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1 WHEREAS, Zia Energy Real Estate, LLC (the “Company”) is a Limited Liability
2 Company organized under the laws of the State of New Mexico and is authorized to
3 do business in New Mexico; and

4 WHEREAS, the Company has requested that the City issue its industrial revenue
5 bond pursuant to the Act for the purpose of providing funds to finance the
6 acquisition, improvement and equipping of facilities within the corporate limits of the
7 City (the “Project”); and

8 WHEREAS, the City Council of the City of Albuquerque (the “Council”) has
9 adopted an ordinance establishing the Albuquerque Development Commission (the
10 “Commission”) to review projects proposed to be financed with an industrial revenue
11 bond pursuant to City Resolution No. 16-1985, as amended; and

12 WHEREAS, the Company has presented to the City and the Commission a
13 proposal (the “Project Plan”) whereby the City shall, pursuant to the Act, acquire
14 certain property and equipment (the “Project Property”) for the purpose of operating
15 facilities at 3900 Singer Blvd., NE, covering at least 3.522 acres including a 29,560
16 square foot building, for a renewable energy production and storage technology
17 research and development company, within the boundaries of the City, and pursuant
18 to which the City would issue its taxable industrial revenue bond in order to finance
19 the Project; and

20 WHEREAS, the Commission has reviewed the Project Plan, and on April 8,
21 2021, has determined that the Company has complied with City Resolution No. 16-
22 1985, and has recommended approval of the Project Plan by the Council; and

23 WHEREAS, under the Company’s Project Plan, the City would enter into an
24 Indenture dated as of May 1, 2021 (the “Indenture”) between the City and a
25 corporate depository satisfactory to the City to be designated at a later date, as
26 depository (the “Depository”), pursuant to which, together with this ordinance (the
27 “Bond Ordinance”), the City would issue its bond designated as the City of
28 Albuquerque, New Mexico Taxable Industrial Revenue Bond (Affordable Solar
29 Project), Series 2021 (the “Bond”); and

30 WHEREAS, under the Company’s Project Plan, the City and the Company would
31 enter into a Lease Agreement dated as of May 1, 2021 (the “Lease”), pursuant to
32 which the Company will lease the Project Property from the City and will make
33 payments to the Depository sufficient to pay the principal of, redemption premium, if

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1 any, and interest on the Bond, and to pay all other obligations incurred pursuant to
2 the provisions of the Lease and the Bond Ordinance; and
3 WHEREAS, under the Company's Project Plan, the Lease will provide that the
4 Company shall maintain the Project and carry all proper insurance with respect
5 thereto; and
6 WHEREAS, the proceeds of the Bond shall be used for the purpose of financing
7 the acquisition, improvement and equipping of the Project (the "Financing"); and
8 WHEREAS, the City is authorized to enter into the Lease, the Indenture, and
9 other related documents and to issue the Bond pursuant to the Act and the Bond
10 Ordinance; and
11 WHEREAS, the Bond in an aggregate principal amount not to exceed
12 \$7,578,000 will be issued, sold, and delivered by the City in a private sale to an
13 affiliate of the Company (the "Purchaser") pursuant to a bond purchase agreement
14 (the "Bond Purchase Agreement") among the City, the Company, and the
15 Purchaser; and
16 WHEREAS, the proceeds of the Bond shall be applied to pay the costs of the
17 Project and to pay certain costs associated with the transaction; and
18 WHEREAS, after having considered the provisions of the Project Plan and the
19 Financing, the Council has concluded that it is in the best interest of the City to
20 authorize the issuance of the Bond to finance the Project, and that the City's
21 issuance of the Bond shall constitute a valid public purpose under the Act; and
22 WHEREAS, the Council has been advised by the Company that the disclosure
23 provisions of Rule 15c2-12 of the Securities and Exchange Commission are not
24 applicable to this transaction inasmuch as the Bond is being sold to the Purchaser,
25 which is an affiliate of the Company, in a private sale without the participation of an
26 underwriter; and
27 WHEREAS, there has been published in the Albuquerque Journal, a newspaper
28 of general circulation in the City, public notice of the Council's intention to adopt this
29 Bond Ordinance, which notice contained certain information concerning the
30 ownership, purpose, location, and size of the Project and the Project Property, and
31 the amount of the Bond to be issued to finance the Project, which notice was
32 published at least fourteen (14) days prior to hearing and final action on this Bond
33 Ordinance; and

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1 WHEREAS, the proposed forms of the following documents have been filed with
2 the City Clerk and presented to the Council: (1) Project Plan; (2) Lease; (3)
3 Indenture; and, (4) Bond Purchase Agreement (collectively the "Bond Documents");
4 and

5 WHEREAS, the City has delivered notice to the County of Bernalillo, State of
6 New Mexico, of its intent to consider issuance of the Bond, which notice was given
7 at least thirty (30) days prior to the meeting at which final action is to be taken on this
8 Bond Ordinance as required by Section 3-32-6.1, New Mexico Statutes Annotated,
9 1978 Compilation, as amended.

10 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
11 ALBUQUERQUE:

12 Section 1. RATIFICATION. All actions not inconsistent with the provisions of
13 this Bond Ordinance previously taken by the Council and the officials of the City
14 directed toward approval of the issuance and sale of the Bond be approved and the
15 same hereby are ratified, approved and confirmed.

16 Section 2. THE PROJECT PLAN. The Project to be financed with the Bond
17 consists of the acquisition, improvement and equipping of facilities for a renewable
18 energy production and storage technology research and development company.
19 The Company may use additional available money to accomplish the Project. The
20 Project Plan is hereby approved in all respects.

21 Section 3. FINDINGS.

22 (A) General. The Council hereby declares that it has considered all relevant
23 information presented to it relating to the Bond and the Project and hereby finds and
24 determines that the issuance of the Bond pursuant to the Bond Ordinance and the
25 Act to provide funds for the Project is necessary and advisable and in the interest of
26 the public, and will promote the public health, safety, morals, convenience,
27 economy, and welfare of the City and the residents of the City.

- 28 (B) The Council finds that:
- 29 (1) The Bond will be issued for the purpose of financing the Project;
 - 30 (2) The aggregate face amount of obligations to be issued for the
31 purpose of financing the Project is \$7,578,000;
 - 32 (3) The developer and operator of the Project is the Company; and,
 - 33 (4) The Project Property is located in the City.

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1 Section 4. AUTHORIZATION AND APPROVAL OF THE BOND. To finance
2 the cost of acquiring the Project Property, the City hereby authorizes and approves
3 the issuance and sale of its industrial revenue bond to be designated "City of
4 Albuquerque, New Mexico Taxable Industrial Revenue Bond (Affordable Solar
5 Project), Series 2021" in a principal amount not to exceed \$7,578,000 and the use of
6 the proceeds of the Bond to finance the cost of the Project and to pay expenses
7 relating thereto.

8 Section 5. SALE OF THE BOND. The sale of the Bond to the Purchaser at a
9 purchase price equal to the par amount of the Bond is hereby authorized and
10 approved.

11 Section 6. FORM AND TERM OF THE BOND. Subject to the limitations set
12 forth in this Bond Ordinance, the Bond shall be: (i) in the form and shall be
13 numbered and dated all as set forth in the Indenture; (ii) payable as to principal and
14 interest, and subject to optional and mandatory redemption and defeasance in the
15 amounts, upon the conditions and at the times and prices set forth in the Indenture;
16 and, (iii) issued in a principal amount not to exceed \$7,578,000, bearing interest at
17 the rates and maturing on the dates set forth in the Indenture. The interest rate on
18 the Bond shall not exceed 12% per annum. The Mayor or the Chief Administrative
19 Officer of the City shall sign the Bond.

20 Section 7. AUTHORIZATION OF OFFICERS; APPROVAL OF DOCUMENTS.
21 The form, terms, and provisions of the Bond Documents in the form on deposit in the
22 office of the City Clerk are in all respects approved, authorized, and confirmed, and
23 the City shall enter into such Bond Documents substantially in the form of each such
24 document on deposit with the City Clerk, with only such changes as are not
25 inconsistent with this Bond Ordinance or such other changes as may be approved
26 by supplemental resolution of the Council.

27 (A) The Council authorizes the Mayor or the Chief Administrative Officer of the
28 City to execute and deliver the Bond Documents in the name and on behalf of the
29 City, and the Council authorizes the City Clerk or Deputy City Clerk to attest to, as
30 necessary, the Bond Documents and the Bond with such changes therein as are not
31 inconsistent with this Bond Ordinance.

32 (B) The Mayor, Chief Administrative Officer, Chief Financial Officer, City
33 Treasurer, and City Clerk are further authorized to execute, authenticate, and deliver

1 such certifications, instruments, documents, letters, and other agreements, including
2 security agreements, and to do such other acts and things, either prior to or after the
3 date of delivery of the Bond, as are necessary or appropriate to consummate the
4 transactions contemplated by the Bond Documents.

5 (C) The officers of the City shall take such action as is necessary to effectuate
6 the provisions of the Indenture and shall take such action as is necessary in
7 conformity with the Act and this Bond Ordinance to finance the costs of the Project
8 and for carrying out other transactions as contemplated by this Bond Ordinance and
9 the Bond Documents including, without limitation, the execution and delivery of any
10 closing documents to be delivered in connection with the sale and delivery of the
11 Bond.

12 Section 8. DELIVERY OF THE BOND. Upon the execution of the Bond
13 Documents and the satisfaction of the conditions set forth in the Bond Documents,
14 the Bond shall be executed, authenticated, and delivered to the Purchaser. No
15 Bond shall be valid for any purpose until such Bond has been properly authenticated
16 as set forth in the Indenture.

17 Section 9. FINDINGS REGARDING PAYMENT OF PRINCIPAL AND
18 INTEREST AND OTHER MATTERS. The Council makes the following
19 determinations and findings in accordance with the Act:

20 (A) The maximum amount necessary in each year to pay the principal of and
21 interest on the Bond, assuming issuance of the Bond on or about May 25, 2021 in
22 the amount of \$7,578,000 and bearing interest at the rate of 3% is as follows:

<u>Year Ended</u>	<u>Maturing Principal</u>	<u>Interest Amount</u>	<u>Total Debt Service</u>
23 12/31/22	\$0	\$336,219	\$336,219
24 12/31/23	\$0	504,329	504,329
25 12/31/24	\$0	504,329	504,329
26 12/31/25	\$0	504,329	504,329
27 12/31/26	\$0	504,329	504,329
28 12/31/27	\$0	504,329	504,329
29 12/31/28	\$0	504,329	504,329
30 12/31/29	\$0	504,329	504,329
31 12/31/30	\$0	504,329	504,329
32 12/31/31	\$0	504,329	504,329

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1	12/31/32	\$0	504,329	504,329
2	12/31/33	\$0	504,329	504,329
3	12/31/34	\$0	504,329	504,329
4	12/31/35	\$0	504,329	504,329
5	12/31/36	\$0	504,329	504,329
6	12/31/37	\$0	504,329	504,329
7	12/31/38	\$0	504,329	504,329
8	12/31/39	\$0	504,329	504,329
9	12/31/40	\$0	504,329	504,329
10	12/31/41	\$7,578,000	\$504,329	\$7,586,101

11 (B) The terms under which the Project Property is leased provide that the
12 Company shall maintain the Project Property and carry all proper insurance (or self-
13 insure) with respect to the Project Property.

14 (C) The lease rentals payable under the Lease shall be at least sufficient to
15 pay the principal and interest payments on the Bond set forth in Paragraph (A) of
16 this Section 9 when due and otherwise render the financing of the acquisition of the
17 Project Property entirely self-liquidating. There shall be no payments to any reserve
18 fund or sinking fund installment payments.

19 Section 10. NONTAXABLE TRANSACTION CERTIFICATES. The Company,
20 as agent for the City, will acquire the Project. The City will cooperate with the
21 Company to obtain and allow use of Type 9 Nontaxable Transaction Certificates
22 ("Certificates") that have been properly executed for acquisition of tangible personal
23 property relating to the Project as applicable under the New Mexico Gross Receipts
24 and Compensating Tax Act. The Company shall not use the Certificates other than
25 for such things as may be permitted by law, if any, nor shall the Company use such
26 Certificates after the completion of the Project. No costs, expenses or other
27 monetary relief will be recoverable from the City by vendors of equipment.

28 Section 11. LIMITED OBLIGATIONS. The Bond shall be a special limited
29 obligation of the City payable solely from the revenues derived from the Lease and
30 payable by the Company as described in the Indenture, and shall never constitute a
31 debt or indebtedness of the City or the State or any political subdivision thereof
32 within the meaning of any provision or limitation of the State Constitution, statutes, or
33 home-rule charter of the City, and shall not constitute or give rise to a pecuniary

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1 liability of the City or a charge against its general credit or taxing power. Nothing
2 contained in the Bond Ordinance or the Bond Documents, or any other instrument,
3 shall be construed as obligating the City (except with respect to the Project Property
4 and the application of the revenues therefrom and the proceeds of the Bond, all as
5 provided in the Bond Documents), nor as incurring a pecuniary liability or charge
6 upon the general credit of the City or against its taxing power, nor shall the breach of
7 any agreement contained in the Bond Ordinance, the Bond Documents, the Bonds,
8 or any other instrument be construed as obligating the City (except with respect to
9 the Project Property and the application of revenues therefrom and the proceeds of
10 the Bond all as provided in the Bond Documents) nor as incurring a pecuniary
11 liability or a charge upon the general credit of the City or against its taxing power, the
12 City having no power to pay out of its general funds, or otherwise contribute any part
13 of the costs of acquiring the Project Property, nor power to operate the Project as a
14 business or in any manner except as lessor and seller of the Project Property.

15 Section 12. APPROVAL OF INDEMNIFICATION. The Council specifically
16 approves the provisions of the Lease relating to indemnification which provide that
17 the Company shall indemnify and hold harmless the City and its City Councilors,
18 officials, members, officers, employees, and agents against liability to the Company
19 or to any third parties that may be asserted against the City, its City Councilors,
20 officials, members, officers, employees, and agents with respect to the City's
21 ownership of the Project Property or the issuance of the Bond and arising from the
22 condition of the Project Property or the acquisition or operation of the Project
23 Property by the Company, except to the extent that Section 56-7-1, New Mexico
24 Statutes Annotated, 1978 Compilation, as amended, applies, and except claims for
25 any loss or damage arising out of or resulting from the gross negligence or willful
26 misconduct of the City or any official, member, officer, employee, or agent of the
27 City.

28 Section 13. BOND ORDINANCE IRREPEALABLE. After the Bond is issued,
29 this Bond Ordinance shall be and remain irrevocable until the Bond, including all
30 interest thereon, is fully paid, cancelled, and discharged, or until there has been
31 defeasance of the Bond in accordance with the Indenture.

32 Section 14. SEVERABILITY. If any section, paragraph, clause or provision of
33 this Bond Ordinance shall for any reason be held to be invalid or unenforceable, the

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1 invalidity or unenforceability of that section, paragraph, clause, or provision shall not
2 affect any of the remaining provisions of this Bond Ordinance.

3 Section 15. REPEALER. All by-laws, ordinances, resolutions, and orders, or
4 parts thereof, inconsistent with this Bond Ordinance are repealed by this Bond
5 Ordinance but only to the extent of that inconsistency. This repealer shall not be
6 construed to revive any by-law, ordinance, resolution, or order, or part thereof,
7 previously repealed.

8 Section 16. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE
9 DATE. This Bond Ordinance, immediately upon its final passage and approval, shall
10 be recorded in the ordinance book of the City, kept for that purpose, and shall be
11 there authenticated by the signature of the Mayor and the presiding officer of the
12 City Council, and by the signature of the City Clerk or any Deputy City Clerk, and
13 notice of adoption thereof shall be published once in a newspaper that maintains an
14 office in, and is of general circulation in, the City, and shall be in full force and effect
15 five (5) days following such publication

16 Section 17. GENERAL SUMMARY FOR PUBLICATION. The title and general
17 summary of the subject contained in the Bond Ordinance shall be published in
18 substantially the following form:

19 CITY OF ALBUQUERQUE, NEW MEXICO
20 NOTICE OF ADOPTION OF ORDINANCE

21 Notice is hereby given of the title and of a general summary of the subject matter
22 contained in City Ordinance No. O-21-58 (the "Ordinance"), duly adopted and
23 approved by the City Council of the City of Albuquerque, New Mexico, on April 19,
24 2021. Complete copies of the Ordinance are available for public inspection during
25 the normal and regular business hours of the City Clerk in the office of the City
26 Clerk, Albuquerque/Bernalillo County Government Center, One Civic Plaza, N.W.,
27 Albuquerque, New Mexico.

28 The title of the Ordinance is:
29 AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF ALBUQUERQUE,
30 NEW MEXICO INDUSTRIAL REVENUE BOND (AFFORDABLE SOLAR PROJECT)
31 SERIES 2021 IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,578,000 TO
32 PROVIDE FUNDS TO FINANCE THE ACQUISITION, RENOVATION,
33 DEVELOPMENT, IMPROVEMENT AND EQUIPPING OF A FACILITY FOR A

1 RENEWABLE ENERGY PRODUCTION AND STORAGE TECHNOLOGY
2 RESEARCH AND DEVELOPMENT COMPANY; AUTHORIZING THE EXECUTION
3 AND DELIVERY OF AN INDENTURE, LEASE AGREEMENT, BOND PURCHASE
4 AGREEMENT, BOND, AND OTHER DOCUMENTS IN CONNECTION WITH THE
5 ISSUANCE OF THE BOND AND THE PROJECT; MAKING CERTAIN
6 DETERMINATIONS AND FINDINGS RELATING TO THE BOND AND THE
7 PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND
8 REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

9 The title sets forth a general summary of the subject matter contained in the
10 Ordinance.

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1 PASSED AND ADOPTED THIS 19th DAY OF April, 2021
2 BY A VOTE OF: 8 FOR 0 AGAINST.

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5 Excused: Benton

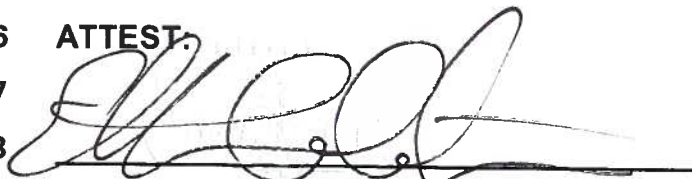
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9 Cynthia D. Borrego, President
10 City Council

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13 APPROVED THIS 27 DAY OF April, 2021

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17 Bill No. F/S O-21-58

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21 Timothy M. Keller, Mayor
22 City of Albuquerque

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26 ATTEST.

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29 Ethan Watson, City Clerk

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