RESOLUTION NO. 2012-1446

A RESOLUTION AUTHORIZING CONSIDERATION AT A SUBSEQUENT MEETING OF THE CITY COUNCIL OF PROPOSED ORDINANCE OR ORDINANCES PERTAINING TO THE ISSUANCE OF THE CITY'S POLLUTION CONTROL REVENUE REFUNDING BONDS, 2012 SERIES (PUBLIC SERVICE COMPANY OF NEW MEXICO SAN JUAN PROJECT) IN ONE OR MORE SERIES; APPOINTING COUNSEL IN CONNECTION THEREWITH; AUTHORIZING PUBLICATION OF NOTICE OF PUBLIC HEARING ON BEHALF OF THE CITY OF FARMINGTON AND THE COUNTY OF SAN JUAN REGARDING THE PROPOSED ISSUANCES FOR FEDERAL TAX PURPOSES; AUTHORIZING THE MAYOR OR OTHER AUTHORIZED OFFICIAL TO DESIGNATE A HEARING OFFICER TO CONDUCT SUCH HEARING; AUTHORIZING PUBLICATION OF NOTICE OF THE PROPOSED ORDINANCE OR ORDINANCES; AND SPECIFYING CERTAIN CONDITIONS CONCERNING THE PARTICIPATION OF THE CITY IN THE TRANSACTIONS CONTEMPLATED BY THE PROPOSED ORDINANCE

WHEREAS, the City has heretofore issued and sold $20,000,000 aggregate principal amount of its Pollution Control Revenue Bonds, 2007 Series A (Public Service Company of New Mexico San Juan Project) (the "2007 Bonds") 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 Solid Waste Disposal Facilities at the San Juan Generating Station (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, 2012 Series (Public Service Company of New Mexico San Juan Project) with such further designations as necessary to distinguish among the series (the "2012 Bonds") to be issued in an aggregate principal amount sufficient to refund all or a portion of the 2007 Bonds; and

WHEREAS, the City has received a letter or letters 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 of the proposed issuance of the Bonds ("TEFRA Notice") by publication in the Farmington Daily Times, a newspaper of general circulation in the City of Farmington and San Juan County of such TEFRA Notice as provided by Bond Counsel in form and substance satisfactory to the City and its Special Counsel.

Section 3. The Mayor or other authorized official is hereby authorized to appoint a hearing officer to conduct the hearing referred to in such TEFRA Notice on behalf of the City and, provided the San Juan County Commission has so authorized, on behalf of San Juan County.

Section 4. The City Council at a regular or special meeting as the Mayor or other authorized official shall designate, at the Municipal Building in the City at the regular meeting place of the City Council,

will consider the adoption of the proposed ordinance or ordinances (collectively, the "Proposed Ordinances") authorizing issuance of the Series 2012 Bonds.

Section 5. 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 Proposed 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. The notice shall set forth the time and place of the meeting or meetings of the City Council at which the adoption of the Proposed Ordinances are to be considered, and shall state that copies of the Proposed Ordinances are available to interested parties during normal and regular business hours at the office of the City Clerk, beginning with the date of publication and continuing to the date of consideration of the Proposed Ordinances by the City Council.

Section 6. 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 7. 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 8. The Company understands and acknowledges the neither the City's pollution control revenue refunding 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 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.

PASSED, ADOPTED, SIGNED AND APPROVED this 14th day of August, 2012.

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Tommy Roberts Mayor

SEAL

ATTEST:

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Dianne Fuhrman, City Clerk