale Agreement")), as amended and supplemented pursuant to the terms thereof.

San Juan Plant:

"San Juan Plant" shall mean the San Juan Generating Station, an electric power generating plant located within fifteen miles of the corporate limits of the City in San Juan County, New Mexico, but not within the corporate limits of any municipality.

Senior Unsecured Notes:

"Senior Unsecured Notes" shall, for any Bond, have the meaning set forth in the Guaranty relating to the Bonds.

Series; Series of Bonds; or Bonds of a Series :

"Series;" "Series of Bonds;" or "Bonds of a Series" shall mean the Bonds.

Supplemental Guaranty:

"Supplemental Guaranty" shall mean any agreement between the Trustee and the Company modifying, altering, amending or supplementing the Guaranty, in accordance with the terms of this Ordinance.

Supplemental Indenture:

"Supplemental Indenture" shall mean any agreement between the Trustee under the Company Indenture and the Company modifying, altering, amending or supplementing the Company Indenture in accordance with the terms of this Ordinance.

Supplemental Installment Sale Agreement:

"Supplemental Installment Sale Agreement" shall mean any agreement between the City and the Company modifying, altering, amending or supplementing either Installment Sale Agreement, in accordance with the terms of this Ordinance.

Supplemental Ordinance:

"Supplemental Ordinance" shall mean any ordinance or resolution of the City modifying, altering, amending, supplementing or confirming this Ordinance, in accordance with the terms of this Ordinance, as such Supplemental Ordinance may be amended or supplemented by any and all ordinances and related resolutions of the City Council adopted pursuant thereto.

Tendered Bond:

"Tendered Bond" shall mean any Bond (or beneficial interest therein if the Bonds are issued in a book-entry-only system) tendered or deemed tendered for purchase pursuant to Section 2.03(A)(3), 2.03(B)(3) or (4), 2.03(C)(3) or (4) or 2.03(D)(3) hereof.

Treasurer:

"Treasurer" shall mean the Treasurer of the City or the officer succeeding to the principal functions of such office.

Trust Estate:

"Trust Estate" shall mean, with respect to the Bonds, at any particular time, the Senior Unsecured Notes relating to the Bonds (or the Corresponding Securities relating to the Bonds, in the event of an exchange pursuant to Section 12.09 hereof) and the proceeds thereof, the City's rights and interests under the Installment Sale Agreements relating to the Bonds (except for the City's rights under Sections 5.05, 5.08 and 8.05, and clause (ii) of paragraph (b) of Section 8.03 thereof), all moneys and obligations relating to the Bonds which at such time are deposited or are required to be deposited with, or are held or are required to be held by or on behalf of, the Trustee in trust under any of the provisions of this Ordinance with respect to the Bonds and all rights, titles and interests which at such time are subject to the lien of this Ordinance with respect to the Bonds, except for moneys or obligations deposited with or paid to the Trustee relating to the Bonds for the redemption or payment of such Bonds which are deemed to have been paid in accordance with Section 8.02 hereof and the funds held pursuant to Section 4.07 hereof.

Trustee; Principal Office of the Trustee:

"Trustee" shall mean the person appointed as Trustee in a resolution of the City adopted prior to the first issuance of the Bonds,

and its successor or successors hereunder, as trustee under this Ordinance. "Principal Office of the Trustee" shall mean the principal corporate trust office of the Trustee, which office at the date of acceptance by the Trustee of the duties and obligations imposed on the Trustee by this Ordinance is located at the address specified in such resolution.

Undelivered Bonds:

"Undelivered Bonds" shall mean Bonds which are deemed to have been tendered as provided in the form of the Bond for the Flexible Mode, Daily Mode, Weekly Mode and Multiannual Mode.

Weekly Mode:

"Weekly Mode" shall mean the Mode in which the interest rate on the Bonds is set at the Weekly Rate, all as set forth in the form of the Weekly Bonds in Exhibit C hereto.

Weekly Rate:

"Weekly Rate" shall mean the rate of interest that is set on the Bonds while they are in the Weekly Mode.

Section 1.02 Number and Gender. The singular form of any word used herein, including the terms defined in Section 1.01, shall include the plural, and vice versa. The use herein of a word of any gender shall include all genders.

Section 1.03 Articles, Sections, Etc. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Ordinance as originally executed; and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Ordinance as a whole and not to any particular Article, Section or subdivision hereof. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Ordinance.

Section 1.04 Content of Certificates and Opinions. Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Ordinance or the Agreement shall include (a) a statement that the person or persons making or giving such certificate or opinion have read such covenant or condition and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate or opinion made or given by an officer of the City or the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by Counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his or her certificate or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any such certificate or opinion made or given by counsel may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the City or the Company), upon the certificate or opinion of or representations by an officer of the City or the Company, as applicable, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his or her opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

Section 1.05 Findings. It is hereby found and determined that:

(a) The City is authorized and empowered under the Act to issue and sell the Bonds and to enter into the Installment Sale Agreements, and the same will further the intent of the Act. The Plants are each located within 15 miles of the corporate limits of the City and

not within the corporate limits of any municipality or, if portions of either of the Plants are not located within 15 miles of the corporate limits of the City, there is no incorporated municipality within 15 miles of such portions of the Plants and the City is located in the county in which such portions of the Plants are located.

(b) The amount necessary in each year to pay the principal of and premium, if any, and interest (excluding accrued interest and purchase premium, if any, to be paid by the initial purchasers) on the Bonds is equal to the portion of the purchase price of the Project in each such year required to be paid by the Company to the Trustee by Section 5.02(a) of the Installment Sale Agreements. The City Council shall determine and set forth in a resolution adopted prior to the first issuance of the Bonds the amount necessary to pay in each year the principal of and interest on the Bonds.

(c) It is not advisable or necessary to establish any reserve fund in connection with the retirement of the Bonds or the maintenance of the Facilities because the terms of the Installment Sale Agreements provide that the Company shall maintain the Facilities and carry all proper insurance with respect thereto, and no reserve fund has been required by the initial purchasers of the Bonds to be established for the Bonds.

(d) The Bonds shall not be the general obligations of the City within the meaning of Article 9, Sections 12 and 13 of the Constitution of New Mexico, shall be payable by the City solely from the Receipts and Revenues of the City from the Installment Sale Agreements and other amounts pledged therefor hereunder, and the Bonds shall never constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and shall never constitute or give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers, and such fact shall be plainly stated on the face of each of the Bonds.

(e) In connection with the authorization, issuance and sale of the Bonds pursuant to this Ordinance, it is advantageous that the sale thereof be private rather than public and that all expenses, attorneys' fees, engineering fees, architecture fees, premiums and commissions shall be paid directly by the Company and not from proceeds of the Bonds.

(f) The Mayor and the City Clerk are, and each of them is, authorized and directed to cause this Ordinance to be published one time by title and a general summary of the subject matter contained herein in the manner provided by Section 3-17-5 N.M.S.A. 1978, as amended.

(g) The actions heretofore taken by the Mayor or City Clerk to cause this Ordinance in proposed form to be published by title and subject matter in the manner provided by Section 3-17-3 N.M.S.A. 1978, as amended, are hereby confirmed and such publication is hereby adopted, ratified and confirmed.

(h) The Trustee, Paying Agent, Co-Paying Agent, if any, Bond Insurer, if any, Insurance Trustee, if any, and Registrar shall be designated by a resolution of the City Council adopted prior to the first issuance of the Bonds.

(i) The Mayor, the City Clerk and the Treasurer are authorized to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, printing of the Bonds, the execution, delivery, and, if required or desirable, the filing and recording of such documents, instruments, financing statements and certificates as are required by this Ordinance and as may reasonably be required by the purchasers of the Bonds, including, without limiting the generality of the foregoing, certificates relating to the signing of the Bonds, the tenure and identity of the municipal officials, the delivery of the Bonds and payment therefor, and, if in accordance with the facts, the absence of litigation, pending or threatened, affecting the validity of the Bonds, and the absence and existence of factors affecting the exclusion from gross income of interest on the Bonds for Federal income tax purposes and, upon or after the effective date of this Ordinance, to execute and deliver the Bonds in accordance with this Ordinance and to do and cause to be done any and all acts and things necessary or proper for carrying out the transaction contemplated by this Ordinance, and all actions taken

pursuant to such authorization are hereby ratified, approved and confirmed.

ARTICLE II

The Bonds

Section 2.01 Bonds Equally Secured. All the Bonds to be issued hereunder shall be equally and ratably secured, to the extent provided in this Ordinance, by the pledge of the Receipts and Revenues of the City from the Installment Sale Agreements relating to the Bonds and the other rights and property pledged hereunder with respect to such Bonds.

Section 2.02 Issuance of Bonds. There is hereby authorized to be issued hereunder the Bonds the proceeds of which (other than any accrued interest on the Bonds) will be used, together with other available moneys, to refund the outstanding principal amount of and to pay the premium, if any, and interest to the date of redemption on the Prior Bonds. No other series of Bonds shall be issued under this Ordinance. The Bonds shall be designated, "Pollution Control Revenue Refunding Bonds, 2016 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects)" to be issued in an aggregate principal amount of $46,000,000 or such other amount as shall be specified in a resolution of the City Council adopted prior to the issuance of the Bonds. The Bonds shall be dated their date of delivery (or such other date as shall be specified in a resolution of the City Council adopted prior to the issuance of the Bonds), shall mature on such date (subject to provisions for prior redemption upon the terms and conditions hereinafter set forth) not to be later than 30 years from their date (as shall be specified in a resolution of the City Council adopted prior to the issuance of the Bonds) and shall bear interest as herein provided from their date, until maturity or until the date fixed for redemption, and until payment of the principal or redemption price thereof shall have been made or provided for in accordance with the provisions of this Ordinance at such rate or rates per annum and payable on such dates, as shall be determined in a resolution of the City Council adopted prior to the issuance of the Bonds.

The Bonds (including Bonds issued pursuant to Sections 2.09, 2.10 and 2.11 hereof) shall be issued as registered bonds without coupons. The Bonds shall be in the denomination of $100,000 or any multiple of $5,000 in excess of $100,000 in the Flexible Mode, $5,000 or any multiple thereof in the Multiannual Mode and $100,000 or any multiple thereof in the Daily or Weekly Modes. The Bonds shall be numbered consecutively from "R-1" upwards bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Registrar and shall bear such other numerical or alphabetical designation as shall be deemed appropriate by the Trustee and the Paying Agent to distinguish Bonds in different Modes, and, if there are different Letters of Credit or Alternate Security for the Credit Supported Bonds or if not all of the Bonds constitute Credit Supported Bonds, a Credit Supported Bond shall have the legends on such Bond filled in correctly, the Trustee shall identify each Bank or provider of Alternate Security by inserting distinguishing marks prior to "R" as shall be appropriate, and the Bonds may have such other distinguishing marks as may be deemed appropriate by the Trustee and the Paying Agent. Any Mode which is in effect for any Bond shall apply to such Bond independently of any other Bond of another Mode, or the same Mode.

The principal of and premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America. Subject to the provisions of Sections 2.12 and 14.07 hereof, the principal of and premium, if any, on all Bonds shall be payable at the Principal Office of the Paying Agent upon the presentation and surrender of the Bonds as the same become due and payable and interest on the Bonds shall be paid as provided in the form of the Bonds.

With respect to any Bonds in the Flexible, Daily and Weekly Mode, on the Business Day before the Interest Payment Date and for Bonds in the Multiannual Mode, on the fifteenth Business Day prior to the Interest Payment Date, the Trustee shall calculate the amount of interest to be paid on the next succeeding Interest Payment Date and shall, not later than 12:00 noon, New York City time, on the date that such calculation is made, notify the Company and the Paying Agent of the amount of interest

to be paid. Any contest by the Company of the amount calculated by the Trustee to be due on an Interest Payment Date shall not relieve the City or the Company of its obligation to pay such amount to enable the Trustee to pay the interest payable on the Bonds on such Interest Payment Date.

The Bonds shall be issued substantially in the form set forth in Exhibit A for the Bonds in the Flexible Mode, Exhibit B for the Bonds in the Daily Mode, Exhibit C for the Bonds in the Weekly Mode and Exhibit D for the Bonds in the Multiannual Mode, all as attached hereto, and shall contain the Trustee's certificate of authentication and the form of assignment substantially as set forth in such Exhibit, with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby and may have such letters and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations, or as may consistently herewith be determined by the officers executing such Bonds, as evidenced by their execution of the Bonds.

Section 2.03 Interest Rates on Bonds. The interest on the Bonds in a Flexible Mode, Daily Mode or Weekly Mode shall be payable on the applicable Interest Payment Date as herein described, computed on the basis of a 365 or 366-day year, as applicable, for the number of days actually elapsed. The interest on the Bonds in a Multiannual Mode shall be payable on the applicable Interest Payment Date as herein defined, computed on the basis of a 360-day year, consisting of twelve 30-day months. The interest rate on the Bonds shall not exceed the Maximum Interest Rate.

Interest rates on (and if the Mode is the Flexible Mode, Flexible Rate Periods for) tthe Bonds shall be determined as follows:

(A) Flexible Mode.

(1) Determination of Flexible Rates and Rate Periods. The interest rate on any Bonds in the Flexible Mode for a specific Rate Period on the first day of such Rate Period shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, on the basis of prevailing market conditions, is necessary to remarket each such Bond having such Rate Period in a secondary market transaction on that day at a price equal to the principal amount thereof, but not in excess of the Maximum Interest Rate. The Remarketing Agent for such Bonds shall determine the Flexible Rate and Rate Period for the Bonds in the Flexible Mode as provided above, in the form of Flexible Bonds in Exhibit A hereto and in the following paragraph and shall notify the Paying Agent thereof by telephone not later than 1:00 p.m., New York City time, on the Effective Date, promptly confirmed in writing. The Paying Agent shall give written notice of the Flexible Rate and Rate Period to the Trustee, the Bank and the Company. Each determination and redetermination of the Flexible Rate and the Rate Period shall be conclusive and binding on the City, the Trustee, the Paying Agent, the Bank, the Company and the Bondholders. If the Remarketing Agent for the Bonds fails for any reason to determine the Flexible Rate or Rate Period for such Bonds while in the Flexible Mode, or if for any reason such manner of deteintination shall be determined to be invalid and unenforceable, that Bond shall be deemed to be in a Rate Period of one day and the Flexible Rate shall be equal to 100% of the Prime Commercial Paper A-1/P-1 (30 days) rate shown in the table captioned "Short-Term Tax-Exempt Yields" in the edition of The Bond Buyer (or any successor to such table) published on the day on which such rate is determined or, if such rate is not published on that day, the most recent publication of such rate.

In determining the Flexible Rate and remarketing the Bonds in the Flexible Mode, the Remarketing Agent shall (i) not offer Rate Periods greater than 180 days or, if such Bonds in the Flexible Mode are Credit Supported Bonds, extending beyond the expiration date of any Letter of Credit less 29 days, (ii) not offer Rate Periods extending beyond the day preceding any scheduled conversion of such Bonds to another Mode or the final maturity of the Bonds, (iii) not

offer Rate Periods ending on a day preceding a non-Business Day, and (iv) follow any written directions of the Company not inconsistent with the preceding clauses (i), (ii) and (iii) as to the Rate Periods to be made available. The Company, the Trustee, the Paying Agent and the Remarketing Agent shall cooperate to ensure compliance with this requirement.

(2) Conversions from the Flexible Mode. The Bonds in the Flexible Mode or any portion of such Bonds may be converted at the election of the Company from the Flexible Mode to the Daily, Weekly or Multiannual Mode as provided in the form of the Flexible Bonds, so long as no Default or Event of Default hereunder exists as certified to the Trustee by the Company. For Bonds that are to be converted to the Daily, Weekly or Multiannual Mode and with respect to which the Company has determined that following such conversion such Bonds are to be Credit Supported Bonds, no such conversion shall be effective unless there shall then be in effect or the Company shall have delivered to the Trustee by 10:30 a.m., New York City time, on the Conversion Date a Letter of Credit or Alternate Security as required by Section 5.03 hereof. Bonds that automatically convert to the Flexible Mode with a one day Rate Period as a result of a failed conversion shall not be Credit Supported Bonds following such conversion. With respect to any Bonds remaining in the Flexible Mode that are entitled to the benefits of a Letter of Credit or Alternate Security and any other Bonds which are then Credit Supported Bonds, the Trustee shall verify and confirm not later than 10:30 a.m., New York City time, on the Conversion Date that each such Flexible Bond and other Credit Supported Bond is supported by a Letter of Credit or Alternate Security complying with Sections 2.05 and 5.03 hereof. Written notice of a conversion from the Flexible Mode shall be given by the Company to the City, the Trustee, the Paying Agent, the Bank, the Remarketing Agent and the Rating Agencies not fewer than 25 nor more than 60 days prior to the proposed Conversion Date, which date shall be specified by the Company in such notice and shall not be earlier than the day following the expiration of the Rate Period with the longest remaining term then in effect for such Bonds to be converted and in connection with any conversion of such Bonds from the Flexible Mode to the Multiannual Mode, such notice shall include a direction from the Company to the Trustee to present the appropriate reinstatement request in the amount set forth in Section 2.05 hereof if such Bonds to be converted are entitled to the benefits of a Letter of Credit that provides for such a reinstatement request. Such notice shall also state whether or not the Company has determined that following conversion such Bonds to be converted are to be entitled to the benefits of a Letter of Credit or Alternate Security. Prior to the proposed Conversion Date, the Remarketing Agent shall not offer Rate Periods for such Bonds to be converted extending beyond the proposed Conversion Date.

Notwithstanding the foregoing, if the preconditions to conversion to a new Mode established by the preceding paragraph and Section 2.04 are not met by 10:30 a.m., New York City time, on the proposed Conversion Date, the Paying Agent shall deem the proposed conversion to have failed and shall immediately notify the Trustee, the Company, the Bank, the Rating Agencies and the Remarketing Agent, and such Bonds shall be subject to mandatory tender as provided in Section 2.03(A)(3)(ii) hereof. In addition, the failed conversion shall cause such Bonds to remain in the Flexible Mode with a Rate Period of one day. In such event, (i) with respect to any Bonds entitled to the benefits of a Letter of Credit, the Trustee shall by 12:00 noon, New York City time, on the proposed Conversion Date, draw on such Letter of Credit an amount which is sufficient to pay the Purchase Price on such date of all such Bonds that were to have been converted and (ii) with respect to any Bonds not entitled to the benefits of a Letter of Credit, the Company shall by 12:00 noon, New York City time, on the proposed Conversion

Date deliver to the Paying Agent sufficient funds to pay the Purchase Price. In no event shall the failure of Bonds to be converted to another Mode for any reason be deemed to be, in and of itself, a Default or Event of Default under this Ordinance, so long as the Purchase Price of all Bonds required to be purchased is made available as provided above.

(3) Events Requiring Mandatory Tender of Flexible Bonds.

(i) Expiration of Letter of Credit Without Substitution or Replacement; Substitution of Letter of Credit or Delivery of Alternate Security; Exchange of Senior Unsecured Notes. The Bonds supported by a Letter of Credit or Alternate Security in the Flexible Mode are subject to mandatory tender for purchase, and shall be deemed to have been so tendered as provided in the form of Flexible Bonds in connection with (x) the expiration or termination of such Letter of Credit or Alternate Security (other than upon conversion to a new Mode) or (y) the substitution of a Letter of Credit or Alternate Security unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such substitution. All Bonds in the Flexible Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Flexible Bonds in connection with the exchange of the Senior Unsecured Notes for Corresponding Securities unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such exchange. The Paying Agent shall (i) at least 15 days prior to the mandatory tender date, give notice to the Bondholders of the mandatory tender of Bonds and (ii) on such mandatory tender date, pay the Purchase Price for the Bonds as provided in the form of Flexible Bonds notwithstanding any substitution of an Alternate Letter of Credit or Alternate Security after the date such notice was given to the Bondholders.

(ii) Change in Mode or Rate Period. On the Effective Date, Bonds in the Flexible Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Flexible Bonds. With respect to any Bonds in the Flexible Mode held in book-entry form, the Paying Agent shall give the holders of such Bonds not less than 15 days' prior written notice of the conversion of such Bonds from the Flexible Mode to a different Mode.

(B) Daily Mode.

(1) Determination of Daily Rates. The interest rate on any Bonds in the Daily Mode for the Rate Period shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, on the basis of prevailing market conditions, is necessary to remarket such Bonds at a price equal to the principal amount thereof, plus accrued interest, if any thereon, but not in excess of the Maximum Interest Rate. The Remarketing Agent for the Bonds shall determine the Daily Rate as provided above and in the form of Daily Bonds in Exhibit B hereto and shall notify the Paying Agent thereof on the Effective Date. The Paying Agent shall give written notice of the Daily Rate to the Trustee, the Bank and the Company. The determination and redetermination of the Daily Rate shall be conclusive and binding on the City, the

Trustee, the Paying Agent, the Bank, the Company and the Bondholders. If for any reason the Remarketing Agent for the Bonds fails to determine the Daily Rate for such Bonds or if for any reason such manner of determination shall be determined to be invalid or unenforceable, the Daily Rate to take effect on the Effective Date with respect to such Bonds shall be the Daily Rate in effect for such Bonds on the day preceding such date.

(2) Conversions from the Daily Mode. Bonds in the Daily Mode or any portion of such Bonds may be converted on any Interest Payment Date at the election of the Company from the Daily Mode to the Flexible, Weekly or Multiannual Mode as provided in the form of the Daily Bonds, as long as no Default or Event of Default hereunder exists, as certified to the Trustee by the Company. For Bonds that are to be converted to the Flexible, Weekly or Multiannual Mode and with respect to which the Company has determined that following such conversion such Bonds in the Flexible, Weekly or Multiannual Mode, as the case may be, are to be Credit Supported Bonds, no such conversion shall be effective unless there shall be then in effect or the Company shall have delivered to the Trustee by 10:30 a.m., New York City time, on the Conversion Date a Letter of Credit or Alternate Security as required by Section 5.03 hereof. Bonds that automatically convert to the Flexible Mode with a one day Rate Period as a result of a failed conversion shall not be Credit Supported Bonds following such conversion. With respect to any Bonds remaining in the Daily Mode that are entitled to the benefits of a Letter of Credit or Alternate Security and any other Bonds which are then Credit Supported Bonds, the Trustee shall verify and confirm not later than 10:30 a.m., New York City time, on the Conversion Date that such Daily Bond and other Credit Supported Bond is supported by a Letter of Credit or Alternate Security complying with Sections 2.05 and 5.03 hereof. Written notice of a conversion from the Daily Mode shall be given by the Company to the City, the Trustee, the Paying Agent, the Bank, the Remarketing Agent and the Rating Agencies not fewer than 25 nor more than 60 days prior to the proposed Conversion Date, which date shall be specified by the Company in such notice and in connection with any conversion of Bonds from the Daily Mode to the Flexible, Weekly or Multiannual Mode, such notice shall include a direction from the Company to the Trustee to present the appropriate reinstatement request in the amount set forth in Section 2.05 hereof if the Bonds to be converted are entitled to the benefits of a Letter of Credit that provides for such a reinstatement request. Such notice shall also state whether or not the Company has determined that following conversion the Bonds to be converted are to be entitled to the benefits of a Letter of Credit or Alternate Security. Notice of a conversion of Bonds from the Daily Mode and the mandatory tender of Bonds for purchase on such Conversion Date shall be given to the holders of such Bonds as provided in Section 2.03(B)(4)(ii) hereof and the form of Daily Bonds.

Notwithstanding the foregoing, if the preconditions to conversion to another Mode established by the preceding paragraph and Section 2.04 hereof are not met by 10:30 a.m., New York City time, on the proposed Conversion Date, the Paying Agent shall deem the proposed conversion to have failed and shall immediately notify the Trustee, the Company, the Bank, the Rating Agencies and the Remarketing Agent, and such Bonds shall be subject to mandatory tender as provided in Section 2.03(B)(4)(ii) hereof. In addition, the failed conversion shall cause the interest rate on such Bonds to immediately convert to the Flexible Rate with a one day Rate Period on the Conversion Date. In such event, (i) with respect to any Bonds entitled to the benefits of a Letter of Credit, the Trustee shall by 12:00 noon, New York City time, on the proposed Conversion Date, draw on such Letter of Credit an amount which is sufficient to pay the Purchase Price on such date of all such Bonds that were to have been converted and (ii) with respect to any Bonds not entitled to the benefits of a Letter of Credit, the Company shall by

12:00 noon, New York City time, on the proposed Conversion Date deliver to the Paying Agent sufficient funds to pay the Purchase Price. In no event shall the failure of Bonds to be converted to another Mode for any reason be deemed to be, in and of itself, a Default or Event of Default under this Ordinance, so long as the Purchase Price of all Bonds required to be purchased is made available as provided above.

(3) Bondholders' Option to Tender Bonds in Daily Mode. Bonds in the Daily Mode are subject to tender, at the election of the holder thereof, in the manner and subject to the limitations described in the form of Daily Bonds. The holders of Tendered Bonds shall receive on the Delivery Date a Purchase Price equal to 100% of the principal amount of the Tendered Bonds plus accrued interest to the Purchase Date, provided that if the Purchase Date is an Interest Payment Date, accrued interest shall be paid separately and not as part of the Purchase Price on such date.

The Paying Agent shall accept all Tendered Bonds properly tendered to it for purchase as provided in the form of Daily Bonds and in this Section 2.03(B)(3); provided, however, that the Paying Agent shall not accept any Tendered Bonds and the Purchase Price therefor shall not be paid if at the time of tender or on the Purchase Date (i) the principal of the Bonds shall have been accelerated pursuant to Section 9.01 hereof and such acceleration shall not have been annulled or (ii) the Bonds shall be deemed to be paid in full in accordance with Section 8.02 hereof.

The Bondholders' Election Notice delivered to the Paying Agent as provided in the form of Daily Bonds prior to the Purchase Date of Tendered Bonds shall be in substantially the form provided in the form of Daily Bonds.

As soon as practicable after receiving notice of a tender of Bonds under this Section 2.03(B)(3), the Paying Agent shall notify the Remarketing Agent, the Company, the Bank and the Trustee by telephone promptly confirmed in writing of the amount of Tendered Bonds and the specified Purchase Date.

During the time Bonds are issued in the book-entry-only system, all Bondholders' Election Notices shall be signed by the beneficial owner thereof or his attorney, duly authorized in writing. The Paying Agent shall be entitled to rely on the accuracy of any Bondholders' Election Notice delivered to the Paying Agent.

(4) Events Requiring Mandatory Tender of Daily Bonds.

(i) Expiration of Letter of Credit Without Substitution or Replacement; Substitution of Letter of Credit or Delivery of Alternate Security; Exchange of Senior Unsecured Notes. The Bonds supported by a Letter of Credit or Alternate Security in the Daily Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Daily Bonds in connection with (x) the expiration or termination of such Letter of Credit or Alternate Security (other than upon conversion to a new Mode) or (y) the substitution of a Letter of Credit or Alternate Security unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such substitution. All Bonds in the Daily Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Daily Bonds in connection with the exchange of the Senior Unsecured Notes for Corresponding Securities unless, prior to the date the Paying Agent is required

to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such exchange. The Paying Agent shall (i) at least 15 days prior to the mandatory tender date, give notice to the Bondholders of the mandatory tender of Bonds and (ii) on such mandatory tender date, pay the Purchase Price for the Bonds as provided in the form of Daily Bonds notwithstanding any substitution of an Alternate Letter of Credit or Alternate Security after the date such notice was given to the Bondholders.

(ii) Change in Mode. In the event that Bonds in the Daily Mode are converted to another Mode, such Bonds are subject to mandatory tender for purchase upon not less than 15 days' prior written notice from the Paying Agent to the Bondholders as provided in the form of Daily Bonds, which notice shall state that the Bonds are subject to mandatory tender for purchase and the mandatory tender date.

(C) Weekly Mode.

(1) Determination of Weekly Rates. The interest rate on Bonds in the Weekly Mode for the Rate Period shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, on the basis of prevailing market conditions, is necessary to remarket such Bonds at a price equal to the principal amount thereof, plus accrued interest, if any thereon, but not in excess of the Maximum Interest Rate. The Remarketing Agent for such Bonds shall determine the Weekly Rate as provided above and in the form of Weekly Bonds in Exhibit C hereto and shall notify the Paying Agent thereof on the Effective Date. The Paying Agent shall give written notice of the Weekly Rate to the Trustee, the Bank and the Company. Each determination and redetermination of the Weekly Rate shall be conclusive and binding on the City, the Trustee, the Paying Agent, the Bank, the Company and the Bondholders. If for any reason the Remarketing Agent for the Bonds fails to determine the Weekly Rate for such Bonds or if for any reason such manner of determination shall be determined to be invalid or unenforceable, the Weekly Rate to take effect on the Effective Date for such Bonds shall be the Weekly Rate in effect for such Bonds on the day preceding such date.

(2) Conversions from the Weekly Mode. Bonds in the Weekly Mode or any portion of such Bonds may be converted on any Interest Payment Date at the election of the Company from the Weekly Mode to the Flexible, Daily or Multiannual Mode as provided in the form of the Weekly Bonds, as long as no Default or Event of Default hereunder exists, as certified to the Trustee by the Company. For Bonds that are to be converted to the Flexible, Daily or Multiannual Mode and with respect to which the Company has determined that following such conversion such Bonds in the Flexible, Daily or Multiannual Mode, as the case may be, are to be Credit Supported Bonds, no such conversion shall be effective unless there shall be then in effect or the Company shall have delivered to the Trustee by 10:30 a.m., New York City time, on the Conversion Date a Letter of Credit or Alternate Security as required by Section 5.03 hereof. Bonds that automatically convert to the Flexible Mode with a one day Rate Period as a result of a failed conversion shall not be Credit Supported Bonds following such conversion. With respect to any Bonds remaining in the Weekly Mode that are entitled to the benefits of a Letter of Credit or Alternate Security and any other Bonds which are then Credit Supported Bonds, the Trustee shall verify and confirm not later than 10:30 a.m., New York City time, on the Conversion Date that each such Weekly Bond and other Credit Supported Bond is supported by a Letter of Credit or Alternate Security complying with Sections 2.05 and 5.03 hereof. Written notice

of a conversion from the Weekly Mode shall be given by the Company to the City, the Trustee, the Paying Agent, the Bank, the Remarketing Agent and the Rating Agencies not fewer than 25 nor more than 60 days prior to the proposed Conversion Date, which date shall be specified by the Company in such notice and in connection with any conversion of Bonds from the Weekly Mode to the Flexible, Daily or Multiannual Mode, such notice shall include a direction from the Company to the Trustee to present the appropriate reinstatement request in the amount set forth in Section 2.05 hereof if the Bonds to be converted are entitled to the benefits of a Letter of Credit that provides for such a reinstatement request. Such notice shall also state whether or not the Company has determined that following conversion the Bonds to be converted are to be entitled to the benefits of a Letter of Credit or Alternate Security. Notice of a conversion of Bonds from the Weekly Mode and the mandatory tender of Bonds for purchase on such Conversion Date shall be given to the holders of such Bonds as provided in Section 2.03(C)(4)(ii) hereof and the form of Weekly Bonds.

Notwithstanding the foregoing, if the preconditions to conversion to another Mode established by the preceding paragraph and Section 2.04 hereof are not met by 10:30 a.m., New York City time, on the proposed Conversion Date, the Paying Agent shall deem the proposed conversion to have failed and shall immediately notify the Trustee, the Company, the Bank, the Rating Agencies and the Remarketing Agent, and such Bonds shall be subject to mandatory tender as provided in 2.03(C)(4)(ii) hereof. In addition, the failed conversion shall cause the interest rate on such Bonds to immediately convert to the Flexible Rate with a one day Rate Period on the Conversion Date. In such event, (i) with respect to any Bonds entitled to the benefits of a Letter of Credit, the Trustee shall by 12:00 noon, New York City time, on the proposed Conversion Date, draw on such Letter of Credit an amount which is sufficient to pay the Purchase Price on such date of all such Bonds that were to have been converted and (ii) with respect to any Bonds not entitled to the benefits of a Letter of Credit, the Company shall by 12:00 noon, New York City time, on the proposed Conversion Date deliver to the Paying Agent sufficient funds to pay the Purchase Price. In no event shall the failure of Bonds to be converted to another Mode for any reason be deemed to be, in and of itself, a Default or Event of Default under this Ordinance, so long as the Purchase Price of all Bonds required to be purchased is made available as provided above.

(3) Bondholders' Option to Tender Bonds in Weekly Mode. Bonds in the Weekly Mode are subject to tender, at the election of the holder thereof, in the manner and subject to the limitations described in the form of Weekly Bonds. The holders of Tendered Bonds shall receive on the Delivery Date a Purchase Price equal to 100% of the principal amount of the Tendered Bonds plus accrued interest to the Purchase Date, provided that if the Purchase Date is an Interest Payment Date, accrued interest shall be paid separately and pot as part of the Purchase Price on such date.

The Paying Agent shall accept all Tendered Bonds properly tendered to it for purchase as provided in the form of Weekly Bonds and in this Section 2.03(C)(3); provided, however, that the Paying Agent shall not accept any Tendered Bonds and the Purchase Price therefor shall not be paid if at the time of tender or on the Purchase Date (i) the principal of the Bonds shall have been accelerated pursuant to Section 9.01 hereof and such acceleration shall not have been annulled or (ii) the Bonds shall be deemed to be paid in full in accordance with Section 8.02 hereof.

The Bondholders' Election Notice delivered to the Paying Agent as provided in the form of Weekly Bonds prior to the Purchase Date of Tendered Bonds shall be in substantially the form provided in the form of Weekly Bonds.

As soon as practicable after receiving notice of a tender of Bonds under this Section 2.03(C)(3), the Paying Agent shall notify the Remarketing Agent, the Company, the Bank and the Trustee by telephone promptly confirmed in writing of the amount of Tendered Bonds and the specified Purchase Date.

During the time Bonds are issued in the book-entry-only system, all Bondholders' Election Notices shall be signed by the beneficial owner thereof or his attorney, duly authorized in writing. The Paying Agent shall be entitled to rely on the accuracy of any Bondholders' Election Notice delivered to the Paying Agent.

(4) Events Requiring Mandatory Tender of Weekly Bonds.

(i) Expiration of Letter of Credit Without Substitution or Replacement; Substitution of Letter of Credit or Delivery of Alternate Security; Exchange of Senior Unsecured Notes. The Bonds supported by a Letter of Credit or Alternate Security in the Weekly Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Weekly Bonds in connection with (x) the expiration or termination of such Letter of Credit or Alternate Security (other than upon conversion to a new Mode) or (y) the substitution of a Letter of Credit or Alternate Security unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such substitution. All Bonds in the Weekly Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Weekly Bonds in connection with the exchange of the Senior Unsecured Notes for Corresponding Securities unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such exchange. The Paying Agent shall (i) at least 15 days prior to the mandatory tender date, give notice to the Bondholders of the mandatory tender of Bonds and (ii) on such mandatory tender date, pay the Purchase Price for the Bonds as provided in the form of Weekly Bonds notwithstanding any substitution of an Alternate Letter of Credit or Alternate Security after the date such notice was given to the Bondholders.

(ii) Change in Mode. In the event that Bonds in the Weekly Mode are converted to another Mode, such Bonds are subject to mandatory tender for purchase upon not less than 15 days' prior written notice from the Paying Agent to the Bondholders as provided in the form of Weekly Bonds, which notice shall state that the Bonds are subject to mandatory tender for purchase and the mandatory tender date.

(D) Multiannual Mode.

(1) Determination of Multiannual Rates and Rate Periods. The interest rate on Bonds in the Multiannual Mode for a particular Rate Period shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, on the basis of prevailing market conditions, is necessary to remarket such Bonds with the same Rate Period at a price equal to the principal amount thereof, plus accrued interest, if any thereon, but not in excess of the Maximum Interest

Rate. The Remarketing Agent for the Bonds shall determine the Multiannual Rate and Rate Period as provided above and in the form of Multiannual Bonds in Exhibit D hereto and shall notify the Paying Agent thereof by telephone not later than 2:00 p.m., New York City time, on the Business Day immediately preceding the Effective Date, promptly confirmed in writing. The Paying Agent shall give written notice of the Multiannual Rate to the Trustee, the Bank, if any, and the Company. Each determination and redetermination of the Multiannual Rate and Rate Period shall be conclusive and binding on the City, the Trustee, the Paying Agent, the Company, the Bank, if any, the Bond Insurer, if any, and the Bondholders. If the Remarketing Agent for the Bonds fails to make such determination or fails to announce the Multiannual Rate for such Bonds as required with respect to any such Bonds in the Multiannual Mode, or if for any reason such manner of determination shall be determined to be invalid or unenforceable, the rate to take effect for such Bonds on any Effective Date shall be automatically converted to the Flexible Rate with a Rate Period of one day. Notwithstanding the foregoing, if the Bonds are initially issued in a Multiannual Mode with a Rate Period equal in years to the number of years to the maturity of such Bonds, then the interest rate on such Bonds shall be the rate determined by the Company and as set forth in a resolution of the City Council.

In making the determination and redetermination of the Multiannual Rate and remarketing Bonds in the Multiannual Mode if such Bonds in the Multiannual Mode are Credit Supported Bonds, the Remarketing Agent shall not offer Rate Periods extending beyond the expiration date of any applicable Letter of Credit less 29 days.

(2) Conversions from the Multiannual Mode. The Bonds in the Multiannual Mode or any portion of such Bonds may be converted on any Effective Date at the election of the Company from the Multiannual Mode to the Flexible, Daily or Weekly Mode and may be converted within the Multiannual Mode to a new Rate Period with the same or a different length as provided in the form of the Multiannual Bonds, so long as no Default or Event of Default hereunder exists as certified to the Trustee by the Company. For Bonds that are to be converted to the Flexible, Daily or Weekly Mode and with respect to which the Company has determined that, following such conversion such Bonds are to be Credit Supported Bonds, no such conversion shall be effective unless there shall be then in effect or the Company shall have delivered to the Trustee by 10:30 a.m., New York City time, on the Conversion Date a Letter of Credit or Alternate Security as required by Section 5.03 hereof. Bonds that automatically convert to the Flexible Mode with a one day Rate Period as a result of a failed conversion shall not be Credit Supported Bonds following such conversion. With respect to any Bonds remaining in the Multiannual Mode that are entitled to the benefits of a Letter of Credit or Alternate Security and any other Bonds which are then Credit Supported Bonds, the Trustee shall verify and confirm not later than 10:30 a.m., New York City time, on the Conversion Date that each such Multiannual Bond and other Credit Supported Bond is supported by a Letter of Credit or Alternate Security complying with Sections 2.05 and 5.03 hereof. Written notice of a change in Mode or Rate Period within the Multiannual Mode shall be given by the Company to the City, the Trustee, the Paying Agent, the Bank, if any, the Bond Insurer, if any, the Remarketing Agent and the Rating Agencies not fewer than 25 nor more than 60 days prior to the proposed Conversion Date, which date shall be specified by the Company in such notice. Such notice shall also state whether or not the Company has determined that following conversion such Bonds to be converted are to be entitled to the benefits of a Letter of Credit or Alternate Security.

If any Bonds are issued in the Multiannual Mode with a term to the maturity of such Bonds, then such Bonds may not be converted to any other Mode.

(3) Events Requiring Mandatory Tender of Multiannual Bonds.

(i) Expiration of Letter of Credit Without Substitution or Replacement; Substitution of Letter of Credit or Delivery of Alternate Security. Any Bonds supported by a Letter of Credit or Alternate Security in the Multiannual Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Multiannual Bonds in connection with (x) the expiration or termination of such Letter of Credit or Alternate Security (other than upon conversion to a new Mode) or (y) the substitution of a Letter of Credit or Alternate Security unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such substitution.

(ii) Change in Mode or Rate Period. In the event that Bonds in the Multiannual Mode are converted to another Mode or on the Effective Date of any change in the Multiannual Rate Period, such Bonds are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Multiannual Bonds. With respect to any Bonds in the Multiannual Mode held in book-entry form, the Paying Agent shall give the holders of such Bonds not less than 20 days' prior written notice of the conversion of such Bonds from the Multiannual Mode to a different Mode.

(iii) Mandatory Purchase on Day After the End of Multiannual Rate Period. Whenever the Mode for the Bonds is the Multiannual Mode, each Bond shall be subject to mandatory purchase at a purchase price equal to the principal amount thereof, without premium, plus accrued interest, if any, on the first Business Day after the end of the Multiannual Rate Period.

(E) Partial Conversions.

(1) General. Subject to the terms of the applicable Reimbursement Agreement, if any, the Bonds may be converted on any applicable Effective Date in whole or in part to the Flexible Mode, the Daily Mode, the Weekly Mode or any Rate Period in the Multiannual Mode upon compliance with the conditions set forth in this Ordinance. In the event the Bonds are in (or are to be converted to) more than one Mode, the provisions herein relating to Bonds in a particular Mode (or to be converted to a particular Mode) shall apply only to the Bonds in (or to be converted to) such Mode and, where necessary or appropriate, any reference in this Ordinance to the Bonds shall be construed to mean the Bonds in (or to be converted to) such Mode and any reference to the Letter of Credit or Alternate Security shall be construed to mean any applicable Letter of Credit or Alternate Security supporting the Bonds in (or to be converted to) the Daily Mode, Weekly Mode, Flexible Mode or Multiannual Mode, as, applicable, and any reference to the Bank or provider of Alternate Security shall be construed to mean the Bank issuing that Letter of Credit or the applicable provider of that Alternate Security and references thereto shall only apply to Credit Supported Bonds supported by such respective Letters of Credit or Alternate Securities. However, it is understood that, in the case of an initial Letter of Credit, such Letter of Credit will not, unless amended or supplemented, support the payment of Bonds for which there has been a failed conversion pursuant to Section 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) or 2.03(D)(2) hereof and for which such Bonds have been automatically converted to a Flexible Mode with a one day Rate Period. The Trustee is hereby directed to make the

appropriate notation on the Flexible Bonds in such instance and it is further understood that as provided in Section 2.14 hereof, there will be no remarketing of such Bonds unless and until such Section 2.14 is complied with.

(2) Selection. In the event of any partial conversion of the Bonds to a new Mode, the Bonds to be converted shall be selected by the Paying Agent from the Bonds in the Mode selected by the Company. The particular Bonds (or portions thereof) to be converted shall be selected by lot by the Paying Agent from all the Bonds in the Mode (or in the case of Bonds in the Multiannual Mode, the Rate Period) from which Bonds are to be converted. The principal amount of Bonds to be converted shall be determined so that all of the Bonds shall be in the denominations required under Section 2.02 hereof for the particular Modes. Bonds (or portions thereof) in the Flexible, Daily, Weekly or Multiannual Mode shall be selected by lot and the selection of the Bonds to be converted shall occur prior to the date notice of mandatory tender is sent by the Paying Agent pursuant to Section 2.03(A)(3), 2.03(B)(4), 2.03(C)(4) or 2.03(D)(3) hereof.

(3) Amendments. The provisions of this Ordinance may be amended to permit or facilitate partial conversions of the Bonds without Bondholder consent in accordance with Section 12.02 hereof.

(F) Tendered Bonds. The purchase of Tendered Bonds as provided in this Ordinance shall not extinguish the debt represented by such Bonds which shall remain outstanding and unpaid under this Ordinance.

Section 2.04 Conversion. No conversion of Bonds from one Mode to another Mode, including for this purpose the conversion to a new Rate Period in the Multiannual Mode, shall be effective unless on or prior to the Conversion Date the Company shall provide the City, the Bank, the Paying Agent, the Remarketing Agent and the Trustee with an opinion of Bond Counsel reasonably satisfactory to the Trustee to the effect that the conversion will not adversely affect the exclusion of interest on the Bonds from gross income for Federal income tax purposes.

Section 2.05 Reduction and Reinstatement of Letter of Credit on Change in Mode; Release of Letter of Credit Upon Conversion from One Mode to Another Mode. If Bonds are converted from one Mode to another Mode, the Trustee shall, upon request of the Company and to the extent permitted by the applicable Reimbursement Agreement and the applicable Letter of Credit, increase or reduce the amount available to be drawn under the Letter of Credit to which such Bonds are entitled to the benefits or release such Letter of Credit upon such conversion, in each case in accordance with the terms of such Letter of Credit, provided that the amount available under such Letter of Credit complies with Section 5.03 hereof and the last paragraph of this Section 2.05.

In no event shall any reduction in or release of a Letter of Credit pursuant to this Section 2.05 take effect until five Business Days after the conversion. Any increase in the amount of a Letter of Credit shall take effect on the Conversion Date, and the Trustee shall present the appropriate increase certificate to the Bank at the times and as provided in such Letter of Credit to cause such increase to be effective on such date.

If there is a conversion of Bonds from one Mode to another Mode with respect to which a termination of, or a reduction of the amount of, a Letter of Credit is permitted by this Section 2.05 and by such Letter of Credit, the Trustee shall present written notice of the Conversion Date or, in the event of a reduction of the amount of such Letter of Credit, the appropriate reduction certificate to the Bank promptly following the applicable Conversion Date so that the Letter of Credit coverage for the Bonds supported by such Letter of Credit will be terminated or reduced, as the case may be, and if so reduced, will comply with Section 5.03 hereof and the following sentence. If any Bonds are to be entitled to the benefits of a Letter of Credit after the conversion thereof, the applicable Letter of Credit coverage after such conversion shall equal the principal amount of such Bonds which are in the Flexible

Mode, the Daily Mode, the Weekly Mode and the Multiannual Mode and which are supported by such applicable Letter of Credit immediately after such conversion plus (i) with respect to such Bonds in the Flexible Mode immediately after such conversion, interest in the amount of the principal amount of such Bonds multiplied by the product of the Maximum Interest Rate and a fraction, the numerator of which is the Rate Period of the Bond plus 209 days and the denominator of which is 365, (ii) with respect to such Bonds in the Daily Mode immediately after such conversion, interest in the amount of the principal amount of such Bonds multiplied by the product of the Maximum Interest Rate and a fraction, the numerator of which is 60 and the denominator of which is 365, (iii) with respect to such Bonds in the Weekly Mode immediately after such conversion, interest in the amount of the principal amount of such Bonds multiplied by the product of the Maximum Interest Rate and a fraction, the numerator of which is 60 and the denominator of which is 365 and (iv) with respect to such Bonds in the Multiannual Mode (other than a Multiannual Mode fixed to maturity) immediately after such conversion, interest in the amount equal to the sum of (A) the principal amount of such Bonds multiplied by the product of the Maximum Interest Rate and a fraction, the numerator of which is 209 and the denominator of which is 360 and (B) the amount of any premium payable upon the redemption of such Bonds. If any Bonds are to be entitled to the benefits of a Letter of Credit, no later than 12:00 noon, New York City time, on the second Business Day preceding any Conversion Date for any conversion of Bonds from the Weekly Mode to the Flexible Mode or the Multiannual Mode or from the Flexible Mode to the Multiannual Mode, the Trustee shall present the appropriate reinstatement certificate, if any, to the Bank or take such other action at the direction of the Company so that the Letter of Credit coverage after such conversion shall comply with the requirements set forth in this Section 2.05 and in Section 5.03 hereof. The Trustee may request from the Company any supporting documentation necessary to satisfy the requirements of the Reimbursement Agreement concerning any conditions for such reinstatement.

Section 2.06 Execution; Limited Obligation. The Bonds shall be executed on behalf of the City by the Mayor and Treasurer and shall have affixed, impressed or reproduced thereon the corporate seal of the City, attested by the City Clerk. Each of the foregoing officers of the City, after filing with the Secretary of State of New Mexico his or her manual signature certified by him or her under oath, may execute or cause to be executed or attest or cause to be attested the Bonds with a facsimile signature in lieu of his or her manual signature.

In case any officer of the City whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the authentication by the Trustee and delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery; and any Bond may be signed on behalf of the City by such persons as at the time of execution of such Bond shall be the proper officers of the City, even though at the date of such Bond or of the adoption of this Ordinance any such person was not such officer.

The Bonds and the interest thereon shall not be general obligations or an indebtedness of the City within the meaning of Article 9, Sections 12 and 13 of the Constitution of New Mexico, but shall be limited obligations of the City the principal of and premium, if any, and interest on which shall be payable solely from and secured by a pledge of the applicable Receipts and Revenues of the City from the Installment Sale Agreements and other moneys pledged therefor under this Ordinance. As additional security for the payment of the principal of and premium, if any, and interest on the Bonds, the City hereby pledges and assigns to the Trustee all its rights and interest under the Installment Sale Agreements except for the City's rights under Sections 5.05, 5.08 and 8.05, and clause (ii) of paragraph (b) of Section 8.03, thereof. The Bonds shall never constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and shall never constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers, and such fact shall be plainly stated on each Bond.

Section 2.07 Authentication. Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form set forth in Exhibit A through D hereof duly executed by the Trustee shall be entitled to any right or benefit under this Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such

certificate of authentication shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed with an authorized signature of the Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bonds issued hereunder.

Section 2.08 Initial Delivery of Bonds. The City shall execute and deliver to the Trustee and the Trustee shall authenticate the Bonds. The Trustee shall deliver said Bonds to the initial purchasers thereof as may be directed hereinafter in this Section 2.08.

Prior to the delivery by the Trustee of the Bonds there shall be or have been delivered to the Trustee:

(1) A duly certified copy of this Ordinance.

(2) An original duly executed counterpart or a duly certified copy of each of the Installment Sale Agreements.

(3) An original duly executed counterpart or a duly certified copy of the applicable Letter of Credit, if any, which applies to the Bonds.

(4) An original duly executed counterpart or a duly certified copy of a Guaranty relating to the Bonds.

(5) A request and authorization to the Trustee on behalf of the City and signed by the Mayor to authenticate and deliver the Bonds to the purchaser or purchasers therein identified upon payment to the Trustee, but for the account of the City, of a sum specified in such request and authorization plus any accrued interest on such Bonds to the date of delivery, in the aggregate principal amount determined by this Ordinance. consenting to each and every provision of this Ordinance, including any Supplemental Ordinance.

(6) A written statement on behalf of the Company, executed by an Authorized Company Representative, (i) approving the issuance and delivery of the Bonds and (ii) consenting to each and every provision of this Ordinance, including any Supplemental Ordinance.

(7) An opinion of Counsel that the Company Indenture, the Senior Unsecured Notes issued thereunder, and each such Guaranty are valid and binding obligations.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate a new Bond of like date, maturity and denomination and bearing a number not contemporaneously outstanding; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City, the Trustee and the Company evidence of such loss, theft or destruction satisfactory to the City, the Trustee and the Company, together with indemnity, satisfactory, to them. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto. In the event any such Bond shall have matured or is about to mature, or has been called for redemption, instead of issuing a duplicate Bond the City may, with the consent of the Bondholder, pay the same without replacement thereof if in the case of a mutilated Bond, such mutilated Bond shall first have been surrendered to the Trustee and in the case of a lost, stolen or destroyed Bond there shall be first furnished to the City, the Company and the Trustee evidence of such loss, theft or destruction satisfactory to the City, the Trustee and the Company, together with indemnity satisfactory to them. The City and the Trustee may charge the holder of such Bond with the reasonable fees and expenses of the City and the Trustee in connection with any transaction described in this Section 2.09.

Every replacement Bond issued pursuant to the provisions of this Section 2.09 by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute an additional contractual obligation of the City (payable only as provided herein), whether or not the lost, stolen or destroyed Bond shall be at any time enforceable, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued hereunder. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive With respect to the replacement or payment of mutilated, lost, stolen or destroyed Bonds, and shall preclude any and all other rights or remedies, notwithstanding any law or statute now existing or hereafter enacted.

Section 2.10 Transfer of Bonds; Persons Treated as Owners. The provisions of this Section 2.10 are made subject to the provisions of Section 2.12 hereof which shall control for Bonds which are issued in the book-entry form. All the Bonds issued under this Ordinance shall be negotiable, subject to the provisions for registration and transfer contained in this Ordinance and in the Bonds. The Trustee shall be the Registrar for the Bonds. So long as any of the Bonds shall remain Outstanding, the Registrar shall maintain and keep, at its Principal office, books for the registration and transfer of Bonds, which books shall contain a list of names and addresses of all Bondholders, a record of the principal amount of Bonds owned by such Bondholders, the identity number or numbers of the Bond or Bonds owned by such Bondholders, a record of all payments made by the Trustee to or for the account of such Bondholders and such other matters as the Registrar deems necessary. The information required to be kept by the Registrar hereunder shall be maintained for five years after the expiration of the term of the Bonds.

Upon presentation of any Bond for registration of transfer at the Principal Office of the Registrar, the Registrar shall register or cause to be registered on the books of the Registrar, and permit the registration of transfer thereon, under such reasonable regulations as the Registrar may prescribe, any such Bond entitled to registration of transfer.

The registration of transfer of each Bond shall be made only upon the books of the Registrar, which shall be kept for that purpose at the Principal Office of the Registrar, by the Owner thereof in person or his attorney duly authorized in writing, upon surrender of such Bond thereof at said office, together with a written instrument of transfer satisfactory to the Registrar duly executed by the owner or his duly authorized attorney. Upon the registration of transfer of any such Bond or Bonds, the City shall issue in the name of the transferee, in authorized denominations, a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate as the surrendered Bond or Bonds. Any transfer of a Bond or Bonds during the occurrence and continuance of an Event of Default of which the Trustee is required to take notice or deemed to have notice pursuant to Section 10.05 hereof shall be accompanied by notice of the occurrence and continuance of such Event of Default to the new Owner or Owners.

The City, the Trustee, the Registrar and the Paying Agent may deem and treat the Owner of any Bond as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and premium, if any, and interest on such Bond and for all other purposes, and all such payments so made to any such Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City, the Trustee nor the Paying Agent shall be affected by any notice to the contrary.

In all cases in which the privilege of transferring Bonds is exercised, the City shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. All Bonds surrendered in any such transfers shall forthwith be canceled by the Trustee. For every such transfer of Bonds, whether temporary or definitive, the City, the Registrar or the Trustee may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such transfer, which sum or sums shall be paid by the person requesting such transfer as a condition precedent to the exercise of the privilege of making such transfer.

Except in connection with any optional or mandatory tender of Bonds pursuant to Section 2.03(A)(3), 2.03(B)(3) or (4), 2.03(C)(3) or (4) or 2.03(D)(3) hereof, the Trustee shall not be obligated to make any registration of transfer of Bonds during the three Business Days next preceding an Interest Payment Date or, in the case of any proposed redemption of Bonds, next preceding the date of the first mailing of notice of such redemption. The Trustee shall not make any registration of transfer of any Bonds called for redemption except to a purchaser who acknowledges in writing to the Trustee at the time of such purchase receipt of notice of the terms of the call for redemption required by Section 3.02 hereof and, if 30 or fewer days remain to the proposed redemption date, waives the right to have received such notice within the period set forth in Section 3.02 hereof.

Anything in this Ordinance or in the Bonds to the contrary notwithstanding, (i) during the Effective Period of a Letter of Credit, the Registrar shall not register any transfer of or deliver any Company Bonds unless the Company shall have delivered, or caused to be delivered, to the Trustee evidence from the Bank satisfactory to the Trustee that after such transfer, drawings may be made under the applicable Letter of Credit in an aggregate amount at least equal to the principal amount of all Outstanding Bonds entitled to the benefits of such Letter of Credit which immediately after such transfer will not be Company Bonds plus the appropriate number of days of interest on such Bonds and (ii) subsequent to the Effective Period of a Letter of Credit and so long as any moneys are in the subaccounts of the Letter of Credit Account in the Bond Fund or the Letter of Credit Purchase Price Account in the Bond Purchase Fund, the Registrar shall not register any transfer of any Company Bond.

Section 2.11 Temporary Bonds; Replacement Bonds. (a) Pending the preparation of definitive Bonds, the City may execute and the Trustee shall authenticate and deliver temporary Bonds. Temporary Bonds shall be issuable as registered Bonds of any authorized denomination and substantially in the form of the definitive Bonds but with such omissions, insertions and variations as may be appropriate for temporary Bonds, all as may be determined by the City. Temporary Bonds may be issued without specific redemption prices and may contain such reference to any provisions of this Ordinance as may be appropriate. Every temporary Bond shall be executed by the City and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Bonds. As promptly as practicable the City shall execute and furnish definitive fully registered Bonds and thereupon temporary Bonds may be surrendered in exchange therefor without charge at the Principal Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds a like aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged any temporary Bonds shall be entitled to the same benefits under this Ordinance as definitive Bonds.

(b) The City shall execute and the Trustee shall authenticate and deliver Replacement Bonds to replace Undelivered Bonds (or portions thereof). Any such Replacement Bond shall be executed and authenticated as provided in this Ordinance. Replacement Bonds shall be issued in the appropriate form and shall contain such other provisions as are consistent with the provisions of this Ordinance. The Company shall bear all expenses in connection with the preparation and delivery of the Replacement Bonds. Notwithstanding anything contained herein to the contrary, before delivering any Replacement Bonds to replace any Undelivered Bond or Bonds (or portion thereof), the Trustee may require satisfactory indemnity to be furnished by the Company for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any such action so taken. Replacement Bonds shall not be deemed to create new indebtedness but shall be deemed to evidence the indebtedness previously evidenced by the Undelivered Bond or Bonds (or portion thereof).

Section 2.12 Book-Entry-Only Registration of the Bonds. (a) Except as provided in subparagraph (c) of this Section 2.12 and except for any Bonds with respect to which DTC (as herein defined) or any successor securities depository shall not be providing its services described in this Section 2.12, the registered Owner of all of the Bonds shall be, and the Bonds shall be registered in the name of, Cede & Co. ("Cede"), as nominee of The Depository Trust Company ("DTC"), New York, New York. Payment of interest on any Bond, as applicable, shall be made

in accordance herewith to the account of Cede on the Interest Payment Date for the Bonds at the address indicated for Cede, in the registry books of the City kept by the Registrar.

(b) The Bonds shall be initially issued in the Book-Entry System, as a fully registered certificate representing each maturity of principal. Upon initial issuance the ownership of each such Bond shall be registered in the registry books of the City kept by the Registrar in the name of Cede, as nominee of DTC. So long as such Bonds are in the Book-Entry system, the City, the Company, the Trustee, the Registrar and the Paying Agent shall treat DTC (or its nominee) as the sole and exclusive Owner of such Bond registered in its name for the purposes of: (i) payment of the principal, redemption price or Purchase Price of, and interest on, each such Bond, (ii) selecting such Bonds or portions thereof to be redeemed, (iii) giving any notice permitted or required to be given to Bondholders, (iv) registering the transfer of such Bonds, and (v) obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and the Trustee shall not be affected by any notice to the contrary. In order to effect permissive purchases of 2003 Series A Bonds pursuant to this Ordinance, Beneficial Owners must act only through their DTC participants ("Direct Participants") and the Board, the Trustee, the Bond Registrar, the Paying Agent, the Transfer Agent and the Company will have no responsibility therefor whatsoever. Purchasers of Bonds held under the book-entry system must be made by or through Direct Participants which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "Beneficial Owner") is in turn to be recorded on the records of the Direct Participants or indirect participants that clear through or maintain a custodial relationship with a Direct Participant either directly or indirectly ("Indirect Participants"). So long as the Bonds are held in the Book-Entry system, the Paying Agent or the Trustee, as the case may be, shall pay the principal, redemption price or Purchase Price of, and interest on, all Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to such principal or redemption price or Purchase Price, and interest, to the extent of the sum or sums so paid. Transfer or crediting of the applicable principal, interest or redemption premium payments made by the Trustee to DTC and by DTC to Direct Participants shall be the sole responsibility of DTC, and transfer of same to Beneficial Owners or their nominees shall be the sole responsibility of DTC and the Direct Participants. So long as any such 2003 Series A Bonds are held in the Book-Entry System, no person other than DTC shall receive an authenticated 2003 Series A Bond certificate. Upon delivery by DTC to the Paying Agent and the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the transfer provisions of this Ordinance, the word "Cede" herein shall refer to such new nominee of DTC. Transfers of ownership of the Bonds are to be accomplished by entries made on the books of the Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

(c) (1) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving reasonable prior written notice to the City, the Company, the Trustee and the Paying Agent and discharging its responsibilities with respect thereto under applicable law.

(2) The City, at the sole discretion and direction of the Company and without the consent of any other person, may terminate the services of DTC with respect to the Bonds if the Company determines that the continuation of the system of book-entry-only transfers through DTC (or a successor securities depository) is not in the best interests of the beneficial owners of the Bonds or is burdensome to the City or the Company.

(3) Upon the termination of the services of DTC with respect to the Bonds pursuant to Section 2.12(c)(1) or (2) hereof, after which the City at the written direction of the Company has not within 90 days appointed a substitute securities depository which, in the opinion of the Company, is willing and able to undertake the functions of DTC upon reasonable and customary terms, the Bonds shall no longer be

restricted to being registered in the registration books kept by the Registrar in the name of Cede as nominee of DTC; provided, however, there shall have been delivered an opinion of Bond Counsel to the effect that the release of said restrictions will not adversely affect the exclusion of the interest on the Bonds from gross income for purposes of Federal income taxation. In such event, the City shall issue and the Registrar shall transfer and exchange Bond certificates of like principal amount, and maturity, in authorized denominations to the Direct Participants or the identifiable Beneficial Owners (as identified by DTC or the Direct Participants) in replacement of such Beneficial Owners' beneficial interests in the Bonds.

(d) Bonds convertible to the Flexible Mode shall be issued in certificated form unless DTC (or a successor securities depository) has established a book-entry system which can accommodate instruments such as the Bonds and the City, at the direction of the Company, determines to use the facilities of DTC (or such successor securities depository) for Bonds in the Flexible Mode.

(e) Notwithstanding any other provision of this Ordinance or of the Bonds to the contrary, so long as any Bond is registered in the name of Cede, as nominee of DTC, all payments with respect to the principal, redemption price or Purchase Price of, and interest on, such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the Letter of Representation (as defined below) of the City, the Trustee, the Remarketing Agents and the Paying Agent addressed to DTC with respect to the Bonds.

(f) In connection with any notice or other communication to be provided to Bondholders pursuant to this Ordinance by the City, the Paying Agent, the Registrar or the Trustee with respect to any consent or other action to be taken by the Bondholders, the City, the Paying Agent, the Registrar or the Trustee, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen calendar days in advance of such record date to the extent possible.

The Trustee hereby agrees to maintain a payment record reflecting the amount of all payments, any redemption and the date of such payments and redemption. Such payment record shall be conclusive evidence of the amount of Bonds Outstanding at any time.

The Trustee further agrees that it will, together with the City, the Paying Agent and the Remarketing Agent, if not previously on file, execute and deliver to DTC a letter of representation in customary form with respect to the Bonds (the "Letter of Representation"). In the event of any inconsistency between the terms of such Letter of Representation and the terms hereof, the terms of such Letter of Representation shall govern and compliance by the Trustee with the terms thereof shall constitute performance of the inconsistent terms hereof.

(g) For so long as the Bonds are held in book-entry form with one Bond for each maturity in each Mode registered in the name of Cede on the registration books of the Registrar, any Bond called for partial redemption in accordance herewith shall become due and payable on the redemption date designated in the notice of redemption given in accordance with this Ordinance at, and only to the extent of, the redemption price, plus accrued interest to the specified redemption date; and any such Bond shall be paid, to the extent so redeemed, (i) upon presentation and surrender thereof at the office specified in such notice or (ii) at the written request of Cede, by check or draft or by wire transfer to Cede by the Paying Agent, as provided in the form of Bonds. If, on the redemption date, moneys for the redemption of Bonds (or portions thereof) of such maturity to be redeemed, together with interest to the redemption date, shall be held by the Paying Agent so as to be available therefor on such date, and after notice of redemption shall have been given in accordance with this Ordinance, then, from and after the redemption date, the aggregate principal amount of the Bond so called for redemption and registered in the name of Cede shall be immediately reduced by an amount equal to the aggregate principal amount thereof so redeemed, notwithstanding whether such Bond has been surrendered to the Paying Agent for cancellation and notwithstanding anything to the contrary contained in this Ordinance or in the Bonds. Notwithstanding

any provision of this Ordinance or in the Bonds to the contrary, the City, the Trustee, the Registrar and the Paying Agent may agree to allow DTC, or its nominee, Cede, to make a notation on any Bond redeemed in part to reflect, for informational purposes only, the principal amount and date of any such redemption.

Section 2.13 Remarketing of Bonds. (A) Upon the tender of any Bonds in accordance with Section 2.03(A)(3), 2.03(B)(3) or (4), 2.03(C)(3) or (4) or 2.03(D)(3) hereof, the Remarketing Agent shall offer for sale and use its best efforts to sell such Bonds (or portions thereof) on any Purchase Date for such Bonds at the Purchase Price. If such Bonds are not remarketed, the Remarketing Agent shall continue to use its best efforts to remarket such Bonds unless otherwise directed by the Company.

(B) No Remarketing Agent for the Bonds shall remarket any Bonds pursuant to this Section 2.13 (i) if an Event of Default shall have occurred and be continuing hereunder with respect to such Bonds and such Remarketing Agent shall have received notice of such Event of Default pursuant to Section 9.01(3) or (4) hereof and (ii) following a failed conversion of such Bonds pursuant to Section 2.03(A)(2), 2.03(B)(2), 2.03(C)(2), 2.03(D)(2) hereof so long as such Bonds remain in the Flexible Mode with a Rate Period of one day. Furthermore, the Remarketing Agent shall have any obligation to remarket or attempt to remarket the Bonds upon such additional events or in such additional circumstances as may be agreed to between the Company and the Remarketing Agent in the Remarketing Agent Agreement.

(C) The Remarketing Agent shall give notice to the Paying Agent, the Trustee, the Company and the Bank by telephone, promptly confirmed in writing, specifying the principal amount of Tendered Bonds as to which the Remarketing Agent has found purchasers, the amounts such Remarketing Agent has received for the purchase of Tendered Bonds, and any deficiency in amounts available to pay the Purchase Price of Tendered Bonds at or before (i) 9:00 a.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Flexible Mode immediately after the Purchase Date, (ii) 4:00 p.m., New York City time, on the first Business Day immediately preceding the Purchase Date for Tendered Bonds that are to be in the Daily Mode immediately after the Purchase Date, (iii) 4:00 p.m., New York City time, on the first Business Day immediately preceding the Purchase Date for Tendered Bonds that are to be in the Weekly Mode immediately after the Purchase Date, or (iv) 2:00 p.m., New York City time, on the second Business Day immediately preceding the Purchase Date for Tendered Bonds that are to be in the Multiannual immediately after the Purchase Date. If the Trustee shall fail to receive such notice from such Remarketing Agent at the time set forth in the immediately preceding sentence, the Trustee shall nevertheless make drawings under the applicable Letter of Credit to provide the holders of the Bonds entitled to the benefits of a Letter of Credit moneys with respect to the Purchase Price of such Bonds at the times specified in the form of Bonds and as required by Section 5.01(b) hereof. The Remarketing Agent shall give written notice to the Paying Agent of the names, addresses and taxpayer identification numbers of the purchasers and the number and denominations of Bonds to be delivered to the purchaser, and the current rate and the next scheduled Purchase Date of each such Bond successfully remarketed at or before (w) 1:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Flexible Mode immediately after the Purchase Date, (x) 4:00 p.m., New York City time, on the first Business Day immediately preceding the Purchase Date for Tendered Bonds to be in the Daily Mode immediately after the Purchase Date, (y) 4:00 p.m., New York City time, on the first Business Day immediately preceding the Purchase Date for Tendered Bonds to be in the Weekly Mode immediately after the Purchase Date, or (z) 2:00 p.m., New York City time, on the second Business Day immediately preceding the Purchase Date for Tendered Bonds to be in the Multiannual Mode immediately after the Purchase Date.

(D) The Remarketing Agent shall deliver to the Paying Agent all amounts received by the Remarketing Agent as proceeds of the remarketing of such Bonds at or before (i) 4:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Flexible Mode immediately after the Purchase Date, (ii) 2:00

p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Daily Mode immediately after the Purchase Date, (iii) 2:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Weekly Mode immediately after the Purchase Date, or (iv) 2:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Multiannual Mode immediately after the Purchase Date.

Section 2.14 Remarketing of Bonds Tendered. Any purchase of Tendered Bonds shall be made by payment of the Purchase Price in immediately available funds by the Paying Agent at the time specified in Section 2.13(D) hereof. The Purchase Price shall be equal to the principal amount to be purchased together with the interest accrued on such principal amount to the Purchase Date; provided that, (a) with respect to Bonds in the Daily Mode, Weekly Mode or Multiannual Mode, if the Purchase Date is an Interest Payment Date, accrued interest shall be paid separately and not as part of the Purchase Price on such date and (b) with respect to Bonds in the Flexible Mode, accrued interest shall always be paid separately and not as part of the Purchase Price. By (i) 4:00 p.m., New York City time, in the case of Bonds that are to be in the Flexible Mode immediately after the Purchase Date, (ii) 4:00 p.m., New York City time, in the case of Bonds that are to be in the Daily Mode immediately after the Purchase Date, (iii) 4:00 p.m., New York City time, in the case of Bonds that are to be in the Weekly Mode immediately after the Purchase Date, or (iv) 4:00 p.m., New York City time, in the case of Bonds that are to be in the Multiannual Mode immediately after the Purchase Date, on the Purchase Date, Bonds remarketed under this Section 2.14 shall be made available by the Paying Agent to the purchasers thereof (in the case of Bonds in the Flexible Mode, delivered by the Paying Agent to the Remarketing Agent) and shall be registered in the manner directed by the recipient thereof; provided that such Bonds shall not be delivered unless and until the Paying Agent has received the Purchase Price therefor, except that Bonds in the Flexible Mode may be delivered against a window receipt guaranteeing same day payment in immediately available funds; and provided, further, that if the Purchase Price of any Bonds shall have been paid by moneys drawn under a Letter of Credit, such Bonds shall not be delivered until the Trustee shall have received written notice from the Bank that the Bank has been fully reimbursed therefor under the applicable Reimbursement Agreement and as a result the corresponding amount available to be drawn under such Letter of Credit has been reinstated. Bonds not remarketed shall constitute Company Bonds.

Section 2.15 Remarketing of Bonds in the Daily, Weekly, Flexible or Multiannual Mode Between Notice and Redemption or Conversion Date. No Bonds in the Daily, Weekly, Flexible or Multiannual Mode scheduled to be redeemed or converted to a different Mode may be remarketed after receipt by the Remarketing Agent of notice of redemption or conversion of such Bonds to a specified Mode from the Company unless the Remarketing Agent, on or before the Purchase Date, gives notice to the purchaser that the Bonds will be redeemed or converted, and such purchaser will be required to surrender its Bonds for payment on the applicable redemption date or to tender its Bonds for mandatory purchase on the applicable Conversion Date, as the case may be.

Section 2.16 CUSIP Numbers. All payments of principal, premium and interest, whether by check or draft or wire transfer, shall be accompanied by the appropriate CUSIP number identification with appropriate dollar amounts for each CUSIP number.

Section 2.17 Certain Remarketing of Bonds Prohibited. No Bonds may be remarketed by the Remarketing Agent to the Company, the City or any other person known by the Remarketing Agent to be an affiliate of either of the foregoing.

ARTICLE III

Redemption

Section 3.01 Redemption Dates and Prices.

(a) Optional Redemption.

(i) On any Interest Payment Date during a Rate Period in which Bonds are in the Daily Mode or Weekly Mode, such

Bonds shall be subject to optional redemption by the City, upon the exercise by the Company of its option to prepay (except the option referred to in Section 3.01(b) hereof) all or a part of the unpaid balance of the Project Purchase Price and cause such Bonds to be redeemed, in whole or in part, at a redemption price equal to 100% of their principal amount, plus accrued interest, if any, to the redemption date.

(ii) On any Effective Date during a Rate Period in which Bonds are in the Flexible Mode, such Bonds shall be subject to optional redemption by the City, upon the exercise by the Company of its option to prepay (except the option referred to in Section 3.01(b) hereof) all or a part of the unpaid balance of the Project Purchase Price and cause such Bonds to be redeemed, in whole or in part, at a redemption price equal to 100% of their principal amount, plus accrued interest, if any, to the redemption date.

(iii) During a Rate Period in which Bonds are in the Multiannual Mode, such Bonds shall be subject to optional redemption by the City, upon the exercise by the Company of its option to prepay (except the option referred to in Section 3.01(b) hereof) all or a part of the unpaid balance of the Project Purchase Price and cause such Bonds to be redeemed, in whole, at any time or in part on any Interest Payment Date upon payment of the applicable redemption price, expressed as a percentage of the principal amount of such Bonds to be redeemed, set forth below, plus accrued interest, if any, to the redemption date:

Rate Periods Remaining Term to Maturity	No Call Period	Redemption Price
Greater than or equal to 11 years	10 years	101% declining by 1% on each succeeding anniversary of the end of the no call period until reaching 100%, and thereafter at 100%

(iv) If the Bonds are initially issued in the Multiannual Mode with a Rate Period ending on the maturity date of the Bonds, the Bonds are subject to redemption at the direction of the Company at such terms and redemption price as set forth in the Resolution of the City supplementing the Ordinance; provided that, if less than all of the Outstanding Bonds shall be called for redemption, the Company shall designate (to the extent not otherwise prohibited) the amount of Bonds and Mode to be redeemed, and if less than all of the Outstanding Bonds in any Mode shall be called for redemption, Bonds to be so redeemed in such Mode shall be selected by the Paying Agent by lot or in any customary manner of selection as determined by the Paying Agent) at the redemption prices plus accrued interest to the redemption date as described in the forms of Bonds hereof. For purposes of this Section 3.01, references to the term Mode shall be deemed to include different Rate Periods within the Multiannual Mode. Notwithstanding the optional redemption provisions in the forms of the Multiannual Bonds, such redemption provisions may be revised by the Remarketing Agent in connection with a conversion, upon delivery by the Company of an opinion of Bond Counsel acceptable to the Paying Agent in form satisfactory to the parties, that the revisions to the optional redemption provisions are valid under New Mexico law and will not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes. In determining any revisions to the optional redemption provisions, the Remarketing Agent shall take into account redemption provisions and call protection for securities having an investment quality which is, in the judgment of the Remarketing Agent, approximately the same as the Bonds.

(b) Extraordinary Optional Redemption. The Bonds are subject to redemption prior to maturity as a whole or in part (provided that, if less than all of the Outstanding Bonds shall be called for redemption, the Company shall designate (to the extent not otherwise prohibited) the amount of Bonds and the Mode to be redeemed, and if less

than all of the Outstanding Bonds in any Mode shall be called for redemption, Bonds to be so redeemed in such Mode shall be selected by the Paying Agent by lot or in any customary manner of selection as determined by the Paying Agent) at any time at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date upon the exercise by the Company of its option to prepay all or a part of the unpaid balance of the Project Purchase Price in accordance with Section 9.01(a) of Installment Sale Agreements if the Company shall have determined that the continued operation of any part of the Facilities relating to any of the electrical generating units in connection with which the Facilities are to be utilized at the Plants or the operation of any such unit or any other part of the Facilities is impractical, uneconomical or undesirable for any reason; provided, however, that there shall not be so redeemed Company Bonds.

(c) Mandatory Redemption. Bonds that are entitled to the benefits of a Letter of Credit are subject to mandatory redemption in whole on any day within fifteen days after receipt by the Trustee from the Bank of a notice pursuant to any applicable Reimbursement Agreement or Letter of Credit stating that an "event of default" thereunder has occurred. Such Credit Supported Bonds so redeemed will be redeemed at a redemption price equal to 100% of the principal amount to be redeemed plus unpaid interest accrued to the redemption date.

(d) Special Mandatory Redemption. Prior to the date that the Bonds are deemed paid in accordance with Section 8.02 hereof, the Bonds are subject to special mandatory redemption in whole or in part and shall be redeemed at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date on the 180th day (or such earlier date as may be designated by the Company) after a final determination by a court of competent jurisdiction or an administrative agency to the effect that, as a result of failure by the Company to perform or observe any covenant, agreement or representation in the Installment Sale Agreements, the interest payable on the Bonds is includable in whole for Federal income tax purposes in the gross income of the holders thereof, other than any holder who is a "substantial user" of the Facilities or a "related person" within the meaning of Section 147(a) of the Code; provided, however, that there shall not be so redeemed Company Bonds. No determination by any court or administrative agency shall be considered final unless the Company shall have participated in the proceeding which resulted in such determination, either directly or through a Bondholder, to a degree it deems sufficient and until conclusion of any appellate review or reviews sought by any party to such proceeding or the expiration of the time for seeking such review or reviews. The Bonds shall be redeemed either in whole or in part (provided that, if less than all of the Bonds Outstanding shall be called for redemption, the Company shall designate (to the extent not otherwise prohibited) the amount of Bonds and the Mode to be redeemed, and if less than all of the Bonds Outstanding in any Mode shall be called for redemption, Bonds to be so redeemed in such Mode shall be selected by the Paying Agent by lot or in any customary manner of selection as determined by the Paying Agent) in such principal amount as may be required so that, in the opinion of Bond Counsel, the interest payable on the Bonds remaining Outstanding after such redemption would not be includable in whole in the gross income of any holder thereof for Federal income tax purposes, other than a holder who is a "substantial user" of the Facilities or a "related person" within the meaning of Section 147(a) of the Code.

(e) Sinking Fund. The Bonds shall be subject to such sinking fund and other redemption provisions as may be set forth by a resolution of the City Council of the City adopted prior to the issuance of such Bonds. In lieu of making all or any part of any sinking fund payment in cash, the Company may at its option (i) deliver to the Trustee any Bonds which are entitled to the benefit of such sinking fund theretofore acquired by the Company and receive credit therefor and (ii) receive credit for Bonds which are entitled to the benefit of such sinking fund theretofore delivered to the Trustee by the Company or acquired by the Trustee or redeemed otherwise than through operation of the sinking fund or deemed to have been paid in accordance with Section 8.02 hereof, and, in any case, not theretofore applied as a credit against any sinking fund payment. On or before the fortieth day next preceding such sinking fund payment date, the Company shall deliver to the Trustee (x) a certificate of an Authorized Company Representative specifying the portions of such sinking fund payment to be satisfied by payment of cash, by delivery of Bonds theretofore acquired and by credit

for Bonds previously delivered, acquired, redeemed or deemed to have been paid in accordance with Section 8.02 hereof, stating that no such Bonds have theretofore been made the basis of any credit against any sinking fund payment, and (y) such Bonds theretofore acquired by the Company to the extent not previously delivered to the Trustee. Such Bonds shall be credited against sinking fund requirements at 100% of the principal amount thereof.

Section 3.02 Notice of Redemption. If any of the Bonds are called for redemption, and provided that, if the redemption is at the option of the Company pursuant to Section 3.01(a) or (b) hereof, the Company shall have given written notice of such redemption to the Trustee not less than 45 days prior to the date fixed for redemption, notice of redemption shall be given by the Trustee electronically or by first class mail not less than 30 days or more than 60 days prior to the redemption date (except that notice of redemption pursuant to Section 3.01(c) hereof of Credit Supported Bonds shall be given as promptly as practicable after receipt by the Trustee of notice from the Bank, and notice of any optional redemption of Bonds in the Flexible Mode shall not be given) as follows: (i) to the respective holders of the Bonds designated for redemption by first class mail at their addresses appearing on the bond registration books of the Registrar, (ii) to the securities depositories that are registered owners, (iii) to two national information services such as Kenny Information Systems Notification Service, 65 Broadway, 16th Floor, New York, New York 10004, (iv) to the Bondholders of $1,000,000 or more in aggregate principal amount of Bonds and (v) to the trustee under the Company Indenture (or the Governing Instrument, in the event of an exchange pursuant to Section 12.09(b) hereof).

Each notice of redemption shall state at a minimum the complete official name of the issue, including designation, CUSIP number, certificate numbers, amounts called of each certificate (for partial calls), publication date, the date of issue, interest rate, maturity date of the Bonds, the redemption date, the redemption price, the place or places of redemption and appropriate address or addresses with name of contact person and telephone number.

Any notice for the redemption of any Bond mailed as provided herein shall be conclusively deemed to have been duly given whether or not such notice is received. Failure to mail any such notice to any Bondholder or information service or any defect therein shall not affect the validity of the proceedings for such redemption as to the Owners of any Bonds to whom notice has been mailed.

With respect to any notice of optional redemption of Bonds, unless upon the giving of such notice such Bonds or portions thereof shall be deemed to have been paid within the meaning hereof, such notice shall state that such redemption shall be conditioned upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, premium, if any, and interest on such Bonds or portions thereof to be redeemed or satisfaction of such other conditions as may be set forth therein, and that if such moneys shall not have been so received or such other conditions shall not have been satisfied said notice shall be of no force and effect and the City shall not be required to redeem such Bonds or portions thereof. In the event that such notice of redemption contains such a condition and such moneys are not so received or such other conditions are not satisfied, the redemption shall not be made and the Trustee shall within five days thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received or such other conditions were not satisfied.

Section 3.03 Cancellation. All Bonds which have been surrendered for the purpose of payment (including Bonds which have been redeemed prior to maturity) shall be canceled, may be subsequently destroyed by the Trustee and shall not be reissued, and a written notice of such cancellation and destruction, if such occurs, shall be furnished by the Trustee to the City and the Company. The Company may deliver to the Trustee any Bonds owned by the Company for cancellation pursuant to this Section 3.03. The cancellation by the Trustee of Bonds purchased by the Company or of Bonds redeemed or purchased by the City through funds other than funds received with respect to the Project Purchase Price shall constitute payment of an amount of the Project Purchase Price equal to the principal amount of the Bonds so canceled.

Section 3.04 Payment of Bonds Upon Redemption; Partial Redemption. In the event of any redemption of the Bonds, the Paying Agent shall pay the redemption price of the Bonds on the redemption date for the Bonds in lawful money of the United States of America upon presentation of the Bonds to be redeemed at the Principal Office of the Paying Agent. All redemptions of the Bonds shall be made with Available Moneys.

The Bonds shall be redeemed only in the principal amount of $100,000 or any integral multiple of $5,000 in excess thereof for Bonds in the Flexible Mode, $5,000 or any integral multiple thereof for Bonds in a Multiannual Mode or $100,000 or any integral multiple thereof for Bonds in a Daily Mode or Weekly Mode. In the event of the partial redemption of a Bond of denomination greater than $100,000 (or $5,000 or any integral multiple thereof for Bonds in a Multiannual Mode), then for all purposes in connection with such redemption, each $100,000 or $5,000 of face value, as the case may be, shall be treated as though it were a separate Bond in the denomination of $100,000 or $5,000, as the case may be. If it is determined that one or more, but not all, of the $100,000 or $5,000, as the case may be, units of face value represented by any Bond are to be redeemed, then on the redemption date for such Bond, the Owner of such Bond shall forthwith surrender such Bond to the Paying Agent (i) for payment of the redemption price (including accrued interest or interest due thereon on the date fixed for redemption) of the portion thereof called for redemption and (ii) at the option of the Owner of such Bond (1) for appropriate endorsement thereon to reflect such redemption or (2) for exchange for Bonds, without charge therefor, in any authorized denomination or denominations in exchange for and in the aggregate principal amount of the unredeemed portion of such Bond. If the holder of any such Bond of a denomination greater than $100,000 or $5,000, as the case may be, shall fail to present such Bond to the Paying Agent for payment and endorsement or exchange, as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the $100,000 or $5,000, as the case may be, unit or units of principal amount called for redemption (and to that extent only).

Section 3.05 Redemptions During Event of Default. Anything in this Ordinance to the contrary notwithstanding, if there shall have occurred and be continuing an Event of Default, there shall be no redemption of less than all of the Bonds at the time Outstanding, except Bonds deemed to have been paid in accordance with Section 8.02 hereof prior to the occurrence of such Event of Default and Company Bonds.

Section 3.06 Deposit of Moneys; Interest to Cease to Accrue. For the redemption of any of the Bonds, the City shall cause to be deposited in the Bond Fund, on the redemption date, out of the Receipts and Revenues of the City from the Installment Sale Agreements or drawings on any Letter of Credit or Alternate Security relating to such Bonds, an amount sufficient to pay the principal of and premium, if any, and interest to become due on such redemption date. Any amount in the Bond Fund pursuant to Section 4.03 hereof and available therefor shall be credited against any amount required to be caused to be so deposited in the Bond Fund.

Moneys for payment of the principal of and premium, if any, and interest to the date of redemption on Bonds called for redemption as hereinabove provided shall be set aside by the Trustee in trust for the Owners of such Bonds. Interest on such Bonds shall cease to accrue on the date fixed for redemption.

ARTICLE IV

Funds

Section 4.01 Creation of the Bond Fund. There is hereby created by the City and ordered established with the Trustee a trust fund to be designated "City of Farmington, New Mexico, Pollution Control Revenue Refunding Bond Fund, 2016 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects)" (such fund is herein referred to as the "Bond Fund") which shall be used to pay the principal of, and the redemption premium (if any) and the interest on the Bonds when due. There shall be established as separate accounts within the Bond Fund, if applicable, a Letter of Credit Account, an Alternate Security Account, an Earnings Account, a Capital Account and a General Account and moneys therein shall not be commingled. Within the Letter of Credit Account

there shall be established by the Trustee separate sub-accounts with respect to each Letter of Credit and moneys therein shall not be commingled. Within the Alternate Security Account there shall be established by the Trustee separate sub-accounts with respect to each Alternate Security and moneys therein shall not be commingled.

Section 4.02 Payments into the Bond Fund. There shall be paid into the General Account in the Bond Fund, as and when received:

(a) the portion of the proceeds of the issuance and sale of the Bonds to which such Bond Fund relates equal to the interest, if any, accrued on such Bonds to the date of delivery of such Bonds paid by the initial purchasers of such Bonds;

(b) all payments specified in Section 5.02 of the Installment Sale Agreements relating to the Bonds to be deposited in the Bond Fund;

(c) all other moneys received by the Trustee under and pursuant to any of the provisions of this Ordinance or either Installment Sale Agreement which are required or which are accompanied by directions that such moneys are to be paid into the Bond Fund; and

(d) any payments by the Company pursuant to the Guaranty or realized upon the security pledged in connection therewith.

With respect to Credit Supported Bonds which are supported by a Letter of Credit, there shall be deposited into the Letter of Credit Account in the Bond Fund in the subaccount with respect to such Letter of Credit all moneys (other than moneys received by the Trustee from drawings under Section 5.01(b)(i) hereof) received by the Trustee under such Letter of Credit and, with respect to Credit Supported Bonds which are supported by an Alternate Security, there shall be deposited into the Alternate Security Account in the Bond Fund in the subaccount with respect to such Alternate Security all moneys (other than moneys received by the Trustee in connection with a purchase of the Bonds to which such Bond Fund relates) received by the Trustee under such Alternate Security, which moneys shall not be commingled with any other moneys held by the Trustee.

Section 4.03 Use of Moneys in the Bond Fund. Except as provided in Section 4.09 hereof and as otherwise expressly provided elsewhere herein, moneys in the Bond Fund shall be used solely for the payment of the principal of, premium, if any, and interest on the Bonds when due on an Interest Payment Date, at maturity, upon acceleration or otherwise and for the redemption of the Bonds at or prior to maturity pursuant to Section 3.01 hereof, but only from the following sources in the order of priority indicated:

(a) For the Bonds entitled to the benefits of a Letter of Credit only, moneys in the subaccount with respect to such Letter of Credit of the Letter of Credit Account, and for Bonds entitled to the benefits of an Alternate Security only, moneys in the subaccount with respect to such Alternate Security of the Alternate Security Account;

(b) Available Moneys from sources other than the Letter of Credit Account or Alternate Security Account; or

(c) Other moneys on deposit in the Bond Fund.

Whenever so directed by a written notice signed by an Authorized Company Representative, and to the extent that moneys are then Available Moneys, the Trustee shall use moneys in the General Account of the Bond Fund as the Company may direct to purchase the Bonds to which such Bond Fund relates then Outstanding on the most advantageous terms obtainable with reasonable diligence, or in such other manner as the Company shall so direct, with the price payable to effect such purchase not to exceed 100% of the principal amount thereof. Accrued interest on the Bonds so purchased, and all expenses in connection with such purchase, shall be paid from Available Moneys in the General Account of the Bond Fund.

The City hereby authorizes and directs the Trustee to withdraw, from time to time, sufficient moneys from the Bond Fund, to draw moneys

under the Letter of Credit in accordance with the terms thereof and the provisions of Section 5.01(a) hereof and to request payment under the Alternate Security, in each case to the extent necessary to pay the principal of, premium, if any, or interest on the Bonds as the same become due and payable, which authorization and direction the Trustee hereby accepts; provided, however, that, anything in this Ordinance to the contrary notwithstanding, the Trustee shall not make a drawing under any Letter of Credit for the payment of principal of, premium, if any, or interest on any Company Bonds or with respect to Bonds which are not entitled to the benefits of such Letter of Credit and shall not request payment under any Alternate Security for the payment of the principal of, premium, if any, or interest on any Company Bonds or with respect to Bonds which are not entitled to the benefits of such Alternate Security.

Section 4.04 Creation of the Bond Purchase Fund. There is hereby created by the City and ordered established with the Trustee a Fund to be designated "City of Farmington, New Mexico Pollution Control Revenue Refunding Bond Purchase Fund, 2016 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects)" (which fund is herein referred to as the "Bond Purchase Fund") which shall be used to pay the Purchase Price of the Bonds required to be purchased under this Ordinance. There shall be established as separate accounts within the Bond Purchase Fund a Letter of Credit Purchase Price Account, an Alternate Security Purchase Price Account and a General Purchase Price Account, and within the Letter of Credit Purchase Price Account there shall be established by the Trustee separate subaccounts with respect to each Letter of Credit, moneys therein shall not be commingled. Within the Alternate Security Purchase Price Account, there shall be established by the Trustee separate subaccounts with respect to each Alternate Security, and moneys therein shall not be commingled.

Section 4.05 Payments into the Bond Purchase Fund. There shall be paid into the General Purchase Price Account in the Bond Purchase Fund as and when received:

(a) the proceeds of any remarketing of the Bonds by the Remarketing Agent pursuant to Section 2.13 hereof;

(b) all payments specified in Section 5.02 of the Installment Sale Agreements to be deposited in the Bond Purchase Fund; and

(c) all other moneys received by the Trustee under and pursuant to any of the provisions of this Ordinance or either Installment Sale Agreement which are required or which are accompanied by directions that such moneys are to be paid into the Bond Purchase Fund.

With respect to Credit Supported Bonds which are supported by a Letter of Credit, there shall by deposited into the Letter of Credit Purchase Price Account in the Bond Purchase Fund in the subaccount with respect to such Letter of Credit all moneys received by the Trustee from drawings under such Letter of Credit pursuant to Section 5.01(b)(i) hereof and, with respect to Credit Supported Bonds which are supported by an Alternate Security, there shall be deposited into the Alternate Security Purchase Price Account in the subaccount with respect to such Alternate Security all moneys received by the Trustee under such Alternate Security, which moneys shall not be commingled with any other moneys held by the Trustee.

Section 4.06 Use of Moneys in the Bond Purchase Fund. (a) Except as provided in Section 4.09 hereof, moneys in the Bond Purchase Fund shall be used solely for the payment of the Purchase Price of the Bonds required to be purchased by the Paying Agent on the Purchase Date.

(b) The City hereby authorizes and directs the Trustee to withdraw, from time to time, sufficient moneys from the Bond Purchase Fund and transfer such moneys to the Paying Agent for use by the Paying Agent to pay the Purchase Price of the appropriate Bonds required to be purchased by the Paying Agent, which authorization and direction the Trustee hereby accepts. The Paying Agent shall return all monies unclaimed on the Purchase Date to the Trustee. The Trustee shall deposit in the Bond Purchase Fund any moneys not claimed on any Purchase Date by any holder of a Bond tendered (or deemed to have been tendered) for purchase on such date when such moneys are delivered to the Trustee by

the Paying Agent. Monies for the payment of the Purchase Price of such Bonds shall be drawn by the Trustee from the Bond Purchase Fund in the order of priority indicated below:

(i) the proceeds of the remarketing of the Bonds by the Remarketing Agent pursuant to Section 2.13 hereof if such proceeds are Available Moneys;

(ii) with respect to Bonds entitled to the benefits of a Letter of Credit only, moneys in the subaccount with respect to such Letter of Credit of the Letter of Credit Purchase Price Account and with respect to Bonds entitled to the benefits of an Alternate Security only, moneys in the subaccount with respect to such Alternate Security of the Alternate Security Purchase Price Account; and

(iii) any other moneys in the Bond Purchase Fund which are then Available Moneys.

Promptly after receiving the notice required to be given to the Trustee by the Remarketing Agent pursuant to Section 2.13 hereof with respect to Bonds entitled to the benefits of a Letter of Credit or Alternate Security, the Trustee is authorized and directed to draw on the Letter of Credit or request payment under the applicable Alternate Security in an amount which together with the proceeds of the remarketing of the Bonds, will provide Available Moneys sufficient to pay the Purchase Price of such Credit Supported Bonds (other than Company Bonds) required to be purchased on the Purchase Date.

Section 4.07 Non-Presentment of Bonds. In the event that any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, at the date fixed for redemption thereof or otherwise, if Available Moneys sufficient to pay such Bonds shall have been deposited in the Bond Fund by the Trustee for the benefit of the holders thereof, all liability of the City to the holder thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such moneys in trust, without liability for interest thereon, for the benefit of the holder of such Bond who shall thereafter be restricted exclusively to such moneys for any claim of whatever nature under this Ordinance or on, or with respect to, said Bond. Such funds shall not be deemed to be part of the Bond Fund and shall not be subject to investment.

In addition, in the event Bonds are deemed to have been tendered for purchase by the Paying Agent and moneys sufficient to pay such Bonds shall have been delivered to the Paying Agent pursuant to Section 4.06(b) hereof and such moneys have been returned to the Trustee as unclaimed, the Company or its designee shall be the holder of such Bonds for all purposes of this Ordinance. All liability of the City to the former holders thereof for the payment of such Bonds shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such moneys in trust, without liability for interest thereon, for the benefit of the former holders of such Bonds who shall thereafter be restricted exclusively to such moneys for any claim of whatever nature under this Ordinance or on, or with respect to, said Bonds. The Trustee shall pay moneys to such former holders only upon surrender to the Trustee of such Undelivered Bonds. Such funds shall not be deemed to be part of the Bond Purchase Fund and shall not be subject to investment.

Any moneys so deposited with and held by the Trustee pursuant to this Section 4.07 and not so applied to the payment of Bonds within two years after the date on which the same shall have become due shall be paid to the Bank or provider of Alternate Security supplying such moneys to the extent of any amounts payable to such Bank or provider of Alternate Security under the applicable Reimbursement Agreement, and the balance, if any, shall be repaid by the Trustee to the Company upon direction of an Authorized Company Representative, and thereafter Bondholders shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and all liability of the Trustee with respect to such money shall thereupon cease, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 4.08 Moneys to be Held in Trust. All moneys paid over to the Trustee for the account of the Bond Fund, the Bond Purchase Fund or the Redemption Fund under any provision of this Ordinance shall be held by the Trustee in trust and applied for the purposes herein specified.

Section 4.09 Payments to the Company From Funds. Any moneys remaining in the Bond Fund, the Bond Purchase Fund, the Redemption Fund or any other fund or account established under this Ordinance with respect to the Bonds (other than moneys held by the Trustee pursuant to Section 4.07 hereof) after (i) Payment in Full of the Bonds or (ii) payment of principal of, premium, if any, and interest on Credit Supported Bonds (other than Company Bonds) pursuant to a draw upon the Letter of Credit by the Trustee as provided in Section 5.01 hereof or pursuant to a payment under an Alternate Security and payment in full of all other Bonds Outstanding, shall be remitted by the Trustee upon written instructions from any Bank or provider of Alternate Security in accordance with such instructions to such Bank or provider of Alternate Security to the extent of any amounts payable to such Bank or provider of Alternate Security under the Reimbursement Agreement (it being understood that if there are Letters of Credit and Alternate Securities outstanding, such providers and Banks shall be paid proportionately according to the amounts then owed), and the balance, if any, shall be paid to the Company.

Section 4.10 Arbitrage Rebate Fund. (a) There is hereby created by the City and ordered to be established with the Trustee the Arbitrage Rebate Fund. The Trustee shall hold in said Fund any moneys delivered by the Company to the Trustee for deposit therein.

(b) Moneys on deposit in the Arbitrage Rebate Fund shall be invested and reinvested in Investment Securities at the direction of the Company and shall be applied by the Trustee in accordance with the direction of the City or the Company to make payments to the Department of the Treasury of the United States of America at such times and in such amounts as the Company shall determine to be required by the Code to be rebated to the Department of the Treasury of the United States of America. Moneys held in the Arbitrage Rebate Fund which the Company determines to be in excess of the amount required to be so rebated shall be deposited to the Bond Fund in accordance with the directions of the Company.

Section 4.11 Redemption Fund.

There is hereby created by the City and ordered to be established with the Trustee a trust fund to be designated the "City of Farmington, New Mexico Pollution Control Revenue Refunding Redemption Fund, 2016 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects)" (which fund is herein referred to as the "Redemption Fund") into which there shall be deposited the proceeds received by the City upon the initial sale of the Bonds other than that portion of such proceeds to be paid into the General Account in the Bond Fund in accordance with Section 4.02(a) hereof. The City hereby authorizes and directs the Trustee to pay the moneys in the Redemption Fund on the date of the initial issuance of the Bonds and following receipt of payment therefor in an amount equal to $46,000,000 to the 2003 Trustee to be used, together with other amounts paid by the Company, to pay the principal of, premium, if any, and accrued interest when due on all of the Prior Bonds, on the date specified in a resolution of the City Council adopted prior to the issuance of the Bonds in accordance with the provisions of the 2003 Ordinance.

ARTICLE V

The Letter of Credit; Receipts and Revenues of the City from the Installment Sale Agreement

Section 5.01 Trustee's Duty to Draw on Letter of Credit.

(a) Draws to Pay Principal, Premium and Interest from Bond Fund During the Effective Period of a Letter of Credit. The Trustee shall draw moneys under the Letter of Credit in accordance with the terms thereof to the extent necessary to make full and timely payments of principal of, premium, if any, and interest on the Bonds when due on an Interest Payment Date, at maturity, upon acceleration or otherwise and

for the redemption of the Bonds at or prior to maturity pursuant to Section 3.01 hereof which are entitled to the benefits of such Letter of Credit required to be made from the Bond Fund in accordance with the provisions of Section 4.04 hereof and shall deposit the moneys from such draws in the subaccount with respect to such Letter of Credit of the Letter of Credit Account in the Bond Fund. All draws under the Letter of Credit shall be made so as to enable the Trustee to provide to the holders of Bonds entitled to the benefits of such Letter of Credit immediately available Fund in New York, New York, by 4:00 p.m., New York City time, on the due date of the principal of, premium, if any, or interest on such Bonds.

(b) Draws to Pay Purchase Price or Provide for Payment in Full of the Bonds. In addition, during the Effective Period of a Letter of Credit, the Trustee shall (i) draw moneys under such Letter of Credit in accordance with the terms thereof to the extent necessary to make full and timely payments required to be made pursuant to, and in accordance with, Sections 2.03(A)(3), 2.03(B)(3) and (4), 2.03(C)(3) and (4) and 2.03(D)(3) hereof with respect to the Bonds which are entitled to the benefits of such Letter of Credit after receipt of notice from the Remarketing Agent pursuant to Section 2.13(C) hereof of any deficiency in the amounts available to pay the Purchase Price of the Bonds, (ii) draw moneys under such Letter of Credit in accordance with the terms thereof to the extent necessary to make full and timely payments of Purchase Price required to be made pursuant to, and in accordance with, Sections 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) and 2.03(D)(2) hereof with respect to the Bonds which are entitled to the benefits of such Letter of Credit as a result of a failed conversion of such Bonds and (iii) upon the receipt of any notice or direction by the Company pursuant to Section 9.02 of the Installment Sale Agreement, draw moneys under the Letter of Credit in accordance with the terms thereof in the amounts specified in such notice or direction and apply such moneys to the provision for Payment in Full of all or a portion of the Bonds which are entitled to the benefits of such Letter of Credit pursuant to Section 8.02 hereof as specified in such notice or direction. All draws under a Letter of Credit to pay such Bonds entitled to the benefits of such Letter of Credit pursuant to Section 2.03(A)(3), 2.03(B)(3) or (4), 2.03(C)(3) or (4) or 2.03(D)(3) hereof or pursuant to Section 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) or 2.03(D)(2) hereof or to provide for Payment in Full of all or a portion of the Bonds which are entitled to the benefits of such Letter of Credit shall be made so as to enable the Trustee or Paying Agent, as the case may be, to provide to the holder of such Credit Supported Bonds moneys at the times specified in the form of Bonds with respect to Purchase Price and with respect to the Payment in Full of Bonds which are supported by such Letter of Credit, by 4:00 p.m., New York City time, on the date such payment or provision for payment is to be made. However, it is understood that, in the case of an initial Letter of Credit, such Letter of Credit will not, unless amended or supplemented, support the payment of Bonds for which there has been a failed conversion pursuant to Section 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) or 2.03(D)(2) hereof and with respect to which the Purchase Price thereof has been paid in accordance with the terms hereof and for which such Bonds have been automatically converted to a Flexible Mode with a one day Rate Period.

(c) Company Bonds. Whenever the principal of any Bonds shall have been paid, whether upon the redemption or prepayment or upon the maturity or acceleration thereof, with moneys drawn under a Letter of Credit as provided in this Section 5.01, such Bonds shall not be 'canceled or remarketed as provided hereunder, but shall constitute Company Bonds until the Bank shall have been fully reimbursed therefor under the Reimbursement Agreement.

Section 5.02 Alternate Letter of Credit or Alternate Security. (a) If at any time there shall have been delivered to the Trustee an Alternate Letter of Credit or Alternate Security pursuant to Section 5.14 of the Installment Sale Agreements and the other requirements of the Installment Sale Agreements and this Ordinance shall have been complied with in respect to the replacement of a Letter of Credit, then the Trustee shall accept such Alternate Letter of Credit or Alternate Security and promptly notify in writing the Bank issuing such Letter of Credit, and surrender such Letter of Credit in accordance with its terms, for cancellation. If at any time no Bonds to which a Letter of Credit relates are Outstanding hereunder, the Trustee shall promptly surrender for cancellation such Letter of Credit to the Bank, in accordance with the terms of such Letter of Credit.

(b) The Trustee shall promptly surrender a Letter of Credit to the Bank in accordance with the terms of such Letter of Credit for cancellation in the event the Company shall have requested the Trustee to surrender such Letter of Credit and the Company shall have delivered to the Trustee the notice, opinions, certificate and written evidence required by Section 5.14 of the Installment Sale Agreements.

(c) The Trustee shall in all cases comply with the procedures set forth in the Letter of Credit relating to the surrender thereof.

(d) The failure of the Trustee to surrender a Letter of Credit to the Bank in accordance with the terms of this Section 5.02 and the terms of such Letter of Credit shall not affect the expiration of such Letter of Credit in accordance with its terms.

Section 5.03 Additional Requirements. Alternate Letter of Credit or Alternate Security must:

(a) be an irrevocable, unconditional obligation of a financial institution;

(b) be on terms no less favorable to the Trustee than the initial Letter of Credit to which such Alternate Letter of Credit or Alternate Security relates and (i) with respect to any Alternate Letter of Credit, entitle the Trustee to draw upon or demand payment and receive in immediately available funds an amount equal to the sum of the principal amount of Bonds supported by such Letter of Credit and any redemption premium applicable thereto and (x) with respect to any Bonds to which such Alternate Letter of Credit or Alternate Security relates in the Daily Mode or Weekly Mode entitled to the benefits of such Letter of Credit, 60 days' accrued interest at the Maximum Interest Rate on the principal amount of such Bonds then Outstanding and (y) with respect to any Bonds in the Flexible Mode or Multiannual Mode entitled to the benefits of such Letter of Credit, 209 days' accrued interest at the Maximum Interest Rate on the principal amount of such Bonds then Outstanding or (ii) with respect to any Alternate Security, provide the Trustee with rights or entitlements appropriate to such Alternate Security; and

(c) provide for a term which may not expire in less than one year and which may not expire or be terminated prior to the fifth Business Day after the mandatory tender for purchase as provided in Section 2.03(A)(3), 2.03(B)(4), 2.03(C)(4) or 2.03(D)(3) hereof. The Company shall not enter into any Reimbursement Agreement or agree to an amendment of a Reimbursement Agreement which (i) in any way limits the obligation of the Bank to provide funds under the Letter of Credit to which such Reimbursement Agreement relates without the prior written consent of 100% of the principal amount of the Bonds Outstanding and entitled to the benefit of the Letter of Credit to which such Reimbursement Agreement relates or (ii) provides or contemplates additional security or collateral to secure the Company's obligations thereunder that was not provided in the Reimbursement Agreement with respect to an initial Letter of Credit if payment of the Bonds to which such Letter of Credit relates is to be made from moneys representing proceeds from the resale by the Remarketing Agent of Bonds described in clause (ii) of the definition of "Available Moneys."

Section 5.04 Alternate Security. If an Alternate Security is delivered to the Trustee, the Trustee agrees to request payments thereunder to the extent necessary (i) to make timely payments of principal of, premium (if covered by such Alternate Security), if any, and interest on the Credit Supported Bonds entitled to the benefits of such Alternate Security and (ii) to make timely payments required to be made pursuant to and in accordance with Sections 2.03(A)(3), 2.03(B)(3) and (4), 2.03(C)(3) and (4) and 2.03(D)(3) hereof and to provide for Payment in Full of the Bonds.

Section 5.05 Receipts and Revenues of the City from the Installment Sale Agreements to be Paid Over to Trustee. The City will cause the applicable Receipts and Revenues of the City from the Installment Sale Agreements relating to the Bonds to be paid to the

Trustee for deposit in the Bond Fund or the Bond Purchase Fund, as the case may be.

Section 5.06 Receipts and Revenues of the City from the Installment Sale Agreements to be Held for All Bondholders; Certain Exceptions. The Receipts and Revenues of the City from the Installment Sale Agreements and investments thereof shall, until applied as provided in this Ordinance, be held by the Trustee for the benefit of the holders of all Outstanding Bonds, except as provided in Sections 4.03, 4.06, 4.07 and 8.02 hereof. Notwithstanding the foregoing, it is understood that Company Bonds and Bonds which are not supported by a Letter of Credit shall not be entitled to Receipts and Revenues of the City from the Installment Sale Agreements arising from drawings on such Letter of Credit.

ARTICLE VI

Investments

Section 6.01 Investment Securities. The term "Investment Securities" means the following obligations or securities (provided that, so long as Article XIV hereof shall be effective by its terms with respect to the Bonds, "Investment Securities", with respect to such Bonds, shall mean the obligations and securities described in Section 14.05 hereof) (in each case only to the extent investment therein would not violate the laws of the State of New Mexico) on which the Company is not the obligor, maturing at such time or times as to enable disbursements to be made from the Bond Fund or the Bond Purchase Fund, as the case may be, in accordance with the terms hereof, or which shall be marketable prior to the maturities thereof and shall be:

(a) direct obligations of, or obligations the principal and interest of which are guaranteed as to the full and timely payment by, the United States of America, which obligations, in either case, are not subject to redemption or prepayment at less than par by anyone other than the holder;

(b) obligations issued or guaranteed by an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States of America, including obligations of the Federal National Mortgage Association, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Land Banks or Federal Home Loan Banks;

(c) commercial paper rated at the time of investment in the highest short-term grade by the Rating Agencies;

(d) bankers' acceptances drawn on and accepted by commercial banks (including the Trustee, the Paying Agent, any Co-Paying Agent and the Bank) having at least $10,000,000 in capital stock, surplus and undivided profits and rated not less than "Baa3" long term rating by Moody's and "A1 +" short term rating by S&P;

(e) deposit accounts fully insured by the Federal Deposit Insurance Corporation (which may be represented by certificates of deposit if rated not less than "A 1+" short term rating by S&P) in national or state banks or foreign banks having an office in the United States of America (including the Trustee, the Paying Agent, any Co-Paying Agent and the Bank) having at least $10,000,000 in capital stock, surplus and undivided profits, and savings and loan associations having total assets in excess of $50,000,000, in each case rated not less than "Baa3" long term rating by Moody's;

(f) repurchase agreements with solvent banking or other financial institutions (including the Trustee, the Paying Agent, any Co-Paying Agent and the Bank) rated not less than "Baa3" long term rating by Moody's and "AA" long term rating by S&P or "A1+" short term rating by S&P with respect to any of the foregoing obligations or securities;

(g) obligations of a State, a Territory, Puerto Rico, or a possession of the United States of America, or any political subdivision of the foregoing, or of the District of Columbia and

which are rated at the time of investment not less than the then current rating of the Bonds by the Rating Agencies;

(h) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of "AAAm-G," "AAAm" or "Aam," and by Moody's of "Aaa" or "Aa"; and

(i) any other obligations and securities not prohibited by law and which are rated at least "Aaa" or "Aa" by Moody's.

Section 6.02 Bond Fund Investments. Subject to Section 6.04 hereof, moneys held in the General Account of the Bond Fund shall be invested and reinvested by the Trustee in Investment Securities (other than those described in clause (i) of Section 6.01 hereof) as directed and designated by the Company in a certificate signed by an Authorized Company Representative. Such investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of said General Account of the Bond Fund and the interest accruing thereon and any profit realized therefrom shall be credited to the General Account of the Bond Fund any loss resulting therefrom shall be charged to the General Account of the Bond Fund, as the case may be, and paid by the Company. The Trustee is directed to sell and convert to cash a sufficient amount of such investments, which shall be selected by the Company to the extent practicable, in the General Account whenever the Available Moneys held in the Bond Fund are insufficient to provide for the payment of the principal of (whether at the maturity date or the redemption date prior to maturity), premium, if any, and the interest on the bonds to which such Bond Fund relates as the same become due and payable. Moneys held as part of a Letter of Credit Account subaccount or Alternate Security Account subaccount of the Bond Fund shall be held uninvested or shall be invested as directed in writing by the Company only in Government Obligations having a maturity of not to exceed 30 days but in any event not maturing on a date later than needed to pay debt service on the bonds of a Series. Moneys in a Letter of Credit Account subaccount or Alternate Security Account subaccount of the Bond Fund shall not be commingled with any other moneys held by the Trustee for purposes of investment or reinvestment, and any interest or gain received from such investments shall be credited to and held in such Letter of Credit Account subaccount or Alternate Security Account subaccount of the Bond Fund, and any loss from such investments shall be charged against such Letter of Credit Account subaccount or Alternate Security Account subaccount of the Bond Fund and paid by the Company.

Section 6.03 Bond Purchase Fund Investments. Subject to Section 6.04, moneys held in the Bond Purchase Fund shall be held uninvested or invested and reinvested by the Trustee in Government Obligations with maturities of no more than 30 days from the acquisition thereof but in any event not maturing on a date later than needed to pay the Purchase Price of the Bonds to which such Bond Purchase Fund relate as directed and designated by the Company in a certificate signed by an Authorized Company Representative. Such investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, in which such investments are held and the interest accruing thereon and any profit realized therefrom shall be credited to such Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, and any loss resulting therefrom shall be charged to such Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, and paid by the Company. The Trustee is directed to sell and convert to cash a suffici6nt amount of such investments, which shall be selected by the Company to the extent practicable, in the appropriate Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, whenever Available Moneys held in the Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, are insufficient to provide for the payment of the Purchase Price of any bonds of a Series required to be purchased hereunder. Any interest or gain received from such investments shall be credited to and held in such Letter of Credit Purchase Price Account subaccount or General Purchase Price Account, as the case may be, and any loss from such investments shall be charged against such Letter

of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be , and paid by the Company.

Section 6.04 Direction of Investments; Trustee Not Responsible for Losses. As long as no Event of Default shall have occurred and be continuing and the Bonds have not become immediately due and payable pursuant to Section 9.01 hereof, the Company shall have the right to designate the investments to be sold and to otherwise direct the Trustee in the sale or conversion to cash of the investments made with the moneys in the Bond Fund and the Bond Purchase Fund; provided that the Trustee shall be entitled to conclusively assume the absence of any such Event of Default unless it has notice thereof within the meaning of Section 10.05 hereof. The Trustee shall have no responsibility for losses incurred in connection with investments or the disposition thereof made in accordance with the terms hereof, and the Trustee shall have no responsibility for determining whether investments made at the direction of the Company in accordance with the terms hereof constitute "Investment Securities" within the meaning of Section 6.01 hereof, or whether such investments or the disposition thereof made at the direction of the Company pursuant to the terms hereof violate the instructions to the Trustee contained in Section 7.10 hereof.

Section 6.05 Recordkeeping. The Trustee shall collect and retain records of all investments held in the Bond Fund. Said records shall consist, with respect to each such investment, of the gross purchase price, accrued interest, if any, any commissions or administrative charges imposed with respect to the purchase, the purchase date, face amount, coupon rate, the disposition price, accrued interest upon disposition and the disposition date. The Trustee shall retain said records for the period ending 6 years after the final maturity date of the Bonds, and shall make such records available, as requested by the City or the Company, for such purpose as they may deem suitable, including the calculation of arbitrage rebate for purposes of Section 148 of the Code.

ARTICLE VII

General Covenants

Section 7.01 Limited Obligation; Payment of Principal and Interest. (a) Each and every covenant herein made, including all covenants made in the various Sections of this Article VII, is predicated upon the condition that any obligation for the payment of money incurred by the City shall not be the general obligation of the City within the meaning of Article 9, Sections 12 and 13 of the Constitution of New Mexico, and shall never constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and shall never constitute or give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers, but shall be payable by the City solely from the Receipts and Revenues of the City from the Installment Sale Agreements, which are required to be set apart and transferred to the Bond Fund or Bond Purchase Fund, and which, along with the balance of the Trust Estate, are hereby specifically pledged to the payment thereof in the manner and to the extent specified in this Ordinance, and nothing in the Bonds or in this Ordinance shall be considered as pledging or obligating any other Fund or assets of the City.

(b) The City will, in the manner provided herein and in the Bonds, according to the true intent and meaning thereof, promptly cause to be paid, solely from the sources stated herein, at the place and on the dates provided herein, the principal of and premium, if any, and interest on every Bond issued under this Ordinance.

Section 7.02 Performance of Agreements; Authority. The City will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Ordinance, in any and every Bond executed, authenticated and delivered hereunder, and in all proceedings pertaining thereto. The City represents that it has the authority under the Constitution and laws of the State of New Mexico to issue the Bonds authorized hereby, to enter into the Installment Sale Agreements, and to pledge to the Trustee the applicable Receipts and Revenues of the City from the Installment Sale Agreements and to pledge and assign to the Trustee all or any part of the City's right, title and

interest under the Installment Sale Agreements pledged and assigned hereunder, and that the Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 7.03 Maintenance of Corporate Existence. The City will at all times maintain its corporate existence or assure the assumption of its obligations under this Ordinance by any public body succeeding to its powers under the Act, and it will use its best efforts to maintain, preserve and renew all the rights and powers provided to it by the Act; and it will comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Installment Sale Agreements.

Section 7.04 Enforcement of Company's Obligations under the Installment Sale Agreements. So long as any of the Bonds are Outstanding, upon receipt of written notification from the Trustee, the City will, in the manner provided herein and giving due recognition to the role of the Trustee hereunder, enforce the obligation of the Company to pay, or cause to be paid, all the payments and other costs and charges payable by the Company under the Installment Sale Agreements, provided, however, that the City shall not be required to spend any of its own funds on any such enforcement. The City will not enter into any agreement with the Company amending either Installment Sale Agreement without the prior written consent of the Trustee and compliance with Sections 12.07 and 12.08 hereof.

Section 7.05 Further Assurance. The City will, upon the reasonable request of the Trustee, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Ordinance; provided, however, that no such instruments or actions shall give rise to any pecuniary liability of the City or pledge the credit or taxing power of the State of New Mexico, the City or any other political subdivision of said State.

Section 7.06 No Disposition or Encumbrance of City's Interests. Except as permitted by this Ordinance, the City will not sell, lease, pledge, assign or otherwise dispose of or encumber its interest in the Receipts and Revenues of the City from the Installment Sale Agreements or its rights and interest under the Installment Sale Agreements pledged and assigned hereunder and will promptly pay or cause to be discharged or make adequate provision to satisfy and discharge any lien or charge on any part thereof not permitted by this Ordinance.

Section 7.07 Trustee's Access to Books Relating to Facilities. All books and documents in the possession of the City relating to the Facilities and the moneys, revenues and receipts derived from the Facilities shall at all reasonable times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

Section 7.08 Record of Bondholders. To the extent that such information shall be made known to the Registrar under the terms of this Section 7.08, the Registrar will keep on file at its Principal Office a list of account numbers, filed by owners of Bonds for wire transfer of interest on such Bonds as provided in the form of the Bonds. Any Owner of the Bonds in the aggregate principal amount of not less than $1,000,000 may request at any time that such information be placed on said list by filing a written request with the Registrar, which request shall include a statement of the principal amount of Bonds held by such Owner and the numbers of such Bonds. Neither the Trustee, the Registrar, the City, the Paying Agent nor any Co-Paying Agent shall be under any responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Registrar, the books for the registration and transfer of Bonds kept and maintained by the Registrar pursuant to Section 2.10 hereof may be inspected and copied by the Company or by Bondholders (or a designated representative thereof) of 25% or more in principal amount of Bonds then Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

Section 7.09 Filing of Financing Statements. Appropriate financing statements, naming the Trustee as secured party with respect to the Receipts and Revenues of the City from the Installment Sale

Agreements and the other moneys pledged by the City under this Ordinance for the payment of the principal of and premium, if any, and interest on the Bonds, and as pledgee and assignee of certain of the City's rights and interest under the Installment Sale Agreements, shall be duly filed and recorded in the appropriate state and county offices as required by the provisions of the Uniform Commercial Code or other similar law as adopted in the State of New Mexico, the state in which lies the Principal Office of the Trustee and any other applicable jurisdiction, as from time to time amended. The Trustee will file and record, with such assistance as necessary from the City and the Company, such necessary continuation statements from time to time as may be required pursuant to the provisions of said Uniform Commercial Code or other similar law to protect the interest of the Trustee.

Section 7.10 Tax Covenant. The City covenants for the benefit of the purchasers of the Bonds that it will not take any action or fail to take any action reasonably within its control which would cause the interest payable on the Bonds to be includable in the gross income of the holders thereof for Federal income tax purposes (other than a "substantial user" of the Facilities or a "related person" as those terms are used in Section 147(a) of the Code). Pursuant to such covenant, the City obligates itself to comply throughout the term of the issue of the Bonds with the requirements of Section 148 of the Code and any regulations promulgated thereunder and to file such reports and cause to be timely paid any arbitrage rebate due with respect to the Bonds by reason of such Section 148.

The Company by its execution of the Installment Sale Agreements has covenanted to restrict the investment of money in the funds created under this Ordinance in such manner and to such extent, if any, as may be necessary, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code.

Section 7.11 Notices by Trustee. The Trustee shall give the same notices to the City that it is required to give to the Company, and to the Company that it is required to give to the City, pursuant to the terms of this Ordinance and, additionally, shall give written notice to the City, the Company, the Bank and the Remarketing Agent of any prior redemption pursuant to Section 3.01 hereof.

Section 7.12 Ratification of Prior Action. All action (not inconsistent with the provisions of this Ordinance) heretofore taken by the City Council and the officers of the City directed toward the Bonds and sale and issuance of the Bonds is ratified, approved and confirmed.

ARTICLE VIII

Discharge of Lien; Defeasance

Section 8.01 Discharge of Lien and Security Interests. Upon Payment in Full of the Bonds and payment of all sums of money due or to become due to a Bank, if any, relating to such Bonds under the applicable Reimbursement Agreement relating to such Bonds or the provider of an Alternate Security or the Bond Insurer under a Municipal Bond Insurance Policy, then, with respect to such Bonds, these presents and the rights and interest of the Trustee in and to the Trust Estate and the security interests shall cease, terminate and be void, and thereupon the Trustee, shall, with respect to such Bonds, cancel and discharge this Ordinance and the security interest, and, with respect to such Bonds, shall execute and deliver to the City and the Company such instruments in writing as shall be required to cancel and discharge this Ordinance and the security interests, and, upon Payment in Full of the Bonds reconvey to the Company the Trust Estate, and assign and deliver to the Company so much of the Trust Estate as may be in its possession or subject to its control, except for moneys required to be paid to the Bank or the provider of an Alternate Security pursuant to Section 4.09 or 9.10 hereof or the Bond Insurer under a Municipal Bond Insurance Policy or moneys held by the Trustee pursuant to Section 4.07 or 8.02 hereof; provided, however, such cancellation and discharge of this Ordinance related to such Bonds shall not terminate the powers and rights granted to the Trustee with respect to the payment, transfer and exchange of the Bonds; and provided, further, that the rights of the Trustee, the Paying Agent, any Co-Paying Agent and the Registrar to indemnity and payment of all reasonable fees and expenses shall survive the termination of the Trust Estate pursuant to this Section 8.01; and provided further, discharge of this Ordinance

shall not terminate the duties of the City pursuant to Section 7.10 hereof.

If and when any Bonds shall have (a) become due and payable in accordance with their terms or through redemption proceedings as provided in this Ordinance or otherwise, and the whole amount of the principal, premium, if any, and interest so due and payable upon such Bonds shall be paid, or provisions shall have been made for the payment of the same, or (b) been deemed in accordance with Section 8.02 hereof, to be paid, such Bonds (other than Bonds constituting Company Bonds pursuant to Section 5.01(c)) shall cease to be entitled to any lien, benefit or security under this Ordinance (except as contemplated in Section 8.02 hereof) and all covenants, agreements and other obligations of the City to the holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 8.02 Provision for Payment of Bonds. The Bonds shall be deemed to have been paid within the meaning of Section 8.01 hereof if:

(a) there shall have been irrevocably deposited with the Trustee in trust

(i) during a Daily Mode, Weekly Mode, Flexible Mode or Multiannual Mode sufficient moneys (provided that during the Effective Period of a Letter of Credit and while such Bonds of a Series are entitled to the benefits of such Letter of Credit, such moneys shall constitute Available Moneys), except that such Bonds will not be deemed paid unless there is also delivered to the Trustee written evidence from the Rating Agencies that the rating on such Bonds will not be decreased or withdrawn because of such deposit, or

(ii) during a Multiannual Mode fixed to maturity, moneys in an amount which will be sufficient or Government Obligations having such maturities and interest payment dates and bearing such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon (said earnings to be held in trust also), be sufficient together with the moneys, if any, deposited with the Trustee,

for the payment at their respective maturities or redemption dates prior to maturity, of the principal thereof and the redemption premium (if any) and interest to accrue thereon to such maturity or redemption dates, as the case may be, and for the payment of the Purchase Price thereof as verified in a certificate by a nationally recognized certified public accounting firm delivered to the Trustee at the time of such deposit;

(b) there shall have been paid to the payee all fees and expenses of the Trustee, the Paying Agent, any Co-Paying Agent, the Registrar and the Remarketing Agent due or to become due in connection with the payment or redemption of the Bonds or there shall be sufficient moneys in a trust account hereunder to make said payments;

(c) if any Bonds are to be redeemed on any date prior to their maturity, the Trustee shall have received in form satisfactory to it irrevocable instructions to redeem such Bonds on such date and either evidence satisfactory to the Trustee that all redemption notices required by this Ordinance have been given or irrevocable instructions authorizing the Trustee to give such redemption notices;

(d) with respect to any Bonds in the Daily Mode, the Trustee or Paying Agent shall have given notice to the holders of such Bonds that such Bonds shall no longer be subject to optional tender at the election of such holders pursuant to Section 2.03(B)(3) hereof;

(e) with respect to any Bonds in the Weekly Mode, the Trustee or Paying Agent shall have given notice to the holders of such Bonds that such Bonds shall no longer be subject optional

tender at the election of such holders pursuant to Section 2.03(C)(3) hereof; and

(f) an opinion of Bond Counsel to the effect that the deposit contemplated in paragraph (a) hereof does not adversely affect the exclusion of interest on the Bonds from gross income, for purposes of federal income taxation.

All moneys so deposited with the Trustee as provided in this Section 8.02 may also be invested and reinvested, at the written direction of the Company, in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of the Trustee pursuant to this Section 8.02 which is not required for the payment of the Bonds and interest and redemption premium, if any, thereon or Purchase Price thereof with respect to which such moneys shall have been so deposited shall be deposited in the appropriate account of the Bond Fund as and when realized and collected for use and application as are other moneys deposited in the Bond Fund.

Section 8.03 Discharge of the Ordinance. Notwithstanding the fact that the lien of this Ordinance upon the Trust Estate may have been discharged and canceled in accordance with Section 8.01 hereof, this Ordinance and the rights granted and duties imposed hereby, to the extent not inconsistent with the fact that the lien upon the Trust Estate may have been discharged and canceled, shall nevertheless continue and subsist after Payment in Full of the Bonds until all funds held by the Trustee pursuant to Section 4.07 of this Ordinance shall have been paid to the Bank, to the extent of amounts due under the applicable Reimbursement Agreement or the provider of an Alternate Security, and, if any funds remain, to the Company pursuant to Section 4.07 hereof.

ARTICLE IX

Defaults and Remedies

Section 9.01 Event of Default; Acceleration. (1) Each of the following events shall constitute and is referred to in this Ordinance as an "Event of Default" relating to the Bonds:

(a) a failure to pay the principal of any of the Bonds when the same shall become due and payable at maturity, upon redemption or otherwise; or

(b) a failure to pay an installment of interest on any of the Bonds when the same shall become due and payable; or,

(c) a failure to pay the Purchase Price of any Bond required to be purchased hereunder when the same shall become due and payable; or

(d) an "Event of Default" relating to the Senior Unsecured Notes as such term is defined in Section 5.01 of the Company Indenture (or as defined in the Governing Instrument in the event of an exchange pursuant to Section 12.09 hereof); or

(e) the Trustee shall have received notice from a Bank or Alternate Security provider relating to Bonds (other than the notice referred to in Section 3.01(c) hereof) that an "event of default" under the applicable Reimbursement Agreement has occurred and is continuing; or

(f) at any time a Letter of Credit is in effect with respect to the Bonds, the Trustee shall have received a written notice from the Bank not later than ten days following the date of a drawing by the Trustee to make a payment on such Bonds (other than Company Bonds) that the Company has failed to reimburse the Bank or to cause the Bank to be reimbursed for the amount so drawn in accordance with the terms of the Reimbursement Agreement.

(2) Upon the occurrence and continuance of an Event of Default relating to the Bonds described in clause (a), (b) or (c) of paragraph (1) preceding, and upon the condition that (x) in accordance with the terms of the Company Indenture (or the Governing Instrument in the event of an

exchange pursuant to Section 12.09 hereof), the Senior Unsecured Notes relating to such Bonds (or the Company Securities relating to such Bonds, as the case may be) issued and outstanding thereunder shall have become immediately due and payable pursuant to any provision of the Company Indenture (or the Governing Instrument, as the case may be) and (y) written notice specifying such Event of Default relating to such Bonds shall have been given to the City and the Company by the Trustee, which may give such notice in its discretion and shall give such notice (i) at the written request of the Bondholders of not less than 25% in principal amount of the Bonds then Outstanding or (ii) if the Event of Default relating to Bonds is described in clause (d) of paragraph (1) preceding, the Bonds shall, without further action, become and be immediately due and payable, anything in this Ordinance or in the Bonds to the contrary notwithstanding; provided, however, that so long as a Letter of Credit or Alternate Security shall be in effect with respect to the Bonds to which the Event of Default relates, and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the Trustee shall not declare the Bonds to be immediately due and payable without the consent of the Bank. Upon the occurrence and continuance of an Event of Default relating to the Bonds described in clause (e) or (f) of paragraph (1) preceding, the Bonds shall, without further action, become and be immediately due and payable, anything in this Ordinance or in the Bonds to the contrary notwithstanding; provided, however, that so long as a Letter of Credit or Alternate Security shall be in effect with respect to the Bonds to which the Event of Default relates, and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the Trustee shall not declare the Bonds to be immediately due and payable without the consent of the Bank.

(3) Upon the occurrence and continuance of an Event of Default relating to the Bonds described in clause (a), (b) or (c) of paragraph (1) preceding, the Trustee shall give notice thereof in writing to the City, the Company, the Bank, if any, and the Remarketing Agent, if any, and notice to Bondholders in the same manner as a notice of redemption under Section 3.02 hereof. The amount so immediately due and payable upon the Bonds shall be (i) the principal amount thereof plus (ii) interest accrued thereon to such date.

(4) Upon the occurrence and continuance of an Event of Default relating to the Bonds described in clause (e) or (f) of paragraph (1) preceding, the Trustee shall, subject to paragraph (2) preceding, (i) as soon as is practicable give notice of such occurrence to the City, the Company, the Remarketing Agent, if any, the Bond Insurer, if applicable, and the Bondholders, which such notice shall state (a) that the Bonds have so become immediately due and payable, (b) that the interest on the Bonds ceased to accrue on the date on which the Bonds so became immediately due and payable, (c) that the amount so immediately due and payable upon the Bonds shall be the principal amount thereof plus accrued interest thereon to the date specified in clause (b) preceding and (d) the place or places where such amounts due are payable, which shall be the Principal Office of the Paying Agent or any Co-Paying Agent and (ii) immediately draw on the Letter of Credit relating to such Bonds then in effect to the extent necessary to make the payment required under (i) preceding with respect to the Credit Supported Bonds entitled to the benefit of such Letter of Credit.

(5) The above provisions, however, are subject to the condition that if, for any reason other than an Event of Default pursuant to clause (e) or (I) of paragraph (1) preceding, after the principal of said Bonds shall have so become due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the City shall cause to be deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds and the

principal of any and all Bonds which shall have become due otherwise than by reason of such acceleration (with interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the same rate or rates per annum as specified in said Bonds of such Series; provided that such interest is payable on the applicable Senior Unsecured Notes or applicable Corresponding Securities, as the case may be, subject to the maximum interest rate on such Senior Unsecured Notes) and such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred and all advances made by the Trustee except as a result of its negligence or willful misconduct, if any, and all Events of Default under the Ordinance, other than nonpayment of the principal of such Bonds which shall have become due by 'such acceleration, shall have been remedied then and in every such case such Event of Default may, and upon written request of the Owners of not less than the percentage in principal amount of the Bonds then outstanding which requested the Bonds to be declared immediately due and payable, together with, so long as any Letter of Credit or Alternate Security shall be in effect with respect to such Bonds, and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the consent of the Bank, shall be waived and its consequences rescinded and annulled by the Trustee by written notice to the City, the Company and to such Bondholders in the same manner as a notice of redemption under Section 3.02 hereof, which waiver, rescission and annulment shall be binding upon all such Bondholders; provided, however, that in connection with (i) any Event of Default, if there shall have been a draw upon the Letter of Credit relating to such Bonds in connection with such Event of Default, such Event of Default shall not be waived unless the Trustee has received written notice from the Bank that the amount so drawn under such Letter of Credit has been reinstated, (ii) an Event of Default described in clause (e) of paragraph (1) preceding, such Event of Default shall not be waived without the consent of the Bank or provider of Alternate Security and (iii) an Event of Default described in clause (f) of paragraph (1) preceding as a result of the failure by the Company to reimburse the Bank for a drawing made on the Letter of Credit, such Event of Default shall not be waived unless the Trustee has received written notice from such Bank that the amount so drawn under the Letter of Credit has been reinstated. No such waiver, rescission and annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon. The Trustee shall promptly give notice of such annulment to the City and the Company.

Section 9.02 Enforcement of Remedies by Trustee. Subject to Section 9.01 hereof, upon the occurrence and during the continuance of an Event of Default relating to the Bonds, the Trustee in its discretion may, and upon the written request of the Bondholders of not less than 25% in principal amount of such Bonds then Outstanding and receipt of indemnity to its satisfaction, shall, in its own name and as the Trustee of an express trust:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Bondholders of such Bonds, and require the City or the Company to carry out any agreements (including the applicable Guaranty and, subject to the provisions of the Company Indenture (or the Governing Instrument in the event of an exchange pursuant to Section 12.09 hereof), payment under the applicable Senior Unsecured Notes (or the applicable Corresponding Securities, as the case may be)) with or for the benefit of such Bondholders and to perform its or their duties under the Act, the Installment Sale Agreements and this Ordinance;

(b) bring suit upon such Bonds;

(c) by action or suit in equity require the City to account as if it were the trustee of an express trust for such Bondholders; or

(d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of such Bondholders.

The Trustee shall give to the Bank, if any, prompt notice of its election of any one or more of the foregoing remedies, anything herein to the contrary not withstanding. So long as a Letter of Credit or Alternate Security shall be in effect with respect to such Bonds, and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the Trustee shall not pursue any of such remedies without the consent of the Bank.

Section 9.03 Termination of Proceedings. In case any proceeding taken by the Trustee to enforce any right under this Ordinance relating to the Bonds shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every case the City, the Trustee and such Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

Section 9.04 Rights of Bondholders to Direct Proceedings. Anything in this Ordinance to the contrary notwithstanding but subject to Section 14.03 hereof, the Bondholders of a majority in principal amount of the Bonds then Outstanding hereunder shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct, with the consent of the Bank, the time, method and place of conducting all remedial proceedings available to the Trustee under this Ordinance or exercising any trust or power conferred on the Trustee by this Ordinance relating to such Bonds.

Section 9.05 Rights and Remedies of Bondholders. No Bondholder shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust or power hereunder, or any other remedy hereunder or on said Bonds, unless such Bondholder previously shall have given to the Trustee written notice of an Event of Default relating to such Bonds as hereinabove provided and unless also the Bondholders of not less than 25% in principal amount of the Bonds then Outstanding, together with, so long as any applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the Bank, shall have made written request of the Trustee to do so, after the right to institute said suit, action or proceeding shall have accrued, and shall have afforded the Trustee a reasonable opportunity to proceed to institute the same in either its or their name, and unless there also shall have been offered to the Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall not have complied with such request within a reasonable time; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the institution of said suit, action or proceeding; it being understood and intended that no one or more of the Bondholders shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Ordinance relating to such Bonds, or to enforce any right hereunder or under the Bonds, except in the manner herein provided, and that all suits, actions and proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Bondholders.

Section 9.06 Certain Rights of Bondholders. Notwithstanding any other provision in this Ordinance, the right of any Bondholder to receive payment of the principal of and premium, if any, and interest on or Purchase Price of any Bond on or after the respective due dates expressed therein, or to institute suit for the enforcement of any such payment on or after such respective date, shall not be impaired or affected without the consent of such Bondholder.

Section 9.07 Rights and Remedies Vested in Trustee. All rights of action under this Ordinance or under any of the Bonds secured hereby which are enforceable by the Trustee may be enforced by it, without the possession of any of the Bonds thereunto appertaining or the production thereof at the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Trustee shall

be brought in its name for the equal and ratable benefit of such Bondholders, subject to the provisions of this Ordinance.

Section 9.08 Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to Bondholders is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 9.09 No Delay or Omission Deemed Waiver of Default. No delay or omission of the Trustee or of any Bondholder to exercise any right or power accruing upon any Event of Default relating to such Bonds shall impair any such right or power or shall be construed to be a waiver of any such Event of Default, or an acquiescence therein; and every power and remedy given by this Article LX to the Trustee and to the Bondholders, respectively, may be exercised from time to time and as often as may be deemed expedient.

Section 9.10 Application of Moneys. Any moneys received by the Trustee, by any receiver or by any Bondholder in respect of the Bonds pursuant to any right given or action taken under the provisions by this Article IX (other than any moneys so received pursuant to Section 4.07 or 8.02 hereof), after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, shall be deposited in the appropriate subaccount within the Bond Fund and all moneys so deposited in the Bond Fund during the continuance of an Event of Default relating to the Bonds (other than moneys for the payment of Bonds which had matured or otherwise became payable prior to such Event of Default or for the payment of interest due prior to such Event of Default) shall be applied as follows; provided, however, that (i) amounts collected pursuant to the Letter of Credit or the Alternate Security shall only be utilized to pay the principal of and interest on the Credit Supported Bonds entitled to the benefit of such Letter of Credit or Alternate Security, respectively, (ii) remarketing proceeds shall only be utilized to pay the holders of the tendered Bonds and (iii) no Available Moneys which the Trustee has taken into account in determining the amount of moneys to be drawn under the Letter of Credit relating to such Bonds to pay principal and interest on such Bonds shall be applied to pay Trustee expenses, liabilities and advances:

(a) Unless the principal of all the Bonds shall have become due and payable, all such moneys shall be applied (i) first, to the payment to the persons entitled thereto of all installments of interest then due on the Bonds (other than installments of interest for the payment of which moneys and/or Government Obligations are held pursuant to this Ordinance), in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment of interest, then to the payment ratably, according to the amounts due on such installment, and (ii) second, to the payment to the persons entitled thereto of the unpaid principal of and premium, if any, on any of the bonds of such Bonds which shall have become due (other than Bonds matured or called for redemption for the payment of which moneys and/or Government Obligations are held pursuant to the provisions of this Ordinance), in the order of their due dates, with interest on such Bonds at their respective rates from the respective dates upon which they became due and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal and premium, if any, and interest due on such date, in each case to the persons entitled thereto, without any discrimination or privilege; provided, however, that no moneys shall be applied to the payment of such principal or interest with respect to Company Bonds until all such principal and interest owing on all other Bonds has been paid in full.

(b) If the principal of all the Bonds shall have become due and payable, all such moneys relating to such Bonds shall be applied to the payment of the principal and interest then due and unpaid upon such Bonds (other than installments of interest and amounts of principal of such Bonds matured or called for redemption, for the payment of which moneys and/or Government Obligations are held pursuant to this Ordinance), without preference or priority of principal over interest or of interest over principal or of any installment of interest over any

other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege; provided, however, that no moneys shall be applied to the payment of such principal or interest with respect to Company Bonds until all such principal and interest owing on all other such Bonds has been paid in full.

(c) If the principal of all the Bonds shall have become due and payable by reason of acceleration upon an Event of Default relating to such Bonds, and if acceleration of the maturity of the Bonds of such Bonds by reason of such Event of Default relating to such Bonds shall thereafter have been rescinded and annulled under the provisions of this Article IX, then, subject to the provisions of paragraph (b) of this Section 9.10 which shall be applicable in the event that the principal of all such Bonds shall later become due and payable, such moneys shall be applied in accordance with the provisions of paragraph (a) of this Section 9.10.

Whenever moneys are to be applied pursuant to the provisions of this Section 9.10 relating to the Bonds, except as otherwise provided in Section 9.01(4) hereof, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall, except as otherwise provided in Section 9.01(4) hereof, fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal, premium and interest to be paid on such dates shall cease to accrue. The Trustee shall, except as otherwise provided in Section 9.01(4) hereof, give by mail such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to apply funds to make payment to any such Bondholder until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Any moneys remaining after all other payments required by this Section 9.10 shall have been made shall be remitted upon written instructions from any Bank or provider of an Alternate Security in accordance with such instructions to such Bank or provider of an Alternate Security, in each case to the extent of any amounts, then due to such Bank or provider of an Alternate Security under the applicable Reimbursement Agreement, and the balance, if any, shall be paid to the Company.

Section 9.11 Rights and Remedies Lawful Under the Act. It is the purpose and intention of this Article IX to provide rights and remedies to the Trustee and Bondholders which may be lawfully granted under the provisions of the Act, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Bondholders shall be entitled, as above set forth, to every other right and remedy provided in this Ordinance and by law.

Section 9.12 No Obligation of City to Act. Subject to Sections 7.04 and 7.05, the City shall have no obligation to take any action or pursue any right or remedy of the Trustee or any Bondholder under this Ordinance or otherwise, including, but not limited to, taking any action in a bankruptcy proceeding.

ARTICLE X

Trustee and Co-Paying Agents

Section 10.01 Acceptance of the Trusts. By executing the certificate of authentication endorsed upon the Bonds, the Trustee shall signify its acceptance and agree to execute the trusts hereby created but only upon the additional terms set forth in this Article X, to all of which the City agrees and the respective Bondholders agree by their acceptance of delivery of any of the Bonds.

Section 10.02 Trustee Not Responsible for Recitals, Maintenance, Insurance, etc. The recitals, findings and representations in this Ordinance or in the Bonds contained, save only the Trustee's authentication upon the Bonds, shall be taken and construed as made by

and on the part of the City, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof. In addition, the Trustee shall not have any responsibility for monitoring the Company's obligations under Sections 5.06 and 5.07 of the Installment Sale Agreements to maintain the Facilities or to maintain or cause to be maintained the insurance required thereunder.

Section 10.03 Limited Liability. The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee shall not be answerable for the default or misconduct of any such attorney, agent or employee selected by it with ordinary care. The Trustee shall not be answerable for the exercise of any discretion or power under this Ordinance or for anything whatever in connection with the trust, except only for its own negligence or willful misconduct.

Section 10.04 Compensation and Reimbursement. The Trustee, the Registrar, the Remarketing Agent, the Paying Agent and any Co-Paying Agent under the Ordinance shall be entitled to reasonable compensation for their services rendered hereunder (including, with respect to the Trustee, any Ordinary Services) and to reimbursement for their actual out-of-pocket expenses (including counsel fees) reasonably incurred in connection therewith (including, with respect to the Trustee, any Ordinary Expenses) except as a result of their negligence or willful misconduct. In the event it shall become necessary that the Trustee perform Extraordinary Services, it shall be entitled to reasonable extra compensation therefor, and to reimbursement for reasonable and necessary Extraordinary Expenses in connection therewith; provided, that if such Extraordinary Services or Extraordinary Expenses are occasioned by the negligence or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee hereby agrees that it will not delay (i) in making any drawing on any Letter of Credit or Alternate Security, (ii) in making any payment with respect to the Bonds from moneys currently on hand and available therefor in accordance with Article IV hereof, (iii) in causing the acceleration of the Bonds, in each case at the times required by this Ordinance, if any such compensation so due the Trustee has not been paid to the Trustee as of the date of such required drawing, or (iv) in causing any required notice of redemption or mandatory purchase be given as required herein. In Section 5.05 of the Installment Sale Agreements, the Company has agreed that it will pay to the Trustee, the Registrar, any Remarketing Agent, the Paying Agent and any Co-Paying Agent under this Ordinance such compensation and reimbursement but the Company may, without creating a default hereunder, contest in good faith the necessity for and reasonableness of any such services and expenses; provided, however, the Trustee, the Registrar, any Remarketing Agent, the Paying Agent and any Co-Paying Agent hereunder shall not receive any compensation hereunder from Available Moneys or moneys from a draw on a Letter of Credit.

Section 10.05 Limitations on Required Notice by Trustee. The Trustee shall not be required to take notice, or be deemed to have notice, of any Default, Act of Bankruptcy or Event of Default under this ordinance other than an Event of Default under clause (a), (b) or (c) of the first paragraph of Section 9.01 hereof, unless specifically notified in writing of such Event of Default by the Bondholders of at least 25% in principal amount of any Bonds then Outstanding or by any Bank or Alternate Security provider. The Trustee may, however, at any time, in its discretion, require of the City full information and advice as to the performance of any of the City's covenants, conditions and agreements contained herein. The Trustee may at any time request a certificate of an Authorized Company Representative and rely thereon as to whether any Default, Act of Bankruptcy with respect to the Company or Event of Default has occurred.

In the event the Trustee does not timely receive any payment of the Project Purchase Price in accordance with Section 5.02 of the Installment Sale Agreements, the Trustee shall immediately give telephonic or telegraphic notice thereof to the City and the Company, but the Trustee shall incur no liability for failure to give such notice and such failure shall have no effect on the rights of the Trustee or the Bondholders set forth in this Ordinance or any Bond.

Section 10.06 Limitations on Obligations of Trustee to Take Action. The Trustee shall be under no obligation to take any action in respect of any Default, Event of Default or otherwise, or toward the execution or enforcement of any of the trusts hereby created, or to institute, appear in or defend any suit or other proceeding in connection therewith, unless requested in writing to do so by Bondholders of at least 25% in principal amount of the Bonds then Outstanding, together with, so long as any Letter of Credit or Alternate Security shall be in effect with respect to the Bonds and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the consent of the Bank, and, if in its opinion such action may tend to involve it in expense or liability, unless furnished, from time to time as often as it may reasonably require, with security and indemnity satisfactory to it (provided that, notwithstanding the foregoing, the Trustee shall (i) make each drawing on any Letter of Credit or Alternate Security, (ii) make all payments with respect to the Bonds from moneys currently on hand and available therefor in accordance with Article IV hereof, (iii) cause the acceleration of the Bonds, in each case at the times and in the manner required by this Ordinance and (iv) cause any required notice of redemption or mandatory purchase be given as required herein); but the foregoing provisions are intended only for the protection of the Trustee, and shall not affect any discretion or power given by any provisions of this Ordinance to the Trustee to take action in respect of any Event of Default without such notice or request from the Bondholders, or without such security or indemnity; provided that the Trustee shall not breach any fiduciary duty hereunder if it declines to exercise any such discretion or power until it has received security and indemnity satisfactory to it as provided herein.

Section 10.07 Advances by Trustee; Interest Thereon. If the City shall fail to perform any of the covenants or agreements contained in this Ordinance other than the covenants or agreements in respect of the payment of the principal of and premium, if any, and interest on the Bonds, the Trustee may, in its uncontrolled discretion and without notice to the Bondholders, at any time and from time to time, make advances to effect performance of the same on behalf of the City, but the Trustee shall be under no obligation to do so and shall not be in breach of any fiduciary duty hereunder if it fails to do so; and any and all moneys paid or advanced by the Trustee for any such purpose, together with interest thereon at a rate per annum equal to the rate announced from time to time by the Trustee as its prime lending rate for domestic commercial loans, shall create an additional obligation secured by this Ordinance having a claim in favor of the Trustee upon the moneys and investments in the Bond Fund (other than moneys received pursuant to Section 4.07 or 8.02 hereof) prior to the claim of the Bonds; but no such advance shall operate to relieve the City from any Event of Default hereunder.

Section 10.08 Trustee Protected. The Trustee shall be protected and shall incur no liability in acting, relying or proceeding in good faith upon any resolution, notice, telegram, request, consent, waiver, certificate, opinion, statement, affidavit, voucher, bond, requisition or other paper or document, including any documents delivered by independent consultants or other professionals, which it shall in good faith believe to be genuine and to have been passed or signed by the proper board, body or person or to have been prepared and furnished pursuant to any of the provisions of this Ordinance or either Installment Sale Agreement, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matter referred to or conclusions reached in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements.

Section 10.09 Trustee May Deal in Bonds, etc. The Trustee may in good faith buy, sell, own, hold and deal in any of the Bonds issued hereunder and secured by this Ordinance, and may join in any action which any Bondholder may be entitled to take with like effect as if the Trustee were not a party to this Ordinance. The Trustee, either as principal or agent, may also engage in or be interested in any financial or other transaction with the City or the Company, and may act as depository, trustee or agent for any committee or body of Bondholders secured hereby or other obligations of the City as freely as if it were not Trustee hereunder.

Section 10.10 Allowance and Credit of Interest by Trustee. The Trustee has no obligation to (unless otherwise agreed to with the

Company), but may, allow and credit interest upon any moneys which it may at any time receive under any of the provisions of this Ordinance, at such rate, if any, as it customarily allows upon similar funds of similar size and under similar conditions; provided that such allowance and credit shall not result in any violation of Section 7.10 hereof. All interest allowed on any such moneys shall be credited as provided in Article VI hereof with respect to interest on investments.

Section 10.11 Construction of Ordinance by Trustee. The Trustee may construe any of the provisions of this Ordinance insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof, and any construction of any such provisions hereof by the Trustee in good faith shall be binding upon the Bondholders.

Section 10.12 Resignation by Trustee. The Trustee may resign and be discharged of the trusts created by this Ordinance by executing any instrument in writing resigning such trust and specifying the date when such resignation shall take effect, and filing the same with the City Clerk and the Company not less than 60 days before the date specified in such instrument when such resignation shall take effect, and by simultaneously giving notice of such resignation by first-class mail to all Bondholders at the addresses shown on the registration books of the Registrar. Such resignation and discharge shall take effect on the day specified in such instrument and notice; provided that a successor Trustee has been appointed hereunder and has accepted such appointment, unless previously a successor Trustee shall be appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of, and the acceptance of such appointment by, such successor Trustee.

Section 10.13 Removal of Trustee. The Trustee may be removed at any time by filing with the Trustee so removed, with the City and with the Company an instrument in writing, appointing a successor, executed by the Bondholders of not less than a majority in principal amount of the Bonds then Outstanding. The Trustee shall be, as provided in Section 10.04 hereof, (i) compensated for its services rendered hereunder and (ii) reimbursed for its out-of-pocket expenses incurred, in each case through the date of its removal as Trustee hereunder (including any removal pursuant to Section 14.08(a) hereof), within 30 days after such date.

Section 10.14 Appointment of Successor Trustee. In case at any time the Trustee shall be dissolved, or if its property or affairs shall be taken under the control of any state or Federal court or administrative body because of insolvency or bankruptcy, or for any other reason, then a vacancy shall forthwith and ipso facto exist in the office of Trustee and a successor may be appointed, and in case at any time the Trustee shall resign or be removed, then a successor may be appointed, by filing with the City Clerk and the Company an instrument in writing, executed by the Bondholders of the Bonds of not less than a majority in principal amount of Bonds then Outstanding, together with, so long as any Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, a consent of the Bank to such appointment. Copies of such instrument shall be promptly delivered by the City to the predecessor Trustee and to the Trustee so appointed.

Until a successor Trustee shall be appointed by the Bondholders (and, if applicable, approved by the Banks) as herein authorized, the City, by an instrument authorized by resolution of the City Council, may, but shall have no obligation to, appoint a successor Trustee. After any appointment by the City, it shall promptly cause notice of such appointment to be sent by first-class mail to all Bondholders at the addresses shown on the registration books of the Registrar. Any new Trustee so appointed by the City shall immediately and without further act be superseded by a Trustee appointed by the Bondholders in the manner above provided.

Notwithstanding anything herein to the contrary, no resignation or removal of the Trustee shall be effective until (i) a successor Trustee shall be appointed in accordance with the terms hereof and has accepted such appointment and (ii) each then existing Letter of Credit shall have been transferred to such successor in accordance with the terms thereof.

Section 10.15 Qualifications of Successor Trustee. Every successor Trustee shall be a bank with trust powers or trust company duly organized under the laws of the United States of America or any state thereof having a combined capital stock, undivided profits and surplus of at least $50,000,000 and rated not less than "Baa3" long term rating by Moody's and "Prime 3" short term rating by Moody's or be otherwise acceptable to Moody's if there be such a trust company, bank and trust company or state or national bank willing and able to accept the trust on reasonable and customary terms.

Section 10.16 Judicial Appointment of Successor Trustee. In case at any time the Trustee shall resign and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article X prior to the date specified in the notice of resignation as the date when such resignation is to take effect, the retiring Trustee may forthwith apply to a court of competent jurisdiction for the appointment of a successor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article X within six months after a vacancy shall have occurred in the office of Trustee, any Bondholder may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Trustee.

Section 10.17 Acceptance of Trusts by Successor Trustee. Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the City an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become duly vested with all the estates, property, rights, powers, trusts, duties and obligations of its predecessor in the trusts hereunder, with like effect as if originally named Trustee herein. Upon request of such Trustee, such predecessor Trustee and the City shall execute and deliver an instrument transferring to such successor Trustee all the estates, property, rights, powers and trusts hereunder of such predecessor Trustee and such predecessor Trustee shall pay over to the successor Trustee all moneys and other assets at the time held by it hereunder.

Section 10.18 Successor Trustee upon Merger or Consolidation of Trustee. Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, shall be the successor Trustee under this Ordinance, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

Section 10.19 No Implied Covenants; Standard of Care. (a) Except during the continuance of an Event of Default, (i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Ordinance, and no implied covenants or obligations shall be read into this Ordinance against the Trustee; and (ii) in the absence of willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Ordinance; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Ordinance.

(b) If an Event of Default occurs of which the Trustee by Section 10.05 hereof is required to take notice and deemed to have notice, notwithstanding any other provisions of this Article X, the Trustee shall exercise such of the rights and powers vested in it by this Ordinance, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

Section 10.20 Notice to Owners. If an Event of Default occurs of which the Trustee by Section 10.05 hereof is required to take notice and deemed to have notice, or any other Event of Default occurs of which the Trustee has been specifically notified in accordance with Section 10.05 hereof, and any such Event of Default shall continue for at least seven days after the Trustee acquires such notice thereof, the

Trustee shall give written notice thereof by first-class mail to the last known Owners of all Bonds then Outstanding addressed to such owners at their addresses shown on the register kept by the Registrar as required by Section 2.10 hereof.

Section 10.21 Intervention by Trustee. In any judicial proceeding to which the City is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of the Bondholders, the Trustee may intervene on behalf of the Bondholders and shall, upon receipt of indemnity satisfactory to it, do so if requested in writing by the Bondholders of at least 25% in principal amount of Bonds then Outstanding if permitted by the court having jurisdiction in the premises.

Section 10.22 Co-Paying Agents. The Trustee shall be the Paying Agent for the Bonds. The City may at any time or from time to time by resolution, with the approval of the Company, appoint one or more Co-Paying Agents for the Bonds, in the manner and subject to the conditions set forth in Section 10.23 hereof for the appointment of a Co-Paying Agent. Each Co-Paying Agent shall designate to the Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it by a written instrument of acceptance deposited with the City and the Trustee under which such Co-Paying Agent will agree with the Trustee that such Co-Paying Agent will:

(a) hold all sums held by it for the payment of the principal of and premium, if any, and interest on Bonds in trust for the benefit of the Bondholders until such sums shall be paid to such Bondholders or otherwise disposed of as herein provided;

(b) hold all Bonds tendered to it hereunder in trust for the benefit of the respective Bondholders until moneys representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Bondholders; and

(c) upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by any such Co-Paying Agent.

The City hereby covenants and agrees to cooperate with the Trustee to cause the necessary arrangements to be made through the Trustee and to be thereafter continued whereby funds derived from the sources specified in Article IV hereof will be made available for the payment of such of the Bonds as are presented when due at the appropriate offices of the Paying Agent and any Co-Paying Agent.

Section 10.23 Qualifications of any Co-Paying Agent, etc. Any Co-Paying Agent appointed by the City, with the approval of the Company, shall be a bank or trust company duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital stock, surplus and undivided profits of at least $10,000,000, rated not less than "Baa3" long term rating by Moody's and "Prime 3" short term rating by Moody's or be otherwise acceptable to Moody's and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Ordinance. The Paying Agent and any Co-Paying Agent may at any time resign and be discharged of the duties and obligations created by this Ordinance by giving at least 60 days written notice to the City, the Company and the Trustee. The Paying Agent and any Co-Paying Agent may be removed at any time with the consent of the Company by an instrument filed with the Paying Agent or such Co-Paying Agent, as the case may be, and the Trustee and signed by the City. Notwithstanding anything herein to the contrary, no removal or resignation of the Paying Agent shall be effective until a successor Paying Agent shall be appointed in accordance with the terms hereof.

In the event of the resignation or removal of the Paying Agent or any Co-Paying Agent, the Paying Agent or such Co-Paying Agent, as the case may be, shall pay over, assign and deliver any moneys held by it as Paying Agent or Co-Paying Agent to its successor, or if there be no successor, to the Trustee.

Upon the appointment, removal or notice of resignation of the Paying Agent or any Co-Paying Agent, the Trustee shall notify the

Bondholders thereof by first-class mail within 30 days following such appointment, removal or notice of resignation.

Section 10.24 Trustee to Notify Bank. At any time when any Credit Supported Bond or Bonds ceases or cease to be Outstanding under this Ordinance, the Trustee shall provide written notice of the principal amount thereof to the Bank and provider of Alternate Security in respect of such Credit Supported Bond or Bonds.

Section 10.25 Notice of Change in Principal Office of Trustee. The Trustee shall notify the Bondholders of any change in location of the Principal Office of the Trustee.

Section 10.26 Forwarding of Payments to Bank. The Trustee shall deliver to the Bank in accordance with the Company's instructions such moneys as may be delivered to the Trustee by the Company for payment of the Company's obligations under the applicable Reimbursement Agreement. Any such moneys received by the Trustee at or prior to 2:00 p.m. New York City time on any Business Day shall be delivered by the Trustee to the Bank on such Business Day.

Section 10.27 Notice to Rating Agencies.

The Trustee shall provide Moody's, if the Bonds are then rated by Moody's, or S&P, if the Bonds are then rated by S&P, as appropriate, with prompt written notice of (i) the appointment of any successor Trustee, Paying Agent, Remarketing Agent or Tender Agent, (ii) any amendments to this Ordinance or the Installment Sale Agreements, (iii) the payment (or provision for payment) in whole of the Bonds, (iv) the adjustment of any Bonds to a Short-Term or Long-Term Interest Rate Period, (v) the extension, expiration or termination of a Credit Facility or (vi) any amendment to the Reimbursement Agreement or a Credit Facility of which the Trustee has actual knowledge.

ARTICLE XI

Execution of Instruments by Bondholders and Proof of Ownership of Bonds

Section 11.01 Execution of Instruments by Bondholders and Proof of Ownership of Bonds. Any request, direction, consent or other instrument in writing, whether or not required or permitted by this Ordinance to be signed or executed by Bondholders, may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Ordinance and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments within such jurisdiction, to the effect that the person signing such instrument acknowledged before him the execution thereof, or by an affidavit of a witness to such execution.

(b) The ownership of Bonds shall be proved by the registration books kept under the provisions of Section 2.10 of this Ordinance.

Nothing contained in this Article XI shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of matters herein stated which to it may seem sufficient. Any request or consent of any Bondholder shall bind every future holder of the same Bond or any Bond or Bonds issued in lieu thereof in respect of anything done by the Trustee or the City in pursuance of such request or consent.

ARTICLE XII

Modifications of this Ordinance, the Company Indenture, the Installment Sale Agreements and the Guaranty; Senior Unsecured Notes

Section 12.01 No Modification Except Pursuant To This Article XII. Neither this Ordinance nor either Installment Sale Agreement nor the Guaranty shall be modified or amended in any respect subsequent to the issuance of the Bonds hereunder except as provided in and in accordance with and subject to the provisions of this Article XII and Section 7.04 hereof.

Section 12.02 Supplemental Ordinances Not Requiring Consent of Bondholders. (1) The City may, from time to time and at any time, without the consent of or notice to any of the Bondholders, adopt, and the Trustee may accept (provided that so long as any Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the prior written consent of the Bank shall have been obtained), Supplemental ordinances as follows:

(a) To cure any ambiguity, formal defect or omission in this Ordinance; or

(b) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to this Ordinance as theretofore in effect; or

(c) To add to the covenants and agreements of, and limitations and restrictions upon, the City in this Ordinance, other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary to this Ordinance as theretofore in effect; or

(d) To subject to the lien and pledge hereof additional payments, revenues, properties or collateral, including but not limited to, an Alternate Letter of Credit or Alternate Security and to make such other changes consistent herewith which are necessary in connection with the delivery of such Alternate Letter of Credit or Alternate Security and which do not adversely affect Bondholders; or

(e) To change the percentage of ownership interest in or the composition of the Facilities which constitutes the Project; provided that in doing so, the Project Purchase Price shall not be reduced; or

(f) To confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by, this Ordinance, of the Receipts and Revenues of the City from the Installment Sale Agreements or of any other moneys, securities or funds; or

(g) To cause this Ordinance to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended, or any similar Federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States of America, and if they so determine, to add hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar Federal statute; or

(h) To provide for uncertificated or certificated securities or a modified book-entry system for registration and transfer of fully registered Bonds to the extent and in the manner permitted under the laws of the State of New Mexico; or

(i) Effective upon any Conversion Date to a new Mode, make any amendment affecting only the Bonds being converted, subject to subsection (1) of Section 12.03 hereof; or

(j) To add provisions relating to the partial conversion of Bonds to a new Mode; or

(k) To make such changes as may be required by the Rating Agencies or any credit rating agency then rating the Bonds in connection

with the delivery of an Alternate Letter of Credit or Alternate Security; or

(l) To provide for the exchange of the Senior Unsecured Notes for Corresponding Securities; provided that, if a Letter of Credit or Municipal Bond Insurance Policy shall then be in effect, the Bank or Bond Insurer shall have consented thereto and provided further that if no Letter of Credit or Municipal Bond Insurance Policy shall then be in effect, the Rating Agency shall have indicated in writing that the exchange would not result in a withdrawal or a reduction of the ratings on the Bonds; or

(m) To effect any other change which is not materially adverse to the Bondholders and which does not involve a change described in clause (i), (ii), (iii) or (iv) of subsection (1) of Section 12.03 hereof requiring consent of all Bondholders of Bonds outstanding for amendments listed in clauses (i), (ii), (iii) or (iv) thereof; or

(n) To add to provisions as may be necessary to comply with the requirements of section 148 of the Code.

(2) Before the City shall adopt any Supplemental Ordinance pursuant to this Section 12.02, there shall have been filed with the City and the Trustee an opinion of Bond Counsel stating that such Supplemental Ordinance is authorized or permitted by this Ordinance and the Act, complies with their respective terms, will be valid and binding upon the City in accordance with its terms and does not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes.

Section 12.03 Supplemental Ordinances Requiring Consent of Bondholders.

(1) Except for any Supplemental Ordinance adopted pursuant to Section 12.02 hereof, subject to the terms and provisions contained in this Section 12.03 and not otherwise, the Bondholders of not less than a majority in aggregate principal amount of the Bonds then Outstanding which would be adversely affected thereby, together with, so long as any applicable Letter, of Credit or Alternate Security shall be in effect with respect to such Bonds and no drawing on such Letter of Credit shall have been, and shall remain, wrongfully dishonored, the Bank, shall have the right from time to time to consent to and approve the adoption by the City of any Supplemental Ordinance with respect to such Bonds as shall be deemed necessary or desirable by the City for the purposes of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in this Ordinance with respect to such Bonds; provided, however, that, unless approved in writing by the Bondholders of all Bonds of the applicable Bonds then Outstanding, nothing herein contained shall permit, or be construed as permitting, with respect to such Bonds (i) a change in the times, amounts and currency of payment of the principal of and premium, if any, and interest on any Outstanding Bond, or a reduction in the principal amount, Purchase Price or redemption price of any Outstanding Bond or the rate of interest thereon, or (ii) the creation of a claim or lien upon, or a pledge of, the applicable Receipts and Revenues of the City from the Installment Sale Agreements ranking prior to or on a parity with the claim, lien or pledge created by this Ordinance, or (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (iv) a reduction in the aggregate principal amount of Bonds, the consent of the Bondholders of which is required for any such Supplemental Ordinance.

In all matters as to which the Trustee has the right to vote or grant or withhold consent as the holder of Senior Unsecured Notes (or Corresponding Securities in the event of an exchange pursuant to Section 12.09 hereof) under the Guaranty, the Trustee shall exercise such right subject to Section 12.09.

(2) If at any time the City shall determine to adopt any Supplemental Ordinance for any of the purposes of this Section 12.03, it shall cause notice of the proposed Supplemental Ordinance to be mailed, postage prepaid, to all Owners of Bonds then Outstanding. Such notice shall briefly set forth the nature of the proposed Supplemental Ordinance and shall state that a copy thereof is on file at the office of the Trustee for inspection by all Bondholders.

(3) Within one year after the date of such notice, the City may adopt (the date of adoption shall be the date of passage and not the effective date) such Supplemental Ordinance in substantially the form described in such notice only if there shall have first been filed with the Trustee (a) the required consents, in writing, of Bondholders and (b) an opinion of Bond Counsel stating that such Supplemental Ordinance is authorized or permitted by this Ordinance and the Act and complies with their respective terms, and that upon adoption it will be valid and binding upon the City in accordance with its terms and does not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes.

(4) If the Bondholders of not less than the percentage of Bonds required by this Section 12.03 shall have consented to and approved the adoption thereof as herein provided, no Bondholder shall have any right to object to the adoption of such Supplemental Ordinance, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City from, enacting the same or from taking any action pursuant to the provisions thereof.

Section 12.04 Effect of Supplemental Ordinance. Upon the adoption of any Supplemental Ordinance pursuant to the provisions of this Article XII, this Ordinance shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the City, the Trustee and all holders of Bonds then outstanding shall thereafter be determined, exercised and enforced under this Ordinance subject in all respects to such modifications and amendments.

Section 12.05 Supplemental Ordinances Requiring Consent of Company. Anything herein to the contrary notwithstanding, any Supplemental Ordinance under this Article XII which affects any rights, powers and authority of the Company under either Installment Sale Agreement, the Guaranty or the Senior Unsecured Notes (or Corresponding Securities in the event of an exchange pursuant to Section 12.09 hereof) or requires a revision of either Installment Sale Agreement, the Guaranty, the Senior Unsecured Notes or the Company Indenture (or the Corresponding Securities and Governing Instrument, as the case may be) shall not become effective unless and until the Company shall have consented to such Supplemental Ordinance.

Section 12.06 Supplemental Ordinances Requiring Consent of Bank. Any Supplemental Ordinance under this Article XII which affects any rights, powers and authority of a Bank or provider of any Alternate Security or requires a revision of a Letter of Credit or such Alternate Security shall not become effective unless and until such Bank or provider of such Alternate Security, as the case may be, shall have consented to such Supplemental Ordinance.

Section 12.07 Amendment of Installment Sale Agreements, Company Indenture and Guaranty Not Requiring Consent of Bondholders. Without the consent of or notice to the Bondholders, (a) the City and the Company may amend, change or modify either Installment Sale Agreement, and the Trustee may (with the prior written consent of the Bank, so long as the applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored) consent thereto, and the Trustee may (with the prior written consent of the Bank, so long as the applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored) consent to amendments to the Company Indenture and the Guaranty, as may be required (i) by the provisions of such Installment Sale Agreement and this Ordinance, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) to change the percentage of ownership interest in the Facilities which constitute the Project; provided that in doing so, the Project Purchase Price shall not be reduced and that an opinion of Bond Counsel shall have been delivered to the Trustee stating that such change is authorized or permitted by this Ordinance and the Act, complies with their respective terms, will be valid and binding upon the City in accordance with its terms and does not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes or (iv) in connection with any other change therein which, in the judgment of the Trustee, is not to the prejudice of the Trustee or

materially adverse to the Bondholders and (b) effective upon any Conversion Date to a new Mode, the City and the Company may make and the Trustee may consent to any amendment to the Installment Sale Agreements affecting only the Bonds being converted, subject to clause (iii) of this Section 12.07.

Section 12.08 Amendment of Installment Sale Agreements and Guaranty Requiring Consent of Bondholders. Except in the case of amendments, changes or modifications referred to in Section 12.07 hereof, the City and the Trustee shall not consent to any amendment, change or modification of either Installment Sale Agreement, and the Trustee shall not enter into any amendment, change or modification of the Guaranty, without the mailing of notice and the written approval or consent of the Bondholders of not less than a majority in aggregate principal amount, of all the Bonds then Outstanding which relate to such Installment Sale Agreement or Guaranty, together with, so long as any applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit shall have been, and shall remain, wrongfully dishonored, the written consent of the Bank, procured as provided in Section 12.03 hereof. If at any time the City or the Company shall request the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice of such proposed amendment, change or modification to be mailed in the same manner as provided by Section 12.03 hereof with respect to Supplemental Ordinances. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Principal Office of the Trustee for inspection by all Bondholders.

Section 12.09 Certain Matters with Respect to the Senior Unsecured Notes. (a) The Trustee, as holder of the Senior Unsecured Notes relating to Bonds (or the Corresponding Securities relating to such Bonds, in the event of an exchange pursuant to Section 12.09(b) hereof), shall attend meetings of Bondholders under the Company Indenture (or the Governing Instrument, as the case may be) or deliver its proxy in connection therewith. Either at such meeting, or otherwise when the written consent of the holders of the Company's Senior Unsecured Notes issued under the Company Indenture (or the Governing Instrument, as the case may be) is sought by the Company without a meeting, the Trustee, except as provided in the following sentence, is hereby directed to vote as the holder of the Senior Unsecured Notes relating to such Bonds (or the Corresponding Securities relating to such Bonds, in the event of an exchange pursuant to Section 12.09(b) hereof) or consent in writing with respect thereto, proportionately with what the Trustee reasonably believes will be the vote or consent of the holders of all other outstanding Senior Unsecured Notes voting or consenting; provided, however, that if (i) the Company shall have proposed one or more modifications to the Company Indenture and (ii) the Rating Agency shall have indicated in writing that such modification or modifications would not result in a withdrawal or a reduction of the ratings on the Senior Unsecured Notes of the Company issued under the Company Indenture, the Trustee shall vote as holder of the Senior Unsecured Notes relating to such Bonds (or the Corresponding Securities relating to such Bonds, as the case may be) or shall consent in writing with respect thereto, to approve, adopt and consent to such modification or modifications. Unless approved in writing by Bondholders of all Bonds then Outstanding, together with, so long as any applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit shall have been, and shall remain, wrongfully dishonored, the Bank, the Trustee shall not vote in favor of, or consent to, any modification to the Company Indenture (or the Governing Instrument, as the case may be) which (A) constitutes a change in the times, amounts or currency of payment of the principal of and premium, if any, and interest on any Senior Unsecured Note relating to such Bond or Corresponding Security relating to such Bond, as the case may be, or a reduction in the principal amount or redemption price thereof, (B) creates a preference or priority of any Company Security secured by the Company Indenture (or the Governing Instrument, as the case may be) over any other Company Security so secured or (C) permits the creation of any lien securing Company Securities ranking prior to or on a parity with the lien of the Company Indenture (or the Governing Instrument) on any of the Company's property subject thereto. Where the direction to the Trustee contained in this Section 12.09 shall not be applicable, the Trustee is authorized to act with respect to the Senior Unsecured Notes relating to such Bonds (or the Corresponding Securities relating to such Bonds, in the event of an exchange pursuant to Section 12.09(b) hereof) as otherwise permitted or

required by this Ordinance. When acting pursuant to the direction specified in this Section 12.09, including an exchange specified in Section 12.09(b) hereof, the Trustee shall not be deemed to be exercising any discretion or power under this Ordinance and, therefore, shall be fully protected and indemnified in so acting and shall not be answerable with respect thereto.

(b) Upon at least 30 days' prior written notice from and at the request of the Company to the City, the Paying Agent and the Trustee, the Trustee, as holder of the Senior Unsecured Notes relating to Bonds, shall exchange, in accordance with the provisions of a Supplemental Ordinance providing therefor, the Senior Unsecured Notes relating to such Bonds for other bonds or evidences of indebtedness of the Company ("Company Securities") (x) in an aggregate principal amount equal to the aggregate principal amount of the Bonds, in such principal amounts and maturing on such dates that upon the stated maturity dates of the Bonds a corresponding principal amount of such Company Securities shall mature, (y) bearing interest (but only from the date corresponding to the Initial Interest Accrual Date as defined in the Supplemental Company Indenture) at the same interest rate borne from time to time by either (i) such Senior Unsecured Notes relating to such Bonds or (ii) corresponding Bonds of the maturity date and (z) be subject to redemption prior to maturity at the time, in the amounts and at the same redemption premium borne by corresponding Bonds of the maturity date (Company Securities meeting the requirements of the foregoing clauses (x), (y) and (z) being herein called the "Corresponding Securities"); provided, however, that prior to or upon such exchange, each of the following conditions shall have been satisfied:

(1) on or prior to the date proposed by the Company for such exchange (the "Exchange Date") (which date shall be set forth in the notice from the Company to the City, the Paying Agent and the Trustee described above in this Section 12.09(b)), the Company shall provide the City, the Bank, the Paying Agent and the Trustee with an opinion of Bond Counsel reasonably satisfactory to the Trustee to the effect that the exchange will not adversely affect the exclusion of interest on the Bonds of the applicable Bonds from gross income for Federal income tax purposes;

(2) the Corresponding Securities relating to such Bonds shall be outstanding under a mortgage, deed of trust, trust or other indenture or other similar instrument or agreement (a "Governing Instrument") which (i) has been qualified under the Trust Indenture Act of 1939, as amended or (ii) shall, in the opinion of counsel to the Company, meet the requirements for qualification under said Act upon the filing of an appropriate application for such qualification;

(3) the trusts created by the Governing Instrument shall be stated therein to be for the equal and proportionate benefit and security of the holders from time to time of all Company Securities outstanding thereunder (including the Corresponding Securities) without any priority of any such Company Security over any other such Company Security so outstanding;

(4) the Company shall provide the City, the Bank, the Paying Agent and the Trustee with an opinion of Counsel dated the Exchange Date, to the effect that (i) the forms and terms of the Corresponding Securities have been duly authorized by the Company and have been established in conformity with the Governing Instrument, (ii) the Corresponding Securities, when authenticated and delivered by the Trustee under the Governing Instrument in the manner and subject to any conditions specified in such opinion, will have been duly issued under the Governing Instrument and will constitute valid and legally binding obligations of the Company, entitled to the benefits of the Governing Instrument, and enforceable in accordance with their respective terms (except as limited by bankruptcy, insolvency, moratorium and other laws affecting the enforcement of mortgagees' and other creditors' rights and by general equitable principles) and (iii) all conditions precedent relating to such exchange provided in this Ordinance have been complied with;

(5) no Event of Default relating to the Bonds shall have occurred and be continuing hereunder, no "Event of Default" (as defined in the Company Indenture) shall have occurred and be continuing and no "event of default" or other comparable event under the Governing Instrument shall have occurred and be continuing (in each case as certified by the Company to the City, the Bank, the Paying Agent and the Trustee); and

(6) each Rating Agency shall have indicated in writing that the Company Securities outstanding or to be outstanding under the Governing Instrument are or will be assigned the same or a better rating as the rating in effect for the Senior Unsecured Notes of the Company outstanding under the Company Indenture on the Exchange Date.

Section 12.10 Issuance of Bonds Under Other Ordinances; Recognition of Prior Pledges. The City hereby expressly reserves the right to issue, to the extent permitted by law, bonds under other ordinances for one or more purposes permitted by the Act. The City hereby recognizes and protects any prior pledge or mortgage made to secure any prior issue of bonds.

ARTICLE XIII

The Trustee and the Remarketing Agent

Section 13.01 Agreements by the Trustee. Upon acceptance of this Ordinance by the Trustee, the Trustee shall agree that it will:

(a) subject to Section 2.14 hereof, hold all Bonds delivered to it pursuant to Section 2.03 hereof in trust for the benefit of the respective Bondholders which shall have so delivered such Bonds until moneys representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Bondholders; and

(b) hold all moneys delivered to it hereunder for the purchase of such Bonds in trust for the benefit of the person or entity which shall have so delivered such moneys until application of such moneys to the purchase of such Bonds.

Section 13.02 Remarketing Agents. The Company shall appoint a Remarketing Agent or Remarketing Agents for any or all Bonds, subject to the conditions set forth in Section 13.03 hereof, if any Bonds shall be in the Flexible Mode, Daily Mode, Weekly Mode or Multiannual Mode (unless the term of such Multiannual Mode is to the maturity of the Bonds). The Company may, at any time, appoint a co-Remarketing Agent meeting the qualifications set forth in Section 13.03 hereof in which case all references herein to "Remarketing Agent" shall include such co-Remarketing Agent. The Remarketing Agent shall designate to the Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Trustee and the Trustee shall be entitled to rely thereon as to the satisfaction of the conditions set forth in Section 13.03 hereof.

Section 13.03 Qualifications of a Remarketing Agent; Resignation; Removal. The Remarketing Agent shall be a member of the National Association of Securities Dealers, having a capitalization of at least $15,000,000 and rated not less than "Baa3" long term rating by Moody's and "Prime 3" short term rating by Moody's or be otherwise acceptable to Moody's and be authorized by law to perform all the duties imposed upon it by this Ordinance. The Remarketing Agent may be removed at any time, and a successor Remarketing Agent appointed at the direction of the Company, by an instrument executed by an Authorized Company Representative, filed with the City, the Remarketing Agent and the Trustee. Any successor Remarketing Agent shall agree to perform all of the duties imposed by this Ordinance and the Remarketing Agent Agreement in accordance with the terms hereof and thereof.

ARTICLE XIV

Bond Insurance Provisions

Section 14.01 Effectiveness. The provisions in this Article XIV shall be effective with respect to the Bonds only if, and so long as, a Municipal Bond Insurance Policy with respect to such Bonds is in full force and effect.

Section 14.02 Consent of Bond Insurer. (a) Notwithstanding Article XII hereof, any provision of this Ordinance expressly recognizing or granting rights in or to the Bond Insurer, including, without limitation, this Article XIV, may not be amended in any manner which affects the rights of the Bond Insurer hereunder without the prior written consent of the Bond Insurer.

(b) Unless otherwise provided in this Section 14.02, the Bond Insurer's consent shall be required for the adoption of a Supplemental Ordinance to amend Section 2.03(D)(3)(iii) and shall be required in addition to Bondholder consent, when required, for the following purposes: (i) adoption of any Supplemental Ordinance or any amendment, change or modification of either Installment Sale Agreement or Guaranty, (ii) removal of the Trustee, Paying Agent or Co-Paying Agent and selection and appointment of any successor trustee, paying agent or co-paying agent, (iii) the exchange of applicable Senior Unsecured Notes for Corresponding Securities pursuant to Section 12.09(b) hereof and (iv) initiation or approval of any action not described in (i), (ii) or (iii) above which requires Bondholder consent under this Ordinance.

Section 14.03 Control of Remedies. (a) Anything in this Ordinance to the contrary notwithstanding, upon the occurrence and during the continuance of an Event of Default, with respect to the Bonds insured by the Bond Insurer, the Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bondholders of such Bonds or the Trustee for the benefit of the Bondholders of such Bonds under this Ordinance, including, without limitation: (i) the right to accelerate the principal of such Bonds as described in this Ordinance and (ii) the right to annul any declaration of acceleration with respect to such Bonds, and the Bond Insurer shall also be entitled to approve all waivers of Event of Default.

(b) Upon the occurrence of an Event of Default relating to the Bonds insured by the Bond Insurance and upon the condition that in accordance with the terms of the Company Indenture (or the Governing Instrument in the event of an exchange pursuant to Section 12.09 hereof), the Senior Unsecured Notes relating to such Bonds (or the Company Securities relating to such Bonds, as the case may be) issued and outstanding thereunder shall have become immediately due and payable pursuant to any provision of the Company Indenture (or the Governing Instrument, as the case may be), the Trustee may, with the consent of the Bond Insurer, and shall, at the direction of the Bond Insurer or Bondholders of at least 25% in principal amount of such Bonds then Outstanding with the consent of the Bond Insurer, by written notice to the City, the Company and the Bond Insurer, declare the principal of such Bonds to be immediately due and payable, whereupon that portion of the principal of such Bonds thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, anything in this Ordinance or in such Bonds to the contrary notwithstanding.

(c) Nothing herein shall be deemed to modify or otherwise affect the consequences of any special mandatory redemption of Bonds pursuant to Section 3.01 hereof.'

Section 14.04 Notices to Bond Insurer. (a) The Trustee shall furnish to the Bond Insurer a copy of any notice to be given by the Trustee to the holders of the Bonds insured by the Bond Insurer, including, without limitation, notice of any redemption of or defeasance of such Bonds, and any certificate rendered to the Trustee pursuant to this Ordinance relating to the security for such Bonds.

(b) The Trustee shall notify the Bond Insurer of any failure of the City or the Company to provide any mandatory notice, certificate, opinion or other instrument to the Trustee in accordance with the terms of this Ordinance.

(c) Notwithstanding any other provision of this Ordinance, the Trustee shall immediately notify the Bond Insurer if at any time there are insufficient moneys to make any payments of principal, premium, if any, and/or interest on the Bonds insured by the Bond Insurer as required hereunder and immediately upon the occurrence of any Event of Default relating to such Bonds hereunder.

Section 14.05 Investment Securities. (a) Notwithstanding any other provision of this Ordinance, all moneys relating to Bonds insured by the Bond Insurer deposited with the Trustee pursuant to Section 8.02 of the Ordinance shall be in the form of either:

(1) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in paragraph (2) below); or

(2) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America.

(b) The following obligations or securities shall, together with the obligations described in Section 14.05(a) hereof, constitute Investment Securities for all purposes of the Ordinance notwithstanding Section 6.01 hereof:

(1) obligations of any of the following Federal agencies which obligations represent full faith and credit of the United States of America, including the Export-Import Bank, Rural Economic Community Development Administration (formerly the Farmers Home Administration), the Farm Credit System Financial Assistance Corporation, the General Services Administration, the United States Maritime Administration, the Small Business Administration, the Government National Mortgage Association (GNMA), the United States Department of Housing & Urban Development (PHA's) and the Federal Housing Administration;

(2) bonds, notes or other evidences of indebtedness rated "AAA" by S&P and "Aaa" by Moody's issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(3) United-States-dollar-denominated deposit accounts, Federal Fund and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by S&P and "P-1" by Moody's and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(4) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by S&P and "P-1" by Moody's and which matures not more than 270 days after the date of purchase;

(5) investments in a money market fund rated "AAAm" or "AAArn-G" or better by S&P;

(6) Pre-refunded Municipal Obligations defined as follows:

Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on the escrow, in the highest rating category of S&P and Moody's or any successors thereto; or (B)(i) which are fully secured as to principal and interest and redemption premium, if any, by a fund

consisting only of cash or obligations described in paragraph (1) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which fund is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(7) investment agreements approved in writing by the Bond Insurer with notice to S&P; and

(8) other forms of investment approved in writing by the Bond Insurer with notice to S&P and with respect to which the Bond Insurer has received such opinions of counsel as it shall reasonably request;

provided, however, that no such investment shall violate the laws of the State of New Mexico.

Section 14.06 Defeasance Provisions. Notwithstanding anything herein to the contrary, in the event that the principal and/or interest due on the Bonds shall be paid by the Bond Insurer pursuant to the Municipal Bond Insurance Policy, such Bonds shall remain Outstanding under this Ordinance for all purposes of this Ordinance, not be defeased or otherwise satisfied and not be considered paid by the City, and the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the City to the holders shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such holders.

Section 14.07 Payment Procedure Pursuant to the Municipal Bond Insurance Policy. The City, the Trustee and the Paying Agent agree to comply with the following provisions:

(a) On the Interest Payment Date, the Paying Agent shall determine whether there will be sufficient funds in the Bond Fund to pay the principal of or interest on the Bonds insured by the Bond Insurance on such Interest Payment Date. If the Paying Agent determines that there will be insufficient funds in the Bond Fund, the Paying Agent shall so notify the Bond Insurer. Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. The Bond Insurer shall make payments of principal or interest due on the Bonds on or before the first day next following the date on which the Bond Insurer shall have received notice of nonpayment from the Paying Agent.

(b) The Paying Agent shall, after giving notice to the Bond Insurer as provided in Section 14.07(a), make available to the Bond Insurer and, at the Bond Insurer's direction, to the Insurance Trustee, the registration books maintained by the Registrar, and all records relating to the Bond Fund maintained under this Ordinance.

(c) The Paying Agent shall provide the Bond Insurer and the Insurance Trustee with a list of Owners of Bonds entitled to receive principal or interest payments from the Bond Insurer under the terms of the Municipal Bond Insurance Policy, and shall make arrangements with the Insurance Trustee (1) to mail checks or drafts to the Owners of Bonds entitled to receive full or partial interest payments from the Bond Insurer and (ii) to pay principal upon Bonds surrendered to the Insurance Trustee by the Owners of Bonds entitled to receive full or partial principal payments from the Bond Insurer.

(d) The Paying Agent shall at the time it provides notice to the Bond Insurer pursuant to Section 14.07(a) above, notify Owners of Bonds entitled to receive the payment or interest thereon from the Bond Insurer (i) as to the fact of such entitlement, (ii) that the Bond Insurer will remit to them all or part of the interest payments next coming due upon proof of Bondholder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory the Insurance Trustee, of an appropriate assignment of the Owner's right to payment, (iii) that should they be entitled to receive full payment of principal from the Bond Insurer, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of the Bond Insurer) for payment to the Insurance Trustee, and not the Trustee or Paying Agent and (iv) that should they be entitled to receive partial payment of principal from the Bond Insurer, they must surrender their Bonds for payment thereon first to the Trustee or Paying Agent, if any, who shall note on such Bonds the portion of the principal paid by the Paying Agent and then, along with an appropriate instrument of assignment, if any, in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(e) In the event that the Paying Agent has notice that any payment of principal of or interest on a Bond insured by the Bond Insurer which has become due for payment and which is made to a Bondholder by or on behalf of the City has been deemed a preferential transfer and theretofore recovered from its Owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Paying Agent shall, at the time the Bond Insurer is notified pursuant to Section 14.07(a), notify all Owners of such Bonds that in the event that any such Owner's payment is so recovered, such Owner will be entitled to payment from the Bond Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Paying Agent shall furnish to the Bond Insurer its records evidencing the payments of principal of and interest on such Bonds which have been made by the Paying Agent and subsequently recovered from such Owners and the dates on which such payments were made.

(f) In addition to those rights granted the Bond Insurer under this Ordinance, the Bond Insurer shall, to the extent it makes payment of principal of or interest on Bonds insured by the Bond Insurer, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Municipal Bond Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Paying Agent shall note the Bond Insurer's rights as subrogee on the registration books maintained by the Registrar upon receipt from the Bond Insurer of proof of the payment of interest thereon to the Owners of such Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Paying Agent shall note the Bond Insurer's rights as subrogee on the registration books maintained by the Registrar upon surrender of such Bonds by the holders thereof together with proof of the payment of principal thereof

Section 14.08 Trustee Provisions. (a) The Trustee, Paying Agent (with respect to the Bonds) and Co-Paying Agent (with respect to the Bonds) may be removed at any time, at the request of the Bond Insurer, for any breach of the trust set forth herein. In case of removal, the Trustee shall be compensated and reimbursed as provided in Section 10.13 hereof.

(b) The Bond Insurer shall receive prior written notice of any Trustee or Paying Agent resignation.

(c) Every successor Trustee appointed pursuant to this Section 14.08 shall, in addition to meeting the qualifications set forth in Section 10.15 hereof, be a trust company or bank in good standing located in or incorporated under the laws of the United States of America, any state thereof or the District of Columbia, duly authorized to exercise trust powers and subject to examination by Federal or state authority, having a reported capital and surplus of not less than $75,000,000 and acceptable to the Bond Insurer and the Bank. Any successor Paying Agent shall not be appointed unless the Bond Insurer approves such successor in writing.

(d) Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, the Trustee shall consider the effect on such Bondholders as if there were no Municipal Bond Insurance Policy.

(e) Notwithstanding any other provision of this Ordinance, no removal, resignation or termination of the Trustee or Paying Agent shall take effect Until a successor, acceptable to the Bond Insurer (and, in the case of a successor Trustee, the Bank), shall be appointed and has assumed its duties as successor Trustee or Paying Agent, as the case may be.

Section 14.09 Interested Parties. (a) To the extent that this Ordinance confers upon or gives or grants to the Bond Insurer or any Bank any right, remedy or claim under or by reason of this Ordinance, the Bond Insurer and the Bank is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

(b) Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, give or grant to, any person or entity, other than the City, the Trustee, the Bond Insurer, the Bank, the Company, the Paying Agent and the Bondholders, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Trustee, the Bond Insurer, the Company, the Paying Agent and the Bondholders.

ARTICLE XV

Miscellaneous

Section 15.01 Ordinance to Bind and Inure to Benefit of Successors to City. In the event of the dissolution of the City, all the covenants, stipulations, promises and agreements in this Ordinance contained, by or on behalf of, or for the benefit of, the City, shall bind or inure to the benefit of the successors of the City from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the City shall be transferred.

Section 15.02 Limitation of Rights. Except as otherwise specifically provided herein, nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City, the Trustee, the Company and the Bondholders, any right, remedy or claim under or by reason of this Ordinance, this Ordinance being intended to be for the sole and exclusive benefit of the City, the Trustee, the Company and the Bondholders.

Section 15.03 Severability. In case any one or more of the provisions of this Ordinance or of the Bonds issued hereunder shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Ordinance, the Installment Sale Agreements, the Guaranty or said Bonds, and this Ordinance, the Installment Sale Agreements, the Guaranty and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.

Section 15.04 No Personal Liability of City Officials Under Ordinance. No covenant or agreement contained in the Bonds or in this Ordinance, shall be deemed to be the covenant or agreement of any official, officer, agent, or employee of the City in his individual capacity, and neither the members of the City Council nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 15.05 Bonds Owned by City or Company Disregarded for Certain Purposes. In determining whether the Bondholders of the requisite aggregate principal amount of Bonds have concurred in any direction, consent or waiver under this Ordinance, Bonds which are owned by the City or the Company or by any person directly or indirectly

controlling or controlled by or under direct or indirect common control with the Company shall be disregarded and deemed not to be outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Bonds which the Trustee knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the City or the Company or any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 15.06 Governing Law. The laws of the State of New Mexico shall govern the construction of this Ordinance and of all Bonds issued hereunder.

Section 15.07 Notices. Except as otherwise provided in this Ordinance, all notices, certificates, requests or other communications pursuant to this Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, addressed as follows:

If to the City:	City of Farmington City Hall 800 Municipal Drive Farmington, New Mexico 87401 Attention: Treasurer
If to the Company:	Public Service Company of New Mexico 414 Silver Avenue, SW Albuquerque, New Mexico 87102 Attention: Treasurer
If to the Trustee:	at the address specified in the resolution of the City appointing the Trustee.

Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder. All notices, certificates, requests or other communications to be given to any Bond Insurer or Remarketing Agent hereunder shall be given in accordance with any written instructions from such parties.

Section 15.08 Effect of Non-Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Ordinance, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

Section 15.09 Opinions. Each opinion with respect to the validity of documents or Bonds, may be qualified to the extent of the application of bankruptcy, insolvency, moratorium, fraudulent conveyance or reorganization laws or laws affecting the remedies for the enforcement of the rights and security provided therein and need not pass on the availability of the remedy of specific enforcement, injunctive relief or any other equitable remedy.

Section 15.10 Notices to Rating Agencies. The Trustee shall promptly give notice to Moody's at Moody's Structured Transaction Group, Corporate Department, 99 Church Street, New York, New York 10007, S&P at Standard & Poor's Financial Institutions Ratings, 25 Broadway, New York, New York 10004 and the Bond Insurer of the occurrence of any of the following:

(a) the termination, cancellation, amendment, expiration or extension of the Letter of Credit or Alternate Security;

(b) the removal or resignation of the Trustee or Paying Agent and the naming of a successor Trustee or Paying Agent, as the case may be, pursuant to Article X hereof;

(c) the removal or resignation of the Remarketing Agent and the naming of a successor Remarketing Agent pursuant to Article XIII hereof;

(d) the conversion or failed conversion of the Bonds as required by Section 2.03 hereof;

(e) the redemption or defeasance of the Bonds; the execution and delivery of any Supplemental Ordinance adopted pursuant to Section 12.03 hereof;

(f) any amendment, change or modification of the Installment Sale Agreement pursuant to Section 12.07 hereof; and

(g) any event of default under an Reimbursement Agreement.

Section 15.11 Surrender of Senior Unsecured Notes. Whenever the principal of any Bonds °shall have been paid (or shall be deemed to have been paid within the meaning of this Ordinance) whether upon the redemption or prepayment or upon the maturity or acceleration thereof, or Bonds shall have been delivered to the Trustee by the Company for cancellation or acquired by the Trustee (other than by tender pursuant to Section 2.03 hereof) pursuant to this Ordinance with moneys available hereunder, an equal aggregate principal amount of corresponding Senior Unsecured Notes (or Corresponding Securities, in the event of an exchange pursuant to Section 12.09(b) hereof) maturing on the same date or dates as said Bonds paid, delivered or acquired, shall be surrendered by the Trustee to the trustee under the Company Indenture for cancellation, and upon such surrender said amount of Senior Unsecured Notes (or Corresponding Securities, as the case may be) shall be deemed fully paid; provided that, with respect to any such Bonds that were paid or deemed to have been paid with moneys drawn under a Letter of Credit, no such Senior Unsecured Notes (or Corresponding Securities, as the case may be) shall be surrendered by the Trustee for cancellation or deemed fully paid unless and until the Bank shall have been fully reimbursed therefor under the Reimbursement Agreement.

Section 15.12 Headings; Table of Contents. The division of this Ordinance into sections, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

Section 15.13 Acceptance by Trustee. The execution by the party designated and appointed Trustee of the acceptance set forth at the end of this Ordinance certified by the City Clerk shall be sufficient to constitute said party as Trustee hereunder in accordance with the provisions hereof without the execution of any other instrument.

Section 15.14 Declaration of Emergency. The City Council declares that emergency circumstances exist which are of an immediate danger to the public health, safety and welfare of the City and that this Ordinance shall therefore take effect immediately.

Passed, Adopted, Signed and Approved this ____ day of _____, 2016.

_____
Tommy Roberts, Mayor

(Seal)

Attest:

_____
Dianne Smylie, City Clerk

I, Tommy Roberts, Mayor of the City of Farmington, New Mexico, do hereby declare that, pursuant to Section 3-17-3 N.M.S.A. 1978, this Ordinance deals with an emergency of an immediate danger to the public health, safety and welfare of the City, and any publication of such Ordinance prior to its adoption is hereby declared to be unnecessary.

_____

Mayor

ACCEPTANCE OF DUTIES BY TRUSTEE

_____ as Trustee, hereby accepts as of _____, 2016 the Trust imposed under the foregoing Ordinance and the duties and obligations imposed on the Trustee thereby.

_____

By: _____
Title:

ORDINANCE NO. 2016-XXXX

An Ordinance authorizing and providing for the issuance by the City of Farmington, New Mexico of its revenue bonds designated "Pollution Control Revenue Refunding Bonds, 2016 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects)" to be issued in an aggregate principal amount of $100,000,000 to be issued pursuant to the provisions of the Pollution Control Revenue Bond Act, Chapter 397, Laws of 1973 of the State of New Mexico, 31st Legislature, 1st Session, as amended for the purpose of refunding outstanding revenue bonds issued under such Act to refund previously issued revenue bonds under such Act to refund previously issued revenue bonds under such Act to refund previously issued revenue bonds under such Act to finance the cost to Public Service Company of New Mexico (the "Company") a corporation organized and existing under the laws of the State of New Mexico (the "State") of (i) certain facilities (the "San Juan Facilities") for the abatement, control, reduction or prevention of air and water pollution caused by the operation of Units 1, 2, 3 and 4 ("Units 1, 2, 3 and 4") at the San Juan Generating Station (the "San Juan Plant") located in San Juan County, New Mexico, interests in which are owned by the Company and (ii) certain facilities (the "Four Corners Facilities" and together with the San Juan Facilities, the "Facilities") for the abatement, control, reduction or prevention of air and water pollution caused by the operation of Units 4 and 5 ("Units 4 and 5") at the Four Corners Generating Station, (the "Four Corners Plant", and together with the San Juan Plant, the "Plants"), an electric power generating plant located in San Juan County, New Mexico, interests in which are owned by the Company, said revenue bonds to be payable by the City solely from the revenues payable to the City by the Company pursuant to a certain Installment Sale Agreement between the City, as Vendor, and the Company, as Vendee, and certain other moneys pledged therefor hereunder, said revenue bonds never to constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and never to constitute or give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers and declaring that emergency circumstances exist with respect thereto.

WHEREAS, the City of Farmington, an incorporated municipality, a body politic and corporate, existing under the Constitution and laws of the State of New Mexico (the "City"), is authorized and empowered under the Pollution Control Revenue Bond Act, Chapter 397, Laws of 1973 of the State of New Mexico, 31st Legislature, 1st Session, as amended (the "Act"), to issue revenue bonds for and to acquire, whether by construction, purchase, gift or lease, one or more projects consisting of any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment or any combination thereof, or any interest in any one or more of the foregoing, whether or not presently in existence or under construction, used by an individual, partnership, firm, company, corporation (including a public utility), association, trust, estate, political subdivision, state agency or any legal entity, or its legal representative, agent or assigns, substantially for the reduction, abatement or prevention of pollution including, but not limited to, the removal of pollutants, contaminants or foreign substances from land, air or water, or for the removal or treatment of any substance in a processed material which would otherwise cause pollution when such material is used, provided that any such project shall be located within the State of New Mexico and within or without or partially within or without the City, but not more than fifteen miles outside of the corporate limits of the City (or that, if there is no municipality within fifteen miles of the project, the City is in the county in which the project is or may be located) and to sell or lease or otherwise dispose of any or all of such projects upon such terms and conditions as the governing body of the City (hereinafter called the "City Council") may deem advisable and as shall not conflict with the provisions of the Act; and

WHEREAS, the City is therefore authorized and empowered under the Act to issue refunding bonds to refund bonds issued and outstanding under the Act; and

WHEREAS, the City has heretofore issued and sold $100,000,000 aggregate principal amount of its Pollution Control Revenue Refunding Bonds, 1983 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects) (the "1983 Bonds) the proceeds of which were used to provide a portion of the funds necessary to repay a portion of bonds previously issued to defray a portion of the cost to the Company of acquiring, constructing, reconstructing, improving, maintaining, equipping or furnishing the Facilities at the Plants; and

WHEREAS, the City has heretofore issued and sold $100,000,000 aggregate principal amount of its Pollution Control Revenue Refunding Bonds, 1993 Series A (Public Service Company of New Mexico San Juan and Four Corners Projects) (the "Prior Bonds") the proceeds of which were used to refund the 1983 Bonds; and

WHEREAS, the City has heretofore issued and sold $100,000,000 aggregate principal amount of its Pollution Control Revenue Refunding Bonds, 2003 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects) (the "Prior Bonds") the proceeds of which were used to refund the 1983 Bonds; and

WHEREAS, the Company has advised the City and the 2003 Trustee (as hereinafter defined) of its election to prepay the unpaid balance of the purchase price of the Project (as hereinafter defined) by taking the actions required by the 2003 Ordinance (as hereinafter defined) to cause to be redeemed the entire principal amount of the Prior Bonds then outstanding, subject to the Company's right to revoke such election; and

WHEREAS, the Company has requested the City to consider taking steps necessary for the issuance of revenue bonds designated "Pollution Control Revenue Refunding Bonds, 2016 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects)" (the "Bonds") to be issued in an aggregate principal amount of $100,000,000 under the Act, the proceeds of which (other than any accrued interest on the Bonds) are to be used to refund the outstanding Prior Bonds; and

WHEREAS, the City will adopt a resolution approving and authorizing the execution and delivery by the Mayor and the City Clerk of the City, on behalf of the City, of that certain Third Amended and Restated Installment Sale Agreement, dated as of _____, 2016, (the "Installment Sale Agreement") between the City, as Vendor, and the Company, as Vendee, (amending and restating the Second Amended and Restated Installment Sale Agreement, dated as of May 1, 2003 between the City, as Vendor and the Company, as Vendee which amended and restated the Amended and Restated installment Sale Agreement, dated as of August 15, 1993, between the City, as Vendor, and the Company, as Vendee which amended and restated the Installment Sale Agreement dated as of October 1, 1983, between the City, as Vendor, and the Company, as Vendee) setting forth the undertaking by the City to issue and sell the Bonds; and

WHEREAS, the Company has requested that the City adopt and ordinance in the following form and containing the following terms and provisions; and

WHEREAS, in the Installment Sale Agreement the Company will release the City and agree that the City shall not be liable for, and will agree to indemnify and hold the City harmless from, certain matters; and

WHEREAS, certain findings and determinations relating to Installment Sale Agreement and the Facilities have heretofore been made and are set forth in this Ordinance; and

WHEREAS, this Ordinance shall serve as an indenture of trust.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON, NEW MEXICO that the City, in consideration of the covenants herein contained and of the purchase and acceptance of the Bonds by the holders thereof, in order to secure the payment of all Bonds at any time outstanding under this Ordinance, according to their tenor and effect, and the performance and observance of all the covenants and conditions in

the Bonds and herein contained, and to declare the terms and conditions upon and subject to which the Bonds are issued and secured, does grant a security interest in and pledge to the Trustee (as hereinafter defined), and to its successors and assigns forever, upon written acceptance of this Ordinance by the Trustee, the Trust Estate (as hereinafter defined) for the equal and proportionate benefit, security and protection of all holders and owners of the Bonds issued under and secured by this Ordinance without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any other of the Bonds, all upon the terms stated in this Ordinance.

ARTICLE I.

Definitions; Findings, Declarations,
Determinations, Approvals and Authorizations

Section 1.01. Definitions. The terms defined in this Article I shall, for all purposes of this Ordinance, have the meanings herein specified, unless the context clearly requires otherwise:

Act:

"Act" shall mean the Pollution Control Revenue Bond Act, Chapter 397, Laws of 1973 of the State of New Mexico, 31st Legislature, 1st Session, as amended by Chapter 312, Laws of 1977 of the State of New Mexico, 33rd Legislature, 1st Session, and Chapter 181, Laws of 1978 of the State of New Mexico, 33rd Legislature, 2nd Session, and Chapter 114, Laws of 1983 of the State of New Mexico, 36th Legislature, 1st Session, and all acts supplemental thereto or amendatory thereof.

Act of Bankruptcy:

"Act of Bankruptcy" shall mean the filing of a petition in bankruptcy, liquidation, or reorganization by or against the Company or the City under the United States Bankruptcy Code or any successor act thereto, unless such petition shall have been dismissed and such dismissal shall be final and not subject to appeal.

Administration Expenses:

"Administration Expenses" shall mean the reasonable and necessary expenses incurred by the City with respect to the Installment Sale Agreement, this Ordinance and any transaction or event contemplated by the Installment Sale Agreement or this Ordinance, including the compensation and expenses paid to the Trustee (including the fees and expenses of counsel) and any other compensation paid to the City including the City's fees imposed under its Ordinance No. 82-769 and No. 88-891 (now cited as Sections 2-5-66 through 2-5-69 of the Farmington City Code).

Alternate Letter of Credit:

"Alternate Letter of Credit" shall mean an irrevocable direct pay letter of credit provided in accordance with Section 5.14 of the Installment Sale Agreement.

Alternate Security:

"Alternate Security" shall mean any credit facility, insurance policy, guarantee or other credit support agreement or security or liquidity mechanism (other than a Municipal Bond Insurance Policy, if any) provided by the Company in accordance with Section 5.14 of the Installment Sale Agreement.

Arbitrage Rebate Fund:

"Arbitrage Rebate Fund" shall mean the Arbitrage Rebate Fund created by Section 4.10 hereof.

Authorized Company Representative:

"Authorized Company Representative" shall mean any person at the time designated to act on behalf of the Company by written certificate furnished to the City, the Remarketing Agents, if any, and the Trustee

containing the specimen signature of such person and signed on behalf of the Company by its President or any Vice President together with its Secretary or any Assistant Secretary. Such certificate may designate one or more alternates. An Authorized Company Representative may be an employee of the Company.

Available Moneys:

"Available Moneys" shall mean (1) moneys which have been paid to the Trustee by the Company and have been on deposit with the Trustee for at least 123 days during and prior to which no Act of Bankruptcy shall have occurred and have not been commingled with any other moneys held for less than such 123 days during or prior to which no Act of Bankruptcy shall have occurred, (ii) moneys on deposit with the Trustee representing proceeds from the issuance and sale of Bonds or representing proceeds from the resale by the Remarketing Agents of Bonds purchased by the Remarketing Agents or the Trustee (other than any moneys representing proceeds from the sale or resale of Bonds to the Company, the City or any affiliate of either of the foregoing), which in each case were at all times since their deposit with the Trustee held in a separate and segregated account or accounts or sub-account or sub-accounts in which no moneys which were not Available Moneys were at any time held, (iii) moneys drawn under a Letter of Credit which in each case were at all times since their deposit with the Trustee held in a separate and segregated account or accounts or sub-account or sub-accounts in which no money other than those drawn under such Letter of Credit were at any time held, (iv) moneys which are derived from any other source if the Trustee has received an unqualified opinion of nationally recognized bankruptcy counsel acceptable to the Trustee and the Rating Agencies then rating the Bonds that payment of such amounts to the Trustee does not constitute a voidable preference pursuant to the provisions of the United States Bankruptcy Code, (v) proceeds from the investment of the foregoing types of moneys once such moneys have become Available Moneys; provided that such proceeds, moneys or income shall not be deemed to be Available Moneys if, among other things, an injunction, restraining order or stay is in effect preventing such proceeds, moneys or income from being applied to make such payment or purchase, and (vi) for all Bonds which are not Credit Supported Bonds, any moneys which are held by the Trustee and made available for the purposes herein.

Bank; Principal Office of the Bank:

"Bank" shall mean the issuer of a Letter of Credit, its successors in such capacity, and their assigns. If an Alternate Letter of Credit has been issued and delivered and the initial Letter of Credit canceled and surrendered, "Bank" shall mean the issuer of an Alternate Letter of Credit, its successors in such capacity, and their assigns, and if one or more Alternate Letters of Credit are issued or the initial Letter of Credit is still outstanding (in a lower aggregate principal amount than initially issued) and an Alternate Letter of Credit has also been delivered, "Bank" shall mean each issuer of the Letter of Credit or Alternate Letter of Credit relating to the Bonds unless the context clearly provides otherwise. "Principal Office" of the Bank shall mean the office of the Bank specified in a Letter of Credit as the office where drawing requests are to be delivered or such other office as may be designated in writing to the Trustee.

Bank Rate:

"Bank Rate" shall mean, with respect to any Reimbursement Agreement, the rate or rates of interest set forth therein to be borne by any Company Bonds pledged thereunder or under a pledge agreement entered into pursuant thereto; provided, however, that such rate or rates of interest shall in no event exceed the higher of the Maximum Interest Rate or the maximum rate permitted by law.

Bond Counsel:

"Bond Counsel" shall mean any firm of nationally recognized bond counsel which is experienced in the financing of pollution control facilities and acceptable to the City, the Remarketing Agents (if any), the Trustee and the Company.

Bond Fund:

"Bond Fund" shall mean the Bond Fund, created by Section 4.01 hereof in which there shall be established a General Account, an Alternate Security Account and a Letter of Credit Account, and all subaccounts therein.

Bond Insurer:

"Bond Insurer" shall mean the company, if any, designated the bond insurer in a resolution of the City Council adopted prior to the issuance of the Bonds and its successors in such capacity, and their assigns.

Bondholder; holder; Owner:

"Bondholder" or "holder" or "Owner" shall mean the person in whose name any Bond is registered upon the books of the Registrar.

Bond Purchase Fund:

"Bond Purchase Fund" shall mean the Bond Purchase Fund, created by Section 4.04 hereof in which there shall be established a General Purchase Price Account, an Alternate Security Purchase Price Account and a Letter of Credit Purchase Price Account, and all subaccounts therein.

Bonds:

"Bond" or "Bonds" or "2016 Series B Bonds" shall mean the bonds authorized under this Ordinance.

Business Day:

"Business Day" shall mean, a day of the year on which banks located in all of the cities in which the Principal Offices of the Trustee, the Bank or provider of Alternate Security, if any, for the Bonds, the Paying Agent and the Remarketing Agent for the Bonds are located are not required or authorized to remain closed and on which The New York Stock Exchange is not closed.

City:

"City" shall mean the City of Farmington, in the County of San Juan, an incorporated municipality, a body politic and corporate, existing under the Constitution and the Laws of the State of New Mexico, and its successors and assigns.

City Clerk:

"City Clerk" shall mean the City Clerk of the City or the officer succeeding to the principal functions of such office.

City Council:

"City Council" shall mean the City Council of the City or the board or body in which general legislative powers of the City may subsequently be vested.

Code:

"Code" shall mean the Internal Revenue Code of 1986, as amended.

Company:

"Company" shall mean Public Service Company of New Mexico, a corporation organized and existing under the laws of the State of New Mexico, and its successors and assigns under the Installment Sale Agreement and Guaranty.

Company Bonds:

"Company Bonds" shall mean, any Bonds owned by or held in the name of the Company or its designee (including, without limitation, any such Bonds beneficially owned by the Company or its designee) or held by the Trustee for the account of the Company or its designee.

Company Indenture:

"Company Indenture" shall mean that certain Indenture, dated as of March 11, 1998, for Senior Unsecured Notes, as from time to time amended and supplemented, of the Company to JPMorgan Chase Bank (formerly known as The Chase Manhattan Bank), as trustee.

Company Securities:

"Company Securities" shall have the meaning ascribed to such term in Section 12.09(b) hereof.

Conversion:

"Conversion" shall mean any conversion from time to time in accordance with the terms of this Ordinance of the Bonds from one Mode to another Mode.

Conversion Date:

"Conversion Date" shall mean the date on which a new Mode becomes effective with respect to a Bond, and with respect to a Bond in the Multiannual Mode, the date on which a new Rate Period becomes effective.

Corresponding Securities:

"Corresponding Securities" shall have the meaning ascribed to such term in Section 12.09(b) hereof

Counsel:

"Counsel" shall mean an attorney at law selected by the Company (who may be counsel to either or both of the City and the Company) and satisfactory to the Trustee or, if not selected by the Company within a reasonable time following any request therefor by the City, shall mean an attorney at law selected by the City and satisfactory to the Trustee.

Credit Supported Bonds:

"Credit Supported Bonds" shall mean any Bonds that are entitled to the benefits of a Letter of Credit or an Alternate Security.

Daily Mode:

"Daily Mode" shall mean the Mode in which the interest rate on the Bonds is set at the Daily Rate, all as set forth in the form of the Daily Bonds in Exhibit B hereto.

Daily Rate:

"Daily Rate" shall mean the rate of interest that is set on the Bonds while they are in the Daily Mode.

Default:

"Default" shall mean an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default under clause (a), (b), (c) or (d) of Section 9.01(1) hereof.

Delivery Date:

"Delivery Date" shall mean, with respect to a Bond tendered for purchase, the Purchase Date or any subsequent Business Day on which such Bond is delivered to the Paying Agent as provided in the forms of Daily, Flexible, Weekly and Multiannual Bonds.

Effective Date:

"Effective Date" shall mean, with respect to a Bond in the Flexible, Daily, Weekly and Multiannual Modes, the date on which a new Rate Period for that Bond takes effect or the date on which that Bond is converted to a new Mode.

Effective Period of a Letter of Credit:

"Effective Period of a Letter of Credit" shall mean with respect to any Bonds to which such Letter of Credit relates any period during which a Letter of Credit or Alternate Security is in effect, commencing on the effective date of such Letter of Credit or Alternate Security, as the case may be, and ending on the expiration or termination date thereof

Event of Default:

"Event of Default" shall mean any of the events set forth in Section 9.01 hereof.

Exchange Date:

"Exchange Date" shall have the meaning ascribed to such term in Section 12.09(b) hereof

Extraordinary Services; Extraordinary Expenses:

"Extraordinary Services" and "Extraordinary Expenses" shall mean all services rendered and all expenses incurred by the Trustee hereunder other than Ordinary Services and Ordinary Expenses.

Facilities:

"Facilities" shall mean collectively the Four Corners Facilities and San Juan Facilities.

Flexible Mode:

"Flexible Mode" shall mean the Mode in which the interest rate on the Bonds is set at the Flexible Rate, all as set forth in the form of Flexible Bonds in Exhibit A hereto.

Flexible Rate:

"Flexible Rate" shall mean a rate of interest on a Bond in the Flexible Mode set by the Remarketing Agent for periods of from one to 180 days or as set forth in the Reimbursement Agreement.

Four Corners Facilities:

"Four Corners Facilities" shall mean the Company's interest in the facilities for the abatement, control, reduction or prevention of air and water pollution caused by the operation of Units 4 and 5 at the Four Corners Plant which are described in Exhibit A to the Installment Sale Agreement and related improvements and any substitution therefor.

Four Corners Plant:

"Four Corners Plant" shall mean the Four Corners Generating Station, an electric power generating plant located within fifteen miles of the corporate limits of the City in San Juan County, New Mexico, but not within the corporate limits of any municipality.

Governing Instrument:

"Governing Instrument" shall have the meaning ascribed to such term in Section 12.09(b) hereof.

Government Obligations:

"Government Obligations" shall mean the Investment Securities described in paragraph (a) of Section 6.01 hereof.

Guaranty:

"Guaranty" shall mean that certain Guaranty Agreement dated as of _____, 2016 relating to the 2016 Series B Bonds which is between the Company and the Trustee, as amended or supplemented by any Supplemental Guaranty.

Installment Sale Agreement:

"Installment Sale Agreement" shall mean that certain Third Amended and Restated Installment Sale Agreement relating to the Four Corners Facilities and San Juan Facilities, dated as of _____, 2016 between the City, as Vendor, and the Company, as Vendee (amending and restating the Second Amended and Restated Installment Sale Agreement, dated as of May 1, 2003 between the City, as Vendor, and the Company, as Vendee which amended and restated the Amended and Restated installment Sale Agreement, dated as of August 15, 1993, between the City, as Vendor, and the Company, as Vendee which amended and restated the Original Installment Sale Agreement as amended and supplemented pursuant to the terms.

Insurance Trustee:

"Insurance Trustee" shall mean the insurance trustee for the Bond Insurer, if any, designated as the insurance trustee in a resolution of the City Council adopted prior to the issuance of the applicable Bonds and its successors in such capacity, and their assigns.

Interest Payment Date:

"Interest Payment Date" shall have the meaning set forth on the form of Bonds in Exhibits A through D hereto.

Investment Securities:

"Investment Securities" shall have the meaning set forth in Sections 6.01 and 14.05 hereof

Letter of Credit:

"Letter of Credit" shall mean an irrevocable direct pay Letter of Credit issued by a Bank to the Trustee relating to the Bonds, if any, as amended from time to time; provided that upon the issuance and delivery of an Alternate Letter of Credit relating to the Bonds and termination of the initial Letter of Credit, "Letter of Credit" shall mean such Alternate Letter of Credit relating to the Bonds, as amended from time to time. In addition, if one or more Letters of Credit relating to the Bonds are issued by one or more Banks, references to the Letter of Credit shall include all such Letters of Credit for the Bonds unless the context clearly provides otherwise.

Maximum Interest Rate:

"Maximum Interest Rate" shall mean, if the Bonds bear interest in the Multiannual Mode to maturity, the actual rate of interest thereon or, otherwise, the maximum interest rate on the Bonds, which rate is 12% per annum.

Mode:

"Mode" shall mean the period for and the manner in which the interest rates on the Bonds are set and includes the Flexible Mode, the Daily Mode, the Weekly Mode and the Multiannual Mode.

Moody's:

"Moody's" shall mean Moody's Investors Services, Inc. and its successors and assigns so long as they are then rating the Bonds.

Multiannual Mode:

"Multiannual Mode" shall mean the Mode in which the interest rate on the Bonds is (a) fixed for periods of one year or integral multiples thereof (except with respect to the first Rate Period occurring after initial issuance of the Bonds as set forth in an authorizing resolution or conversion to such Mode) designated by the Remarketing Agent, after consultation with the Company, or (b) fixed, in a resolution of the City Council adopted prior to the date of issuance of such Bonds for a Rate Period beginning on the date of issuance of the Bonds, and ending on the final maturity date of the Bonds, as set forth in the form of Multiannual Bonds in Exhibit D hereto.

Multiannual Rate:

"Multiannual Rate" shall mean the rate of interest that is set on the Bonds while they are in the Multiannual Mode.

Municipal Bond Insurance Policy:

"Municipal Bond Insurance Policy" shall mean a municipal bond insurance policy issued by a Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as provided therein.

2003 Ordinance:

"2003 Ordinance" shall mean Ordinance No. 2003-1140 adopted by the City on March 23, 2003 creating and securing the Prior Bonds, as modified, altered, amended, supplemented or confirmed by any and all ordinances or resolutions supplemental thereto or amendatory thereof adopted pursuant thereto.

2003 Trustee:

"2003 Trustee" shall mean Bank of Albuquerque, and its successors and assigns.

Ordinance:

"Ordinance" shall mean this Ordinance No. 2016-____ adopted by the City on _____, 2016, as modified, altered, amended, supplemented or confirmed by any and all ordinances or resolutions supplemental thereto or amendatory thereof adopted pursuant thereto.

Ordinary Services; Ordinary Expenses:

"Ordinary Services" and "Ordinary Expenses" shall mean those reasonable services rendered and those reasonable expenses incurred by the Trustee in the performance of its duties hereunder of the types ordinarily performed by corporate trustees under like ordinances.

Original Installment Sale Agreement:

"Original Installment Sale Agreement" shall mean the Installment Sale Agreement, dated as of October 1, 1983, between the City as Vendor, and the Company, as Vendee, as amended and supplemented pursuant to the terms thereof prior to the date hereof

Outstanding under this Ordinance:

"Outstanding under this Ordinance," "Outstanding hereunder," or "Outstanding" when used in reference to the Bonds shall mean, as at any particular date, the aggregate of all the Bonds authenticated and delivered under this Ordinance except:

(a) those canceled at or prior to such date or delivered to or acquired by the Trustee at or prior to such date for cancellation, including those Bonds owned by the Company which the Company has at any time delivered to the Trustee for cancellation;

(b) those for the payment of which cash shall have been theretofore deposited with the Trustee in an amount equal to the principal amount thereof and premium, if any, and interest thereon to the redemption date or maturity;

(c) those otherwise deemed to be paid in full in accordance with Section 8.02 hereof subject to Section 14.06 hereof;

(d) Undelivered Bonds;

(e) Bonds not yet presented for payment when due as described in Section 4.07 hereof; and

(f) those in lieu of or in exchange or substitution for which other Bonds shall have been authenticated and delivered pursuant to this Ordinance, unless proof satisfactory to the Trustee and the Company is presented that such Bond is held by a bona fide holder in due course.

Paying Agent; Co-Paying Agent; Principal Office of a Paying Agent:

"Paying Agent" shall mean the Trustee acting in its capacity as Paying Agent of the Bonds and Co-Paying Agent shall mean any Co-Paying Agent appointed in accordance with Section 10.22 hereof. "Principal Office" of a Paying Agent or Co-Paying Agent shall mean the office of such Paying Agent or Co-Paying Agent designated in writing to the Trustee, the City and the Company.

Payment in Full of the Bonds:

"Payment in Full of the Bonds" shall mean payment in full of the principal of, premium, if any, and interest on the Bonds or the deemed payment thereof as provided in Section 8.02 hereof.

Plants:

"Plants" shall mean collectively the Four Corners Plant and San Juan Plant.

Prior Bonds:

"Prior Bonds" shall mean the City's $100,000,000 aggregate principal amount of its Pollution Control Revenue Refunding Bonds, 2003 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects).

Project:

"Project" shall mean the undivided interest in the Facilities acquired by the City and sold by the City to the Company pursuant to the Original Installment Sale Agreement.

Project Purchase Price:

"Project Purchase Price" shall mean the purchase price determined pursuant to the Installment Sale Agreement.

Purchase Date:

"Purchase Date" shall mean the date on which Bonds shall be required to be purchased pursuant to a mandatory or optional tender in accordance with the provisions in the forms of Flexible, Daily, Weekly and Multiannual Rate Bonds.

Purchase Price:

"Purchase Price" shall have the meaning set forth in the forms of Flexible, Daily, Weekly and Multiannual Rate Bonds.

Rate Period or Period:

"Rate Period" or "Period" shall mean, when used with respect to any particular rate of interest for a Bond in the Flexible, Daily, Weekly or Multiannual Mode, the period during which such rate of interest determined for such Bond will remain in effect as described herein.

Rating Agencies:

"Rating Agencies" shall mean Moody's and S&P.

Receipts and Revenues of the City from the Installment Sale Agreement:

"Receipts and Revenues of the City from the Installment Sale Agreement" shall mean all moneys paid to the City pursuant to Section 5.02 of the Installment Sale Agreement relating to the Bonds, and all receipts of the Trustee credited under the provisions of this Ordinance against such payments relating to the Bonds, including payments to the Trustee under any Letter of Credit or Alternate Security relating to the Bonds with respect to the Credit Supported Bonds.

Record Date:

"Record Date" shall have the meaning set forth on the form of the Bond for the Flexible Mode, Daily Mode, Weekly Mode and Multiannual Mode.

Redemption Fund:

"Redemption Fund" shall mean the Redemption Fund, created by Section 4.11 hereof

Registrar; Principal Office of the Registrar:

"Registrar" shall mean the Trustee acting in its capacity as Registrar of the Bonds. "Principal Office of the Registrar" shall mean the Principal Office of the Trustee.

Reimbursement Agreement:

"Reimbursement Agreement" shall mean from and after the issuance of a Letter of Credit, Alternate Letter of Credit or Alternate Security relating to the Bonds, any letter of credit reimbursement agreement or other arrangement between the Company and a Bank or other issuer of any Alternate Letter of Credit or Alternate Security, and any amendments, modifications and supplements thereto.

Remarketing Agent; Principal Office of the Remarketing Agent:

"Remarketing Agent" shall mean any remarketing agent or co-remarketing agents appointed and serving in such capacity pursuant to this Ordinance relating to the Bonds. "Principal Office of the Remarketing Agent" shall mean the office or offices thereof designated in writing to the Trustee, the City and the Company.

Remarketing Agent Agreement:

"Remarketing Agent Agreement" shall mean any remarketing agent agreement between the Company and any Remarketing Agent appointed pursuant to Section 13.02 hereof relating to the Bonds.

S&P:

"S&P" shall mean Standard & Poor's Ratings Services and its successors and assigns so long as they are then rating the Bonds.

San Juan Facilities:

"San Juan Facilities" shall mean the Company's interest in the facilities for the abatement, control, reduction or prevention of air and water pollution caused by the operation of Units 1, 2, 3 and 4 at the San Juan Plant which are described in Exhibit A to the Installment Sale Agreement and related improvements and substitutions therefor.

San Juan Plant:

"San Juan Plant" shall mean the San Juan Generating Station, an electric power generating plant located within fifteen miles of the corporate limits of the City in San Juan County, New Mexico, but not within the corporate limits of any municipality.

Senior Unsecured Notes:

"Senior Unsecured Notes" shall, for any Bond, have the meaning set forth in the Guaranty relating to the Bonds.

Series; Series of Bonds; or Bonds of a Series :

"Series;" "Series of Bonds;" or "Bonds of a Series" shall mean the Bonds.

Supplemental Guaranty:

"Supplemental Guaranty" shall mean any agreement between the Trustee and the Company modifying, altering, amending or supplementing the Guaranty, in accordance with the terms of this Ordinance.

Supplemental Indenture:

"Supplemental Indenture" shall mean any agreement between the Trustee under the Company Indenture and the Company modifying, altering, amending or supplementing the Company Indenture in accordance with the terms of this Ordinance.

Supplemental Installment Sale Agreement:

"Supplemental Installment Sale Agreement" shall mean any agreement between the City and the Company modifying, altering, amending or supplementing the Installment Sale Agreement, in accordance with the terms of this Ordinance.

Supplemental Ordinance:

"Supplemental Ordinance" shall mean any ordinance or resolution of the City modifying, altering, amending, supplementing or confirming this Ordinance, in accordance with the terms of this Ordinance, as such Supplemental Ordinance may be amended or supplemented by any and all ordinances and related resolutions of the City Council adopted pursuant thereto.

Tendered Bond:

"Tendered Bond" shall mean any Bond (or beneficial interest therein if the Bonds are issued in a book-entry-only system) tendered or deemed tendered for purchase pursuant to Section 2.03(A)(3), 2.03(B)(3) or (4), 2.03(C)(3) or (4) or 2.03(D)(3) hereof.

Treasurer:

"Treasurer" shall mean the Treasurer of the City or the officer succeeding to the principal functions of such office.

Trust Estate:

"Trust Estate" shall mean, with respect to the Bonds, at any particular time, the Senior Unsecured Notes relating to the Bonds (or the Corresponding Securities relating to the Bonds, in the event of an exchange pursuant to Section 12.09 hereof) and the proceeds thereof, the City's rights and interests under the Installment Sale Agreement relating to the Bonds (except for the City's rights under Sections 5.05, 5.08 and 8.05, and clause (ii) of paragraph (b) of Section 8.03 thereof), all moneys and obligations relating to the Bonds which at such time are deposited or are required to be deposited with, or are held or are required to be held by or on behalf of, the Trustee in trust under any of the provisions of this Ordinance with respect to the Bonds and all rights, titles and interests which at such time are subject to the lien of this Ordinance with respect to the Bonds, except for moneys or obligations deposited with or paid to the Trustee relating to the Bonds for the redemption or payment of such Bonds which are deemed to have been paid in accordance with Section 8.02 hereof and the funds held pursuant to Section 4.07 hereof

Trustee; Principal Office of the Trustee:

"Trustee" shall mean the person appointed as Trustee in a resolution of the City adopted prior to the first issuance of the Bonds, and its successor or successors hereunder, as trustee under this Ordinance. "Principal Office of the Trustee" shall mean the principal corporate trust office of the Trustee, which office at the date of acceptance by the Trustee of the duties and obligations imposed on the Trustee by this Ordinance is located at the address specified in such resolution.

Undelivered Bonds:

"Undelivered Bonds" shall mean Bonds which are deemed to have been tendered as provided in the form of the Bond for the Flexible Mode, Daily Mode, Weekly Mode and Multiannual Mode.

Weekly Mode:

"Weekly Mode" shall mean the Mode in which the interest rate on the Bonds is set at the Weekly Rate, all as set forth in the form of the Weekly Bonds in Exhibit C hereto.

Weekly Rate:

"Weekly Rate" shall mean the rate of interest that is set on the Bonds while they are in the Weekly Mode.

Section 1.02. Number and Gender. The singular form of any word used herein, including the terms defined in Section 1.01, shall include the plural, and vice versa. The use herein of a word of any gender shall include all genders.

Section 1.03. Articles, Sections, Etc. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Ordinance as originally executed; and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Ordinance as a whole and not to any particular Article, Section or subdivision hereof. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Ordinance.

Section 1.04. Content of Certificates and Opinions. Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Ordinance or the Agreement shall include (a) a statement that the person or persons making or giving such certificate or opinion have read such covenant or condition and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate or opinion made or given by an officer of the City or the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by Counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his or her certificate or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any such certificate or opinion made or given by counsel may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the City or the Company), upon the certificate or opinion of or representations by an officer of the City or the Company, as applicable, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his or her opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

Section 1.05. Findings. It is hereby found and determined that:

(a) The City is authorized and empowered under the Act to issue and sell the Bonds and to enter into the Installment Sale Agreement, and the same will further the intent of the Act. The Plants are each located within 15 miles of the corporate limits of the City and not within the corporate limits of any municipality or, if portions of either of the Plants are not located within 15 miles of the corporate limits of the City, there is no incorporated municipality within 15 miles of such portions of the Plants and the City is located in the county in which such portions of the Plants are located.

(b) The amount necessary in each year to pay the principal of and premium, if any, and interest (excluding accrued interest and purchase premium, if any, to be paid by the initial purchasers) on the Bonds is equal to the portion of the purchase price of the Project in

each such year required to be paid by the Company to the Trustee by Section 5.02(a) of the Installment Sale Agreement. The City Council shall determine and set forth in a resolution adopted prior to the first issuance of the Bonds the amount necessary to pay in each year the principal of and interest on the Bonds.

(c) It is not advisable or necessary to establish any reserve fund in connection with the retirement of the Bonds or the maintenance of the Facilities because the terms of the Installment Sale Agreement provide that the Company shall maintain the Facilities and carry all proper insurance with respect thereto, and no reserve fund has been required by the initial purchasers of the Bonds to be established for the Bonds.

(d) The Bonds shall not be the general obligations of the City within the meaning of Article 9, Sections 12 and 13 of the Constitution of New Mexico, shall be payable by the City solely from the Receipts and Revenues of the City from the Installment Sale Agreement and other amounts pledged therefor hereunder, and the Bonds shall never constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and shall never constitute or give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers, and such fact shall be plainly stated on the face of each of the Bonds.

(e) In connection with the authorization, issuance and sale of the Bonds pursuant to this Ordinance, it is advantageous that the sale thereof be private rather than public and that all expenses, attorneys' fees, engineering fees, architecture fees, premiums and commissions shall be paid directly by the Company and not from proceeds of the Bonds.

(f) The Mayor and the City Clerk are, and each of them is, authorized and directed to cause this Ordinance to be published one time by title and a general summary of the subject matter contained herein in the manner provided by Section 3-17-5 N.M.S.A. 1978, as amended.

(g) The actions heretofore taken by the Mayor or City Clerk to cause this Ordinance in proposed faun to be published by title and subject matter in the manner provided by Section 3-17-3 N.M.S.A. 1978, as amended, are hereby confirmed and such publication is hereby adopted, ratified and confirmed.

(h) The Trustee, Paying Agent, Co-Paying Agent, if any, Bond Insurer, if any, Insurance Trustee, if any, and Registrar shall be designated by a resolution of the City Council adopted prior to the first issuance of the Bonds.

(i) The Mayor, the City Clerk and the Treasurer are authorized to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, printing of the Bonds, the execution, delivery, and, if required or desirable, the filing and recording of such documents, instruments, financing statements and certificates as are required by this Ordinance and as may reasonably be required by the purchasers of the Bonds, including, without limiting the generality of the foregoing, certificates relating to the signing of the Bonds, the tenure and identity of the municipal officials, the delivery of the Bonds and payment therefor, and, if in accordance with the facts, the absence of litigation, pending or threatened, affecting the validity of the Bonds, and the absence and existence of factors affecting the exclusion from gross income of interest on the Bonds for Federal income tax purposes and, upon or after the effective date of this Ordinance, to execute and deliver the Bonds in accordance with this Ordinance and to do and cause to be done any and all acts and things necessary or proper for carrying out the transaction contemplated by this Ordinance, and all actions taken pursuant to such authorization are hereby ratified, approved and confirmed.

ARTICLE II.

The Bonds

Section 2.01. Bonds Equally Secured. All the Bonds to be issued hereunder shall be equally and ratably secured, to the extent provided in this Ordinance, by the pledge of the Receipts and Revenues of

the City from the Installment Sale Agreement relating to the Bonds and the other rights and property pledged hereunder with respect to such Bonds.

Section 2.02. Issuance of Bonds. There is hereby authorized to be issued hereunder the Bonds the proceeds of which (other than any accrued interest on the Bonds) will be used, together with other available moneys, to refund the outstanding principal amount of and to pay the premium, if any, and interest to the date of redemption on the Prior Bonds. No other series of Bonds shall be issued under this Ordinance. The Bonds shall be designated, "Pollution Control Revenue Refunding Bonds, 2016 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects)" to be issued in an aggregate principal amount of $100,000,000 or such other amount as shall be specified in a resolution of the City Council adopted prior to the issuance of the Bonds. The Bonds shall be dated their date of delivery (or such other date as shall be specified in a resolution of the City Council adopted prior to the issuance of the Bonds), shall mature on such date (subject to provisions for prior redemption upon the terms and conditions hereinafter set forth) not to be later than 30 years from their date (as shall be specified in a resolution of the City Council adopted prior to the issuance of the Bonds) and shall bear interest as herein provided from their date, until maturity or until the date fixed for redemption, and until payment of the principal or redemption price thereof shall have been made or provided for in accordance with the provisions of this Ordinance at such rate or rates per annum and payable on such dates, as shall be determined in a resolution of the City Council adopted prior to the issuance of the Bonds.

The Bonds (including Bonds issued pursuant to Sections 2.09, 2.10 and 2.11 hereof) shall be issued as registered bonds without coupons. The Bonds shall be in the denomination of $100,000 or any multiple of $5,000 in excess of $100,000 in the Flexible Mode, $5,000 or any multiple thereof in the Multiannual Mode and $100,000 or any multiple thereof in the Daily or Weekly Modes. The Bonds shall be numbered consecutively from "R-1" upwards bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Registrar and shall bear such other numerical or alphabetical designation as shall be deemed appropriate by the Trustee and the Paying Agent to distinguish Bonds in different Modes, and, if there are different Letters of Credit or Alternate Security for the Credit Supported Bonds or if not all of the Bonds constitute Credit Supported Bonds, a Credit Supported Bond shall have the legends on such Bond filled in correctly, the Trustee shall identify each Bank or provider of Alternate Security by inserting distinguishing marks prior to "R" as shall be appropriate, and the Bonds may have such other distinguishing marks as may be deemed appropriate by the Trustee and the Paying Agent. Any Mode which is in effect for any Bond shall apply to such Bond independently of any other Bond of another Mode, or the same Mode.

The principal of and premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America. Subject to the provisions of Sections 2.12 and 14.07 hereof, the principal of and premium, if any, on all Bonds shall be payable at the Principal Office of the Paying Agent upon the presentation and surrender of the Bonds as the same become due and payable and interest on the Bonds shall be paid as provided in the form of the Bonds.

With respect to any Bonds in the Flexible, Daily and Weekly Mode, on the Business Day before the Interest Payment Date and for Bonds in the Multiannual Mode, on the fifteenth Business Day prior to the Interest Payment Date, the Trustee shall calculate the amount of interest to be paid on the next succeeding Interest Payment Date and shall, not later than 12:00 noon, New York City time, on the date that such calculation is made, notify the Company and the Paying Agent of the amount of interest to be paid. Any contest by the Company of the amount calculated by the Trustee to be due on an Interest Payment Date shall not relieve the City or the Company of its obligation to pay such amount to enable the Trustee to pay the interest payable on the Bonds on such Interest Payment Date.

The Bonds shall be issued substantially in the form set forth in Exhibit A for the Bonds in the Flexible Mode, Exhibit B for the Bonds in the Daily Mode, Exhibit C for the Bonds in the Weekly Mode and Exhibit D for the Bonds in the Multiannual Mode, all as attached hereto, and shall contain the Trustee's certificate of authentication and the form of

assignment substantially as set forth in such Exhibit, with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby and may have such letters and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations, or as may consistently herewith be determined by the officers executing such Bonds, as evidenced by their execution of the Bonds.

Section 2.03. Interest Rates on Bonds. The interest on the Bonds in a Flexible Mode, Daily Mode or Weekly Mode shall be payable on the applicable Interest Payment Date as herein described, computed on the basis of a 365 or 366-day year, as applicable, for the number of days actually elapsed. The interest on the Bonds in a Multiannual Mode shall be payable on the applicable Interest Payment Date as herein defined, computed on the basis of a 360-day year, consisting of twelve 30-day months. The interest rate on the Bonds shall not exceed the Maximum Interest Rate.

Interest rates on (and if the Mode is the Flexible Mode, Flexible Rate Periods for) the Bonds shall be determined as follows:

(A) Flexible Mode.

(1) Determination of Flexible Rates and Rate Periods. The interest rate on any Bonds in the Flexible Mode for a specific Rate Period on the first day of such Rate Period shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, on the basis of prevailing market conditions, is necessary to remarket each such Bond having such Rate Period in a secondary market transaction on that day at a price equal to the principal amount thereof, but not in excess of the Maximum Interest Rate. The Remarketing Agent for such Bonds shall determine the Flexible Rate and Rate Period for the Bonds in the Flexible Mode as provided above, in the form of Flexible Bonds in Exhibit A hereto and in the following paragraph and shall notify the Paying Agent thereof by telephone not later than 1:00 p.m., New York City time, on the Effective Date, promptly confirmed in writing. The Paying Agent shall give written notice of the Flexible Rate and Rate Period to the Trustee, the Bank and the Company. Each determination and redetermination of the Flexible Rate and the Rate Period shall be conclusive and binding on the City, the Trustee, the Paying Agent, the Bank, the Company and the Bondholders. If the Remarketing Agent for the Bonds fails for any reason to determine the Flexible Rate or Rate Period for such Bonds while in the Flexible Mode, or if for any reason such manner of determination shall be determined to be invalid and unenforceable, that Bond shall be deemed to be in a Rate Period of one day and the Flexible Rate shall be equal to 100% of the Prime Commercial Paper A-1/P-1 (30 days) rate shown in the table captioned "Short-Term Tax-Exempt Yields" in the edition of The Bond Buyer (or any successor to such table) published on the day on which such rate is determined or, if such rate is not published on that day, the most recent publication of such rate.

In determining the Flexible Rate and remarketing the Bonds in the Flexible Mode, the Remarketing Agent shall (i) not offer Rate Periods greater than 180 days or, if such Bonds in the Flexible Mode are Credit Supported Bonds, extending beyond the expiration date of any Letter of Credit less 29 days, (ii) not offer Rate Periods extending beyond the day preceding any scheduled conversion of such Bonds to another Mode or the final maturity of the Bonds, (iii) not offer Rate Periods ending on a day preceding a non-Business Day, and (iv) follow any written directions of the Company not inconsistent with the preceding clauses (i), (ii) and (iii) as to the Rate Periods to be made available. The Company, the Trustee, the Paying Agent and the Remarketing Agent shall cooperate to ensure compliance with this requirement.

(2) Conversions from the Flexible Mode. The Bonds in the Flexible Mode or any portion of such Bonds may be

converted at the election of the Company from the Flexible Mode to the Daily, Weekly or Multiannual Mode as provided in the form of the Flexible Bonds, so long as no Default or Event of Default hereunder exists as certified to the Trustee by the Company. For Bonds that are to be converted to the Daily, Weekly or Multiannual Mode and with respect to which the Company has determined that following such conversion such Bonds are to be Credit Supported Bonds, no such conversion shall be effective unless there shall then be in effect or the Company shall have delivered to the Trustee by 10:30 a.m., New York City time, on the Conversion Date a Letter of Credit or Alternate Security as required by Section 5.03 hereof. Bonds that automatically convert to the Flexible Mode with a one day Rate Period as a result of a failed conversion shall not be Credit Supported Bonds following such conversion. With respect to any Bonds remaining in the Flexible Mode that are entitled to the benefits of a Letter of Credit or Alternate Security and any other Bonds which are then Credit Supported Bonds, the Trustee shall verify and confirm not later than 10:30 a.m., New York City time, on the Conversion Date that each such Flexible Bond and other Credit Supported Bond is supported by a Letter of Credit or Alternate Security complying with Sections 2.05 and 5.03 hereof. Written notice of a conversion from the Flexible Mode shall be given by the Company to the City, the Trustee, the Paying Agent, the Bank, the Remarketing Agent and the Rating Agencies not fewer than 25 nor more than 60 days prior to the proposed Conversion Date, which date shall be specified by the Company in such notice and shall not be earlier than the day following the expiration of the Rate Period with the longest remaining term then in effect for such Bonds to be converted and in connection with any conversion of such Bonds from the Flexible Mode to the Multiannual Mode, such notice shall include a direction from the Company to the Trustee to present the appropriate reinstatement request in the amount set forth in Section 2.05 hereof if such Bonds to be converted are entitled to the benefits of a Letter of Credit that provides for such a reinstatement request. Such notice shall also state whether or not the Company has determined that following conversion such Bonds to be converted are to be entitled to the benefits of a Letter of Credit or Alternate Security. Prior to the proposed Conversion Date, the Remarketing Agent shall not offer Rate Periods for such Bonds to be converted extending beyond the proposed Conversion Date.

Notwithstanding the foregoing, if the preconditions to conversion to a new Mode established by the preceding paragraph and Section 2.04 are not met by 10:30 a.m., New York City time, on the proposed Conversion Date, the Paying Agent shall deem the proposed conversion to have failed and shall immediately notify the Trustee, the Company, the Bank, the Rating Agencies and the Remarketing Agent, and such Bonds shall be subject to mandatory tender as provided in Section 2.03(A)(3)(ii) hereof. In addition, the failed conversion shall cause such Bonds to remain in the Flexible Mode with a Rate Period of one day. In such event, (i) with respect to any Bonds entitled to the benefits of a Letter of Credit, the Trustee shall by 12:00 noon, New York City time, on the proposed Conversion Date, draw on such Letter of Credit an amount which is sufficient to pay the Purchase Price on such date of all such Bonds that were to have been converted and (ii) with respect to any Bonds not entitled to the benefits of a Letter of Credit, the Company shall by 12:00 noon, New York City time, on the proposed Conversion Date deliver to the Paying Agent sufficient funds to pay the Purchase Price. In no event shall the failure of Bonds to be converted to another Mode for any reason be deemed to be, in and of itself, a Default or Event of Default under this Ordinance, so long as the Purchase Price of all Bonds required to be purchased is made available as provided above.

(3) Events Requiring Mandatory Tender of Flexible Bonds.

(i) Expiration of Letter of Credit Without Substitution or Replacement; Substitution of Letter of Credit or Delivery of Alternate Security; Exchange of Senior Unsecured Notes. The Bonds supported by a Letter of Credit or Alternate Security in the Flexible Mode are subject to mandatory tender for purchase, and shall be deemed to have been so tendered as provided in the form of Flexible Bonds in connection with (x) the expiration or termination of such Letter of Credit or Alternate Security (other than upon conversion to a new Mode) or (y) the substitution of a Letter of Credit or Alternate Security unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such substitution. All Bonds in the Flexible Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Flexible Bonds in connection with the exchange of the Senior Unsecured Notes for Corresponding Securities unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such exchange. The Paying Agent shall (i) at least 15 days prior to the mandatory tender date, give notice to the Bondholders of the mandatory tender of Bonds and (ii) on such mandatory tender date, pay the Purchase Price for the Bonds as provided in the form of Flexible Bonds notwithstanding any substitution of an Alternate Letter of Credit or Alternate Security after the date such notice was given to the Bondholders.

(ii) Change in Mode or Rate Period. On the Effective Date, Bonds in the Flexible Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Flexible Bonds. With respect to any Bonds in the Flexible Mode held in book-entry form, the Paying Agent shall give the holders of such Bonds not less than 15 days' prior written notice of the conversion of such Bonds from the Flexible Mode to a different Mode.

(B) Daily Mode.

(1) Determination of Daily Rates. The interest rate on any Bonds in the Daily Mode for the Rate Period shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, on the basis of prevailing market conditions, is necessary to remarket such Bonds at a price equal to the principal amount thereof, plus accrued interest, if any thereon, but not in excess of the Maximum Interest Rate. The Remarketing Agent for the Bonds shall determine the Daily Rate as provided above and in the form of Daily Bonds in Exhibit B hereto and shall notify the Paying Agent thereof on the Effective Date. The Paying Agent shall give written notice of the Daily Rate to the Trustee, the Bank and the Company. The determination and redetermination of the Daily Rate shall be conclusive and binding on the City, the Trustee, the Paying Agent, the Bank, the Company and the Bondholders. If for any reason the Remarketing Agent for the Bonds fails to determine the Daily Rate for such Bonds or if for any reason such manner of determination shall be determined to be invalid or unenforceable, the Daily Rate to take effect on the Effective Date with respect to such Bonds shall be the Daily Rate in effect for such Bonds on the day preceding such date.

(2) Conversions from the Daily Mode. Bonds in the Daily Mode or any portion of such Bonds may be converted on

any Interest Payment Date at the election of the Company from the Daily Mode to the Flexible, Weekly or Multiannual Mode as provided in the form of the Daily Bonds, as long as no Default or Event of Default hereunder exists, as certified to the Trustee by the Company. For Bonds that are to be converted to the Flexible, Weekly, or Multiannual Mode and with respect to which the Company has determined that following such conversion such Bonds in the Flexible, Weekly or Multiannual Mode, as the case may be, are to be Credit Supported Bonds, no such conversion shall be effective unless there shall be then in effect or the Company shall have delivered to the Trustee by 10:30 a.m., New York City time, on the Conversion Date a Letter of Credit or Alternate Security as required by Section 5.03 hereof. Bonds that automatically convert to the Flexible Mode with a one day Rate Period as a result of a failed conversion shall not be Credit Supported Bonds following such conversion. With respect to any Bonds remaining in the Daily Mode that are entitled to the benefits of a Letter of Credit or Alternate Security and any other Bonds which are then Credit Supported Bonds, the Trustee shall verify and confirm not later than 10:30 a.m., New York City time, on the Conversion Date that such Daily Bond and other Credit Supported Bond is supported by a Letter of Credit or Alternate Security complying with Sections 2.05 and 5.03 hereof. Written notice of a conversion from the Daily Mode shall be given by the Company to the City, the Trustee, the Paying Agent, the Bank, the Remarketing Agent and the Rating Agencies not fewer than 25 nor more than 60 days prior to the proposed Conversion Date, which date shall be specified by the Company in such notice and in connection with any conversion of Bonds from the Daily Mode to the Flexible, Weekly or Multiannual Mode, such notice shall include a direction from the Company to the Trustee to present the appropriate reinstatement request in the amount set forth in Section 2.05 hereof if the Bonds to be converted are entitled to the benefits of a Letter of Credit that provides for such a reinstatement request. Such notice shall also state whether or not the Company has determined that following conversion the Bonds to be converted are to be entitled to the benefits of a Letter of Credit or Alternate Security. Notice of a conversion of Bonds from the Daily Mode and the mandatory tender of Bonds for purchase on such Conversion Date shall be given to the holders of such Bonds as provided in Section 2.03(B)(4)(ii) hereof and the form of Daily Bonds.

Notwithstanding the foregoing, if the preconditions to conversion to another Mode established by the preceding paragraph and Section 2.04 hereof are not met by 10:30 a.m., New York City time, on the proposed Conversion Date, the Paying Agent shall deem the proposed conversion to have failed and shall immediately notify the Trustee, the Company, the Bank, the Rating Agencies and the Remarketing Agent, and such Bonds shall be subject to mandatory tender as provided in Section 2.03(B)(4)(ii) hereof. In addition, the failed conversion shall cause the interest rate on such Bonds to immediately convert to the Flexible Rate with a one day Rate Period on the Conversion Date. In such event, (i) with respect to any Bonds entitled to the benefits of a Letter of Credit, the Trustee shall by 12:00 noon, New York City time, on the proposed Conversion Date, draw on such Letter of Credit an amount which is sufficient to pay the Purchase Price on such date of all such Bonds that were to have been converted and (ii) with respect to any Bonds not entitled to the benefits of a Letter of Credit, the Company shall by 12:00 noon, New York City time, on the proposed Conversion Date deliver to the Paying Agent sufficient funds to pay the Purchase Price. In no event shall the failure of Bonds to be converted to another Mode for any reason be deemed to be, in and of itself, a Default or Event of Default under this Ordinance, so long as the Purchase Price of all Bonds required to be purchased is made available as provided above.

(3) Bondholders' Option to Tender Bonds in Daily Mode. Bonds in the Daily Mode are subject to tender, at the election of the holder thereof, in the manner and subject to

the limitations described in the form of Daily Bonds. The holders of Tendered Bonds shall receive on the Delivery Date a Purchase Price equal to 100% of the principal amount of the Tendered Bonds plus accrued interest to the Purchase Date, provided that if the Purchase Date is an Interest Payment Date, accrued interest shall be paid separately and not as part of the Purchase Price on such date.

The Paying Agent shall accept all Tendered Bonds properly tendered to it for purchase as provided in the form of Daily Bonds and in this Section 2.03(B)(3); provided, however, that the Paying Agent shall not accept any Tendered Bonds and the Purchase Price therefor shall not be paid if at the time of tender or on the Purchase Date (i) the principal of the Bonds shall have been accelerated pursuant to Section 9.01 hereof and such acceleration shall not have been annulled or (ii) the Bonds shall be deemed to be paid in full in accordance with Section 8.02 hereof.

The Bondholders' Election Notice delivered to the Paying Agent as provided in the form of Daily Bonds prior to the Purchase Date of Tendered Bonds shall be in substantially the form provided in the form of Daily Bonds.

As soon as practicable after receiving notice of a tender of Bonds under this Section 2.03(B)(3), the Paying Agent shall notify the Remarketing Agent, the Company, the Bank and the Trustee by telephone promptly confirmed in writing of the amount of Tendered Bonds and the specified Purchase Date.

During the time Bonds are issued in the book-entry-only system, all Bondholders' Election Notices shall be signed by the beneficial owner thereof or his attorney, duly authorized in writing. The Paying Agent shall be entitled to rely on the accuracy of any Bondholders' Election Notice delivered to the Paying Agent.

(4) Events Requiring Mandatory Tender of Daily Bonds.

(i) Expiration of Letter of Credit Without Substitution or Replacement; Substitution of Letter of Credit or Delivery of Alternate Security; Exchange of Senior Unsecured Notes. The Bonds supported by a Letter of Credit or Alternate Security in the Daily Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Daily Bonds in connection with (x) the expiration or termination of such Letter of Credit or Alternate Security (other than upon conversion to a new Mode) or (y) the substitution of a Letter of Credit or Alternate Security unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such substitution. All Bonds in the Daily Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Daily Bonds in connection with the exchange of the Senior Unsecured Notes for Corresponding Securities unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such exchange. The Paying Agent shall (i) at least 15 days prior to the mandatory tender date, give notice to the Bondholders of the mandatory tender of Bonds and (ii) on such mandatory tender date, pay the Purchase Price for the Bonds as provided in the form of Daily Bonds

notwithstanding any substitution of an Alternate Letter of Credit or Alternate Security after the date such notice was given to the Bondholders.

(ii) *Change in Mode*. In the event that Bonds in the Daily Mode are converted to another Mode, such Bonds are subject to mandatory tender for purchase upon not less than 15 days' prior written notice from the Paying Agent to the Bondholders as provided in the form of Daily Bonds, which notice shall state that the Bonds are subject to mandatory tender for purchase and the mandatory tender date.

(C) Weekly Mode.

(1) Determination of Weekly Rates. The interest rate on Bonds in the Weekly Mode for the Rate Period shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, on the basis of prevailing market conditions, is necessary to remarket such Bonds at a price equal to the principal amount thereof, plus accrued interest, if any thereon, but not in excess of the Maximum Interest Rate. The Remarketing Agent for such Bonds shall determine the Weekly Rate as provided above and in the form of Weekly Bonds in Exhibit C hereto and shall notify the Paying Agent thereof on the Effective Date. The Paying Agent shall give written notice of the Weekly Rate to the Trustee, the Bank and the Company. Each determination and redetermination of the Weekly Rate shall be conclusive and binding on the City, the Trustee, the Paying Agent, the Bank, the Company and the Bondholders. If for any reason the Remarketing Agent for the Bonds fails to determine the Weekly Rate for such Bonds or if for any reason such manner of determination shall be determined to be invalid or unenforceable, the Weekly Rate to take effect on the Effective Date for such Bonds shall be the Weekly Rate in effect for such Bonds on the day preceding such date.

(2) Conversions from the Weekly Mode. Bonds in the Weekly Mode or any portion of such Bonds may be converted on any Interest Payment Date at the election of the Company from the Weekly Mode to the Flexible, Daily, or Multiannual Mode as provided in the form of the Weekly Bonds, as long as no Default or Event of Default hereunder exists, as certified to the Trustee by the Company. For Bonds that are to be converted to the Flexible, Daily or Multiannual Mode and with respect to which the Company has determined that following such conversion such Bonds in the Flexible, Daily or Multiannual Mode, as the case may be, are to be Credit Supported Bonds, no such conversion shall be effective unless there shall be then in effect or the Company shall have delivered to the Trustee by 10:30 a.m., New York City time, on the Conversion Date a Letter of Credit or Alternate Security as required by Section 5.03 hereof. Bonds that automatically convert to the Flexible Mode with a one day Rate Period as a result of a failed conversion shall not be Credit Supported Bonds following such conversion. With respect to any Bonds remaining in the Weekly Mode that are entitled to the benefits of a Letter of Credit or Alternate Security and any other Bonds which are then Credit Supported Bonds, the Trustee shall verify and confirm not later than 10:30 a.m., New York City time, on the Conversion Date that each such Weekly Bond and other Credit Supported Bond is supported by a Letter of Credit or Alternate Security complying with Sections 2.05 and 5.03 hereof. Written notice of a conversion from the Weekly Mode shall be given by the Company to the City, the Trustee, the Paying Agent, the Bank, the Remarketing Agent and the Rating Agencies not fewer than 25 nor more than 60 days prior to the proposed Conversion Date, which date shall be specified by the Company in such notice and in connection with any conversion of Bonds from the Weekly Mode to the Flexible, Daily or Multiannual Mode, such notice shall include a direction from the Company to the Trustee to present the appropriate reinstatement request in the amount set forth in Section 2.05 hereof if the Bonds to be converted are entitled to the benefits of a Letter of

Credit that provides for such a reinstatement request. Such notice shall also state whether or not the Company has determined that following conversion the Bonds to be converted are to be entitled to the benefits of a Letter of Credit or Alternate Security. Notice of a conversion of Bonds from the Weekly Mode and the mandatory tender of Bonds for purchase on such Conversion Date shall be given to the holders of such Bonds as provided in Section 2.03(C)(4)(ii) hereof and the faun of Weekly Bonds.

Notwithstanding the foregoing, if the preconditions to conversion to another Mode established by the preceding paragraph and Section 2.04 hereof are not met by 10:30 a.m., New York City time, on the proposed Conversion Date, the Paying Agent shall deem the proposed conversion to have failed and shall immediately notify the Trustee, the Company, the Bank, the Rating Agencies and the Remarketing Agent, and such Bonds shall be subject to mandatory tender as provided in 2.03(C)(4)(ii) hereof. In addition, the failed conversion shall cause the interest rate on such Bonds to immediately convert to the Flexible Rate with a one day Rate Period on the Conversion Date. In such event, (i) with respect to any Bonds entitled to the benefits of a Letter of Credit, the Trustee shall by 12:00 noon, New York City time, on the proposed Conversion Date, draw on such Letter of Credit an amount which is sufficient to pay the Purchase Price on such date of all such Bonds that were to have been converted and (ii) with respect to any Bonds not entitled to the benefits of a Letter of Credit, the Company shall by 12:00 noon, New York City time, on the proposed Conversion Date deliver to the Paying Agent sufficient funds to pay the Purchase Price. In no event shall the failure of Bonds to be converted to another Mode for any reason be deemed to be, in and of itself, a Default or Event of Default under this Ordinance, so long as the Purchase Price of all Bonds required to be purchased is made available as provided above.

(3) Bondholders' Option to Tender Bonds in Weekly Mode. Bonds in the Weekly Mode are subject to tender, at the election of the holder thereof, in the manner and subject to the limitations described in the form of Weekly Bonds. The holders of Tendered Bonds shall receive on the Delivery Date a Purchase Price equal to 100% of the principal amount of the Tendered Bonds plus accrued interest to the Purchase Date, provided that if the Purchase Date is an Interest Payment Date, accrued interest shall be paid separately and not as part of the Purchase Price on such date.

The Paying Agent shall accept all Tendered Bonds properly tendered to it for purchase as provided in the form of Weekly Bonds and in this Section 2.03(C)(3); provided, however, that the Paying Agent shall not accept any Tendered Bonds and the Purchase Price therefor shall not be paid if at the time of tender or on the Purchase Date (i) the principal of the Bonds shall have been accelerated pursuant to Section 9.01 hereof and such acceleration shall not have been annulled or (ii) the Bonds shall be deemed to be paid in full in accordance with Section 8.02 hereof.

The Bondholders' Election Notice delivered to the Paying Agent as provided in the form of Weekly Bonds prior to the Purchase Date of Tendered Bonds shall be in substantially the form provided in the form of Weekly Bonds.

As soon as practicable after receiving notice of a tender of Bonds under this Section 2.03(C)(3), the Paying Agent shall notify the Remarketing Agent, the Company, the Bank and the Trustee by telephone promptly confirmed in writing of the amount of Tendered Bonds and the specified Purchase Date.

During the time Bonds are issued in the book-entry-only system, all Bondholders' Election Notices shall be signed by the beneficial owner thereof or his attorney, duly authorized in writing. The Paying Agent shall be entitled to rely on

the accuracy of any Bondholders' Election Notice delivered to the Paying Agent.

(4) Events Requiring Mandatory Tender of Weekly Bonds.

(i) Expiration of Letter of Credit Without Substitution or Replacement; Substitution of Letter of Credit or Delivery of Alternate Security; Exchange of Senior Unsecured Notes. The Bonds supported by a Letter of Credit or Alternate Security in the Weekly Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Weekly Bonds in connection with (x) the expiration or termination of such Letter of Credit or Alternate Security (other than upon conversion to a new Mode) or (y) the substitution of a Letter of Credit or Alternate Security unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such substitution. All Bonds in the Weekly Mode are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Weekly Bonds in connection with the exchange of the Senior Unsecured Notes for Corresponding Securities unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such exchange. The Paying Agent shall (i) at least 15 days prior to the mandatory tender date, give notice to the Bondholders of the mandatory tender of Bonds and (ii) on such mandatory tender date, pay the Purchase Price for the Bonds as provided in the form of Weekly Bonds notwithstanding any substitution of an Alternate Letter of Credit or Alternate Security after the date such notice was given to the Bondholders.

(ii) Change in Mode. In the event that Bonds in the Weekly Mode are converted to another Mode, such Bonds are subject to mandatory tender for purchase upon not less than 15 days' prior written notice from the Paying Agent to the Bondholders as provided in the form of Weekly Bonds, which notice shall state that the Bonds are subject to mandatory tender for purchase and the mandatory tender date.

(D) Multiannual Mode.

(1) Determination of Multiannual Rates and Rate Periods. The interest rate on Bonds in the Multiannual Mode for a particular Rate Period shall be the lowest rate of interest which, in the judgment of the Remarketing Agent, on the basis of prevailing market conditions, is necessary to remarket such Bonds with the same Rate Period at a price equal to the principal amount thereof, plus accrued interest, if any thereon, but not in excess of the Maximum Interest Rate. The Remarketing Agent for the Bonds shall determine the Multiannual Rate and Rate Period as provided above and in the form of Multiannual Bonds in Exhibit D hereto and shall notify the Paying Agent thereof by telephone not later than 2:00 p.m., New York City time, on the Business Day immediately preceding the Effective Date, promptly confirmed in writing. The Paying Agent shall give written notice of the Multiannual Rate to the Trustee, the Bank, if any, and the Company. Each determination and redetermination of the Multiannual Rate and Rate Period shall be conclusive and binding on the City, the Trustee, the Paying Agent, the

Company, the Bank, if any, the Bond Insurer, if any, and the Bondholders. If the Remarketing Agent for the Bonds fails to make such determination or fails to announce the Multiannual Rate for such Bonds as required with respect to any such Bonds in the Multiannual Mode, or if for any reason such manner of determination shall be determined to be invalid or unenforceable, the rate to take effect for such Bonds on any Effective Date shall be automatically converted to the Flexible Rate with a Rate Period of one day. Notwithstanding the foregoing, if the Bonds are initially issued in a Multiannual Mode with a Rate Period equal in years to the number of years to the maturity of such Bonds, then the interest rate on such Bonds shall be the rate determined by the Company and as set forth in a resolution of the City Council.

In making the determination and redetermination of the Multiannual Rate and remarketing Bonds in the Multiannual Mode if such Bonds in the Multiannual Mode are Credit Supported Bonds, the Remarketing Agent shall not offer Rate Periods extending beyond the expiration date of any applicable Letter of Credit less 29 days.

(2) Conversions from the Multiannual Mode. The Bonds in the Multiannual Mode or any portion of such Bonds may be converted on any Effective Date at the election of the Company from the Multiannual Mode to the Flexible, Daily or Weekly Mode and may be converted within the Multiannual Mode to a new Rate Period with the same or a different length as provided in the form of the Multiannual Bonds, so long as no Default or Event of Default hereunder exists as certified to the Trustee by the Company. For Bonds that are to be converted to the Flexible, Daily or Weekly Mode and with respect to which the Company has determined that, following such conversion such Bonds are to be Credit Supported Bonds, no such conversion shall be effective unless there shall be then in effect or the Company shall have delivered to the Trustee by 10:30 a.m., New York City time, on the Conversion Date a Letter of Credit or Alternate Security as required by Section 5.03 hereof. Bonds that automatically convert to the Flexible Mode with a one day Rate Period as a result of a failed conversion shall not be Credit Supported Bonds following such conversion. With respect to any Bonds remaining in the Multiannual Mode that are entitled to the benefits of a Letter of Credit or Alternate Security and any other Bonds which are then Credit Supported Bonds, the Trustee shall verify and confirm not later than 10:30 a.m., New York City time, on the Conversion Date that each such Multiannual Bond and other Credit Supported Bond is supported by a Letter of Credit or Alternate Security complying with Sections 2.05 and 5.03 hereof. Written notice of a change in Mode or Rate Period within the Multiannual Mode shall be given by the Company to the City, the Trustee, the Paying Agent, the Bank, if any, the Bond Insurer, if any, the Remarketing Agent and the Rating Agencies not fewer than 25 nor more than 60 days prior to the proposed Conversion Date, which date shall be specified by the Company in such notice. Such notice shall also state whether or not the Company has determined that following conversion such Bonds to be converted are to be entitled to the benefits of a Letter of Credit or Alternate Security.

If any Bonds are issued in the Multiannual Mode with a term to the maturity of such Bonds, then such Bonds may not be converted to any other Mode.

(3) Events Requiring Mandatory Tender of Multiannual Bonds.

(i) Expiration of Letter of Credit Without Substitution or Replacement; Substitution of Letter of Credit or Delivery of Alternate Security. Any Bonds supported by a Letter of Credit or Alternate Security in the Multiannual Mode are subject to mandatory tender for purchase and shall be deemed to have been so

tendered as provided in the form of Multiannual Bonds in connection with (x) the expiration or termination of such Letter of Credit or Alternate Security (other than upon conversion to a new Mode) or (y) the substitution of a Letter of Credit or Alternate Security unless, prior to the date the Paying Agent is required to give notice of such mandatory tender to the Bondholders in accordance with the last sentence of this paragraph, the Paying Agent and the Trustee shall have received from the Company written evidence from the Rating Agencies that the rating on such Bonds will not be reduced or withdrawn as a result of such substitution.

(ii) Change in Mode or Rate Period. In the event that Bonds in the Multiannual Mode are converted to another Mode or on the Effective Date of any change in the Multiannual Rate Period, such Bonds are subject to mandatory tender for purchase and shall be deemed to have been so tendered as provided in the form of Multiannual Bonds. With respect to any Bonds in the Multiannual Mode held in book-entry form, the Paying Agent shall give the holders of such Bonds not less than 20 days' prior written notice of the conversion of such Bonds from the Multiannual Mode to a different Mode.

(iii) Mandatory Purchase on Day After the End of Multiannual Rate Period. Whenever the Mode for the Bonds is the Multiannual Mode, each Bond shall be subject to mandatory purchase at a purchase price equal to the principal amount thereof, without premium, plus accrued interest, if any, on the first Business Day after the end of the Multiannual Rate Period.

(E) Partial Conversions.

(1) General. Subject to the terms of the applicable Reimbursement Agreement, if any, the Bonds may be converted on any applicable Effective Date in whole or in part to the Flexible Mode, the Daily Mode, the Weekly Mode or any Rate Period in the Multiannual Mode upon compliance with the conditions set forth in this Ordinance. In the event the Bonds are in (or are to be converted to) more than one Mode, the provisions herein relating to Bonds in a particular Mode (or to be converted to a particular Mode) shall apply only to the Bonds in (or to be converted to) such Mode and, where necessary or appropriate, any reference in this Ordinance to the Bonds shall be construed to mean the Bonds in (or to be converted to) such Mode and any reference to the Letter of Credit or Alternate Security shall be construed to mean any applicable Letter of Credit or Alternate Security supporting the Bonds in (or to be converted to) the Daily Mode, Weekly Mode, Flexible Mode or Multiannual Mode, as applicable, and any reference to the Bank or provider of Alternate Security shall be construed to mean the Bank issuing that Letter of Credit or the applicable provider of that Alternate Security and references thereto shall only apply to Credit Supported Bonds supported by such respective Letters of Credit or Alternate Securities. However, it is understood that, in the case of an initial Letter of Credit, such Letter of Credit will not, unless amended or supplemented, support the payment of Bonds for which there has been a failed conversion pursuant to Section 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) or 2.03(D)(2) hereof and for which such Bonds have been automatically converted to a Flexible Mode with a one day Rate Period. The Trustee is hereby directed to make the appropriate notation on the Flexible Bonds in such instance and it is further understood that as provided in Section 2.14 hereof, there will be no remarketing of such Bonds unless and until such Section 2.14 is complied with.

(2) Selection. In the event of any partial conversion of the Bonds to a new Mode, the Bonds to be converted shall be selected by the Paying Agent from the Bonds in the Mode selected by the Company. The particular

Bonds (or portions thereof) to be converted shall be selected by lot by the Paying Agent from all the Bonds in the Mode (or in the case of Bonds in the Multiannual Mode, the Rate Period) from which Bonds are to be converted. The principal amount of Bonds to be converted shall be determined so that all of the Bonds shall be in the denominations required under Section 2.02 hereof for the particular Modes. Bonds (or portions thereof) in the Flexible, Daily, Weekly or Multiannual Mode shall be selected by lot and the selection of the Bonds to be converted shall occur prior to the date notice of mandatory tender is sent by the Paying Agent pursuant to Section 2.03(A)(3), 2.03(B)(4), 2.03(C)(4) or 2.03(D)(3) hereof.

(3) Amendments. The provisions of this Ordinance may be amended to permit or facilitate partial conversions of the Bonds without Bondholder consent in accordance with Section 12.02 hereof.

(F) Tendered Bonds. The purchase of Tendered Bonds as provided in this Ordinance shall not extinguish the debt represented by such Bonds which shall remain outstanding and unpaid under this Ordinance.

Section 2.04. Conversion. No conversion of Bonds from one Mode to another Mode, including for this purpose the conversion to a new Rate Period in the Multiannual Mode, shall be effective unless on or prior to the Conversion Date the Company shall provide the City, the Bank, the Paying Agent, the Remarketing Agent and the Trustee with an opinion of Bond Counsel reasonably satisfactory to the Trustee to the effect that the conversion will not adversely affect the exclusion of interest on the Bonds from gross income for Federal income tax purposes.

Section 2.05. Reduction and Reinstatement of Letter of Credit on Change in Mode; Release of Letter of Credit Upon Conversion from One Mode to Another Mode. If Bonds are converted from one Mode to another Mode, the Trustee shall, upon request of the Company and to the extent permitted by the applicable Reimbursement Agreement and the applicable Letter of Credit, increase or reduce the amount available to be drawn under the Letter of Credit to which such Bonds are entitled to the benefits or release such Letter of Credit upon such conversion, in each case in accordance with the terms of such Letter of Credit, provided that the amount available under such Letter of Credit complies with Section 5.03 hereof and the last paragraph of this Section 2.05.

In no event shall any reduction in or release of a Letter of Credit pursuant to this Section 2.05 take effect until five Business Days after the conversion. Any increase in the amount of a Letter of Credit shall take effect on the Conversion Date, and the Trustee shall present the appropriate increase certificate to the Bank at the times and as provided in such Letter of Credit to cause such increase to be effective on such date.

If there is a conversion of Bonds from one Mode to another Mode with respect to which a termination of, or a reduction of the amount of, a Letter of Credit is permitted by this Section 2.05 and by such Letter of Credit, the Trustee shall present written notice of the Conversion Date or, in the event of a reduction of the amount of such Letter of Credit, the appropriate reduction certificate to the Bank promptly following the applicable Conversion Date so that the Letter of Credit coverage for the Bonds supported by such Letter of Credit will be terminated or reduced, as the case may be, and if so reduced, will comply with Section 5.03 hereof and the following sentence. If any Bonds are to be entitled to the benefits of a Letter of Credit after the conversion thereof, the applicable Letter of Credit coverage after such conversion shall equal the principal amount of such Bonds which are in the Flexible Mode, the Daily Mode, the Weekly Mode and the Multiannual Mode and which are supported by such applicable Letter of Credit immediately after such conversion plus (i) with respect to such Bonds in the Flexible Mode immediately after such conversion, interest in the amount of the principal amount of such Bonds multiplied by the product of the Maximum Interest Rate and a fraction, the numerator of which is the Rate Period of the Bond plus 209 days and the denominator of which is 365, (ii) with respect to such Bonds in the Daily Mode immediately after such conversion, interest in the amount of the principal amount of such Bonds

multiplied by the product of the Maximum Interest Rate and a fraction, the numerator of which is 60 and the denominator of which is 365, (iii) with respect to such Bonds in the Weekly Mode immediately after such conversion, interest in the amount of the principal amount of such Bonds multiplied by the product of the Maximum Interest Rate and a fraction, the numerator of which is 60 and the denominator of which is 365 and (iv) with respect to such Bonds in the Multiannual Mode (other than a Multiannual Mode fixed to maturity) immediately after such conversion, interest in the amount equal to the sum of (A) the principal amount of such Bonds multiplied by the product of the Maximum Interest Rate and a fraction, the numerator of which is 209 and the denominator of which is 360 and (B) the amount of any premium payable upon the redemption of such Bonds. If any Bonds are to be entitled to the benefits of a Letter of Credit, no later than 12:00 noon, New York City time, on the second Business Day preceding any Conversion Date for any conversion of Bonds from the Weekly Mode to the Flexible Mode or the Multiannual Mode or from the Flexible Mode to the Multiannual Mode, the Trustee shall present the appropriate reinstatement certificate, if any, to the Bank or take such other action at the direction of the Company so that the Letter of Credit coverage after such conversion shall comply with the requirements set forth in this Section 2.05 and in Section 5.03 hereof. The Trustee may request from the Company any supporting documentation necessary to satisfy the requirements of the Reimbursement Agreement concerning any conditions for such reinstatement.

Section 2.06. Execution; Limited Obligation. The Bonds shall be executed on behalf of the City by the Mayor and Treasurer and shall have affixed, impressed or reproduced thereon the corporate seal of the City, attested by the City Clerk. Each of the foregoing officers of the City, after filing with the Secretary of State of New Mexico his or her manual signature certified by him or her under oath, may execute or cause to be executed or attest or cause to be attested the Bonds with a facsimile signature in lieu of his or her manual signature.

In case any officer of the City whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the authentication by the Trustee and delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery; and any Bond may be signed on behalf of the City by such persons as at the time of execution of such Bond shall be the proper officers of the City, even though at the date of such Bond or of the adoption of this Ordinance any such person was not such officer.

The Bonds and the interest thereon shall not be general obligations or an indebtedness of the City within the meaning of Article 9, Sections 12 and 13 of the Constitution of New Mexico, but shall be limited obligations of the City the principal of and premium, if any, and interest on which shall be payable solely from and secured by a pledge of the applicable Receipts and Revenues of the City from the Installment Sale Agreement and other moneys pledged therefor under this Ordinance. As additional security for the payment of the principal of and premium, if any, and interest on the Bonds, the City hereby pledges and assigns to the Trustee all its rights and interest under the Installment Sale Agreement except for the City's rights under Sections 5.05, 5.08 and 8.05, and clause (ii) of paragraph (b) of Section 8.03, thereof. The Bonds shall never constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and shall never constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers, and such fact shall be plainly stated on each Bond.

Section 2.07. Authentication. Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form set forth in Exhibit A through D hereof executed by the Trustee shall be entitled to any right or benefit under this Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed with an authorized signature of the Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bonds issued hereunder.

Section 2.08. Initial Delivery of Bonds. The City shall execute and deliver to the Trustee and the Trustee shall authenticate the Bonds. The Trustee shall deliver said Bonds to the initial purchasers thereof as may be directed hereinafter in this Section 2.08.

Prior to the delivery by the Trustee of the Bonds there shall be or have been delivered to the Trustee:

(1) A duly certified copy of this Ordinance.

(2) An original duly executed counterpart or a duly certified copy of the Installment Sale Agreement.

(3) An original duly executed counterpart or a duly certified copy of the applicable Letter of Credit, if any, which applies to the Bonds.

(4) An original duly executed counterpart or a duly certified copy of a Guaranty relating to the Bonds.

(5) A request and authorization to the Trustee on behalf of the City and signed by the Mayor to authenticate and deliver the Bonds to the purchaser or purchasers therein identified upon payment to the Trustee, but for the account of the City, of a sum specified in such request and authorization plus any accrued interest on such Bonds to the date of delivery, in the aggregate principal amount determined by this Ordinance.

(6) A written statement on behalf of the Company, executed by an Authorized Company Representative, (i) approving the issuance and delivery of the Bonds and (ii) consenting to each and every provision of this Ordinance, including any Supplemental Ordinance.

(7) An opinion of Counsel that the Company Indenture, the Senior Unsecured Notes issued thereunder, and each such Guaranty are valid and binding obligations.

Section 2.09. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate a new Bond of like date, maturity and denomination and bearing a number not contemporaneously outstanding; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City, the Trustee and the Company evidence of such loss, theft or destruction satisfactory to the City, the Trustee and the Company, together with indemnity, satisfactory, to them. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto. In the event any such Bond shall have matured or is about to mature, or has been called for redemption, instead of issuing a duplicate Bond the City may, with the consent of the Bondholder, pay the same without replacement thereof if in the case of a mutilated Bond, such mutilated Bond shall first have been surrendered to the Trustee and in the case of a lost, stolen or destroyed Bond there shall be first furnished to the City, the Company and the Trustee evidence of such loss, theft or destruction satisfactory to the City, the Trustee and the Company, together with indemnity satisfactory to them. The City and the Trustee may charge the holder of such Bond with the reasonable fees and expenses of the City and the Trustee in connection with any transaction described in this Section 2.09.

Every replacement Bond issued pursuant to the provisions of this Section 2.09 by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute an additional contractual obligation of the City (payable only as provided herein), whether or not the lost, stolen or destroyed Bond shall be at any time enforceable, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued hereunder. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, lost, stolen or destroyed Bonds, and

shall preclude any and all other rights or remedies, notwithstanding any law or statute now existing or hereafter enacted.

Section 2.10. Transfer of Bonds; Persons Treated as Owners. The provisions of this Section 2.10 are made subject to the provisions of Section 2.12 hereof which shall control for Bonds which are issued in the book-entry form. All the Bonds issued under this Ordinance shall be negotiable, subject to the provisions for registration and transfer contained in this Ordinance and in the Bonds. The Trustee shall be the Registrar for the Bonds. So long as any of the Bonds shall remain Outstanding, the Registrar shall maintain and keep, at its Principal office, books for the registration and transfer of Bonds, which books shall contain a list of names and addresses of all Bondholders, a record of the principal amount of Bonds owned by such Bondholders, the identity number or numbers of the Bond or Bonds owned by such Bondholders, a record of all payments made by the Trustee to or for the account of such Bondholders and such other matters as the Registrar deems necessary. The information required to be kept by the Registrar hereunder shall be maintained for five years after the expiration of the term of the Bonds.

Upon presentation of any Bond for registration of transfer at the Principal Office of the Registrar, the Registrar shall register or cause to be registered on the books of the Registrar, and permit the registration of transfer thereon, under such reasonable regulations as the Registrar may prescribe, any such Bond entitled to registration of transfer.

The registration of transfer of each Bond shall be made only upon the books of the Registrar, which shall be kept for that purpose at the Principal Office of the Registrar, by the Owner thereof in person or his attorney duly authorized in writing, upon surrender of such Bond thereof at said office, together with a written instrument of transfer satisfactory to the Registrar duly executed by the owner or his duly authorized attorney. Upon the registration of transfer of any such Bond or Bonds, the City shall issue in the name of the transferee, in authorized denominations, a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate as the surrendered Bond or Bonds. Any transfer of a Bond or Bonds during the occurrence and continuance of an Event of Default of which the Trustee is required to take notice or deemed to have notice pursuant to Section 10.05 hereof shall be accompanied by notice of the occurrence and continuance of such Event of Default to the new Owner or Owners.

The City, the Trustee, the Registrar and the Paying Agent may deem and treat the Owner of any Bond as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and premium, if any, and interest on such Bond and for all other purposes, and all such payments so made to any such Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City, the Trustee nor the Paying Agent shall be affected by any notice to the contrary.

In all cases in which the privilege of transferring Bonds is exercised, the City shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. All Bonds surrendered in any such transfers shall forthwith be canceled by the Trustee. For every such transfer of Bonds, whether temporary or definitive, the City, the Registrar or the Trustee may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such transfer, which sum or sums shall be paid by the person requesting such transfer as a condition precedent to the exercise of the privilege of making such transfer.

Except in connection with any optional or mandatory tender of Bonds pursuant to Section 2.03(A)(3), 2.03(B)(3) or (4), 2.03(C)(3) or (4) or 2.03(D)(3) hereof, the Trustee shall not be obligated to make any registration of transfer of Bonds during the three Business Days next preceding an Interest Payment Date or, in the case of any proposed redemption of Bonds, next preceding the date of the first mailing of notice of such redemption. The Trustee shall not make any registration of transfer of any Bonds called for redemption except to a purchaser who acknowledges in writing to the Trustee at the time of such purchase receipt of notice of the terms of the call for redemption required by Section 3.02 hereof and, if 30 or fewer days remain to the proposed

redemption date, waives the right to have received such notice within the period set forth in Section 3.02 hereof.

Anything in this Ordinance or in the Bonds to the contrary notwithstanding, (i) during the Effective Period of a Letter of Credit, the Registrar shall not register any transfer of or deliver any Company Bonds unless the Company shall have delivered, or caused to be delivered, to the Trustee evidence from the Bank satisfactory to the Trustee that after such transfer, drawings may be made under the applicable Letter of Credit in an aggregate amount at least equal to the principal amount of all Outstanding Bonds entitled to the benefits of such Letter of Credit which immediately after such transfer will not be Company Bonds plus the appropriate number of days of interest on such Bonds and (ii) subsequent to the Effective Period of a Letter of Credit and so long as any moneys are in the subaccounts of the Letter of Credit Account in the Bond Fund or the Letter of Credit Purchase Price Account in the Bond Purchase Fund, the Registrar shall not register any transfer of any Company Bond.

Section 2.11. Temporary Bonds; Replacement Bonds. (a) Pending the preparation of definitive Bonds, the City may execute and the Trustee shall authenticate and deliver temporary Bonds. Temporary Bonds shall be issuable as registered Bonds of any authorized denomination and substantially in the form of the definitive Bonds but with such omissions, insertions and variations as may be appropriate for temporary Bonds, all as may be determined by the City. Temporary Bonds may be issued without specific redemption prices and may contain such reference to any provisions of this Ordinance as may be appropriate. Every temporary Bond shall be executed by the City and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Bonds. As promptly as practicable the City shall execute and furnish definitive fully registered Bonds and thereupon temporary Bonds may be surrendered in exchange therefor without charge at the Principal Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds a like aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged any temporary Bonds shall be entitled to the same benefits under this Ordinance as definitive Bonds.

(b) The City shall execute and the Trustee shall authenticate and deliver Replacement Bonds to replace Undelivered Bonds (or portions thereof). Any such Replacement Bond shall be executed and authenticated as provided in this Ordinance. Replacement Bonds shall be issued in the appropriate form and shall contain such other provisions as are consistent with the provisions of this Ordinance. The Company shall bear all expenses in connection with the preparation and delivery of the Replacement Bonds. Notwithstanding anything contained herein to the contrary, before delivering any Replacement Bonds to replace any Undelivered Bond or Bonds (or portion thereof), the Trustee may require satisfactory indemnity to be furnished by the Company for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any such action so taken. Replacement Bonds shall not be deemed to create new indebtedness but shall be deemed to evidence the indebtedness previously evidenced by the Undelivered Bond or Bonds (or portion thereof).

Section 2.12. Book-Entry-Only Registration of the Bonds. (a) Except as provided in subparagraph (c) of this Section 2.12 and except for any Bonds with respect to which DTC (as herein defined) or any successor securities depository shall not be providing its services described in this Section 2.12, the registered Owner of all of the Bonds shall be, and the Bonds shall be registered in the name of, Cede & Co. ("Cede"), as nominee of The Depository Trust Company ("DTC"), New York, New York. Payment of interest on any Bond, as applicable, shall be made in accordance herewith to the account of Cede on the Interest Payment Date for the Bonds at the address indicated for Cede, in the registry books of the City kept by the Registrar.

(b) The Bonds shall be initially issued in the Book-Entry System, as a fully registered certificate representing each maturity of principal. Upon initial issuance the ownership of each such Bond shall be registered in the registry books of the City kept by the Registrar in the name of Cede, as nominee of DTC. So long as such Bonds are in the Book-Entry system, the City, the Company, the Trustee, the Registrar and

the Paying Agent shall treat DTC (or its nominee) as the sole and exclusive Owner of such Bond registered in its name for the purposes of: (i) payment of the principal, redemption price or Purchase Price of, and interest on, each such Bond, (ii) selecting such Bonds or portions thereof to be redeemed, (iii) giving any notice permitted or required to be given to Bondholders, (iv) registering the transfer of such Bonds, and (v) obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and the Trustee shall not be affected by any notice to the contrary. In order to effect permissive purchases of Bonds pursuant to this Ordinance, Beneficial Owners must act only through their DTC participants ("Direct Participants") and the Board, the Trustee, the Bond Registrar, the Paying Agent, the Transfer Agent and the Company will have no responsibility therefor whatsoever. Purchasers of Bonds held under the book-entry system must be made by or through Direct Participants which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "Beneficial Owner") is in turn to be recorded on the records of the Direct Participants or indirect participants that clear through or maintain a custodial relationship with a Direct Participant either directly or indirectly ("Indirect Participants"). So long as the Bonds are held in the Book-Entry system, the Paying Agent or the Trustee, as the case may be, shall pay the principal, redemption price or Purchase Price of, and interest on, all Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to such principal or redemption price or Purchase Price, and interest, to the extent of the sum or sums so paid. Transfer or crediting of the applicable principal, interest or redemption premium payments made by the Trustee to DTC and by DTC to Direct Participants shall be the sole responsibility of DTC, and transfer of same to Beneficial Owners or their nominees shall be the sole responsibility of DTC and the Direct Participants. So long as any such 2016 Series B Bonds are held in the Book-Entry System, no person other than DTC shall receive an authenticated Bond certificate. Upon delivery by DTC to the Paying Agent and the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the transfer provisions of this Ordinance, the word "Cede" herein shall refer to such new nominee of DTC. Transfers of ownership of the Bonds are to be accomplished by entries made on the books of the Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

(c) (1) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving reasonable prior written notice to the City, the Company, the Trustee and the Paying Agent and discharging its responsibilities with respect thereto under applicable law.

(2) The City, at the sole discretion and direction of the Company and without the consent of any other person, may terminate the services of DTC with respect to the Bonds if the Company determines that the continuation of the system of book-entry-only transfers through DTC (or a successor securities depository) is not in the best interests of the beneficial owners of the Bonds or is burdensome to the City or the Company.

(3) Upon the termination of the services of DTC with respect to the Bonds pursuant to Section 2.12(c)(1) or (2) hereof, after which the City at the written direction of the Company has not within 90 days appointed a substitute securities depository which, in the opinion of the Company, is willing and able to undertake the functions of DTC upon reasonable and customary terms, the Bonds shall no longer be restricted to being registered in the registration books kept by the Registrar in the name of Cede as nominee of DTC; provided, however, there shall have been delivered an opinion of Bond Counsel to the effect that the release of said restrictions will not adversely affect the exclusion of the interest on the Bonds from gross income for purposes of Federal income taxation. In such event, the City shall issue and the Registrar shall transfer and exchange Bond certificates of like principal amount, and maturity, in authorized denominations to the Direct Participants or the identifiable Beneficial Owners (as identified by DTC or the

Direct Participants) in replacement of such Beneficial Owners' beneficial interests in the Bonds.

(d) Bonds convertible to the Flexible Mode shall be issued in certificated form unless DTC (or a successor securities depository) has established a book-entry system which can accommodate instruments such as the Bonds and the City, at the direction of the Company, determines to use the facilities of DTC (or such successor securities depository) for Bonds in the Flexible Mode.

(e) Notwithstanding any other provision of this Ordinance or of the Bonds to the contrary, so long as any Bond is registered in the name of Cede, as nominee of DTC, all payments with respect to the principal, redemption price or Purchase Price of, and interest on, such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the Letter of Representation (as defined below) of the City, the Trustee, the Remarketing Agents and the Paying Agent addressed to DTC with respect to the Bonds.

(f) In connection with any notice or other communication to be provided to Bondholders pursuant to this Ordinance by the City, the Paying Agent, the Registrar or the Trustee with respect to any consent or other action to be taken by the Bondholders, the City, the Paying Agent, the Registrar or the Trustee, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen calendar days in advance of such record date to the extent possible.

(g) For so long as the Bonds are held in book-entry form with one Bond for each maturity in each Mode registered in the name of Cede on the registration books of the Registrar, any Bond called for partial redemption in accordance herewith shall become due and payable on the redemption date designated in the notice of redemption given in accordance with this Ordinance at, and only to the extent of, the redemption price, plus accrued interest to the specified redemption date; and any such Bond shall be paid, to the extent so redeemed, (i) upon presentation and surrender thereof at the office specified in such notice or (ii) at the written request of Cede, by check or draft or by wire transfer to Cede by the Paying Agent, as provided in the form of Bonds. If, on the redemption date, moneys for the redemption of Bonds (or portions thereof) of such maturity to be redeemed, together with interest to the redemption date, shall be held by the Paying Agent so as to be available therefor on such date, and after notice of redemption shall have been given in accordance with this Ordinance, then, from and after the redemption date, the aggregate principal amount of the Bond so called for redemption and registered in the name of Cede shall be immediately reduced by an amount equal to the aggregate principal amount thereof so redeemed, notwithstanding whether such Bond has been surrendered to the Paying Agent for cancellation and notwithstanding anything to the contrary contained in this Ordinance or in the Bonds. Notwithstanding any provision of this Ordinance or in the Bonds to the contrary, the City, the Trustee, the Registrar and the Paying Agent may agree to allow DTC, or its nominee, Cede, to make a notation on any Bond redeemed in part to reflect, for informational purposes only, the principal amount and date of any such redemption.

The Trustee hereby agrees to maintain a payment record reflecting the amount of all payments, any redemption and the date of such payments and redemption. Such payment record shall be conclusive evidence of the amount of Bonds Outstanding at any time.

The Trustee further agrees that it will, together with the City, the Paying Agent and the Remarketing Agent, if not previously on file, execute and deliver to DTC a letter of representation in customary form with respect to the Bonds (the "Letter of Representation"). In the event of any inconsistency between the terms of such Letter of Representation and the terms hereof, the terms of such Letter of Representation shall govern and compliance by the Trustee with the terms thereof shall constitute performance of the inconsistent terms hereof.

Section 2.13. Remarketing of Bonds. (A) Upon the tender of any Bonds in accordance with Section 2.03(A)(3), 2.03(B)(3) or (4), 2.03(C)(3) or (4) or 2.03(D)(3) hereof, the Remarketing Agent shall offer for sale and use its best efforts to sell such Bonds (or portions thereof) on any Purchase Date for such Bonds at the Purchase Price. If

such Bonds are not remarketed, the Remarketing Agent shall continue to use its best efforts to remarket such Bonds unless otherwise directed by the Company.

(B) No Remarketing Agent for the Bonds shall remarket any Bonds pursuant to this Section 2.13 (i) if an Event of Default shall have occurred and be continuing hereunder with respect to such Bonds and such Remarketing Agent shall have received notice of such Event of Default pursuant to Section 9.01(3) or (4) hereof and (ii) following a failed conversion of such Bonds pursuant to Section 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) or 2.03(D)(2) hereof so long as such Bonds remain in the Flexible Mode with a Rate Period of one day. Furthermore, the Remarketing Agent shall have any obligation to remarket or attempt to remarket the Bonds upon such additional events or in such additional circumstances as may be agreed to between the Company and the Remarketing Agent in the Remarketing Agent Agreement.

(C) The Remarketing Agent shall give notice to the Paying Agent, the Trustee, the Company and the Bank by telephone, promptly confirmed in writing, specifying the principal amount of Tendered Bonds as to which the Remarketing Agent has found purchasers, the amounts such Remarketing Agent has received for the purchase of Tendered Bonds, and any deficiency in amounts available to pay the Purchase Price of Tendered Bonds at or before (i) 9:00 a.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Flexible Mode immediately after the Purchase Date, (ii) 4:00 p.m., New York City time, on the first Business Day immediately preceding the Purchase Date for Tendered Bonds that are to be in the Daily Mode immediately after the Purchase Date, (iii) 4:00 p.m., New York City time, on the first Business Day immediately preceding the Purchase Date for Tendered Bonds that are to be in the Weekly Mode immediately after the Purchase Date, or (iv) 2:00 p.m., New York City time, on the second Business Day immediately preceding the Purchase Date for Tendered Bonds that are to be in the Multiannual immediately after the Purchase Date. If the Trustee shall fail to receive such notice from such Remarketing Agent at the time set forth in the immediately preceding sentence, the Trustee shall nevertheless make drawings under the applicable Letter of Credit to provide the holders of the Bonds entitled to the benefits of a Letter of Credit moneys with respect to the Purchase Price of such Bonds at the times specified in the form of Bonds and as required by Section 5.01(b) hereof The Remarketing Agent shall give written notice to the Paying Agent of the names, addresses and taxpayer identification numbers of the purchasers and the number and denominations of Bonds to be delivered to the purchaser, and the current rate and the next scheduled Purchase Date of each such Bond successfully remarketed at or before (w) 1:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Flexible Mode immediately after the Purchase Date, (x) 4:00 p.m., New York City time, on the first Business Day immediately preceding the Purchase Date for Tendered Bonds to be in the Daily Mode immediately after the Purchase Date, (y) 4:00 p.m., New York City time, on the first Business Day immediately preceding the Purchase Date for Tendered Bonds to be in the Weekly Mode immediately after the Purchase Date, or (z) 2:00 p.m., New York City time, on the second Business Day immediately preceding the Purchase Date for Tendered Bonds to be in the Multiannual Mode immediately after the Purchase Date.

(D) The Remarketing Agent shall deliver to the Paying Agent all amounts received by the Remarketing Agent as proceeds of the remarketing of such Bonds at or before (i) 4:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Flexible Mode immediately after the Purchase Date, (ii) 2:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Daily Mode immediately after the Purchase Date, (iii) 2:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Weekly Mode immediately after the Purchase Date, or (iv) 2:00 p.m., New York City time, on the Purchase Date for Tendered Bonds that are to be in the Multiannual Mode immediately after the Purchase Date.

Section 2.14. Remarketing of Bonds Tendered. Any purchase of Tendered Bonds shall be made by payment of the Purchase Price in immediately available funds by the Paying Agent at the time specified in Section 2.13(D) hereof. The Purchase Price shall be equal to the principal amount to be purchased together with the interest accrued on such principal amount to the Purchase Date; provided that, (a) with respect to Bonds in the Daily Mode, Weekly Mode or Multiannual Mode, if the Purchase Date is an Interest Payment Date, accrued interest shall be paid separately and not as part of the Purchase Price on such date and

(b) with respect to Bonds in the Flexible Mode, accrued interest shall always be paid separately and not as part of the Purchase Price. By (i) 4:00 p.m., New York City time, in the case of Bonds that are to be in the Flexible Mode immediately after the Purchase Date, (ii) 4:00 p.m., New York City time, in the case of Bonds that are to be in the Daily Mode immediately after the Purchase Date, (iii) 4:00 p.m., New York City time, in the case of Bonds that are to be in the Weekly Mode immediately after the Purchase Date, or (iv) 4:00 p.m., New York City time, in the case of Bonds that are to be in the Multiannual Mode immediately after the Purchase Date, on the Purchase Date, Bonds remarketed under this Section 2.14 shall be made available by the Paying Agent to the purchasers thereof (in the case of Bonds in the Flexible Mode, delivered by the Paying Agent to the Remarketing Agent) and shall be registered in the manner directed by the recipient thereof; provided that such Bonds shall not be delivered unless and until the Paying Agent has received the Purchase Price therefor, except that Bonds in the Flexible Mode may be delivered against a window receipt guaranteeing same day payment in immediately available funds; and provided, further, that if the Purchase Price of any Bonds shall have been paid by moneys drawn under a Letter of Credit, such Bonds shall not be delivered until the Trustee shall have received written notice from the Bank that the Bank has been fully reimbursed therefor under the applicable Reimbursement Agreement and as a result the corresponding amount available to be drawn under such Letter of Credit has been reinstated. Bonds not remarketed shall constitute Company Bonds.

Section 2.15. Remarketing of Bonds in the Daily, Weekly, Flexible or Multiannual Mode Between Notice and Redemption or Conversion Date. No Bonds in the Daily, Weekly, Flexible or Multiannual Mode scheduled to be redeemed or converted to a different Mode may be remarketed after receipt by the Remarketing Agent of notice of redemption or conversion of such Bonds to a specified Mode from the Company unless the Remarketing Agent, on or before the Purchase Date, gives notice to the purchaser that the Bonds will be redeemed or converted, and such purchaser will be required to surrender its Bonds for payment on the applicable redemption date or to tender its Bonds for mandatory purchase on the applicable Conversion Date, as the case may be.

Section 2.16. CUSIP Numbers. All payments of principal, premium and interest, whether by check or draft or wire transfer, shall be accompanied by the appropriate CUSIP number identification with appropriate dollar amounts for each CUSIP number.

Section 2.17. Certain Remarketing of Bonds Prohibited. No Bonds may be remarketed by the Remarketing Agent to the Company, the City or any other person known by the Remarketing Agent to be an affiliate of either of the foregoing.

ARTICLE III.

Redemption

Section 3.01. Redemption Dates and Prices.

(a) Optional Redemption.

(i) On any Interest Payment Date during a Rate Period in which Bonds are in the Daily Mode or Weekly Mode, such Bonds shall be subject to optional redemption by the City, upon the exercise by the Company of its option to prepay (except the option referred to in Section 3.01(b) hereof) all or a part of the unpaid balance of the Project Purchase Price and cause such Bonds to be redeemed, in whole or in part, at a redemption price equal to 100% of their principal amount, plus accrued interest, if any, to the redemption date.

(ii) On any Effective Date during a Rate Period in which Bonds are in the Flexible Mode, such Bonds shall be subject to optional redemption by the City, upon the exercise by the Company of its option to prepay (except the option referred to in Section 3.01(b) hereof) all or a part of the unpaid balance of the Project Purchase Price and cause such

Bonds to be redeemed, in whole or in part, at a redemption price equal to 100% of their principal amount, plus accrued interest, if any, to the redemption date.

(iii) During a Rate Period in which Bonds are in the Multiannual Mode, such Bonds shall be subject to optional redemption by the City, upon the exercise by the Company of its option to prepay (except the option referred to in Section 3.01(b) hereof) all or a part of the unpaid balance of the Project Purchase Price and cause such Bonds to be redeemed, in whole, at any time or in part on any Interest Payment Date upon payment of the applicable redemption price, expressed as a percentage of the principal amount of such Bonds to be redeemed, set forth below, plus accrued interest, if any, to the redemption date:

Rate Periods Remaining Term to Maturity	No Call Period	Redemption Price
Greater than or equal to 11 years	10 years	101% declining by 1% on each succeeding anniversary of the end of the no call period until reaching 100%, and thereafter at 100%

(iv) If the Bonds are initially issued in the Multiannual Mode with a Rate Period ending on the maturity date of the Bonds, the Bonds are subject to redemption at the direction of the Company at such terms and redemption price as set forth in the Resolution of the City supplementing the Ordinance; provided that, if less than all of the Outstanding Bonds shall be called for redemption, the Company shall designate (to the extent not otherwise prohibited) the amount of Bonds and Mode to be redeemed, and if less than all of the Outstanding Bonds in any Mode shall be called for redemption, Bonds to be so redeemed in such Mode shall be selected by the Paying Agent by lot or in any customary manner of selection as determined by the Paying Agent) at the redemption prices plus accrued interest to the redemption date as described in the forms of Bonds hereof. For purposes of this Section 3.01, references to the term Mode shall be deemed to include different Rate Periods within the Multiannual Mode. Notwithstanding the optional redemption provisions in the forms of the Multiannual Bonds, such redemption provisions may be revised by the Remarketing Agent in connection with a conversion, upon delivery by the Company of an opinion of Bond Counsel acceptable to the Paying Agent in form satisfactory to the parties, that the revisions to the optional redemption provisions are valid under New Mexico law and will not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes. In determining any revisions to the optional redemption provisions, the Remarketing Agent shall take into account redemption provisions and call protection for securities having an investment quality which is, in the judgment of the Remarketing Agent, approximately the same as the Bonds.

(b) Extraordinary Optional Redemption. The Bonds are subject to redemption prior to maturity as a whole or in part (provided that, if less than all of the Outstanding Bonds shall be called for redemption, the Company shall designate (to the extent not otherwise prohibited) the amount of Bonds and the Mode to be redeemed, and if less than all of the Outstanding Bonds in any Mode shall be called for redemption, Bonds to be so redeemed in such Mode shall be selected by the Paying Agent by lot or in any customary manner of selection as determined by the Paying Agent) at any time at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date upon the exercise by the Company of its option to prepay all or a part of the unpaid balance of the Project Purchase Price in accordance with

Section 9.01(a) of the Installment Sale Agreement if the Company shall have determined that the continued operation of any part of the Facilities relating to any of the electrical generating units in connection with which the Facilities are to be utilized at the Plants or the operation of any such unit or any other part of the Facilities is impractical, uneconomical or undesirable for any reason; provided, however, that there shall not be so redeemed Company Bonds.

(c) Mandatory Redemption. Bonds that are entitled to the benefits of a Letter of Credit are subject to mandatory redemption in whole on any day within fifteen days after receipt by the Trustee from the Bank of a notice pursuant to any applicable Reimbursement Agreement or Letter of Credit stating that an "event of default" thereunder has occurred. Such Credit Supported Bonds so redeemed will be redeemed at a redemption price equal to 100% of the principal amount to be redeemed plus unpaid interest accrued to the redemption date.

(d) Special Mandatory Redemption. Prior to the date that the Bonds are deemed paid in accordance with Section 8.02 hereof, the Bonds are subject to special mandatory redemption in whole or in part and shall be redeemed at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date on the 180th day (or such earlier date as may be designated by the Company) after a final determination by a court of competent jurisdiction or an administrative agency to the effect that, as a result of failure by the Company to perform or observe any covenant, agreement or representation in the Installment Sale Agreement, the interest payable on the Bonds is includable in whole for Federal income tax purposes in the gross income of the holders thereof, other than any holder who is a "substantial user" of the Facilities or a "related person" within the meaning of Section 147(a) of the Code; provided, however, that there shall not be so redeemed Company Bonds. No determination by any court or administrative agency shall be considered final unless the Company shall have participated in the proceeding which resulted in such determination, either directly or through a Bondholder, to a degree it deems sufficient and until conclusion of any appellate review or reviews sought by any party to such proceeding or the expiration of the time for seeking such review or reviews. The Bonds shall be redeemed either in whole or in part (provided that, if less than all of the Bonds Outstanding shall be called for redemption, the Company shall designate (to the extent not otherwise prohibited) the amount of Bonds and the Mode to be redeemed, and if less than all of the Bonds Outstanding in any Mode shall be called for redemption, Bonds to be so redeemed in such Mode shall be selected by the Paying Agent by lot or in any customary manner of selection as determined by the Paying Agent) in such principal amount as may be required so that, in the opinion of Bond Counsel, the interest payable on the Bonds remaining Outstanding after such redemption would not be includable in whole in the gross income of any holder thereof for Federal income tax purposes, other than a holder who is a "substantial user" of the Facilities or a "related person" within the meaning of Section 147(a) of the Code.

(e) Sinking Fund. The Bonds shall be subject to such sinking fund and other redemption provisions as may be set forth by a resolution of the City Council of the City adopted prior to the issuance of such Bonds. In lieu of making all or any part of any sinking fund payment in cash, the Company may at its option (i) deliver to the Trustee any Bonds which are entitled to the benefit of such sinking fund theretofore acquired by the Company and receive credit therefor and (ii) receive credit for Bonds which are entitled to the benefit of such sinking fund theretofore delivered to the Trustee by the Company or acquired by the Trustee or redeemed otherwise than through operation of the sinking fund or deemed to have been paid in accordance with Section 8.02 hereof, and, in any case, not theretofore applied as a credit against any sinking fund payment. On or before the fortieth day next preceding such sinking fund payment date, the Company shall deliver to the Trustee (x) a certificate of an Authorized Company Representative specifying the portions of such sinking fund payment to be satisfied by payment of cash, by delivery of Bonds theretofore acquired and by credit for Bonds previously delivered, acquired, redeemed or deemed to have been paid in accordance with Section 8.02 hereof, stating that no such Bonds have theretofore been made the basis of any credit against any sinking fund payment, and (y) such Bonds theretofore acquired by the Company to the extent not previously delivered to the Trustee. Such Bonds shall be credited against sinking fund requirements at 100% of the principal amount thereof.

Section 3.02. Notice of Redemption. If any of the Bonds are called for redemption, and provided that, if the redemption is at the option of the Company pursuant to Section 3.01(a) or (b) hereof, the Company shall have given written notice of such redemption to the Trustee not less than 45 days prior to the date fixed for redemption, notice of redemption shall be given by the Trustee electronically or by first class mail not less than 30 days or more than 60 days prior to the redemption date (except that notice of redemption pursuant to Section 3.01(c) hereof of Credit Supported Bonds shall be given as promptly as practicable after receipt by the Trustee of notice from the Bank, and notice of any optional redemption of Bonds in the Flexible Mode shall not be given) as follows: (i) to the respective holders of the Bonds designated for redemption by first class mail at their addresses appearing on the bond registration books of the Registrar, (ii) to the securities depositories that are registered owners, (iii) to two national information services such as Kenny Information Systems Notification Service, 65 Broadway, 16th Floor, New York, New York 10004, (iv) to the Bondholders of $1,000,000 or more in aggregate principal amount of Bonds and (v) to the trustee under the Company Indenture (or the Governing Instrument, in the event of an exchange pursuant to Section 12.09(b) hereof).

Each notice of redemption shall state at a minimum the complete official name of the issue, including designation, CUSIP number, certificate numbers, amounts called of each certificate (for partial calls), publication date, the date of issue, interest rate, maturity date of the Bonds, the redemption date, the redemption price, the place or places of redemption and appropriate address or addresses with name of contact person and telephone number.

Any notice for the redemption of any Bond mailed as provided herein shall be conclusively deemed to have been duly given whether or not such notice is received. Failure to mail any such notice to any Bondholder or information service or any defect therein shall not affect the validity of the proceedings for such redemption as to the Owners of any Bonds to whom notice has been mailed.

With respect to any notice of optional redemption of Bonds, unless upon the giving of such notice such Bonds or portions thereof shall be deemed to have been paid within the meaning hereof, such notice shall state that such redemption shall be conditioned upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, premium, if any, and interest on such Bonds or portions thereof to be redeemed or satisfaction of such other conditions as may be set forth therein, and that if such moneys shall not have been so received or such other conditions shall not have been satisfied said notice shall be of no force and effect and the City shall not be required to redeem such Bonds or portions thereof. In the event that such notice of redemption contains such a condition and such moneys are not so received or such other conditions are not satisfied, the redemption shall not be made and the Trustee shall within five days thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received or such other conditions were not satisfied.

Section 3.03. Cancellation. All Bonds which have been surrendered for the purpose of payment (including Bonds which have been redeemed prior to maturity) shall be canceled, may be subsequently destroyed by the Trustee and shall not be reissued, and a written notice of such cancellation and destruction, if such occurs, shall be furnished by the Trustee to the City and the Company. The Company may deliver to the Trustee any Bonds owned by the Company for cancellation pursuant to this Section 3.03. The cancellation by the Trustee of Bonds purchased by the Company or of Bonds redeemed or purchased by the City through funds other than funds received with respect to the Project Purchase Price shall constitute payment of an amount of the Project Purchase Price equal to the principal amount of the Bonds so canceled.

Section 3.04. Payment of Bonds Upon Redemption; Partial Redemption. In the event of any redemption of the Bonds, the Paying Agent shall pay the redemption price of the Bonds on the redemption date for the Bonds in lawful money of the United States of America upon presentation of the Bonds to be redeemed at the Principal Office of the Paying Agent. All payments for the redemption of the Bonds shall be made with Available Moneys.

The Bonds shall be redeemed only in the principal amount of $100,000 or any integral multiple of $5,000 in excess thereof for Bonds in the Flexible Mode, $5,000 or any integral multiple thereof for Bonds in a Multiannual Mode or $100,000 or any integral multiple thereof for Bonds in a Daily Mode or Weekly Mode. In the event of the partial redemption of a Bond of denomination greater than $100,000 (or $5,000 or any integral multiple thereof for Bonds in a Multiannual Mode), then for all purposes in connection with such redemption, each $100,000 or $5,000 of face value, as the case may be, shall be treated as though it were a separate Bond in the denomination of $100,000 or $5,000, as the case may be. If it is determined that one or more, but not all, of the $100,000 or $5,000, as the case may be, units of face value represented by any Bond are to be redeemed, then on the redemption date for such Bond, the Owner of such Bond shall forthwith surrender such Bond to the Paying Agent (i) for payment of the redemption price (including accrued interest or interest due thereon on the date fixed for redemption) of the portion thereof called for redemption and (ii) at the option of the Owner of such Bond (1) for appropriate endorsement thereon to reflect such redemption or (2) for exchange for Bonds, without charge therefor, in any authorized denomination or denominations in exchange for and in the aggregate principal amount of the unredeemed portion of such Bond. If the holder of any such Bond of a denomination greater than $100,000 or $5,000, as the case may be, shall fail to present such Bond to the Paying Agent for payment and endorsement or exchange, as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the $100,000 or $5,000, as the case may be, unit or units of principal amount called for redemption (and to that extent only).

Section 3.05. Redemptions During Event of Default. Anything in this Ordinance to the contrary notwithstanding, if there shall have occurred and be continuing an Event of Default, there shall be no redemption of less than all of the Bonds at the time Outstanding, except Bonds deemed to have been paid in accordance with Section 8.02 hereof prior to the occurrence of such Event of Default and Company Bonds.

Section 3.06. Deposit of Moneys; Interest to Cease to Accrue. For the redemption of any of the Bonds, the City shall cause to be deposited in the Bond Fund, on the redemption date, out of the Receipts and Revenues of the City from the Installment Sale Agreement relating to such Bonds or drawings on any Letter of Credit or Alternate Security, an amount sufficient to pay the principal of and premium, if any, and interest to become due on such redemption date.

Any amount in the Bond Fund pursuant to Section 4.03 hereof and available therefor shall be credited against any amount required to be caused to be so deposited in the Bond Fund.

Moneys for payment of the principal of and premium, if any, and interest to the date of redemption on Bonds called for redemption as hereinabove provided shall be set aside by the Trustee in trust for the Owners of such Bonds. Interest on such Bonds shall cease to accrue on the date fixed for redemption.

ARTICLE IV.

Funds

Section 4.01. Creation of the Bond Fund. There is hereby created by the City and ordered established with the Trustee a trust fund to be designated "City of Farmington, New Mexico, Pollution Control Revenue Refunding Bond Fund, 2016 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects)" (such fund is herein referred to as the "Bond Fund") which shall be used to pay the principal of, and the redemption premium (if any) and the interest on the Bonds when due. There shall be established as separate accounts within the Bond Fund, if applicable, a Letter of Credit Account, an Alternate Security Account, an Earnings Account, a Capital Account and a General Account and moneys therein shall not be commingled. Within the Letter of Credit Account there shall be established by the Trustee separate sub-accounts with respect to each Letter of Credit and moneys therein shall not be commingled. Within the Alternate Security Account there shall be established by the Trustee separate sub-accounts with respect to each Alternate Security and moneys therein shall not be commingled.

Section 4.02. Payments into the Bond Fund. There shall be paid into the General Account in the Bond Fund, as and when received:

(a) the portion of the proceeds of the issuance and sale of the Bonds to which such Bond Fund relates equal to the interest, if any, accrued on such Bonds to the date of delivery of such Bonds paid by the initial purchasers of such Bonds;

(b) all payments specified in Section 5.02 of the Installment Sale Agreement relating to the Bonds to be deposited in the Bond Fund;

(c) all other moneys received by the Trustee under and pursuant to any of the provisions of this Ordinance or the Installment Sale Agreement which are required or which are accompanied by directions that such moneys are to be paid into the Bond Fund; and

(d) any payments by the Company pursuant to the Guaranty or realized upon the security pledged in connection therewith.

With respect to Credit Supported Bonds which are supported by a Letter of Credit, there shall be deposited into the Letter of Credit Account in the Bond Fund in the subaccount with respect to such Letter of Credit all moneys (other than moneys received by the Trustee from drawings under Section 5.01(b)(i) hereof) received by the Trustee under such Letter of Credit and, with respect to Credit Supported Bonds which are supported by an Alternate Security, there shall be deposited into the Alternate Security Account in the Bond Fund in the subaccount with respect to such Alternate Security all moneys (other than moneys received by the Trustee in connection with a purchase of the Bonds to which such Bond Fund relates) received by the Trustee under such Alternate Security, which moneys shall not be commingled with any other moneys held by the Trustee.

Section 4.03. Use of Moneys in the Bond Fund. Except as provided in Section 4.09 hereof and as otherwise expressly provided elsewhere herein, moneys in the Bond Fund shall be used solely for the payment of the principal of, premium, if any, and interest on the Bonds when due on an Interest Payment Date, at maturity, upon acceleration or otherwise and for the redemption of the Bonds at or prior to maturity pursuant to Section 3.01 hereof, but only from the following sources in the order of priority indicated:

(a) For the Bonds entitled to the benefits of a Letter of Credit only, moneys in the subaccount with respect to such Letter of Credit of the Letter of Credit Account, and for Bonds entitled to the benefits of an Alternate Security only, moneys in the subaccount with respect to such Alternate Security of the Alternate Security Account;

(b) Available Moneys from sources other than the Letter of Credit Account or Alternate Security Account; or

(c) Other moneys on deposit in the Bond Fund.

Whenever so directed by a written notice signed by an Authorized Company Representative, and to the extent that moneys are then Available Moneys, the Trustee shall use moneys in the General Account of the Bond Fund as the Company may direct to purchase the Bonds to which such Bond Fund relates then Outstanding on the most advantageous terms obtainable with reasonable diligence, or in such other manner as the Company shall so direct, with the price payable to effect such purchase not to exceed 100% of the principal amount thereof. Accrued interest on the Bonds so purchased, and all expenses in connection with such purchase, shall be paid from Available Moneys in the General Account of the Bond Fund.

The City hereby authorizes and directs the Trustee to withdraw, from time to time, sufficient moneys from the Bond Fund, to draw moneys under the Letter of Credit in accordance with the terms thereof and the provisions of Section 5.01(a) hereof and to request payment under the Alternate Security, in each case to the extent necessary to pay the principal of, premium, if any, or interest on the Bonds as the same become due and payable, which authorization and direction the Trustee hereby accepts; provided, however, that, anything in this Ordinance to the contrary notwithstanding, the Trustee shall not make a drawing under any Letter of Credit for the payment of principal of, premium, if any, or

interest on any Company Bonds or with respect to Bonds which are not entitled to the benefits of such Letter of Credit and shall not request payment under any Alternate Security for the payment of the principal of, premium, if any, or interest on any Company Bonds or with respect to Bonds which are not entitled to the benefits of such Alternate Security.

Section 4.04. Creation of the Bond Purchase Fund. There is hereby created by the City and ordered established with the Trustee a Fund to be designated "City of Farmington, New Mexico Pollution Control Revenue Refunding Bond Purchase Fund, 2016 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects)" (which fund is herein referred to as the "Bond Purchase Fund") which shall be used to pay the Purchase Price of the Bonds required to be purchased under this Ordinance. There shall be established as separate accounts within the Bond Purchase Fund a Letter of Credit Purchase Price Account, an Alternate Security Purchase Price Account and a General Purchase Price Account, and within the Letter of Credit Purchase Price Account there shall be established by the Trustee separate subaccounts with respect to each Letter of Credit, moneys therein shall not be commingled. Within the Alternate Security Purchase Price Account, there shall be established by the Trustee separate subaccounts with respect to each Alternate Security, and moneys therein shall not be commingled.

Section 4.05. Payments into the Bond Purchase Fund. There shall be paid into the General Purchase Price Account in the Bond Purchase Fund as and when received:

(a) the proceeds of any remarketing of the Bonds by the Remarketing Agent pursuant to Section 2.13 hereof;

(b) all payments specified in Section 5.02 of the Installment Sale Agreement to be deposited in the Bond Purchase Fund; and

(c) all other moneys received by the Trustee under and pursuant to any of the provisions of this Ordinance or the Installment Sale Agreement which are required or which are accompanied by directions that such moneys are to be paid into the Bond Purchase Fund.

With respect to Credit Supported Bonds which are supported by a Letter of Credit, there shall be deposited into the Letter of Credit Purchase Price Account in the Bond Purchase Fund in the subaccount with respect to such Letter of Credit all moneys received by the Trustee from drawings under such Letter of Credit pursuant to Section 5.01(b)(i) hereof and, with respect to Credit Supported Bonds which are supported by an Alternate Security, there shall be deposited into the Alternate Security Purchase Price Account in the subaccount with respect to such Alternate Security all moneys received by the Trustee under such Alternate Security, which moneys shall not be commingled with any other moneys held by the Trustee.

Section 4.06. Use of Moneys in the Bond Purchase Fund. (a) Except as provided in Section 4.09 hereof, moneys in the Bond Purchase Fund shall be used solely for the payment of the Purchase Price of the Bonds required to be purchased by the Paying Agent on the Purchase Date.

(b) The City hereby authorizes and directs the Trustee to withdraw, from time to time, sufficient moneys from the Bond Purchase Fund and transfer such moneys to the Paying Agent for use by the Paying Agent to pay the Purchase Price of the appropriate Bonds required to be purchased by the Paying Agent, which authorization and direction the Trustee hereby accepts. The Paying Agent shall return all monies unclaimed on the Purchase Date to the Trustee. The Trustee shall deposit in the Bond Purchase Fund any moneys not claimed on any Purchase Date by any holder of a Bond tendered (or deemed to have been tendered) for purchase on such date when such moneys are delivered to the Trustee by the Paying Agent. Monies for the payment of the Purchase Price of such Bonds shall be drawn by the Trustee from the Bond Purchase Fund in the order of priority indicated below:

(i) the proceeds of the remarketing of the Bonds by the Remarketing Agent pursuant to Section 2.13 hereof if such proceeds are Available Moneys;

(ii) with respect to Bonds entitled to the benefits of a Letter of Credit only, moneys in the

subaccount with respect to such Letter of Credit of the Letter of Credit Purchase Price Account and with respect to Bonds entitled to the benefits of an Alternate Security only, moneys in the subaccount with respect to such Alternate Security of the Alternate Security Purchase Price Account; and

(iii) any other moneys in the Bond Purchase Fund which are then Available Moneys.

Promptly after receiving the notice required to be given to the Trustee by the Remarketing Agent pursuant to Section 2.13 hereof with respect to Bonds entitled to the benefits of a Letter of Credit or Alternate Security, the Trustee is authorized and directed to draw on the Letter of Credit or request payment under the applicable Alternate Security in an amount which together with the proceeds of the remarketing of the Bonds, will provide Available Moneys sufficient to pay the Purchase Price of such Credit Supported Bonds (other than Company Bonds) required to be purchased on the Purchase Date.

Section 4.07. Non-Presentment of Bonds. In the event that any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, at the date fixed for redemption thereof or otherwise, if Available Moneys sufficient to pay such Bonds shall have been deposited in the Bond Fund by the Trustee for the benefit of the holders thereof, all liability of the City to the holder thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such moneys in trust, without liability for interest thereon, for the benefit of the holder of such Bond who shall thereafter be restricted exclusively to such moneys for any claim of whatever nature under this Ordinance or on, or with respect to, said Bond. Such funds shall not be deemed to be part of the Bond Fund and shall not be subject to investment.

In addition, in the event Bonds are deemed to have been tendered for purchase by the Paying Agent and moneys sufficient to pay such Bonds shall have been delivered to the Paying Agent pursuant to Section 4.06(b) hereof and such moneys have been returned to the Trustee as unclaimed, the Company or its designee shall be the holder of such Bonds for all purposes of this Ordinance. All liability of the City to the former holders thereof for the payment of such Bonds shall forthwith cease, innate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such moneys in trust, without liability for interest thereon, for the benefit of the former holders of such Bonds who shall thereafter be restricted exclusively to such moneys for any claim of whatever nature under this Ordinance or on, or with respect to, said Bonds. The Trustee shall pay moneys to such former holders only upon surrender to the Trustee of such Undelivered Bonds. Such funds shall not be deemed to be part of the Bond Purchase Fund and shall not be subject to investment.

Any moneys so deposited with and held by the Trustee pursuant to this Section 4.07 and not so applied to the payment of Bonds within two years after the date on which the same shall have become due shall be paid to the Bank or provider of Alternate Security supplying such moneys to the extent of any amounts payable to such Bank or provider of Alternate Security under the applicable Reimbursement Agreement, and the balance, if any, shall be repaid by the Trustee to the Company upon direction of an Authorized Company Representative, and thereafter Bondholders shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and all liability of the Trustee with respect to such money shall thereupon cease, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 4.08. Moneys to be Held in Trust. All moneys paid over to the Trustee for the account of the Bond Fund, the Bond Purchase Fund or the Redemption Fund under any provision of this Ordinance shall be held by the Trustee in trust and applied for the purposes herein specified.

Section 4.09. Payments to the Company From Funds. Any moneys remaining in the Bond Fund, the Bond Purchase Fund, the Redemption Fund or any other fund or account established under this Ordinance with

respect to the Bonds (other than moneys held by the Trustee pursuant to Section 4.07 hereof) after (i) Payment in Full of the Bonds or (ii) payment of principal of, premium, if any, and interest on Credit Supported Bonds (other than Company Bonds) pursuant to a draw upon the Letter of Credit by the Trustee as provided in Section 5.01 hereof or pursuant to a payment under an Alternate Security and payment in full of all other Bonds Outstanding, shall be remitted by the Trustee upon written instructions from any Bank or provider of Alternate Security in accordance with such instructions to such Bank or provider of Alternate Security to the extent of any amounts payable to such Bank or provider of Alternate Security under the Reimbursement Agreement (it being understood that if there are Letters of Credit and Alternate Securities outstanding, such providers and Banks shall be paid proportionately according to the amounts then owed), and the balance, if any, shall be paid to the Company.

Section 4.10. Arbitrage Rebate Fund. (a) There is hereby created by the City and ordered to be established with the Trustee the Arbitrage Rebate Fund. The Trustee shall hold in said Fund any moneys delivered by the Company to the Trustee for deposit therein.

(b) Moneys on deposit in the Arbitrage Rebate Fund shall be invested and reinvested in Investment Securities at the direction of the Company and shall be applied by the Trustee in accordance with the direction of the City or the Company to make payments to the Department of the Treasury of the United States of America at such times and in such amounts as the Company shall determine to be required by the Code to be rebated to the Department of the Treasury of the United States of America. Moneys held in the Arbitrage Rebate Fund which the Company determines to be in excess of the amount required to be so rebated shall be deposited to the Bond Fund in accordance with the directions of the Company.

Section 4.11. Redemption Fund.

There is hereby created by the City and ordered to be established with the Trustee a trust fund to be designated the "City of Farmington, New Mexico Pollution Control Revenue Refunding Redemption Fund, 2016 Series B (Public Service Company of New Mexico San Juan and Four Corners Projects)" (which fund is herein referred to as the "Redemption Fund") into which there shall be deposited the proceeds received by the City upon the initial sale of the Bonds other than that portion of such proceeds to be paid into the General Account in the Bond Fund in accordance with Section 4.02(a) hereof. The City hereby authorizes and directs the Trustee to pay the moneys in the Redemption Fund on the date of the initial issuance of the Bonds and following receipt of payment therefor in an amount equal to $100,000,000 to the 2003 Trustee to be used, together with other amounts paid by the Company, to pay the redemption price plus accrued interest when due on all of the Prior Bonds on the redemption date specified in a resolution to be adopted by the City Council prior to the issuance of the Bonds on all of the Prior Bonds in accordance with the provisions of the 2003 Ordinance and pursuant to such other agreements as may be authorized prior to the issuance of the Bonds.

ARTICLE V.

The Letter of Credit; Receipts and Revenues of the City from the Installment Sale Agreement

Section 5.01. Trustee's Duty to Draw on Letter of Credit. (a) Draws to Pay Principal, Premium and Interest from Bond Fund During the Effective Period of a Letter of Credit. The Trustee shall draw moneys under the Letter of Credit in accordance with the terms thereof to the extent necessary to make full and timely payments of principal of, premium, if any, and interest on the Bonds when due on an Interest Payment Date, at maturity, upon acceleration or otherwise and for the redemption of the Bonds at or prior to maturity pursuant to Section 3.01 hereof which are entitled to the benefits of such Letter of Credit required to be made from the Bond Fund in accordance with the provisions of Section 4.04 hereof and shall deposit the moneys from such draws in the subaccount with respect to such Letter of Credit of the Letter of Credit Account in the Bond Fund. All draws under the Letter of Credit shall be made so as to enable the Trustee to provide to the holders of Bonds entitled to the benefits of such Letter of Credit immediately

available Fund in New York, New York, by 4:00 p.m., New York City time, on the due date of the principal of, premium, if any, or interest on such Bonds.

(b) Draws to Pay Purchase Price or Provide for Payment in Full of the Bonds. In addition, during the Effective Period of a Letter of Credit, the Trustee shall (i) draw moneys under such Letter of Credit in accordance with the terms thereof to the extent necessary to make full and timely payments required to be made pursuant to, and in accordance with, Sections 2.03(A)(3), 2.03(B)(3) and (4), 2.03(C)(3) and (4) and 2.03(D)(3) hereof with respect to the Bonds which are entitled to the benefits of such Letter of Credit after receipt of notice from the Remarketing Agent pursuant to Section 2.13(C) hereof of any deficiency in the amounts available to pay the Purchase Price of the Bonds, (ii) draw moneys under such Letter of Credit in accordance with the terms thereof to the extent necessary to make full and timely payments of Purchase Price required to be made pursuant to, and in accordance with, Sections 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) and 2.03(D)(2) hereof with respect to the Bonds which are entitled to the benefits of such Letter of Credit as a result of a failed conversion of such Bonds and (iii) upon the receipt of any notice or direction by the Company pursuant to Section 9.02 of the Installment Sale Agreement, draw moneys under the Letter of Credit in accordance with the terms thereof in the amounts specified in such notice or direction and apply such moneys to the provision for Payment in Full of all or a portion of the Bonds which are entitled to the benefits of such Letter of Credit pursuant to Section 8.02 hereof as specified in such notice or direction. All draws under a Letter of Credit to pay such Bonds entitled to the benefits of such Letter of Credit pursuant to Section 2.03(A)(3), 2.03(B)(3) or (4), 2.03(C)(3) or (4) or 2.03(D)(3) hereof or pursuant to Section 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) or 2.03(D)(2) hereof or to provide for Payment in Full of all or a portion of the Bonds which are entitled to the benefits of such Letter of Credit shall be made so as to enable the Trustee or Paying Agent, as the case may be, to provide to the holder of such Credit Supported Bonds moneys at the times specified in the form of Bonds with respect to Purchase Price and with respect to the Payment in Full of Bonds which are supported by such Letter of Credit, by 4:00 p.m., New York City time, on the date such payment or provision for payment is to be made. However, it is understood that, in the case of an initial Letter of Credit, such Letter of Credit will not, unless amended or supplemented, support the payment of Bonds for which there has been a failed conversion pursuant to Section 2.03(A)(2), 2.03(B)(2), 2.03(C)(2) or 2.03(D)(2) hereof and with respect to which the Purchase Price thereof has been paid in accordance with the terms hereof and for which such Bonds have been automatically converted to a Flexible Mode with a one day Rate Period.

(c) Company Bonds. Whenever the principal of any Bonds shall have been paid, whether upon the redemption or prepayment or upon the maturity or acceleration thereof, with moneys drawn under a Letter of Credit as provided in this Section 5.01, such Bonds shall not be canceled or remarketed as provided hereunder, but shall constitute Company Bonds until the Bank shall have been fully reimbursed therefor under the Reimbursement Agreement.

Section 5.02. Alternate Letter of Credit or Alternate Security. (a) If at any time there shall have been delivered to the Trustee an Alternate Letter of Credit or Alternate Security pursuant to Section 5.14 of the Installment Sale Agreement and the other requirements of the Installment Sale Agreement and this Ordinance shall have been complied with in respect to the replacement of a Letter of Credit, then the Trustee shall accept such Alternate Letter of Credit or Alternate Security and promptly notify in writing the Bank issuing such Letter of Credit, and surrender such Letter of Credit in accordance with its terms, for cancellation. If at any time no Bonds to which a Letter of Credit relates are Outstanding hereunder, the Trustee shall promptly surrender for cancellation such Letter of Credit to the Bank, in accordance with the terms of such Letter of Credit.

(b) The Trustee shall promptly surrender a Letter of Credit to the Bank in accordance with the terms of such Letter of Credit for cancellation in the event the Company shall have requested the Trustee to surrender such Letter of Credit and the Company shall have delivered to the Trustee the notice, opinions, certificate and written evidence required by Section 5.14 of the Installment Sale Agreement.

(c) The Trustee shall in all cases comply with the procedures set forth in the Letter of Credit relating to the surrender thereof.

(d) The failure of the Trustee to surrender a Letter of Credit to the Bank in accordance with the terms of this Section 5.02 and the terms of such Letter of Credit shall not affect the expiration of such Letter of Credit in accordance with its terms.

Section 5.03. Additional Requirements. Alternate Letter of Credit or Alternate Security must:

(a) be an irrevocable, unconditional obligation of a financial institution;

(b) be on terms no less favorable to the Trustee than the initial Letter of Credit to which such Alternate Letter of Credit or Alternate Security relates and (i) with respect to any Alternate Letter of Credit, entitle the Trustee to draw upon or demand payment and receive in immediately available funds an amount equal to the sum of the principal amount of Bonds supported by such Letter of Credit and any redemption premium applicable thereto and (x) with respect to any Bonds to which such Alternate Letter of Credit or Alternate Security relates in the Daily Mode or Weekly Mode entitled to the benefits of such Letter of Credit, 60 days' accrued interest at the Maximum Interest Rate on the principal amount of such Bonds then Outstanding and (y) with respect to any Bonds in the Flexible Mode or Multiannual Mode entitled to the benefits of such Letter of Credit, 209 days' accrued interest at the Maximum Interest Rate on the principal amount of such Bonds then Outstanding or (ii) with respect to any Alternate Security, provide the Trustee with rights or entitlements appropriate to such Alternate Security; and

(c) provide for a term which may not expire in less than one year and which may not expire or be terminated prior to the fifth Business Day after the mandatory tender for purchase as provided in Section 2.03(A)(3), 2.03(B)(4), 2.03(C)(4) or 2.03(D)(3) hereof. The Company shall not enter into any Reimbursement Agreement or agree to an amendment of a Reimbursement Agreement which (i) in any way limits the obligation of the Bank to provide funds under the Letter of Credit to which such Reimbursement Agreement relates without the prior written consent of 100% of the principal amount of the Bonds Outstanding and entitled to the benefit of the Letter of Credit to which such Reimbursement Agreement relates or (ii) provides or contemplates additional security or collateral to secure the Company's obligations thereunder that was not provided in the Reimbursement Agreement with respect to an initial Letter of Credit if payment of the Bonds to which such Letter of Credit relates is to be made from moneys representing proceeds from the resale by the Remarketing Agent of Bonds described in clause (ii) of the definition of "Available Moneys."

Section 5.04. Alternate Security. If an Alternate Security is delivered to the Trustee, the Trustee agrees to request payments thereunder to the extent necessary (i) to make timely payments of principal of, premium (if covered by such Alternate Security), if any, and interest on the Credit Supported Bonds entitled to the benefits of such Alternate Security and (ii) to make timely payments required to be made pursuant to and in accordance with Sections 2.03(A)(3), 2.03(B)(3) and (4), 2.03(C)(3) and (4) and 2.03(D)(3) hereof and to provide for Payment in Full of the Bonds.

Section 5.05. Receipts and Revenues of the City from the Installment Sale Agreement to be Paid Over to Trustee. The City will cause the applicable Receipts and Revenues of the City from the Installment Sale Agreement relating to the Bonds to be paid to the Trustee for deposit in the Bond Fund or the Bond Purchase Fund, as the case may be.

Section 5.06. Receipts and Revenues of the City from the Installment Sale Agreement to be Held for All Bondholders; Certain Exceptions. The Receipts and Revenues of the City from the Installment Sale Agreement and investments thereof shall, until applied as provided in this Ordinance, be held by the Trustee for the benefit of the holders of all Outstanding Bonds, except as provided in Sections 4.03, 4.06, 4.07 and 8.02 hereof. Notwithstanding the foregoing, it is understood that

Company Bonds and Bonds which are not supported by a Letter of Credit shall not be entitled to Receipts and Revenues of the City from the Installment Sale Agreement arising from drawings on such Letter of Credit.

ARTICLE VI.

Investments

Section 6.01. Investment Securities. The term "Investment Securities" means the following obligations or securities (provided that, so long as Article XIV hereof shall be effective by its terms with respect to the Bonds, "Investment Securities", with respect to such Bonds, shall mean the obligations and securities described in Section 14.05 hereof) (in each case only to the extent investment therein would not violate the laws of the State of New Mexico) on which the Company is not the obligor, maturing at such time or times as to enable disbursements to be made from the Bond Fund or the Bond Purchase Fund, as the case may be, in accordance with the terms hereof, or which shall be marketable prior to the maturities thereof and shall be:

(a) direct obligations of, or obligations the principal and interest of which are guaranteed as to the full and timely payment by, the United States of America, which obligations, in either case, are not subject to redemption or prepayment at less than par by anyone other than the holder;

(b) obligations issued or guaranteed by an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States of America, including obligations of the Federal National Mortgage Association, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Land Banks or Federal Home Loan Banks;

(c) commercial paper rated at the time of investment in the highest short-term grade by the Rating Agencies;

(d) bankers' acceptances drawn on and accepted by commercial banks (including the Trustee, the Paying Agent, any Co-Paying Agent and the Bank) having at least $10,000,000 in capital stock, surplus and undivided profits and rated not less than "Baa3" long term rating by Moody's and "A 1 +" short term rating by S&P;

(e) deposit accounts fully insured by the Federal Deposit Insurance Corporation (which may be represented by certificates of deposit if rated not less than "A1+" short term rating by S&P) in national or state banks or foreign banks having an office in the United States of America (including the Trustee, the Paying Agent, any Co-Paying Agent and the Bank) having at least $10,000,000 in capital stock, surplus and undivided profits, and savings and loan associations having total assets in excess of $50,000,000, in each case rated not less than "Baa3" long term rating by Moody's;

(f) repurchase agreements with solvent banking or other financial institutions (including the Trustee, the Paying Agent, any Co-Paying Agent and the Bank) rated not less than "Baa3" long term rating by Moody's and "AA" long term rating by S&P or "A1+" short term rating by S&P with respect to any of the foregoing obligations or securities;

(g) obligations of a State, a Territory, Puerto Rico, or a possession of the United States of America, or any political subdivision of the foregoing, or of the District of Columbia and which are rated at the time of investment not less than the then current rating of the Bonds by the Rating Agencies;

(h) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of "AAAm-G," "AAAm" or "Aam," and by Moody's of "Aaa" or "Aa"; and

(i) any other obligations and securities not prohibited by law and which are rated at least "Aaa" or "Aa" by Moody's.

Section 6.02. Bond Fund Investments. Subject to Section 6.04 hereof, moneys held in the General Account of the Bond Fund shall be invested and reinvested by the Trustee in Investment Securities (other

than those described in clause (i) of Section 6.01 hereof) as directed and designated by the Company in a certificate signed by an Authorized Company Representative. Such investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of said General Account of the Bond Fund and the interest accruing thereon and any profit realized therefrom shall be credited to the General Account of the Bond Fund any loss resulting therefrom shall be charged to the General Account of the Bond Fund, as the case may be, and paid by the Company. The Trustee is directed to sell and convert to cash a sufficient amount of such investments, which shall be selected by the Company to the extent practicable, in the General Account whenever the Available Moneys held in the Bond Fund are insufficient to provide for the payment of the principal of (whether at the maturity date or the redemption date prior to maturity), premium, if any, and the interest on the bonds to which such Bond Fund relates as the same become due and payable. Moneys held as part of a Letter of Credit Account subaccount or Alternate Security Account subaccount of the Bond Fund shall be held uninvested or shall be invested as directed in writing by the Company only in Government Obligations having a maturity of not to exceed 30 days but in any event not maturing on a date later than needed to pay debt service on the bonds of a Series. Moneys in a Letter of Credit Account subaccount or Alternate Security Account subaccount of the Bond Fund shall not be commingled with any other moneys held by the Trustee for purposes of investment or reinvestment, and any interest or gain received from such investments shall be credited to and held in such Letter of Credit Account subaccount or Alternate Security Account subaccount of the Bond Fund, and any loss from such investments shall be charged against such Letter of Credit Account subaccount or Alternate Security Account subaccount of the Bond Fund and paid by the Company.

Section 6.03. Bond Purchase Fund Investments. Subject to Section 6.04, moneys held in the Bond Purchase Fund shall be held uninvested or invested and reinvested by the Trustee in Government Obligations with maturities of no more than 30 days from the acquisition thereof but in any event not maturing on a date later than needed to pay the Purchase Price of the Bonds to which such Bond Purchase Fund relate as directed and designated by the Company in a certificate signed by an Authorized Company Representative. Such investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, in which such investments are held and the interest accruing thereon and any profit realized therefrom shall be credited to such Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, and any loss resulting therefrom shall be charged to such Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, and paid by the Company. The Trustee is directed to sell and convert to cash a sufficient amount of such investments, which shall be selected by the Company to the extent practicable, in the appropriate Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, whenever Available Moneys held in the Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be, are insufficient to provide for the payment of the Purchase Price of any bonds of a Series required to be purchased hereunder. Any interest or gain received from such investments shall be credited to and held in such Letter of Credit Purchase Price Account subaccount or General Purchase Price Account, as the case may be, and any loss from such investments shall be charged against such Letter of Credit Purchase Price Account subaccount, Alternate Security Purchase Price Account subaccount or General Purchase Price Account, as the case may be , and paid by the Company.

Section 6.04. Direction of Investments; Trustee Not Responsible for Losses. As long as no Event of Default shall have occurred and be continuing and the Bonds have not become immediately due and payable pursuant to Section 9.01 hereof, the Company shall have the right to designate the investments to be sold and to otherwise direct the Trustee in the sale or conversion to cash of the investments made with the moneys in the Bond Fund and the Bond Purchase Fund; provided that the Trustee shall be entitled to conclusively assume the absence of any such Event of Default unless it has notice thereof within the meaning of Section 10.05 hereof. The Trustee shall have no responsibility for losses incurred in

connection with investments or the disposition thereof made in accordance with the terms hereof, and the Trustee shall have no responsibility for determining whether investments made at the direction of the Company in accordance with the terms hereof constitute "Investment Securities" within the meaning of Section 6.01 hereof, or whether such investments or the disposition thereof made at the direction of the Company pursuant to the terms hereof violate the instructions to the Trustee contained in Section 7.10 hereof.

Section 6.05. Recordkeeping. The Trustee shall collect and retain records of all investments held in the Bond Fund. Said records shall consist, with respect to each such investment, of the gross purchase price, accrued interest, if any, any commissions or administrative charges imposed with respect to the purchase, the purchase date, face amount, coupon rate, the disposition price, accrued interest upon disposition and the disposition date. The Trustee shall retain said records for the period ending 6 years after the final maturity date of the Bonds, and shall make such records available, as requested by the City or the Company, for such purpose as they may deem suitable, including the calculation of arbitrage rebate for purposes of Section 148 of the Code.

ARTICLE VII.

General Covenants

Section 7.01. Limited Obligation; Payment of Principal and Interest. (a) Each and every covenant herein made, including all covenants made in the various Sections of this Article VII, is predicated upon the condition that any obligation for the payment of money incurred by the City shall not be the general obligation of the City within the meaning of Article 9, Sections 12 and 13 of the Constitution of New Mexico, and shall never constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation, and shall never constitute or give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers, but shall be payable by the City solely from the Receipts and Revenues of the City from the Installment Sale Agreement, which are required to be set apart and transferred to the Bond Fund or Bond Purchase Fund, and which, along with the balance of the Trust Estate, are hereby specifically pledged to the payment thereof in the manner and to the extent specified in this Ordinance, and nothing in the Bonds or in this Ordinance shall be considered as pledging or obligating any other Fund or assets of the City.

(b) The City will, in the manner provided herein and in the Bonds, according to the true intent and meaning thereof, promptly cause to be paid, solely from the sources stated herein, at the place and on the dates provided herein, the principal of and premium, if any, and interest on every Bond issued under this Ordinance.

Section 7.02. Performance of Agreements; Authority. The City will faithfully perfoim at all times any and all covenants, undertakings, stipulations and provisions contained in this Ordinance, in any and every Bond executed, authenticated and delivered hereunder, and in all proceedings pertaining thereto. The City represents that it has the authority under the Constitution and laws of the State of New Mexico to issue the Bonds authorized hereby, to enter into the Installment Sale Agreement, and to pledge to the Trustee the applicable Receipts and Revenues of the City from the Installment Sale Agreement and to pledge and assign to the Trustee all or any part of the City's right, title and interest under the Installment Sale Agreement pledged and assigned hereunder, and that the Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 7.03. Maintenance of Corporate Existence. The City will at all times maintain its corporate existence or assure the assumption of its obligations under this Ordinance by any public body succeeding to its powers under the Act, and it will use its best efforts to maintain, preserve and renew all the rights and powers provided to it by the Act; and it will comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Installment Sale Agreement.

Section 7.04. Enforcement of Company's Obligations under the Installment Sale Agreement. So long as any of the Bonds are Outstanding, upon receipt of written notification from the Trustee, the City will, in the manner provided herein and giving due recognition to the role of the Trustee hereunder, enforce the obligation of the Company to pay, or cause to be paid, all the payments and other costs and charges payable by the Company under the Installment Sale Agreement, provided, however, that the City shall not be required to spend its own funds on any such enforcement. The City will not enter into any agreement with the Company amending the Installment Sale Agreement without the prior written consent of the Trustee and compliance with Sections 12.07 and 12.08 hereof.

Section 7.05. Further Assurance. The City will, upon the reasonable request of the Trustee, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Ordinance; provided, however, that no such instruments or actions shall give rise to any pecuniary liability of the City or pledge the credit or taxing power of the State of New Mexico, the City or any other political subdivision of said State.

Section 7.06. No Disposition or Encumbrance of City's Interests. Except as permitted by this Ordinance, the City will not sell, lease, pledge, assign or otherwise dispose of or encumber its interest in the Receipts and Revenues of the City from the Installment Sale Agreement or its rights and interest under the Installment Sale Agreement pledged and assigned hereunder and will promptly pay or cause to be discharged or make adequate provision to satisfy and discharge any lien or charge on any part thereof not permitted by this Ordinance.

Section 7.07. Trustee's Access to Books Relating to Facilities. All books and documents in the possession of the City relating to the Facilities and the moneys, revenues and receipts derived from the Facilities shall at all reasonable times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

Section 7.08. Record of Bondholders. To the extent that such information shall be made known to the Registrar under the terms of this Section 7.08, the Registrar will keep on file at its Principal Office a list of account numbers, filed by owners of Bonds for wire transfer of interest on such Bonds as provided in the form of the Bonds. Any Owner of the Bonds in the aggregate principal amount of not less than $1,000,000 may request at any time that such information be placed on said list by filing a written request with the Registrar, which request shall include a statement of the principal amount of Bonds held by such Owner and the numbers of such Bonds. Neither the Trustee, the Registrar, the City, the Paying Agent nor any Co-Paying Agent shall be under any responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Registrar, the books for the registration and transfer of Bonds kept and maintained by the Registrar pursuant to Section 2.10 hereof may be inspected and copied by the Company or by Bondholders (or a designated representative thereof) of 25% or more in principal amount of Bonds then Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

Section 7.09. Filing of Financing Statements. Appropriate financing statements, naming the Trustee as secured party with respect to the Receipts and Revenues of the City from the Installment Sale Agreement and the other moneys pledged by the City under this Ordinance for the payment of the principal of and premium, if any, and interest on the Bonds, and as pledgee and assignee of certain of the City's rights and interest under the Installment Sale Agreement, shall be duly filed and recorded in the appropriate state and county offices as required by the provisions of the Uniform Commercial Code or other similar law as adopted in the State of New Mexico, the state in which lies the Principal Office of the Trustee and any other applicable jurisdiction, as from time to time amended. The Trustee will file and record, with such assistance as necessary from the City and the Company, such necessary continuation statements from time to time as may be required pursuant to the provisions of said Uniform Commercial Code or other similar law to protect the interest of the Trustee.

Section 7.10. Tax Covenant. The City covenants for the benefit of the purchasers of the Bonds that it will not take any action or fail to take any action reasonably within its control which would cause the interest payable on the Bonds to be includable in the gross income of the holders thereof for Federal income tax purposes (other than a "substantial user" of the Facilities or a "related person" as those terms are used in Section 147(a) of the Code). Pursuant to such covenant, the City obligates itself to comply throughout the term of the issue of the Bonds with the requirements of Section 148 of the Code and any regulations promulgated thereunder and to file such reports and cause to be timely paid any arbitrage rebate due with respect to the Bonds by reason of such Section 148.

The Company by its execution of the Installment Sale Agreement has covenanted to restrict the investment of money in the funds created under this Ordinance in such manner and to such extent, if any, as may be necessary, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code.

Section 7.11. Notices by Trustee. The Trustee shall give the same notices to the City that it is required to give to the Company, and to the Company that it is required to give to the City, pursuant to the terms of this Ordinance and, additionally, shall give written notice to the City, the Company, the Bank and the Remarketing Agent of any prior redemption pursuant to Section 3.01 hereof.

Section 7.12. Ratification of Prior Action. All action (not inconsistent with the provisions of this Ordinance) heretofore taken by the City Council and the officers of the City directed toward the Bonds and sale and issuance of the Bonds is ratified, approved and confirmed.

ARTICLE VIII.

Discharge of Lien; Defeasance

Section 8.01. Discharge of Lien and Security Interests. Upon Payment in Full of the Bonds and payment of all sums of money due or to become due to a Bank, if any, relating to such Bonds under the applicable Reimbursement Agreement relating to such Bonds or the provider of an Alternate Security or the Bond Insurer under a Municipal Bond Insurance Policy, then, with respect to such Bonds, these presents and the rights and interest of the Trustee in and to the Trust Estate and the security interests shall cease, terminate and be void, and thereupon the Trustee, shall, with respect to such Bonds, cancel and discharge this Ordinance and the security interest, and, with respect to such Bonds, shall execute and deliver to the City and the Company such instruments in writing as shall be required to cancel and discharge this Ordinance and the security interests, and, upon Payment in Full of the Bonds reconvey to the Company the Trust Estate, and assign and deliver to the Company so much of the Trust Estate as may be in its possession or subject to its control, except for moneys required to be paid to the Bank or the provider of an Alternate Security pursuant to Section 4.09 or 9.10 hereof or the Bond Insurer under a Municipal Bond Insurance Policy or moneys held by the Trustee pursuant to Section 4.07 or 8.02 hereof; provided, however, such cancellation and discharge of this Ordinance related to such Bonds shall not terminate the powers and rights granted to the Trustee with respect to the payment, transfer and exchange of the Bonds; and provided, further, that the rights of the Trustee, the Paying Agent, any Co-Paying Agent and the Registrar to indemnity and payment of all reasonable fees and expenses shall survive the termination of the Trust Estate pursuant to this Section 8.01; and provided further, discharge of this Ordinance shall not terminate the duties of the City pursuant to Section 7.10 hereof

If and when any Bonds shall have (a) become due and payable in accordance with their terms or through redemption proceedings as provided in this Ordinance or otherwise, and the whole amount of the principal, premium, if any, and interest so due and payable upon such Bonds shall be paid, or provisions shall have been made for the payment of the same, or (b) been deemed in accordance with Section 8.02 hereof, to be paid, such Bonds (other than Bonds constituting Company Bonds pursuant to Section 5.01(c)) shall cease to be entitled to any lien, benefit or security under this Ordinance (except as contemplated in Section 8.02 hereof) and all covenants, agreements and other obligations of the City

to the holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 8.02. Provision for Payment of Bonds. The Bonds shall be deemed to have been paid within the meaning of Section 8.01 hereof if:

(a) there shall have been irrevocably deposited with the Trustee in trust

(i) during a Daily Mode, Weekly Mode, Flexible Mode or Multiannual Mode sufficient moneys (provided that during the Effective Period of a Letter of Credit and while such Bonds of a Series are entitled to the benefits of such Letter of Credit, such moneys shall constitute Available Moneys), except that such Bonds will not be deemed paid unless there is also delivered to the Trustee written evidence from the Rating Agencies that the rating on such Bonds will not be decreased or withdrawn because of such deposit, or

(ii) during a Multiannual Mode fixed to maturity, moneys in an amount which will be sufficient or Government Obligations having such maturities and interest payment dates and bearing such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon (said earnings to be held in trust also), be sufficient together with the moneys, if any, deposited with the Trustee, for the payment at their respective maturities or redemption dates prior to maturity, of the principal thereof and the redemption premium (if any) and interest to accrue thereon to such maturity or redemption dates, as the case may be, and for the payment of the Purchase Price thereof as verified in a certificate by a nationally recognized certified public accounting firm delivered to the Trustee at the time of such deposit;

(b) there shall have been paid to the payee all fees and expenses of the Trustee, the Paying Agent, any Co-Paying Agent, the Registrar and the Remarketing Agent due or to become due in connection with the payment or redemption of the Bonds or there shall be sufficient moneys in a trust account hereunder to make said payments;

(c) if any Bonds are to be redeemed on any date prior to their maturity, the Trustee shall have received in form satisfactory to it irrevocable instructions to redeem such Bonds on such date and either evidence satisfactory to the Trustee that all redemption notices required by this Ordinance have been given or irrevocable instructions authorizing the Trustee to give such redemption notices;

(d) with respect to any Bonds in the Daily Mode, the Trustee or Paying Agent shall have given notice to the holders of such Bonds that such Bonds shall no longer be subject to optional tender at the election of such holders pursuant to Section 2.03(B)(3) hereof;

(e) with respect to any Bonds in the Weekly Mode, the Trustee or Paying

Agent shall have given notice to the holders of such Bonds that such Bonds shall no longer be subject to optional tender at the election of such holders pursuant to Section 2.03(C)(3) hereof; and

(f) an opinion of Bond Counsel to the effect that the deposit contemplated in paragraph (a) hereof does not adversely affect the exclusion of interest on the Bonds from gross income, for purposes of federal income taxation.

All moneys so deposited with the Trustee as provided in this Section 8.02 may also be invested and reinvested, at the written direction of the Company, in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of the Trustee pursuant to this Section 8.02 which is not required for the payment of the Bonds and interest and redemption premium, if any, thereon or Purchase Price thereof with respect to which such moneys shall have been so deposited

shall be deposited in the appropriate account of the Bond Fund as and when realized and collected for use and application as are other moneys deposited in the Bond Fund.

Section 8.03. Discharge of the Ordinance. Notwithstanding the fact that the lien of this Ordinance upon the Trust Estate may have been discharged and canceled in accordance with Section 8.01 hereof, this Ordinance and the rights granted and duties imposed hereby, to the extent not inconsistent with the fact that the lien upon the Trust Estate may have been discharged and canceled, shall nevertheless continue and subsist after Payment in Full of the Bonds until all funds held by the Trustee pursuant to Section 4.07 of this Ordinance shall have been paid to the Bank, to the extent of amounts due under the applicable Reimbursement Agreement or the provider of an Alternate Security, and, if any funds remain, to the Company pursuant to Section 4.07 hereof

ARTICLE IX.

Defaults and Remedies

Section 9.01. Event of Default; Acceleration. (1) Each of the following events shall constitute and is referred to in this Ordinance as an "Event of Default" relating to the Bonds:

(a) a failure to pay the principal of any of the Bonds when the same shall become due and payable at maturity, upon redemption or otherwise; or

(b) a failure to pay an installment of interest on any of the Bonds when the same shall become due and payable; or,

(c) a failure to pay the Purchase Price of any Bond required to be purchased hereunder when the same shall become due and payable; or

(d) an "Event of Default" relating to the Senior Unsecured Notes as such term is defined in Section 5.01 of the Company Indenture (or as defined in the Governing Instrument in the event of an exchange pursuant to Section 12.09 hereof); or

(e) the Trustee shall have received notice from a Bank or Alternate Security provider relating to Bonds (other than the notice referred to in Section 3.01(c) hereof) that an "event of default" under the applicable Reimbursement Agreement has occurred and is continuing; or

(f) at any time a Letter of Credit is in effect with respect to the Bonds, the Trustee shall have received a written notice from the Bank not later than ten days following the date of a drawing by the Trustee to make a payment on such Bonds (other than Company Bonds) that the Company has failed to reimburse the Bank or to cause the Bank to be reimbursed for the amount so drawn in accordance with the terms of the Reimbursement Agreement.

(1) Upon the occurrence and continuance of an Event of Default relating to the Bonds described in clause (a), (b) or (c) of paragraph (1) preceding, and upon the condition that (x) in accordance with the terms of the Company Indenture (or the Governing Instrument in the event of an exchange pursuant to Section 12.09 hereof), the Senior Unsecured Notes relating to such Bonds (or the Company Securities relating to such Bonds, as the case may be) issued and outstanding thereunder shall have become immediately due and payable pursuant to any provision of the Company Indenture (or the Governing Instrument, as the case may be) and (y) written notice specifying such Event of Default relating to such Bonds shall have been given to the City and the Company by the Trustee, which may give such notice in its discretion and shall give such notice (i) at the written request of the Bondholders of not less than 25% in principal amount of the Bonds then Outstanding or (ii) if the Event of Default relating to Bonds is described in clause (d) of paragraph (1) preceding, the Bonds shall, without further action, become and be immediately due and payable, anything in this Ordinance or in the Bonds to the contrary notwithstanding; provided, however, that so long as a Letter

of Credit or Alternate Security shall be in effect with respect to the Bonds to which the Event of Default relates, and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the Trustee shall not declare the Bonds to be immediately due and payable without the consent of the Bank. Upon the occurrence and continuance of an Event of Default relating to the Bonds described in clause (e) or (f) of paragraph (1) preceding, the Bonds shall, without further action, become and be immediately due and payable, anything in this Ordinance or in the Bonds to the contrary notwithstanding; provided, however, that so long as a Letter of Credit or Alternate Security shall be in effect with respect to the Bonds to which the Event of Default relates, and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the Trustee shall not declare the Bonds to be immediately due and payable without the consent of the Bank.

(2) Upon the occurrence and continuance of an Event of Default relating to the Bonds described in clause (a), (b) or (c) of paragraph (1) preceding, the Trustee shall give notice thereof in writing to the City, the Company, the Bank, if any, and the Remarketing Agent, if any, and notice to Bondholders in the same manner as a notice of redemption under Section 3.02 hereof. The amount so immediately due and payable upon the Bonds shall be (i) the principal amount thereof plus (ii) interest accrued thereon to such date.

(3) Upon the occurrence and continuance of an Event of Default relating to the Bonds described in clause (e) or (f) of paragraph (1) preceding, the Trustee shall, subject to paragraph (2) preceding, (I) as soon as is practicable give notice of such occurrence to the City, the Company, the Remarketing Agent, if any, the Bond Insurer, if applicable, and Bondholders, which such notice shall state (a) that the Bonds have so become immediately due and payable, (b) that the interest on the Bonds ceased to accrue on the date on which the Bonds so became immediately due and payable, (c) that the amount so immediately due and payable upon the Bonds shall be the principal amount thereof plus accrued interest thereon to the date specified in clause (b) preceding and (d) the place or places where such amounts due are payable, which shall be the Principal Office of the Paying Agent or any Co-Paying Agent and (II) immediately draw on the Letter of Credit relating to such Bonds then in effect to the extent necessary to make the payment required under (I) preceding with respect to the Credit Supported Bonds entitled to the benefit of such Letter of Credit.

(4) The above provisions, however, are subject to the condition that if, for any reason other than an Event of Default pursuant to clause (e) or (f) of paragraph (1) preceding, after the principal of said Bonds shall have so become due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the City shall cause to be deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds and the principal of any and all Bonds which shall have become due otherwise than by reason of such acceleration (with interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the same rate or rates per annum as specified in said Bonds of such Series; provided that such interest is payable on the applicable Senior Unsecured Notes or applicable Corresponding Securities, as the case may be, subject to the maximum interest rate on such Senior Unsecured Notes) and such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred and all advances made by the Trustee except as a result of its negligence or willful misconduct, if any, and all Events of Default under the Ordinance, other than nonpayment of the principal of such Bonds which shall have become due by such acceleration, shall have been remedied then and in every such

case such Event of Default may, and upon written request of the Owners of not less than the percentage in principal amount of the Bonds then outstanding which requested the Bonds to be declared immediately due and payable, together with, so long as any Letter of Credit or Alternate Security shall be in effect with respect to such Bonds, and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the consent of the Bank, shall be waived and its consequences rescinded and annulled by the Trustee by written notice to the City, the Company and to such Bondholders in the same manner as a notice of redemption under Section 3.02 hereof, which waiver, rescission and annulment shall be binding upon all such Bondholders; provided, however, that in connection with (i) any Event of Default, if there shall have been a draw upon the Letter of Credit relating to such Bonds in connection with such Event of Default, such Event of Default shall not be waived unless the Trustee has received written notice from the Bank that the amount so drawn under such Letter of Credit has been reinstated, (ii) an Event of Default described in clause (e) of paragraph (1) preceding, such Event of Default shall not be waived without the consent of the Bank or provider of Alternate Security and (iii) an Event of Default described in clause (f) of paragraph (1) preceding as a result of the failure by the Company to reimburse the Bank for a drawing made on the Letter of Credit, such Event of Default shall not be waived unless the Trustee has received written notice from such Bank that the amount so drawn under the Letter of Credit has been reinstated. No such waiver, rescission and annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon. The Trustee shall promptly give notice of such annulment to the City and the Company.

Section 9.02. Enforcement of Remedies by Trustee. Subject to Section 9.01 hereof, upon the occurrence and during the continuance of an Event of Default relating to the Bonds, the Trustee in its discretion may, and upon the written request of the Bondholders of not less than 25% in principal amount of such Bonds then Outstanding and receipt of indemnity to its satisfaction, shall, in its own name and as the Trustee of an express trust:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Bondholders of such Bonds, and require the City or the Company to carry out any agreements (including the applicable Guaranty and, subject to the provisions of the Company Indenture (or the Governing Instrument in the event of an exchange pursuant to Section 12.09 hereof), payment under the applicable Senior Unsecured Notes (or the applicable Corresponding Securities, as the case may be)) with or for the benefit of such Bondholders and to perform its or their duties under the Act, the Installment Sale Agreement and this Ordinance;

(b) bring suit upon such Bonds;

(c) by action or suit in equity require the City to account as if it were the trustee of an express trust for such Bondholders; or

(d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of such Bondholders.

The Trustee shall give to the Bank, if any, prompt notice of its election of any one or more of the foregoing remedies, anything herein to the contrary notwithstanding. So long as a Letter of Credit or Alternate Security shall be in effect with respect to such Bonds, and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the Trustee shall not pursue any of such remedies without the consent of the Bank.

Section 9.03. Termination of Proceedings. In case any proceeding taken by the Trustee to enforce any right under this Ordinance relating to the Bonds shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every case the City, the Trustee and such Bondholders shall be restored to their former positions and rights hereunder, respectively,

and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

Section 9.04. Rights of Bondholders to Direct Proceedings. Anything in this Ordinance to the contrary notwithstanding but subject to Section 14.03 hereof, the Bondholders of a majority in principal amount of the Bonds then Outstanding hereunder shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct, with the consent of the Bank, the time, method and place of conducting all remedial proceedings available to the Trustee under this Ordinance or exercising any trust or power conferred on the Trustee by this Ordinance relating to such Bonds.

Section 9.05. Rights and Remedies of Bondholders. No Bondholder shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust or power hereunder, or any other remedy hereunder or on said Bonds, unless such Bondholder previously shall have given to the Trustee written notice of an Event of Default relating to such Bonds as hereinabove provided and unless also the Bondholders of not less than 25% in principal amount of the Bonds then Outstanding, together with, so long as any applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the Bank, shall have made written request of the Trustee to do so, after the right to institute said suit, action or proceeding shall have accrued, and shall have afforded the Trustee a reasonable opportunity to proceed to institute the same in either its or their name, and unless there also shall have been offered to the Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall not have complied with such request within a reasonable time; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the institution of said suit, action or proceeding; it being understood and intended that no one or more of the Bondholders shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Ordinance relating to such Bonds, or to enforce any right hereunder or under the Bonds, except in the manner herein provided, and that all suits, actions and proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Bondholders.

Section 9.06. Certain Rights of Bondholders. Notwithstanding any other provision in this Ordinance, the right of any Bondholder to receive payment of the principal of and premium, if any, and interest on or Purchase Price of any Bond on or after the respective due dates expressed therein, or to institute suit for the enforcement of any such payment on or after such respective date, shall not be impaired or affected without the consent of such Bondholder.

Section 9.07. Rights and Remedies Vested in Trustee. All rights of action under this Ordinance or under any of the Bonds secured hereby which are enforceable by the Trustee may be enforced by it, without the possession of any of the Bonds thereunto appertaining or the production thereof at the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the equal and ratable benefit of such Bondholders, subject to the provisions of this Ordinance.

Section 9.08. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to Bondholders is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 9.09. No Delay or Omission Deemed Waiver of Default. No delay or omission of the Trustee or of any Bondholder to exercise any right or power accruing upon any Event of Default relating to such Bonds shall impair any such right or power or shall be construed to be a waiver of any such Event of Default, or an acquiescence therein; and every power and remedy given by this Article IX to the Trustee and to the Bondholders, respectively, may be exercised from time to time and as often as may be deemed expedient.

Section 9.10. Application of Moneys. Any moneys received by the Trustee, by any receiver or by any Bondholder in respect of the Bonds pursuant to any right given or action taken under the provisions by this Article IX (other than any moneys so received pursuant to Section 4.07 or 8.02 hereof), after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, shall be deposited in the appropriate subaccount within the Bond Fund and all moneys so deposited in the Bond Fund during the continuance of an Event of Default relating to the Bonds (other than moneys for the payment of Bonds which had matured or otherwise became payable prior to such Event of Default or for the payment of interest due prior to such Event of Default) shall be applied as follows; provided, however, that (i) amounts collected pursuant to the Letter of Credit or the Alternate Security shall only be utilized to pay the principal of and interest on the Credit Supported Bonds entitled to the benefit of such Letter of Credit or Alternate Security, respectively, (ii) remarketing proceeds shall only be utilized to pay the holders of the tendered Bonds and (iii) no Available Moneys which the Trustee has taken into account in determining the amount of moneys to be drawn under the Letter of Credit relating to such Bonds to pay principal and interest on such Bonds shall be applied to pay Trustee expenses, liabilities and advances:

(a) Unless the principal of all the Bonds shall have become due and payable, all such moneys shall be applied (i) first, to the payment to the persons entitled thereto of all installments of interest then due on the Bonds (other than installments of interest for the payment of which moneys and/or Government Obligations are held pursuant to this Ordinance), in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment of interest, then to the payment ratably, according to the amounts due on such installment, and (ii) second, to the payment to the persons entitled thereto of the unpaid principal of and premium, if any, on any of the bonds of such Bonds which shall have become due (other than Bonds matured or called for redemption for the payment of which moneys and/or Government Obligations are held pursuant to the provisions of this Ordinance), in the order of their due dates, with interest on such Bonds at their respective rates from the respective dates upon which they became due and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal and premium, if any, and interest due on such date, in each case to the persons entitled thereto, without any discrimination or privilege; provided, however, that no moneys shall be applied to the payment of such principal or interest with respect to Company Bonds until all such principal and interest owing on all other Bonds has been paid in full.

(b) If the principal of all the Bonds shall have become due and payable, all such moneys relating to such Bonds shall be applied to the payment of the principal and interest then due and unpaid upon such Bonds (other than installments of interest and amounts of principal of such Bonds matured or called for redemption, for the payment of which moneys and/or Government Obligations are held pursuant to this Ordinance), without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege; provided, however, that no moneys shall be applied to the payment of such principal or interest with respect to Company Bonds until all such principal and interest owing on all other such Bonds has been paid in full.

(c) If the principal of all the Bonds shall have become due and payable by reason of acceleration upon an Event of Default relating to such Bonds, and if acceleration of the maturity of the Bonds of such Bonds by reason of such Event of Default relating to such Bonds shall thereafter have been rescinded and annulled under the provisions of this Article IX, then, subject to the provisions of paragraph (b) of this Section 9.10 which shall be applicable in the event that the principal of all such Bonds shall later become due and payable, such moneys shall be applied in accordance with the provisions of paragraph (a) of this Section 9.10.

Whenever moneys are to be applied pursuant to the provisions of this Section 9.10 relating to the Bonds, except as otherwise provided in Section 9.01(4) hereof, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall, except as otherwise provided in Section 9.01(4) hereof, fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal, premium and interest to be paid on such dates shall cease to accrue. The Trustee shall, except as otherwise provided in Section 9.01(4) hereof, give by mail such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to apply funds to make payment to any such Bondholder until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Any moneys remaining after all other payments required by this Section 9.10 shall have been made shall be remitted upon written instructions from any Bank or provider of an Alternate Security in accordance with such instructions to such Bank or provider of an Alternate Security, in each case to the extent of any amounts, then due to such Bank or provider of an Alternate Security under the applicable Reimbursement Agreement, and the balance, if any, shall be paid to the Company.

Section 9.11. Rights and Remedies Lawful Under the Act. It is the purpose and intention of this Article IX to provide rights and remedies to the Trustee and Bondholders which may be lawfully granted under the provisions of the Act, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Bondholders shall be entitled, as above set forth, to every other right and remedy provided in this Ordinance and by law.

Section 9.12. No Obligation of City to Act. Subject to Sections 7.04 and 7.05, the City shall have no obligation to take any action or pursue any right or remedy of the Trustee or any Bondholder under this Ordinance or otherwise, including, but not limited to, taking any action in a bankruptcy proceeding.

ARTICLE X.

Trustee and Co-Paying Agents

Section 10.01. Acceptance of the Trusts. By executing the certificate of authentication endorsed upon the Bonds, the Trustee shall signify its acceptance and agree to execute the trusts hereby created but only upon the additional terms set forth in this Article X, to all of which the City agrees and the respective Bondholders agree by their acceptance of delivery of any of the Bonds.

Section 10.02. Trustee Not Responsible for Recitals, Maintenance, Insurance, etc. The recitals, findings and representations in this Ordinance or in the Bonds contained, save only the Trustee's authentication upon the Bonds, shall be taken and construed as made by and on the part of the City, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof. In addition, the Trustee shall not have any responsibility for monitoring the Company's obligations under Sections 5.06 and 5.07 of the Installment Sale Agreement to maintain the Facilities or to maintain or cause to be maintained the insurance required thereunder.

Section 10.03. Limited Liability. The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee shall not be answerable for the default or misconduct of any such attorney, agent or employee selected by it with ordinary care. The Trustee shall not be answerable for the exercise of any discretion or power under this Ordinance or for anything whatever in connection with the trust, except only for its own negligence or willful misconduct.

Section 10.04. Compensation and Reimbursement. The Trustee, the Registrar, the Remarketing Agent, the Paying Agent and any Co-Paying Agent under the Ordinance shall be entitled to reasonable compensation for their services rendered hereunder (including, with respect to the Trustee, any Ordinary Services) and to reimbursement for their actual out-of-pocket expenses (including counsel fees) reasonably incurred in connection therewith (including, with respect to the Trustee, any Ordinary Expenses) except as a result of their negligence or willful misconduct. In the event it shall become necessary that the Trustee perform Extraordinary Services, it shall be entitled to reasonable extra compensation therefor, and to reimbursement for reasonable and necessary Extraordinary Expenses in connection therewith; provided, that if such Extraordinary Services or Extraordinary Expenses are occasioned by the negligence or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee hereby agrees that it will not delay (i) in making any drawing on any Letter of Credit or Alternate Security, (ii) in making any payment with respect to the Bonds from moneys currently on hand and available therefor in accordance with Article IV hereof, (iii) in causing the acceleration of the Bonds, in each case at the times required by this Ordinance, if any such compensation so due the Trustee has not been paid to the Trustee as of the date of such required drawing, or (iv) in causing any required notice of redemption or mandatory purchase be given as required herein. In Section 5.05 of the Installment Sale Agreement, the Company has agreed that it will pay to the Trustee, the Registrar, any Remarketing Agent, the Paying Agent and any Co-Paying Agent under this Ordinance such compensation and reimbursement but the Company may, without creating a default hereunder, contest in good faith the necessity for and reasonableness of any such services and expenses; provided, however, the Trustee, the Registrar, any Remarketing Agent, the Paying Agent and any Co-Paying Agent hereunder shall not receive any compensation hereunder from Available Moneys or moneys from a draw on a Letter of Credit.

Section 10.05. Limitations on Required Notice by Trustee. The Trustee shall not be required to take notice, or be deemed to have notice, of any Default, Act of Bankruptcy or Event of Default under this ordinance other than an Event of Default under clause (a), (b) or (c) of the first paragraph of Section 9.01 hereof, unless specifically notified in writing of such Event of Default by the Bondholders of at least 25% in principal amount of any Bonds then Outstanding or by any Bank or Alternate Security provider. The Trustee may, however, at any time, in its discretion, require of the City full information and advice as to the performance of any of the City's covenants, conditions and agreements contained herein. The Trustee may at any time request a certificate of an Authorized Company Representative and rely thereon as to whether any Default, Act of Bankruptcy with respect to the Company or Event of Default has occurred.

In the event the Trustee does not timely receive any payment of the Project Purchase Price in accordance with Section 5.02 of the Installment Sale Agreement, the Trustee shall immediately give telephonic or telegraphic notice thereof to the City and the Company, but the Trustee shall incur no liability for failure to give such notice and such failure shall have no effect on the rights of the Trustee or the Bondholders set forth in this Ordinance or any Bond.

Section 10.06. Limitations on Obligations of Trustee to Take Action. The Trustee shall be under no obligation to take any action in respect of any Default, Event of Default or otherwise, or toward the execution or enforcement of any of the trusts hereby created, or to institute, appear in or defend any suit or other proceeding in connection therewith, unless requested in writing to do so by Bondholders of at least 25% in principal amount of the Bonds then Outstanding, together with, so long as any Letter of Credit or Alternate Security shall be in effect with respect to the Bonds and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the consent of the Bank, and, if in its opinion such action may tend to involve it in expense or liability, unless furnished, from time to time as often as it may reasonably require, with security and indemnity satisfactory to it (provided that, notwithstanding the foregoing, the Trustee shall (i) make each drawing on any Letter of Credit or Alternate Security, (ii) make all payments with respect to the Bonds from moneys currently on hand and available therefor in accordance with Article IV hereof, (iii) cause the acceleration of the Bonds, in each case at the times and in the manner required by this Ordinance and (iv) cause any required notice of redemption or mandatory purchase be

given as required herein); but the foregoing provisions are intended only for the protection of the Trustee, and shall not affect any discretion or power given by any provisions of this Ordinance to the Trustee to take action in respect of any Event of Default without such notice or request from the Bondholders, or without such security or indemnity; provided that the Trustee shall not breach any fiduciary duty hereunder if it declines to exercise any such discretion or power until it has received security and indemnity satisfactory to it as provided herein.

Section 10.07. Advances by Trustee; Interest Thereon. If the City shall fail to perform any of the covenants or agreements contained in this Ordinance other than the covenants or agreements in respect of the payment of the principal of and premium, if any, and interest on the Bonds, the Trustee may, in its uncontrolled discretion and without notice to the Bondholders, at any time and from time to time, make advances to effect performance of the same on behalf of the City, but the Trustee shall be under no obligation to do so and shall not be in breach of any fiduciary duty hereunder if it fails to do so; and any and all moneys paid or advanced by the Trustee for any such purpose, together with interest thereon at a rate per annum equal to the rate announced from time to time by the Trustee as its prime lending rate for domestic commercial loans, shall create an additional obligation secured by this Ordinance having a claim in favor of the Trustee upon the moneys and investments in the Bond Fund (other than moneys received pursuant to Section 4.07 or 8.02 hereof) prior to the claim of the Bonds; but no such advance shall operate to relieve the City from any Event of Default hereunder.

Section 10.08. Trustee Protected. The Trustee shall be protected and shall incur no liability in acting, relying or proceeding in good faith upon any resolution, notice, telegram, request, consent, waiver, certificate, opinion, statement, affidavit, voucher, bond, requisition or other paper or document, including any documents delivered by independent consultants or other professionals, which it shall in good faith believe to be genuine and to have been passed or signed by the proper board, body or person or to have been prepared and furnished pursuant to any of the provisions of this Ordinance or the Installment Sale Agreement, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to or conclusions reached in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements.

Section 10.09. Trustee May Deal in Bonds, etc. The Trustee may in good faith buy, sell, own, hold and deal in any of the Bonds issued hereunder and secured by this Ordinance, and may join in any action which any Bondholder may be entitled to take with like effect as if the Trustee were not a party to this Ordinance. The Trustee, either as principal or agent, may also engage in or be interested in any financial or other transaction with the City or the Company, and may act as depository, trustee or agent for any committee or body of Bondholders secured hereby or other obligations of the City as freely as if it were not Trustee hereunder.

Section 10.10. Allowance and Credit of Interest by Trustee. The Trustee has no obligation to (unless otherwise agreed to with the Company), but may, allow and credit interest upon any moneys which it may at any time receive under any of the provisions of this Ordinance, at such rate, if any, as it customarily allows upon similar funds of similar size and under similar conditions; provided that such allowance and credit shall not result in any violation of Section 7.10 hereof. All interest allowed on any such moneys shall be credited as provided in Article VI hereof with respect to interest on investments.

Section 10.11. Construction of Ordinance by Trustee. The Trustee may construe any of the provisions of this Ordinance insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof, and any construction of any such provisions hereof by the Trustee in good faith shall be binding upon the Bondholders.

Section 10.12. Resignation by Trustee. The Trustee may resign and be discharged of the trusts created by this Ordinance by executing any instrument in writing resigning such trust and specifying the date when such resignation shall take effect, and filing the same with the City Clerk and the Company not less than 60 days before the date

specified in such instrument when such resignation shall take effect, and by simultaneously giving notice of such resignation by first-class mail to all Bondholders at the addresses shown on the registration books of the Registrar. Such resignation and discharge shall take effect on the day specified in such instrument and notice; provided that a successor Trustee has been appointed hereunder and has accepted such appointment, unless previously a successor Trustee shall be appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of, and the acceptance of such appointment by, such successor Trustee.

Section 10.13. Removal of Trustee. The Trustee may be removed at any time by filing with the Trustee so removed, with the City and with the Company an instrument in writing, appointing a successor, executed by the Bondholders of not less than a majority in principal amount of the Bonds then Outstanding. The Trustee shall be, as provided in Section 10.04 hereof, (i) compensated for its services rendered hereunder and (ii) reimbursed for its out-of-pocket expenses incurred, in each case through the date of its removal as Trustee hereunder (including any removal pursuant to Section 14.08(a) hereof), within 30 days after such date.

Section 10.14. Appointment of Successor Trustee. In case at any time the Trustee shall be dissolved, or if its property or affairs shall be taken under the control of any state or Federal court or administrative body because of insolvency or bankruptcy, or for any other reason, then a vacancy shall forthwith and ipso facto exist in the office of Trustee and a successor may be appointed, and in case at any time the Trustee shall resign or be removed, then a successor may be appointed, by filing with the City Clerk and the Company an instrument in writing, executed by the Bondholders of the Bonds of not less than a majority in principal amount of Bonds then Outstanding, together with, so long as any Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, a consent of the Bank to such appointment. Copies of such instrument shall be promptly delivered by the City to the predecessor Trustee and to the Trustee so appointed.

Until a successor Trustee shall be appointed by the Bondholders (and, if applicable, approved by the Banks) as herein authorized, the City, by an instrument authorized by resolution of the City Council, may, but shall have no obligation to, appoint a successor Trustee. After any appointment by the City, it shall promptly cause notice of such appointment to be sent by first-class mail to all Bondholders at the addresses shown on the registration books of the Registrar. Any new Trustee so appointed by the City shall immediately and without further act be superseded by a Trustee appointed by the Bondholders in the manner above provided.

Notwithstanding anything herein to the contrary, no resignation or removal of the Trustee shall be effective until (i) a successor Trustee shall be appointed in accordance with the terms hereof and has accepted such appointment and (ii) each then existing Letter of Credit shall have been transferred to such successor in accordance with the terms thereof.

Section 10.15. Qualifications of Successor Trustee. Every successor Trustee shall be a bank with trust powers or trust company duly organized under the laws of the United States of America or any state thereof having a combined capital stock, undivided profits and surplus of at least $50,000,000 and rated not less than "Baa3" long term rating by Moody's and "Prime 3" short teini rating by Moody's or be otherwise acceptable to Moody's if there be such a trust company, bank and trust company or state or national bank willing and able to accept the trust on reasonable and customary terms.

Section 10.16. Judicial Appointment of Successor Trustee. In case at any time the Trustee shall resign and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article X prior to the date specified in the notice of resignation as the date when such resignation is to take effect, the retiring Trustee may forthwith apply to a court of competent jurisdiction for the appointment of a successor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article X within six months after a vacancy shall have occurred in the office of Trustee, any Bondholder may apply to any court of competent

jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Trustee.

Section 10.17. Acceptance of Trusts by Successor Trustee. Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the City an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become duly vested with all the estates, property, rights, powers, trusts, duties and obligations of its predecessor in the trusts hereunder, with like effect as if originally named Trustee herein. Upon request of such Trustee, such predecessor Trustee and the City shall execute and deliver an instrument transferring to such successor Trustee all the estates, property, rights, powers and trusts hereunder of such predecessor Trustee and such predecessor Trustee shall pay over to the successor Trustee all moneys and other assets at the time held by it hereunder.

Section 10.18. Successor Trustee upon Merger or Consolidation of Trustee. Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, shall be the successor Trustee under this Ordinance, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

Section 10.19. No Implied Covenants; Standard of Care. (a) Except during the continuance of an Event of Default, (i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Ordinance, and no implied covenants or obligations shall be read into this Ordinance against the Trustee; and (ii) in the absence of willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Ordinance; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Ordinance.

(b) If an Event of Default occurs of which the Trustee by Section 10.05 hereof is required to take notice and deemed to have notice, notwithstanding any other provisions of this Article X, the Trustee shall exercise such of the rights and powers vested in it by this Ordinance, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

Section 10.20. Notice to Owners. If an Event of Default occurs of which the Trustee by Section 10.05 hereof is required to take notice and deemed to have notice, or any other Event of Default occurs of which the Trustee has been specifically notified in accordance with Section 10.05 hereof, and any such Event of Default shall continue for at least seven days after the Trustee acquires such notice thereof, the Trustee shall give written notice thereof by first-class mail to the last known Owners of all Bonds then Outstanding addressed to such owners at their addresses shown on the register kept by the Registrar as required by Section 2.10 hereof

Section 10.21. Intervention by Trustee. In any judicial proceeding to which the City is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of the Bondholders, the Trustee may intervene on behalf of the Bondholders and shall, upon receipt of indemnity satisfactory to it, do so if requested in writing by the Bondholders of at least 25% in principal amount of Bonds then Outstanding if permitted by the court having jurisdiction in the premises.

Section 10.22. Co-Paying Agents. The Trustee shall be the Paying Agent for the Bonds. The City may at any time or from time to time by resolution, with the approval of the Company, appoint one or more Co-Paying Agents for the Bonds, in the manner and subject to the conditions set forth in Section 10.23 hereof for the appointment of a Co-Paying Agent. Each Co-Paying Agent shall designate to the Trustee its

Principal Office and signify its acceptance of the duties and obligations imposed upon it by a written instrument of acceptance deposited with the City and the Trustee under which such Co-Paying Agent will agree with the Trustee that such Co-Paying Agent will:

(a) hold all sums held by it for the payment of the principal of and premium, if any, and interest on Bonds in trust for the benefit of the Bondholders until such sums shall be paid to such Bondholders or otherwise disposed of as herein provided;

(b) hold all Bonds tendered to it hereunder in trust for the benefit of the respective Bondholders until moneys representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Bondholders; and

(c) upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by any such Co-Paying Agent.

The City hereby covenants and agrees to cooperate with the Trustee to cause the necessary arrangements to be made through the Trustee and to be thereafter continued whereby funds derived from the sources specified in Article IV hereof will be made available for the payment of such of the Bonds as are presented when due at the appropriate offices of the Paying Agent and any Co-Paying Agent.

Section 10.23. Qualifications of any Co-Paying Agent, etc. Any Co-Paying Agent appointed by the City, with the approval of the Company, shall be a bank or trust company duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital stock, surplus and undivided profits of at least $10,000,000, rated not less than "Baa3" long term rating by Moody's and "Prime 3" short term rating by Moody's or be otherwise acceptable to Moody's and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Ordinance. The Paying Agent and any Co-Paying Agent may at any time resign and be discharged of the duties and obligations created by this Ordinance by giving at least 60 days written notice to the City, the Company and the Trustee. The Paying Agent and any Co-Paying Agent may be removed at any time with the consent of the Company by an instrument filed with the Paying Agent or such Co-Paying Agent, as the case may be, and the Trustee and signed by the City. Notwithstanding anything herein to the contrary, no removal or resignation of the Paying Agent shall be effective until a successor Paying Agent shall be appointed in accordance with the terms hereof.

In the event of the resignation or removal of the Paying Agent or any Co-Paying Agent, the Paying Agent or such Co-Paying Agent, as the case may be, shall pay over, assign and deliver any moneys held by it as Paying Agent or Co-Paying Agent to its successor, or if there be no successor, to the Trustee.

Upon the appointment, removal or notice of resignation of the Paying Agent or any Co-Paying Agent, the Trustee shall notify the Bondholders thereof by first-class mail within 30 days following such appointment, removal or notice of resignation.

Section 10.24. Trustee to Notify Bank. At any time when any Credit Supported Bond or Bonds ceases or cease to be Outstanding under this Ordinance, the Trustee shall provide written notice of the principal amount thereof to the Bank and provider of Alternate Security in respect of such Credit Supported Bond or Bonds.

Section 10.25. Notice of Change in Principal Office of Trustee. The Trustee shall notify the Bondholders of any change in location of the Principal Office of the Trustee.

Section 10.26. Forwarding of Payments to Bank. The Trustee shall deliver to the Bank in accordance with the Company's instructions such moneys as may be delivered to the Trustee by the Company for payment of the Company's obligations under the applicable Reimbursement Agreement. Any such moneys received by the Trustee at or prior to 2:00 p.m. New York City time on any Business Day shall be delivered by the Trustee to the Bank on such Business Day.

Section 10.27. Notice to Rating Agencies.

The Trustee shall provide Moody's, if the Bonds are then rated by Moody's, or S&P, if the Bonds are then rated by S&P, as appropriate, with prompt written notice of (i) the appointment of any successor Trustee, Paying Agent, Remarketing Agent or Tender Agent, (ii) any amendments to this Ordinance or the Installment Sale Agreements, (iii) the payment (or provision for payment) in whole of the Bonds, (iv) the adjustment of any Bonds to a Short-Term or Long-Term Interest Rate Period, (v) the extension, expiration or termination of a Credit Facility or (vi) any amendment to the Reimbursement Agreement or a Credit Facility of which the Trustee has actual knowledge.

ARTICLE XI.

Execution of Instruments by
Bondholders and Proof of Ownership of Bonds

Section 11.01. Execution of Instruments by Bondholders and Proof of Ownership of Bonds. Any request, direction, consent or other instrument in writing, whether or not required or permitted by this Ordinance to be signed or executed by Bondholders, may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Ordinance and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments within such jurisdiction, to the effect that the person signing such instrument acknowledged before him the execution thereof, or by an affidavit of a witness to such execution.

(b) The ownership of Bonds shall be proved by the registration books kept under the provisions of Section 2.10 of this Ordinance.

Nothing contained in this Article XI shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of matters herein stated which to it may seem sufficient. Any request or consent of any Bondholder shall bind every future holder of the same Bond or any Bond or Bonds issued in lieu thereof in respect of anything done by the Trustee or the City in pursuance of such request or consent.

ARTICLE XII.

Modifications of this Ordinance, the Company Indenture, the Installment Sale Agreement and the Guaranty; Senior Unsecured Notes

Section 12.01. No Modification Except Pursuant To This Article XII. Neither this Ordinance nor the Installment Sale Agreement nor the Guaranty shall be modified or amended in any respect subsequent to the issuance of the Bonds hereunder except as provided in and in accordance with and subject to the provisions of this Article XII and Section 7.04 hereof.

Section 12.02. Supplemental Ordinances Not Requiring Consent of Bondholders. (1) The City may, from time to time and at any time, without the consent of or notice to any of the Bondholders, adopt, and the Trustee may accept (provided that so long as any Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored, the prior written consent of the Bank shall have been obtained), Supplemental ordinances as follows:

(b) To cure any ambiguity, formal defect or omission in this Ordinance; or

(c) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to this Ordinance as theretofore in effect; or

(d) To add to the covenants and agreements of, and limitations and restrictions upon, the City in this Ordinance, other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary to this Ordinance as theretofore in effect; or

(e) To subject to the lien and pledge hereof additional payments, revenues, properties or collateral, including but not limited to, an Alternate Letter of Credit or Alternate Security and to make such other changes consistent herewith which are necessary in connection with the delivery of such Alternate Letter of Credit or Alternate Security and which do not adversely affect Bondholders; or

(f) To change the percentage of ownership interest in or the composition of the Facilities which constitutes the Project; provided that in doing so, the Project Purchase Price shall not be reduced; or

(g) To confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by, this Ordinance, of the Receipts and Revenues of the City from the Installment Sale Agreement or of any other moneys, securities or funds; or

(h) To cause this Ordinance to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended, or any similar Federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States of America, and if they so determine, to add hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar Federal statute; or

(i) To provide for uncertificated or certificated securities or a modified book-entry system for registration and transfer of fully registered Bonds to the extent and in the manner permitted under the laws of the State of New Mexico; or

(j) Effective upon any Conversion Date to a new Mode, make any amendment affecting only the Bonds being converted, subject to subsection (1) of Section 12.03 hereof; or

(k) To add provisions relating to the partial conversion of Bonds to a new Mode; or

(l) To make such changes as may be required by the Rating Agencies or any credit rating agency then rating the Bonds in connection with the delivery of an Alternate Letter of Credit or Alternate Security; or

(m) To provide for the exchange of the Senior Unsecured Notes for Corresponding Securities; provided that, if a Letter of Credit or Municipal Bond Insurance Policy shall then be in effect, the Bank or Bond Insurer shall have consented thereto and provided further that if no Letter of Credit or Municipal Bond Insurance Policy shall then be in effect, the Rating Agency shall have indicated in writing that the exchange would not result in a withdrawal or a reduction of the ratings on the Bonds; or

(n) To effect any other change which is not materially adverse to the Bondholders and which does not involve a change described in clause (i), (ii), (iii) or (iv) of subsection (1) of Section 12.03 hereof requiring the consent of all Bondholders of Bonds outstanding for amendments listed in clauses (i), (ii), (iii) or (iv) thereof; or

(o) To add to provisions as may be necessary to comply with the requirements of section 148 of the Code.

(2) Before the City shall adopt any Supplemental Ordinance pursuant to this Section 12.02, there shall have been filed with the City and the Trustee an opinion of Bond Counsel stating that such Supplemental Ordinance is authorized or permitted by this Ordinance and the Act, complies with their respective terms, will be valid and binding upon the City in accordance with its terms and does not adversely affect the exclusion from gross income of

interest on the Bonds for Federal income tax purposes.

Section 12.03. Supplemental Ordinances Requiring Consent of Bondholders. (1) Except for any Supplemental Ordinance adopted pursuant to Section 12.02 hereof, subject to the terms and provisions contained in this Section 12.03 and not otherwise, the Bondholders of not less than a majority in aggregate principal amount of the Bonds then Outstanding which would be adversely affected thereby, together with, so long as any applicable Letter of Credit or Alternate Security shall be in effect with respect to such Bonds and no drawing on such Letter of Credit shall have been, and shall remain, wrongfully dishonored, the Bank, shall have the right from time to time to consent to and approve the adoption by the City of any Supplemental Ordinance with respect to such Bonds as shall be deemed necessary or desirable by the City for the purposes of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in this Ordinance with respect to such Bonds; provided, however, that, unless approved in writing by the Bondholders of all Bonds of the applicable Bonds then Outstanding, nothing herein contained shall permit, or be construed as permitting, with respect to such Bonds (i) a change in the times, amounts and currency of payment of the principal of and premium, if any, and interest on any Outstanding Bond, or a reduction in the principal amount, Purchase Price or redemption price of any Outstanding Bond or the rate of interest thereon, or (ii) the creation of a claim or lien upon, or a pledge of, the applicable Receipts and Revenues of the City from the Installment Sale Agreement ranking prior to or on a parity with the claim, lien or pledge created by this Ordinance, or (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (iv) a reduction in the aggregate principal amount of Bonds, the consent of the Bondholders of which is required for any such Supplemental Ordinance.

In all matters as to which the Trustee has the right to vote or grant or withhold consent as the holder of Senior Unsecured Notes (or Corresponding Securities in the event of an exchange pursuant to Section 12.09 hereof) under the Guaranty, the Trustee shall exercise such right subject to Section 12.09.

(2) If at any time the City shall determine to adopt any Supplemental Ordinance for any of the purposes of this Section 12.03, it shall cause notice of the proposed Supplemental Ordinance to be mailed, postage prepaid, to all Owners of Bonds then Outstanding. Such notice shall briefly set forth the nature of the proposed Supplemental Ordinance and shall state that a copy thereof is on file at the office of the Trustee for inspection by all Bondholders.

(3) Within one year after the date of such notice, the City may adopt (the date of adoption shall be the date of passage and not the effective date) such Supplemental Ordinance in substantially the form described in such notice only if there shall have first been filed with the Trustee (a) the required consents, in writing, of Bondholders and (b) an opinion of Bond Counsel stating that such Supplemental Ordinance is authorized or permitted by this Ordinance and the Act and complies with their respective terms, and that upon adoption it will be valid and binding upon the City in accordance with its terms and does not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes.

(4) If the Bondholders of not less than the percentage of Bonds required by this Section 12.03 shall have consented to and approved the adoption thereof as herein provided, no Bondholder shall have any right to object to the adoption of such Supplemental Ordinance, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City from, enacting the same or from taking any action pursuant to the provisions thereof.

Section 12.04. Effect of Supplemental Ordinance. Upon the adoption of any Supplemental Ordinance pursuant to the provisions of this Article XII, this Ordinance shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and

obligations under this Ordinance of the City, the Trustee and all holders of Bonds then outstanding shall thereafter be determined, exercised and enforced under this Ordinance subject in all respects to such modifications and amendments.

Section 12.05. Supplemental Ordinances Requiring Consent of Company. Anything herein to the contrary notwithstanding, any Supplemental Ordinance under this Article XII which affects any rights, powers and authority of the Company under the Installment Sale Agreement, the Guaranty or the Senior Unsecured Notes (or Corresponding Securities in the event of an exchange pursuant to Section 12.09 hereof) or requires a revision of the Installment Sale Agreement, the Guaranty, the Senior Unsecured Notes or the Company Indenture (or the Corresponding Securities and Governing Instrument, as the case may be) shall not become effective unless and until the Company shall have consented to such Supplemental Ordinance.

Section 12.06. Supplemental Ordinances Requiring Consent of Bank. Any Supplemental Ordinance under this Article XII which affects any rights, powers and authority of a Bank or provider of any Alternate Security or requires a revision of a Letter of Credit or such Alternate Security shall not become effective unless and until such Bank or provider of such Alternate Security, as the case may be, shall have consented to such Supplemental Ordinance.

Section 12.07. Amendment of Installment Sale Agreement, Company Indenture and Guaranty Not Requiring Consent of Bondholders. Without the consent of or notice to the Bondholders, (a) the City and the Company may amend, change or modify the Installment Sale Agreement, and the Trustee may (with the prior written consent of the Bank, so long as the applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored) consent thereto, and the Trustee may (with the prior written consent of the Bank, so long as the applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit or Alternate Security shall have been, and shall remain, wrongfully dishonored) consent to amendments to the Company Indenture and the Guaranty, as may be required (i) by the provisions of the Installment Sale Agreement and this Ordinance, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) to change the percentage of ownership interest in the Facilities which constitute the Project; provided that in doing so, the Project Purchase Price shall not be reduced and that an opinion of Bond Counsel shall have been delivered to the Trustee stating that such change is authorized or permitted by this Ordinance and the Act, complies with their respective terms, will be valid and binding upon the City in accordance with its terms and does not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes or (iv) in connection with any other change therein which, in the judgment of the Trustee, is not to the prejudice of the Trustee or materially adverse to the Bondholders and (b) effective upon any Conversion Date to a new Mode, the City and the Company may make and the Trustee may consent to any amendment to the Installment Sale Agreement affecting only the Bonds being converted, subject to clause (iii) of this Section 12.07.

Section 12.08. Amendment of Installment Sale Agreement and Guaranty Requiring Consent of Bondholders. Except in the case of amendments, changes or modifications referred to in Section 12.07 hereof, the City and the Trustee shall not consent to any amendment, change or modification of the Installment Sale Agreement, and the Trustee shall not enter into any amendment, change or modification of the Guaranty, without the mailing of notice and the written approval or consent of the Bondholders of not less than a majority in aggregate principal amount of all the Bonds then Outstanding which relate to such Installment Sale Agreement or Guaranty, together with, so long as any applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit shall have been, and shall remain, wrongfully dishonored, the written consent of the Bank, procured as provided in Section 12.03 hereof. If at any time the City or the Company shall request the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice of such proposed amendment, change or modification to be mailed in the same manner as provided by Section 12.03 hereof with respect to Supplemental Ordinances. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the

instrument embodying the same are on file at the Principal Office of the Trustee for inspection by all Bondholders.

Section 12.09. Certain Matters with Respect to the Senior Unsecured Notes. (a) The Trustee, as holder of the Senior Unsecured Notes relating to Bonds (or the Corresponding Securities relating to such Bonds, in the event of an exchange pursuant to Section 12.09(b) hereof), shall attend meetings of Bondholders under the Company Indenture (or the Governing Instrument, as the case may be) or deliver its proxy in connection therewith. Either at such meeting, or otherwise when the written consent of the holders of the Company's Senior Unsecured Notes issued under the Company Indenture (or the Governing Instrument, as the case may be) is sought by the Company without a meeting, the Trustee, except as provided in the following sentence, is hereby directed to vote as the holder of the Senior Unsecured Notes relating to such Bonds (or the Corresponding Securities relating to such Bonds, in the event of an exchange pursuant to Section 12.09(b) hereof) or consent in writing with respect thereto, proportionately with what the Trustee reasonably believes will be the vote or consent of the holders of all other outstanding Senior Unsecured Notes voting or consenting; provided, however, that if (i) the Company shall have proposed one or more modifications to the Company Indenture and (ii) the Rating Agency shall have indicated in writing that such modification or modifications would not result in a withdrawal or a reduction of the ratings on the Senior Unsecured Notes of the Company issued under the Company Indenture, the Trustee shall vote as holder of the Senior Unsecured Notes relating to such Bonds (or the Corresponding Securities relating to such Bonds, as the case may be) or shall consent in writing with respect thereto, to approve, adopt and consent to such modification or modifications. Unless approved in writing by Bondholders of all Bonds then Outstanding, together with, so long as any applicable Letter of Credit or Alternate Security shall be in effect and no drawing on such Letter of Credit shall have been, and shall remain, wrongfully dishonored, the Bank, the Trustee shall not vote in favor of, or consent to, any modification to the Company Indenture (or the Governing Instrument, as the case may be) which (A) constitutes a change in the times, amounts or currency of payment of the principal of and premium, if any, and interest on any Senior Unsecured Note relating to such Bond or Corresponding Security relating to such Bond, as the case may be, or a reduction in the principal amount or redemption price thereof, (B) creates a preference or priority of any Company Security secured by the Company Indenture (or the Governing Instrument, as the case may be) over any other Company Security so secured or (C) permits the creation of any lien securing Company Securities ranking prior to or on a parity with the lien of the Company Indenture (or the Governing Instrument) on any of the Company's property subject thereto. Where the direction to the Trustee contained in this Section 12.09 shall not be applicable, the Trustee is authorized to act with respect to the Senior Unsecured Notes relating to such Bonds (or the Corresponding Securities relating to such Bonds, in the event of an exchange pursuant to Section 12.09(b) hereof) as otherwise permitted or required by this Ordinance. When acting pursuant to the direction specified in this Section 12.09, including an exchange specified in Section 12.09(b) hereof, the Trustee shall not be deemed to be exercising any discretion or power under this Ordinance and, therefore, shall be fully protected and indemnified in so acting and shall not be answerable with respect thereto.

(b) Upon at least 30 days' prior written notice from and at the request of the Company to the City, the Paying Agent and the Trustee, the Trustee, as holder of the Senior Unsecured Notes relating to Bonds, shall exchange, in accordance with the provisions of a Supplemental Ordinance providing therefor, the Senior Unsecured Notes relating to such Bonds for other bonds or evidences of indebtedness of the Company ("Company Securities") (x) in an aggregate principal amount equal to the aggregate principal amount of the Bonds, in such principal amounts and maturing on such dates that upon the stated maturity dates of the Bonds a corresponding principal amount of such Company Securities shall mature, (y) bearing interest (but only from the date corresponding to the Initial Interest Accrual Date as defined in the Supplemental Company Indenture) at the same interest rate borne from time to time by either (i) such Senior Unsecured Notes relating to such Bonds or (ii) corresponding Bonds of the maturity date and (z) be subject to redemption prior to maturity at the time, in the amounts and at the same redemption premium borne by corresponding Bonds of the maturity date (Company Securities meeting the requirements of the foregoing clauses (x), (y) and (z) being herein called the "Corresponding Securities"); provided, however, that prior to

or upon such exchange, each of the following conditions shall have been satisfied:

(1) on or prior to the date proposed by the Company for such exchange (the "Exchange Date") (which date shall be set forth in the notice from the Company to the City, the Paying Agent and the Trustee described above in this Section 12.09(b)), the Company shall provide the City, the Bank, the Paying Agent and the Trustee with an opinion of Bond Counsel reasonably satisfactory to the Trustee to the effect that the exchange will not adversely affect the exclusion of interest on the Bonds of the applicable Bonds from gross income for Federal income tax purposes;

(2) the Corresponding Securities relating to such Bonds shall be outstanding under a mortgage, deed of trust, trust or other indenture or other similar instrument or agreement (a "Governing Instrument") which (i) has been qualified under the Trust Indenture Act of 1939, as amended or (ii) shall, in the opinion of counsel to the Company, meet the requirements for qualification under said Act upon the filing of an appropriate application for such qualification;

(3) the trusts created by the Governing Instrument shall be stated therein to be for the equal and proportionate benefit and security of the holders from time to time of all Company Securities outstanding thereunder (including the Corresponding Securities) without any priority of any such Company Security over any other such Company Security so outstanding;

(4) the Company shall provide the City, the Bank, the Paying Agent and the Trustee with an opinion of Counsel dated the Exchange Date, to the effect that (i) the forms and terms of the Corresponding Securities have been duly authorized by the Company and have been established in conformity with the Governing Instrument, (ii) the Corresponding Securities, when authenticated and delivered by the Trustee under the Governing Instrument in the manner and subject to any conditions specified in such opinion, will have been duly issued under the Governing Instrument and will constitute valid and legally binding obligations of the Company, entitled to the benefits of the Governing Instrument, and enforceable in accordance with their respective terms (except as limited by bankruptcy, insolvency, moratorium and other laws affecting the enforcement of mortgagees' and other creditors' rights and by general equitable principles) and (iii) all conditions precedent relating to such exchange provided in this Ordinance have been complied with;

(5) no Event of Default relating to the Bonds shall have occurred and be continuing hereunder, no "Event of Default" (as defined in the Company Indenture) shall have occurred and be continuing and no "event of default" or other comparable event under the Governing Instrument shall have occurred and be continuing (in each case as certified by the Company to the City, the Bank, the Paying Agent and the Trustee); and

(6) each Rating Agency shall have indicated in writing that the Company Securities outstanding or to be outstanding under the Governing Instrument are or will be assigned the same or a better rating as the rating in effect for the Senior Unsecured Notes of the Company outstanding under the Company Indenture on the Exchange Date.

Section 12.11. Issuance of Bonds Under Other Ordinances; Recognition of Prior Pledges. The City hereby expressly reserves the right to issue, to the extent permitted by law, bonds under other ordinances for one or more purposes permitted by the Act. The City hereby recognizes and protects any prior pledge or mortgage made to secure any prior issue of bonds.

ARTICLE XIII.

The Trustee and the Remarketing Agent

Section 13.01. Agreements by the Trustee. Upon acceptance of this Ordinance by the Trustee, the Trustee shall agree that it will:

(a) subject to Section 2.14 hereof, hold all Bonds delivered to it pursuant to Section 2.03 hereof in trust for the benefit of the respective Bondholders which shall have so delivered such Bonds until moneys representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Bondholders; and

(b) hold all moneys delivered to it hereunder for the purchase of such Bonds in trust for the benefit of the person or entity which shall have so delivered such moneys until application of such moneys to the purchase of such Bonds.

Section 13.02. Remarketing Agents. The Company shall appoint a Remarketing Agent or Remarketing Agents for any or all Bonds, subject to the conditions set forth in Section 13.03 hereof, if any Bonds shall be in the Flexible Mode, Daily Mode, Weekly Mode or Multiannual Mode (unless the term of such Multiannual Mode is to the maturity of the Bonds). The Company may, at any time, appoint a co-Remarketing Agent meeting the qualifications set forth in Section 13.03 hereof in which case all references herein to "Remarketing Agent" shall include such co-Remarketing Agent. The Remarketing Agent shall designate to the Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Trustee and the Trustee shall be entitled to rely thereon as to the satisfaction of the conditions set forth in Section 13.03 hereof.

Section 13.03. Qualifications of a Remarketing Agent; Resignation; Removal. The Remarketing Agent shall be a member of the National Association of Securities Dealers, having a capitalization of at least $15,000,000 and rated not less than "Ba23" long term rating by Moody's and "Prime 3" short term rating by Moody's or be otherwise acceptable to Moody's and be authorized by law to perform all the duties imposed upon it by this Ordinance. The Remarketing Agent may be removed at any time, and a successor Remarketing Agent appointed at the direction of the Company, by an instrument executed by an Authorized Company Representative, filed with the City, the Remarketing Agent and the Trustee. Any successor Remarketing Agent shall agree to perform all of the duties imposed by this Ordinance and the Remarketing Agent Agreement in accordance with the terms hereof and thereof.

ARTICLE XIV.

Bond Insurance Provisions

Section 14.01. Effectiveness. The provisions in this Article XIV shall be effective with respect to the Bonds only if, and so long as, a Municipal Bond Insurance Policy with respect to such Bonds is in full force and effect.

Section 14.02. Consent of Bond Insurer. (a) Notwithstanding Article XII hereof, any provision of this Ordinance expressly recognizing or granting rights in or to the Bond Insurer, including, without limitation, this Article XIV, may not be amended in any manner which affects the rights of the Bond Insurer hereunder without the prior written consent of the Bond Insurer.

(a) Unless otherwise provided in this Section 14.02, the Bond Insurer's consent shall be required for the adoption of a Supplemental Ordinance to amend Section 2.03(D)(3)(iii) and shall be required in addition to Bondholder consent, when required, for the following purposes: (i) adoption of any Supplemental Ordinance or any amendment, change or modification of the Installment Sale Agreement or Guaranty, (ii) removal of the Trustee, Paying Agent or Co-Paying Agent and selection and appointment of any successor trustee, paying agent or co-paying agent, (iii) the exchange of applicable Senior Unsecured Notes for Corresponding Securities pursuant to Section 12.09(b) hereof and (iv)

initiation or approval of any action not described in (i), (ii) or (iii) above which requires Bondholder consent under this Ordinance.

Section 14.03. Control of Remedies. (a) Anything in this Ordinance to the contrary notwithstanding, upon the occurrence and during the continuance of an Event of Default, with respect to the Bonds insured by the Bond Insurer, the Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bondholders of such Bonds or the Trustee for the benefit of the Bondholders of such Bonds under this Ordinance, including, without limitation: (i) the right to accelerate the principal of such Bonds as described in this Ordinance and (ii) the right to annul any declaration of acceleration with respect to such Bonds, and the Bond Insurer shall also be entitled to approve all waivers of Event of Default.

(b) Upon the occurrence of an Event of Default relating to the Bonds insured by the Bond Insurance and upon the condition that in accordance with the terms of the Company Indenture (or the Governing Instrument in the event of an exchange pursuant to Section 12.09 hereof), the Senior Unsecured Notes relating to such Bonds (or the Company Securities relating to such Bonds, as the case may be) issued and outstanding thereunder shall have become immediately due and payable pursuant to any provision of the Company Indenture (or the Governing Instrument, as the case may be), the Trustee may, with the consent of the Bond Insurer, and shall, at the direction of the Bond Insurer or Bondholders of at least 25% in principal amount of such Bonds then Outstanding with the consent of the Bond Insurer, by written notice to the City, the Company and the Bond Insurer, declare the principal of such Bonds to be immediately due and payable, whereupon that portion of the principal of such Bonds thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, anything in this Ordinance or in such Bonds to the contrary notwithstanding.

(c) Nothing herein shall be deemed to modify or otherwise affect the consequences of any special mandatory redemption of Bonds pursuant to Section 3.01 hereof.

Section 14.04. Notices to Bond Insurer. (a) The Trustee shall furnish to the Bond Insurer a copy of any notice to be given by the Trustee to the holders of the Bonds insured by the Bond Insurer, including, without limitation, notice of any redemption of or defeasance of such Bonds, and any certificate rendered to the Trustee pursuant to this Ordinance relating to the security for such Bonds.

(b) The Trustee shall notify the Bond Insurer of any failure of the City or the Company to provide any mandatory notice, certificate, opinion or other instrument to the Trustee in accordance with the terms of this Ordinance.

(c) Notwithstanding any other provision of this Ordinance, the Trustee shall immediately notify the Bond Insurer if at any time there are insufficient moneys to make any payments of principal, premium, if any, and/or interest on the Bonds insured by the Bond Insurer as required hereunder and immediately upon the occurrence of any Event of Default relating to such Bonds hereunder.

Section 14.05. Investment Securities. (a) Notwithstanding any other provision of this Ordinance, all moneys relating to Bonds insured by the Bond Insurer deposited with the Trustee pursuant to Section 8.02 of the Ordinance shall be in the form of either:

(1) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in paragraph (2) below); or

(2) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America.

(b) The following obligations or securities shall, together with the obligations described in Section 14.05(a) hereof, constitute Investment Securities for all purposes of the Ordinance notwithstanding Section 6.01 hereof:

(1) obligations of any of the following Federal agencies which obligations represent full faith and credit of the United States of America, including the Export-Import Bank, Rural Economic Community Development Administration (formerly the Farmers Home Administration), the Farm Credit System Financial Assistance Corporation, the General Services Administration, the United States Maritime Administration, the Small Business Administration, the Government National Mortgage Association (GNMA), the United States Department of Housing & Urban Development (PHA's) and the Federal Housing Administration;

(2) bonds, notes or other evidences of indebtedness rated "AAA" by S&P and "Aaa" by Moody's issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(3) United-States-dollar-denominated deposit accounts, Federal Fund and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by S&P and "P-1" by Moody's and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(4) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by S&P and "P-1" by Moody's and which matures not more than 270 days after the date of purchase;

(5) investments in a money market fund rated "AAAm" or "AAAm-G" or better by S&P;

(6) Pre-refunded Municipal Obligations defined as follows:

Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on the escrow, in the highest rating category of S&P and Moody's or any successors thereto; or (B)(i) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in paragraph (1) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which fund is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(7) investment agreements approved in writing by the Bond Insurer with notice to S&P; and

(8) other forms of investment approved in writing by the Bond Insurer with notice to S&P and with respect to which the Bond Insurer has received such opinions of counsel as it shall reasonably request;

provided, however, that no such investment shall violate the laws of the State of New Mexico.

Section 14.07. Defeasance Provisions. Notwithstanding anything herein to the contrary, in the event that the principal and/or interest due on the Bonds shall be paid by the Bond Insurer pursuant to the

Municipal Bond Insurance Policy, such Bonds shall remain Outstanding under this Ordinance for all purposes of this Ordinance, not be defeased or otherwise satisfied and not be considered paid by the City, and the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the City to the holders shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such holders.

Section 14.08. Payment Procedure Pursuant to the Municipal Bond Insurance Policy. The City, the Trustee and the Paying Agent agree to comply with the following provisions:

(a) On the Interest Payment Date, the Paying Agent shall determine whether there will be sufficient funds in the Bond Fund to pay the principal of or interest on the Bonds insured by the Bond Insurance on such Interest Payment Date. If the Paying Agent determines that there will be insufficient funds in the Bond Fund, the Paying Agent shall so notify the Bond Insurer. Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. The Bond Insurer shall make payments of principal or interest due on the Bonds on or before the first day next following the date on which the Bond Insurer shall have received notice of nonpayment from the Paying Agent.

(b) The Paying Agent shall, after giving notice to the Bond Insurer as provided in Section 14.07(a), make available to the Bond Insurer and, at the Bond Insurer's direction, to the Insurance Trustee, the registration books maintained by the Registrar, and all records relating to the Bond Fund maintained under this Ordinance.

(c) The Paying Agent shall provide the Bond Insurer and the Insurance Trustee with a list of Owners of Bonds entitled to receive principal or interest payments from the Bond Insurer under the terms of the Municipal Bond Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the Owners of Bonds entitled to receive full or partial interest payments from the Bond Insurer and (ii) to pay principal upon Bonds surrendered to the Insurance Trustee by the Owners of Bonds entitled to receive full or partial principal payments from the Bond Insurer.

(d) The Paying Agent shall at the time it provides notice to the Bond Insurer pursuant to Section 14.07(a) above, notify Owners of Bonds entitled to receive the payment or interest thereon from the Bond Insurer (i) as to the fact of such entitlement, (ii) that the Bond Insurer will remit to them all or part of the interest payments next coming due upon proof of Bondholder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory the Insurance Trustee, of an appropriate assignment of the Owner's right to payment, (iii) that should they be entitled to receive full payment of principal from the Bond Insurer, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of the Bond Insurer) for payment to the Insurance Trustee, and not the Trustee or Paying Agent and (iv) that should they be entitled to receive partial payment of principal from the Bond Insurer, they must surrender their Bonds for payment thereon first to the Trustee or Paying Agent, if any, who shall note on such Bonds the portion of the principal paid by the Paying Agent and then, along with an appropriate instrument of assignment, if any, in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(e) In the event that the Paying Agent has notice that any payment of principal of or interest on a Bond insured by the Bond Insurer which has become due for payment and which is made to a Bondholder by or on behalf of the City has been deemed a preferential transfer and theretofore recovered from its Owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Paying Agent shall, at the time the Bond Insurer is notified pursuant to Section 14.07(a), notify all Owners of such Bonds that in the event that any such Owner's payment is so recovered, such Owner will be entitled to payment from the Bond Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Paying Agent shall

furnish to the Bond Insurer its records evidencing the payments of principal of and interest on such Bonds which have been made by the Paying Agent and subsequently recovered from such Owners and the dates on which such payments were made.

(f) In addition to those rights granted the Bond Insurer under this Ordinance, the Bond Insurer shall, to the extent it makes payment of principal of or interest on Bonds insured by the Bond Insurer, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Municipal Bond Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Paying Agent shall note the Bond Insurer's rights as subrogee on the registration books maintained by the Registrar upon receipt from the Bond Insurer of proof of the payment of interest thereon to the Owners of such Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Paying Agent shall note the Bond Insurer's rights as subrogee on the registration books maintained by the Registrar upon surrender of such Bonds by the holders thereof together with proof of the payment of principal thereof.

Section 14.09. Trustee Provisions. (a) The Trustee, Paying Agent (with respect to the Bonds) and Co-Paying Agent (with respect to the Bonds) may be removed at any time, at the request of the Bond Insurer, for any breach of the trust set forth herein. In case of removal, the Trustee shall be compensated and reimbursed as provided in Section 10.13 hereof

(b) The Bond Insurer shall receive prior written notice of any Trustee or Paying Agent resignation.

(c) Every successor Trustee appointed pursuant to this Section 14.08 shall, in addition to meeting the qualifications set forth in Section 10.15 hereof, be a trust company or bank in good standing located in or incorporated under the laws of the United States of America, any state thereof or the District of Columbia, duly authorized to exercise trust powers and subject to examination by Federal or state authority, having a reported capital and surplus of not less than $75,000,000 and acceptable to the Bond Insurer and the Bank. Any successor Paying Agent shall not be appointed unless the Bond Insurer approves such successor in writing.

(d) Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, the Trustee shall consider the effect on such Bondholders as if there were no Municipal Bond Insurance Policy.

(e) Notwithstanding any other provision of this Ordinance, no removal, resignation or termination of the Trustee or Paying Agent shall take effect until a successor, acceptable to the Bond Insurer (and, in the case of a successor Trustee, the Bank), shall be appointed and has assumed its duties as successor Trustee or Paying Agent, as the case may be.

Section 14.11. Interested Parties. (a) To the extent that this Ordinance confers upon or gives or grants to the Bond Insurer or any Bank any right, remedy or claim under or by reason of this Ordinance, the Bond Insurer and the Bank is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

(b) Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, give or grant to, any person or entity, other than the City, the Trustee, the Bond Insurer, the Bank, the Company, the Paying Agent and the Bondholders, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Trustee, the Bond Insurer, the Company, the Paying Agent and the Bondholders.

ARTICLE XV.

Miscellaneous

Section 15.01. Ordinance to Bind and Inure to Benefit of Successors to City. In the event of the dissolution of the City, all the covenants, stipulations, promises and agreements in this Ordinance contained, by or on behalf of, or for the benefit of, the City, shall bind or inure to the benefit of the successors of the City from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the City shall be transferred.

Section 15.02. Limitation of Rights. Except as otherwise specifically provided herein, nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City, the Trustee, the Company and the Bondholders, any right, remedy or claim under or by reason of this Ordinance, this Ordinance being intended to be for the sole and exclusive benefit of the City, the Trustee, the Company and the Bondholders.

Section 15.03. Severability. In case any one or more of the provisions of this Ordinance or of the Bonds issued hereunder shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Ordinance, the Installment Sale Agreement, the Guaranty or said Bonds, and this Ordinance, the Installment Sale Agreement, the Guaranty and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.

Section 15.04. No Personal Liability of City Officials Under Ordinance. No covenant or agreement contained in the Bonds or in this Ordinance, shall be deemed to be the covenant or agreement of any official, officer, agent, or employee of the City in his individual capacity, and neither the members of the City Council nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 15.05. Bonds Owned by City or Company Disregarded for Certain Purposes. In determining whether the Bondholders of the requisite aggregate principal amount of Bonds have concurred in any direction, consent or waiver under this Ordinance, Bonds which are owned by the City or the Company or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company shall be disregarded and deemed not to be outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Bonds which the Trustee knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the City or the Company or any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 15.06. Governing Law. The laws of the State of New Mexico shall govern the construction of this Ordinance and of all Bonds issued hereunder.

Section 15.07. Notices. Except as otherwise provided in this Ordinance, all notices, certificates, requests or other communications pursuant to this Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, addressed as follows:

If to the City: City of Farmington
City Hall
800 Municipal Drive
Farmington, New Mexico 87401
Attention: Treasurer

If to the Company: Public Service Company of New Mexico
414 Silver Avenue SW
Albuquerque, New Mexico 87102
Attention: Treasurer

If to the Trustee: at the address specified in the resolution of the City appointing the Trustee.

Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder. All notices, certificates, requests or other communications to be given to any Bond Insurer or Remarketing Agent hereunder shall be given in accordance with any written instructions from such parties.

Section 15.08. Effect of Non-Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Ordinance, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

Section 15.09. Opinions. Each opinion with respect to the validity of documents or Bonds may be qualified to the extent of the application of bankruptcy, insolvency, moratorium, fraudulent conveyance or reorganization laws or laws affecting the remedies for the enforcement of the rights and security provided therein and need not pass on the availability of the remedy of specific enforcement, injunctive relief or any other equitable remedy.

Section 15.10. Notices to Rating Agencies. The Trustee shall promptly give notice to Moody's at Moody's Structured Transaction Group, Corporate Department, 99 Church Street, New York, New York 10007, S&P at Standard & Poor's Financial Institutions Ratings, 25 Broadway, New York, New York 10004 and the Bond Insurer of the occurrence of any of the following:

(a) the termination, cancellation, amendment, expiration or extension of the Letter of Credit or Alternate Security;

(b) the removal or resignation of the Trustee or Paying Agent and the naming of a successor Trustee or Paying Agent, as the case may be, pursuant to Article X hereof;

(c) the removal or resignation of the Remarketing Agent and the naming of a successor Remarketing Agent pursuant to Article XIII hereof;

(d) the conversion or failed conversion of the Bonds as required by Section 2.03 hereof;

(e) the redemption or defeasance of the Bonds;

(f) the execution and delivery of any Supplemental Ordinance adopted pursuant to Section 12.03 hereof;

(g) any amendment, change or modification of the Installment Sale Agreement pursuant to Section 12.07 hereof; and

(h) any event of default under an Reimbursement Agreement.

Section 15.11. Surrender of Senior Unsecured Notes. Whenever the principal of any Bonds shall have been paid (or shall be deemed to have been paid within the meaning of this Ordinance) whether upon the redemption or prepayment or upon the maturity or acceleration thereof, or Bonds shall have been delivered to the Trustee by the Company for cancellation or acquired by the Trustee (other than by tender pursuant to Section 2.03 hereof) pursuant to this Ordinance with moneys available hereunder, an equal aggregate principal amount of corresponding Senior Unsecured Notes (or Corresponding Securities, in the event of an exchange pursuant to Section 12.09(b) hereof) maturing on the same date or dates as said Bonds paid, delivered or acquired, shall be surrendered by the Trustee to the trustee under the Company Indenture for cancellation, and upon such surrender said amount of Senior Unsecured Notes (or

Corresponding Securities, as the case may be) shall be deemed fully paid; provided that, with respect to any such Bonds that were paid or deemed to have been paid with moneys drawn under a Letter of Credit, no such Senior Unsecured Notes (or Corresponding Securities, as the case may be) shall be surrendered by the Trustee for cancellation or deemed fully paid unless and until the Bank shall have been fully reimbursed therefor under the Reimbursement Agreement.

Section 15.12. Headings; Table of Contents. The division of this Ordinance into sections, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

Section 15.13. Acceptance by Trustee. The execution by the party designated and appointed Trustee of the acceptance set forth at the end of this Ordinance certified by the City Clerk shall be sufficient to constitute said party as Trustee hereunder in accordance with the provisions hereof without the execution of any other instrument.

Section 15.14. Declaration of Emergency. The City Council declares that emergency circumstances exist which are of an immediate danger to the public health, safety and welfare of the City and that this Ordinance shall therefore take effect immediately.

Passed, Adopted, Signed and Approved this ____ day of _____, 2016.

_____
Tommy Roberts, Mayor

(Seal)

Attest:

_____
Dianne Smylie, City Clerk

I, Tommy Roberts, Mayor of the City of Farmington, New Mexico, do hereby declare that, pursuant to Section 3-17-3 N.M.S.A. 1978, this Ordinance deals with an emergency of an immediate danger to the public health, safety and welfare of the City, and any publication of such Ordinance prior to its adoption is hereby declared to be unnecessary.

_____

Mayor

ACCEPTANCE OF DUTIES BY TRUSTEE

_____ as Trustee, hereby accepts as of _____, 2016 the Trust imposed under the foregoing Ordinance and the duties and obligations imposed on the Trustee thereby.

_____

By: _____
Title:

ORDINANCE NO. 2016-1290

AN ORDINANCE AMENDING SECTION 23-2-7 OF THE FARMINGTON CITY CODE ESTABLISHING RESIDENTIAL AND COMMERCIAL CHARGES FOR SANITATION SERVICE

WHEREAS, the City of Farmington has contracted with Waste Management of New Mexico, Inc., to provide solid waste sanitation disposal services for the City; and

WHEREAS, said contract will become effective September 1, 2016, and certain rates and fees for sanitation service need to be amended to comply with the provisions of the contract; and

WHEREAS, amendments to Section 23-2-7 of the Farmington City Code will allow the City to fulfill its obligations under the contract.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON:

SECTION 1: Sec. 23-2-7(a)(1) of the Farmington City Code (Individual residential solid waste and curbside recycling service - four units or less) is amended to read as follows:

Individual residential solid waste and curbside recycling service (four units or less). Individual solid waste service rates under this subsection shall be $11.47 per month per single-family unit and residential curbside recycling service rates under this subsection shall be $4.46 per month per single-family unit. These rates shall apply to individual homes, individual mobile homes, duplexes, triplexes, fourplex units, condominiums, small mobile home parks whether or not spaces are occupied, and multifamily or apartment buildings which contain four or fewer single-family units. Each single-family unit which is subject to the individual residential service rate shall be provided with one polycart container in which to place solid waste in accordance with the other regulations provided within this chapter. Each residential family unit that requests recycling service shall be provided with one polycart container for the collection of recyclable materials. Residents who choose not to participate in the recycling program will not be provided a recycling container but will still be assessed the full monthly service fee. This fee shall be based on the actual unit cost attributed to the recycling program. Any single-family residential unit requesting more than one solid waste polycart container shall be provided with the applicable additional container at a rate of $3.05 per month per single-family unit per additional container. Any single-family residential unit requesting more than one curbside recycling container shall be provided with the applicable additional container at a rate of $3.97 per month per single-family unit per additional container.

SECTION 2: Sec. 23-2-7(a)(3) of the Farmington City Code (Low income individual residential service) is amended by deleting "$10.55 per month" at the end of the paragraph and substituting "the standard residential rate."

SECTION 3: Sec. 23-2-7(d)(1) of the Farmington City Code (Extra Collections) is amended to read as follows:

Extra collections. Extra collection charges requiring more than seven collections per week.

Per Collection	Container (bin) size cubic yards
$ 44.44	1-1/2 or less
59.71	2
70.67	3
85.32	4
113.35	6
151.07	8

SECTION 4: Sec. 23-2-7(d)(2) of the Farmington City Code (Lid Lock service charges) a. "Non-automatic lock" is amended by deleting the figure $3.13 and substituting the figure $3.40; b. "Automatic Locks" is amended by deleting the figure $4.76 and substituting the figure $5.17, and deleting the figure $9.52 and substituting the figure $10.35.

SECTION 5: Sec. 23-2-7(d)(3) of the Farmington City Code (Special access service charge) is amended by deleting the "*Collections Per Week*" and "*Rate*" schedule and substituting the following "*Collections Per Week*" and "*Rate*" schedule:

Collections Per Week	Rate
1	$11.12
2	22.22
3	33.33
4	44.47
5	55.54
6	66.67
7	77.76

SECTION 6: Sec. 23-2-7(d)(4) of the Farmington City Code (Commercial corrugated cardboard collection service) is amended to read as follows:

> *Commercial corrugated cardboard collection service.* Charges for commercial corrugated cardboard collection service shall be as follows for all businesses that elect to use and pay for this service:

	Frequency of Collections Per Week Monthly Charges	
Container Size in Cubic Yards	1	2
2	$ 34.61	$ 69.21
4	55.36	110.73
6	76.12	124.59
8	103.81	138.44

SECTION 7: Sec. 23-7-(d)(5) of the Farmington City Code (Cleaning and sanitizing commercial containers) is amended by adding "This charge is for services of repair, washing and maintenance beyond the required standards provided in the contractor agreement with the city" at the end of the paragraph.

SECTION 8: The above rates will become effective the first cycle billing in September, 2016.

SECTION 9: That the remaining provisions of Chapter 23 of the Farmington City Code shall remain unchanged.

PASSED, SIGNED, APPROVED and ADOPTED this 9th day of August, 2016.

_____
Tommy Roberts, Mayor

SEAL

ATTEST:

_____
Dianne Smylie, City Clerk

CITY OF FARMINGTON
INTER-OFFICE MEMORANDUM

TO: Mayor Roberts and City Council

FROM: Kristi Benson, CPPO, CPPB KB
Chief Procurement Officer

DATE: August 4, 2016

SUBJECT: Solid Waste Collection Services, RFP #16-112345

USING DEPARTMENT: Public Works

==========

A proposal opening was held on February 3, 2016 for Solid Waste Collection Services. One (1) offer was submitted.

The name of the business submitting the sole response is Waste Management of New Mexico, Inc., Farmington, NM.

The Central Purchasing Department concurs with the recommendation from the evaluation committee to award the contract to Waste Management of New Mexico, Inc. as a qualified firm submitting the only responsive proposal which is deemed to be advantageous and in the best interest of the City. The single response documentation memo is attached. Award is based on the pricing schedule for services as required. Waste Management of New Mexico, Inc. qualified for the 5% in-state preference.

Kristi Benson (Presenter)
Council Meeting 8/9/16 Close/Reopen

xc: Andy Mason, Administrative Services Director
David Sypher, Public Works Director
File - BID #16-112345/KR

Evaluation Committee:
David Sypher, Public Works
Bob Campbell, Administration
Jeff Smaka, Public Works
Nicki Parks, Electric Utility
Laurie Richardson, Electric Utility

CITY OF FARMINGTON
CENTRAL PURCHASING
INTER-OFFICE MEMORANDUM

TO: Solid Waste Collection Services, RFP #16-112345

FROM: Kay Rose, Buyer II

DATE: April 6, 2016

SUBJECT: Single Response Documentation

==========

Twenty-Two (22) Companies were notified of this solicitation.

The following firms were contacted regarding this solicitation and requested information regarding their decision not to respond to the above RFP.

Their decision was based on the following:

(1) All American Waste Removal: Does not provide residential service.

(2) Western Disposal Services: Family owned company that only services Boulder, CO.

(3) Republic Services: Does not directly service New Mexico customers. They typically contract a third party hauler such as Waste Management.

(4) Transit Waste LLC (WCA): Certain responses in the addenda inhibited their ability to produce a proposal.

(5) Advanced Environmental Solutions: Only provides disposal of specialty wastes, such as hazardous materials.

xc: Kristi Benson, CPPO, CPPB, Purchasing Supervisor

Regular Meeting of the City Council, City of Farmington, New Mexico, held in the Council Chamber at City Hall at 6:00 p.m. on Tuesday, July 26, 2016. The open regular session was held in full conformity with the laws and ordinances and rules of the Municipality.

Upon roll call, the following were found to be present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Linda G. Rodgers Sean E. Sharer Gayla A. McCulloch Nate Duckett

constituting all the members of said Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Julie Baird
CITY ATTORNEY	Jennifer Breakell
CITY CLERK	Dianne Smylie

The meeting was convened by the Mayor. Thereupon the following proceedings were duly had and taken:

INVOCATION: The invocation was offered by Pastor David Florez of The Journey Church.

City Clerk Dianne Smylie led the Pledge of Allegiance.

CONSENT AGENDA: The Mayor announced that those items on the agenda marked with an asterisk (*) have been placed on the Consent Agenda and will be voted on without discussion by one motion. He stated that if any item did not meet with approval of all Councilors or if a citizen so requested, that item would be removed from the Consent Agenda and heard under Business from the Floor.

*MINUTES: The minutes of the Regular Meeting of the City Council held July 12, 2016 and the amended minutes of the Regular Meeting of the City Council held June 28, 2016.

*BID: The Chief Procurement Officer recommended that the bid for purchase of 500 MCM cable (Electric) be awarded to Wesco on its low bid offering the shortest delivery schedule after application of five percent in-state preference of $130,650; to reject the alternate bid received from Western United Electric for having a longer delivery schedule; and to not award the Option (Item B) listed on the bid schedule because it is not in the best interest of the City. Bids opened July 20, 2016 with six bidders participating.

*WARRANTS PAYABLE for the time period of July 10, 2016 through July 23, 2016, for current and prior years, in the amount of $8,533,685.41.

There being no requests to remove any items, a motion was made by Councilor Rodgers, seconded by Councilor Sharer to approve the Consent Agenda, as presented, and upon voice vote the motion carried unanimously.

PRESENTATION/PADDLE & SHIVER SHACK/VENDOR AT LAKE FARMINGTON

Mayor Roberts announced that staff has determined that it would be best for Greg Vick, owner of Paddle & Shiver Shack, to postpone his presentation until the Parks, Recreation & Cultural Affairs Department presents their end-of-year report to the Council after the swim season has ended.

REAPPOINTMENTS TO THE CABLE AND COMMUNICATIONS COMMISSION

Mayor Roberts asked the Council's consideration of the reappointments of L. Paull Holmes, Jarrette Bishop and Daniel Ziesmer (terms to July, 2018) as members of the Cable and Communications Commission.

Thereupon, a motion was made by Councilor Duckett, seconded by Councilor McCulloch to confirm the reappointments of L. Paull Holmes, Jarrette Bishop and Daniel Ziesmer as members of the Cable and Communications Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

REAPPOINTMENTS TO THE LODGER'S TAX ADVISORY BOARD

Mayor Roberts asked the Council's consideration of the reappointments of Karen Ellsbury, Dan McMullen and Dorothy Nobis (terms to July, 2018) as members of the Lodger's Tax Advisory Board.

Thereupon, a motion was made by Councilor Duckett, seconded by Councilor McCulloch to confirm the reappointments of Karen Ellsbury, Dan McMullen and Dorothy Nobis as members of the Lodger's Tax Advisory Board, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

COUNCIL BUSINESS

Law Enforcement Appreciation

In light of recent events across the country, Councilor Duckett extended his appreciation to the local businesses who offered free coffee and breakfast for law enforcement officers as a gesture of their support.

Mayor Roberts thanked Councilors Duckett and Sharer for spearheading the event.

CITY MANAGER BUSINESS

Fiscal Year 2017 Infrastructure Capital Improvement Plan (ICIP)

City Manager Rob Mayes directed the Council's attention to pages 2.0 through 2.5 of the agenda materials and explained that the purpose for tonight's discussion is to provide staff with direction on the Fiscal Year 2018-2022 Infrastructure Capital Improvement Plan ("ICIP"). He asked the Council to review the list of potential projects to ensure that the listing is complete and noted that staff is recommending that the projects identified on last year's ICIP be resubmitted as he believes that these projects meet the guidelines established by the Governor for selecting ICIP projects for funding. He stated that the following projects were designated as the top six ICIP projects for Fiscal Year 2017-2021: 1) Villa View Detention Pond; 2) Zone 2P Waterline; 3) Foothills Drive Enhancements (Rinconada to Lakewood); 4) Downtown Revitalization - Complete Streets Phase I; 5) Pinon Hills Boulevard Bridge and Extension; and 6) River Trail and Walking Bridges.

There being no discussion, Mayor Roberts announced that the Council will be asked to select the top projects at the August 9, 2016 regular City Council meeting with the correlating resolution being presented for consideration at the August 16, 2016 regular City Council Work Session.

FY16 Final Budget Revision

Mr. Mayes presented and read by title Resolution No. 2016-1595 approving the final revision to the FY16 budget. The title of such resolution being:

A RESOLUTION APPROVING THE FINAL REVISION TO THE FY16 BUDGET AND REQUESTING STATE APPROVAL.

Administrative Services Director Andy Mason provided a brief explanation of the proposed budget revisions.

Thereupon, a motion was made by Councilor McCulloch, seconded by Councilor Duckett to pass and adopt Resolution No. 2016-1595, as presented. The roll was called with the following result:

Those voting aye:	Linda G. Rodgers Sean E. Sharer Gayla A. McCulloch Nate Duckett
Those voting nay:	None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried and Resolution No. 2016-1595 was duly passed and adopted.

CITY ATTORNEY BUSINESS

City Attorney Jennifer Breakell presented for discussion a proposed ordinance establishing charges for sanitation service. The title of such proposed ordinance being:

AN ORDINANCE AMENDING SECTION 23-2-7 OF THE CITY CODE ESTABLISHING RESIDENTIAL AND COMMERCIAL CHARGES FOR SANITATION SERVICE.

There being no discussion, Ms. Breakell announced that the proposed ordinance will be presented for final action at the August 9, 2016 regular City Council meeting.

There being no further business to come before the Council, the meeting was adjourned at 6:18 p.m.

The City Clerk certified that notice of the foregoing meeting was given by posting pursuant to Resolution No. 2013-1466, et seq.

Approved this 9th day of August, 2016.

Entered in the permanent record book this day of , 2016.

_____
Tommy Roberts, Mayor

SEAL

ATTEST:

_____
Dianne Smylie, City Clerk

Work Session of the City Council, City of Farmington, New Mexico, held Tuesday, July 19, 2016 at 9:00 a.m. in the Executive Conference Room at City Hall, 800 Municipal Drive, Farmington, New Mexico, in full conformity with the rules, regulations and ordinances of the municipality.

At such meeting the following were present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Linda G. Rodgers Sean E. Sharer Gayla A. McCulloch Nate Duckett

constituting all the members of the Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Julie Baird
CITY ATTORNEY	Jennifer Breakell
CITY CLERK	Dianne Smylie
DEPUTY CITY CLERK	Andrea Jones

MOMENT OF SILENCE

Mayor Roberts asked for a moment of silence in remembrance of the slain Police Officers in Dallas, Texas and Baton Rouge, Louisiana.

EMPLOYEE OF THE MONTH PROGRAM AWARD

Employee Council President Kathy Farley recognized Police Officer Nicholas Adegite as the Employee of the Month award recipient for May 2016. Mr. Adegite was presented with a plaque and gift certificate and the Mayor and Council expressed their appreciation for his dedication to the City.

FARMINGTON CONVENTION AND VISITORS BUREAU ANNUAL REPORT

Utilizing a Powerpoint presentation, Farmington Convention and Visitors Bureau ("CVB") Executive Director Tonya Stinson reviewed the 2015 "Visit Farmington" marketing campaign which consisted of television commercials, radio broadcasts, billboards, print and online advertisements and listings. In addition to the marketing campaign, she reported that the CVB launched a new responsive website that works on desktop computers, smart phones and/or tablets and happily announced that the calendar feature of the website receives approximately 1,000 views per day. Ms. Stinson explained that while definitive statistical data is nearly impossible to obtain the CVB measures its success by communicating with local hotels, attractions and shops regarding visitation; analyzing website visitation data; reviewing the Lodgers' Tax collection and occupancy rates; and performing an internal conversion study to measure advertisement performance and visitor trends. Ms. Stinson stated that a CVB-member hotel reported a 40 percent decrease in corporate travel in the fourth quarter of 2015 but overall was only down 5.5 percent due to an increase in leisure travel and she reported that the overall lodging occupancy rate for this month compared to this month last year has increased by 3 percent. She briefly reviewed the meetings, conventions and events that the CVB assisted with in 2015 and provided an update on the entryway monuments, noting that obtaining bids for the construction of the monuments is the next step in the process. Ms. Stinson detailed the newly implemented customer service program entitled Farmington Visitor Journey A2D and happily reported that 136 individuals in Farmington have completed the program to-date. Additionally, she reviewed the 2016 Media Familiarization trip which brought six travel writers to the area and presented the historical projects of the San Juan County Film Office, noting that she is the liaison to the New Mexico Film Office. Ms. Stinson detailed the efforts of the Farmington Branding Alliance to deliver on the promise that Farmington is a community where outdoor lovers and active families thrive; pointed out that community members are continually encouraged to utilize the branding hashtags (#JoltYourJourney, #LiveFarmington, #PlayFarmington, #StayFarmington and #WorkFarmington) when posting on social media; and

noted that the CVB has obtained a canopy tent and special event banners to help promote the "Jolt Your Journey" campaign at community events.

In response to Councilor Duckett's inquiry, Ms. Stinson reported that the lack of activity tour guides and rental facilities (such as those found in communities like Moab, Utah) is the biggest piece of negative feedback that the CVB receives from tourists. Responding to multiple inquiries from Councilor McCulloch, Ms. Stinson confirmed that New Mexico is the number one targeted area for the CVB's marketing campaign and stated that the CVB's marketing material appears in approximately four issues of New Mexico Magazine annually.

Mayor Roberts commended the accomplishments and progress of the CVB after facing adversity from the previous Executive Director and he expressed his appreciation for the key role the CVB has played in creating positive energy within the community. Councilors Rodgers and Duckett echoed the Mayor's sentiments and thanked Ms. Stinson and the CVB staff for their hard work and efforts toward promoting Farmington and the Four Corners area.

CVB President Tom Wheeler thanked the Mayor, Council, City Manager Rob Mayes and Assistant City Manager Julie Baird for their support of the CVB's efforts.

PRESENTATION/ENERGY EFFICIENCY UPGRADES TO FORM AN ENERGY SAVINGS PERFORMANCE CONTRACT

Providing opening remarks, City Manager Rob Mayes reported that staff is recommending that the findings of the Investment Grade Audit be separated into phases and stated that staff is seeking approval to proceed with only cost-neutral improvements. Additionally, he pointed out that the next step is to finalize the bonding program and draft the corresponding ordinance and he confirmed that the building expansion and "face-lift" of City Hall is not included in staff's recommendation because the necessary improvements are not cost-neutral.

Noting that the Council authorized the Investment Grade Audit in October of 2015, Assistant City Manager Julie Baird distributed a handout that illustrates a "snapshot" of the best energy savings package for the City and introduced Energy Control Inc. ("ECI") Regional Development Manager John McAllister. Mr. McAllister recognized ECI General Manager David Frederick and Opterra Energy Services Project Manager George Haramis who were present in the audience and reported that ECI has developed a proposal that will reduce the City's annual electric and gas utility expenditures from approximately $1 million by $300,000 with the implementation of the energy efficiency upgrades. He reported that the guaranteed savings would then be used to pay for the energy efficiency upgrades. He noted that the guarantee is secured by a third party through a performance bond.

Utilizing a PowerPoint presentation, Mr. McAllister provided a brief program overview and emphasized that ECI is a stable, well-qualified company with a large staff that has proven its performance with clientele such as McKinley County, the City of Hobbs and the University of New Mexico. He reported that the City's energy use is comprised of natural gas (52 percent) and electricity (48 percent) and stated that the top 12 energy using facilities will save approximately 25 percent in annual energy usage (30 percent in annual costs guaranteed) through the Energy Savings Performance Contract ("ESPC"). He stressed that there is a delicate "balance" when weighing the benefits of annual energy savings versus the expense of installing retrofits and upgrading equipment in an ESPC. Additionally, he explained that the ESPC aims to reduce energy loads, improve controls, downsize or "right-size" high efficiency equipment and systems and integrate systems and he detailed the various energy efficient technologies that are currently available. Mr. McAllister reported that the facility condition assessments revealed opportunities to improve lighting, cooling, boiler and building automation systems and he discussed the various energy efficient solutions which include upgrades such as light-emitting diode ("LED") lighting, variable speed pumps and controls, high efficiency equipment, load matching, direct digital controls, occupancy sensor modes and smart meters. Furthermore, he provided an illustration of a smart meter's interface and detailed its ability to track actual energy usage versus baseline energy usage versus targeted energy usage. Noting that the Farmington Regional Animal Shelter is a new facility and is not included in the recommendations, Mr. McAllister stated that lighting upgrades are recommended for all of the facilities and

specifically reviewed the recommended upgrades for the Aquatics Center, Annex West, Civic Center, Gateway Museum and City Hall.

Responding to multiple inquiries by the Mayor, Mr. Mayes reported that the recommended $1.2 million in energy efficiency upgrades for the Civic Center are not included in the ESPC and confirmed that they are included in the estimated $4.5 million required improvements of the Civic Center expansion which is funded by fees collected through the Convention Center Financing Act. In addition, Mr. Mayes reiterated that the City Hall building expansion and "facelift" are not included in the ESPC because they are not cash-neutral and he noted that the cash-funded improvements can be separated into phases and implemented at a later date.

Continuing with the presentation, Mr. McAllister reported that RBC Capital Markets will be working with City staff as the municipal advisor to determine what financing option is best for the City and he provided an illustration on how energy efficiency improvements can be self-funding through ESPC. Additionally, Mr. Mayes pointed out that after the term of the loan (15 years) for the energy efficiency improvements the debt service payments will cease but the annual savings will continue to be realized by the City. Mr. McAllister confirmed that the targeted energy savings of $300,000 is a conservative projection and stated that any additional energy savings will only accrue to the City. He provided a pro forma of a 15-year financing program with a conservative interest rate of 3.5 percent and total financed amount of $4.3 million and he illustrated the total annual cash flows over the next 16 years. Mr. McAllister reported that ECI will perform annual measurements and verification, provide web-based electric meter monitoring, review key performance indicators, compare data with utility billing data, perform monthly reviews with City staff and provide an annual report to the Council and the New Mexico Department of Energy, Minerals and Natural Resources for the length of the ESPC and stated that ECI will provide City staff with operation and maintenance training on the energy efficiency upgrades.

In response to Councilor Duckett's inquiry, Mr. McAllister stated that most of the upgrades can be performed with minimal interruption to services and reported that construction scheduling will be coordinated with City staff to minimize any impact. Responding to Councilor McCulloch's concerns, Mr. McAllister stated that the new equipment will have manufacturer warranties but pointed out that the new equipment will likely have more maintenance costs but will be "tunes-up" rather than catastrophic failures. To answer Councilor Rodgers' question, Mr. McAllister reported that the measurement and verification costs on the pro forma are the costs for ECI to oversee and conduct reviews of the ESPC, noting that those costs can be renegotiated in the future. Responding to Mayor Roberts' inquiry, Mr. Mayes reported that the total construction timeline is approximately one year.

Following further discussion, a motion was made by Councilor McCulloch, seconded by Councilor Rodgers to direct staff to proceed with bonding options to finance the construction phase of the Energy Savings Performance Contract and to draft the corresponding ordinance.

Responding to Councilor McCulloch's question, Mr. Mayes confirmed that the guaranteed energy savings will fund the debt service of the bond in its entirety.

The Mayor called for the vote upon the motion to direct staff to proceed with bonding options to finance the construction phase of the Energy Savings Performance Contract and to draft the corresponding ordinance, and upon voice vote the motion carried unanimously.

BID/TESTING AND COMMISSIONING OF THE AZTEC SUBSTATION

Chief Procurement Officer Kristi Benson reported that bids for the testing and commissioning of the Aztec Substation (Electric) opened on July 12, 2016 with six bidders participating. She recommended that the bid be awarded to Electric Power Systems on its low bid meeting specifications of $128,700 and that the bids received from Manta IV Engineering and Western Electrical Services be rejected for not meeting specifications.

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor Duckett to award the bid for testing and commissioning of the Aztec Substation to Electric Power Systems as the lowest responsible bidder and that the bids received from Manta IV Engineering and Western Electrical Services be rejected for not meeting specifications, and upon voice vote the motion carried unanimously.

COUNCIL BUSINESS

First Responders Appreciation Coffee

Councilor Duckett reminded Police Chief Steve Hebbe and Fire Chief Terry Page of the First Responders Appreciation Coffee hosted by the Farmington Branding Alliance "Live" Committee to be held at 8:00 a.m. on July 20 at 302 Main Espresso in appreciation of the first responders who make Farmington and San Juan County a safe place to live, stay, work and play.

Automated traffic signal system on Main Street

Councilor McCulloch voiced her frustration that the automated traffic signal system on Main Street allows very little traffic to flow from intersecting side streets. Noting that priority has been placed on increasing traffic flow along Main Street, City Manager Rob Mayes stated that staff will investigate the automated settings to reach a more equitable traffic flow rate between Main Street and its intersecting side streets.

34th Annual Rod Run

Councilor Duckett questioned whether there is a way to gauge the annual Rod Run's success this year versus previous years. City Manager Rob Mayes reported that obtaining an accurate participant count is extremely difficult because of the "come and go" nature of the event and Parks, Recreation & Cultural Affairs Director Cory Styron stated that anecdotally there were more participants this year versus last year even though there were fewer cars. In response to the Mayor's request, Mr. Styron confirmed that staff would compile an "after-action" summary of the event and distribute it to the Council for review.

VOTING DELEGATE AND ALTERNATE FOR THE 2016 NEW MEXICO MUNICIPAL LEAGUE ANNUAL BUSINESS MEETING

A motion was made by Councilor McCulloch, seconded by Councilor Duckett to designate City Manager Rob Mayes as the voting delegate and City Attorney Jennifer Breakell as the alternate voting delegate to represent the City of Farmington at the New Mexico Municipal League Annual Business Meeting to be held in Hobbs, New Mexico on September 1, 2016, and upon voice vote the motion carried unanimously.

APPOINTMENT TO THE ANIMAL SERVICES ADVISORY COMMISSION

Mayor Roberts asked the Council's consideration of the appointment of Andrea Utton (2nd Alternate) (term to August, 2017) as a member of the Animal Services Advisory Commission.

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor Duckett to confirm the appointment of Andrea Utton (2nd Alternate) as a member of the Animal Services Advisory Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

There being no further business to come before the Council, the meeting was adjourned at 10:49 a.m.

APPROVED this 9th day of August, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk