

CITY of ALBUQUERQUE
NINETEENTH COUNCIL

COUNCIL BILL NO. _____ ENACTMENT NO. _____

SPONSORED BY: _____

ORDINANCE

1 **AUTHORIZING, SUBJECT TO THE APPROVAL BY THE VOTERS OF THE CITY OF**
2 **ALBUQUERQUE AT AN ELECTION TO BE HELD OCTOBER 4, 2011, THE ISSUE AND**
3 **SALE OF A MAXIMUM PRINCIPAL AMOUNT OF \$_____ CITY OF**
4 **ALBUQUERQUE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE**
5 **BONDS, TO BE ISSUED IN ONE OR MORE SERIES FOR THE PURPOSE OF**
6 **[CONSTRUCTING, PURCHASING, FURNISHING, EQUIPPING, REHABILITATING,**
7 **MAKING ADDITIONS TO OR MAKING IMPROVEMENTS TO ONE OR MORE PUBLIC**
8 **BUILDINGS AND PUBLIC FACILITIES OR PURCHASING OR IMPROVING ANY**
9 **GROUND RELATING THERETO;] PROVIDING FOR THE PAYMENT OF THE**
10 **IMPROVEMENT BONDS FROM GROSS RECEIPTS TAX REVENUES; PROVIDING FOR**
11 **CERTAIN TERMS OR THE METHOD OF DETERMINING THE TERMS AND OTHER**
12 **DETAILS OF THE IMPROVEMENT BONDS; PROVIDING FOR CERTAIN DOCUMENTS**
13 **PERTAINING TO THE IMPROVEMENT BONDS; RATIFYING ACTION PREVIOUSLY**
14 **TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE;**
15 **AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUE**
16 **AND SALE OF THE IMPROVEMENT BONDS; AND DECLARING AN EMERGENCY.**

17 Capitalized terms used in the following preambles have the same meaning as
18 attributed to them in Section 1.(A) of this Bond Ordinance unless the context requires
19 otherwise.

20 WHEREAS, the City is a legally and regularly created, established, organized and
21 existing municipal corporation with Home Rule Powers; and

22 WHEREAS, pursuant to Section 7-9-4 NMSA 1978, the State imposes a gross
23 receipts tax on persons engaging in business in the State, and pursuant to Sections 7-1-6.1
24 [and 7-1-6.4 NMSA 1978] the City receives monthly distributions from the New Mexico
25 Taxation and Revenue Department of a portion (currently 1.225% of the taxable gross
26 receipts reported for the City for the month for which such remittance is made) of such gross
27 receipts taxes; and

28 WHEREAS, pursuant to Sections 7-1-6.1 NMSA 1978 and [Chapter 116, Section 1,
29 Laws 2004,] the City receives monthly distributions from the New Mexico Taxation and
30 Revenue Department in lieu of gross receipts tax revenue that the City would have received
31 but for the deductions provided by Section 7-9-92 and 7-9-93 NMSA 1978; and

1 WHEREAS, the City has previously sold and delivered Tax Obligations of which there
2 remain Outstanding on the date of adoption of the Bond Ordinance the following aggregate
3 principal amounts:

<u>Series</u>	<u>Amount Outstanding</u>
Series 1991B Bonds	\$3,970,000*
Series 1996 Bonds	\$775,000
Series 2001 Bonds	\$325,000
NMFA Surcharge Loan Agreement	\$7,164,587
NMFA Stadium Lease Loan Agreement	\$4,889,602
Series 2004A Bonds	\$31,965,000
Series 2004B Bonds	\$27,755,000
Series 2008A Bonds	\$11,595,000
Series 2008B Bonds	\$10,785,000
Series 2009A Bonds	\$10,535,000
Series 2009B Bonds	\$27,865,000

16 *Accreted value as of January 1, 1999.

17 WHEREAS, except for the Tax Obligations listed above, on the date of adoption of
18 this Bond Ordinance, no portion of the Pledged Revenues has been pledged to the payment
19 of any other Tax Obligations; and

20 WHEREAS, the effectiveness of this Ordinance is subject to approval by the voters of
21 the City at an election to be held on October 4, 2011; and

22 WHEREAS; the Council has determined that it is in the best interests of the City and
23 its residents that the Improvement Bonds be secured by a lien (but not an exclusive lien) on
24 the Pledged Revenues on a party with the lien of the New Tax Obligations and Subordinate
25 to the lien on the Old Lien Pledged Revenues of the Old Lien Tax Obligations; and

26 WHEREAS, the Act provides that any law which authorizes the pledge of any or all of
27 the Pledged Revenues to the payment of any revenue bonds issued pursuant to the Act or
28 which affects the Pledged Revenues, or any law supplemental thereto or otherwise
29 appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly
30 modified in such a manner as to impair adversely any such outstanding revenue bonds,
31 including the Improvement Bonds, unless such outstanding revenue bonds, including the
32 Improvement Bonds, have been discharged in full or provision has been fully made therefor;
33 and

1 WHEREAS, the City is authorized by the Act to issue the Improvement Bonds as
2 bonds in one or more series the interest on which may be taxable for federal income tax
3 purposes in order to raise funds for the Projects; and

4 WHEREAS, the Council determines that it is in the best interest of the City to sell
5 each series of Improvement Bonds to the Investment Bankers at a price not less than the
6 Improvement Bonds Sale Price for each series, contingent upon approval by the Council of
7 the final terms of each series of Improvement Bonds in an Improvement Bonds Sale
8 Resolution and upon approval by the Council of the terms of an Improvement Bonds Bond
9 Purchase Agreement, all within the parameters set forth in the Bond Legislation; and

10 WHEREAS, there will be on deposit with the City Clerk and presented to the City
11 Council in connection with the Improvement Bonds Sale Resolution; and:

- 12 1. The proposed form of Improvement Bonds Bond Purchase Agreement;
- 13 2. The proposed form of Improvement Bonds Continuing Disclosure
- 14 Undertaking;
- 15 3. The proposed form of Improvement Bonds Preliminary Official Statement;
- 16 and
- 17 4. The proposed form of Improvement Bonds Official Statement.

18 WHEREAS, all required authorization, consents or approvals of any State,
19 governmental body, agency or authority in connection with the authorization, execution and
20 delivery of the Improvement Bonds: (i) which are required to have been obtained by the date
21 of the adoption of the Bond Legislation have been obtained and (ii) which will be required to
22 be obtained prior to any Improvement Bonds Closing Date will have been obtained by that
23 date.

24 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
25 ALBUQUERQUE:

26 SECTION 1. DEFINITIONS; CONSTRUCTION.

27 (A) DEFINITIONS. As used in the Bond Legislation, the following terms
28 shall, for all purposes, have the meanings specified in this Section 1.(A), unless the context
29 clearly requires otherwise (such meanings to be equally applicable to both the singular and
30 the plural forms of the terms defined):

31 ACT. The general laws of the State, including Sections 3-31-1 to 3-31-12 NMSA
32 1978, as amended and supplemented, the Home Rule Powers, the Charter of the City, and

1 all enactments of the Council, including the Bond Legislation, relating to the issuance of the
2 Improvement Bonds.

3 ACQUISITION FUND. The "City of Albuquerque, New Mexico Gross Receipts Tax
4 Improvement Bonds Projects Acquisition Fund" created in Section 16.

5 AUTHENTICATING AGENT. The Registrar and any additional or successor or
6 co-Authenticating Agent appointed from time to time by an Authorized Officer.

7 AUTHORIZED DENOMINATIONS. \$5,000 and any integral multiple of \$5,000.

8 AUTHORIZED OFFICER. The Mayor, Chief Administrative Officer, Director of
9 Finance and Administrative Services and Treasurer of the City, or other officer or employee
10 of the City when designated by a certificate signed by the Mayor of the City from time to time.
11 The certificate may designate one or more alternates.

12 BOND COUNSEL. An attorney at law or a firm of attorneys designated by the City of
13 nationally recognized standing in matters pertaining to the issuance of bonds issued by
14 states and their political subdivisions.

15 BOND INSURANCE POLICY. Any policy of municipal bond insurance with respect to
16 a series of Tax Obligations insuring the payment, when due, of the principal of and interest
17 on all or part of that series.

18 BOND LEGISLATION. This Bond Ordinance and as to any series of Improvement
19 Bonds, the applicable Improvement Bonds Sale Resolution.

20 BOND ORDINANCE. This City Ordinance Nineteenth Council Bill No. _____, as
21 amended or supplemented from time to time.

22 BOND REGISTER. The books maintained by the Registrar for the registration,
23 transfer and exchange of each series of Improvement Bonds.

24 BUSINESS DAY. Any day other than (i) a Saturday or Sunday or (ii) any day on
25 which the offices of the City and banks located in the cities in which the principal offices of
26 the Paying Agent and Registrar are located are authorized or required to remain closed or
27 (iii) a day on which the New York Stock Exchange is closed.

28 CITY. The City of Albuquerque, in the County of Bernalillo and State of New Mexico.

29 CITY CHARTER. The Charter of the City adopted pursuant to the laws of the State at
30 a special election on June 29, 1971 and amended thereafter from time to time.

31 CODE. The Internal Revenue Code of 1986, as amended from time to time. Each
32 reference to a section of the Code in the Bond Legislation shall be deemed to include the
33 final and temporary United States Treasury regulations thereunder, as the same may be in

1 effect from time to time, to the extent the same are applicable, unless the context clearly
2 requires otherwise.

3 COMPLETION DATE. The date of completion of the construction, acquisition and
4 installation of the Projects or, as to that portion of the Projects to be funded by a series of
5 Improvement Bonds and as certified pursuant to Section 17.

6 COUNCIL. The governing body in which is vested the legislative power of the City.

7 COUNSEL. An attorney at law (who may be counsel to the City).

8 CREDIT FACILITY. A letter of credit, line of credit, Bond Insurance Policy or Reserve
9 Fund Insurance Policy, guaranty or similar agreement provided by a Credit Source whose
10 senior unsecured debt is rated no lower than the current rating on the applicable Obligations
11 and in any event no lower than "AAA" by Moody's, S&P and Fitch to the extent each such
12 rating agency is then rating such Obligations to provide support to pay the purchase price of,
13 or the payment when due of the principal of and interest on, such Obligations.

14 CREDIT SOURCE. Any bank, insurance company or other financial institution which
15 provides a Credit Facility for Tax Obligations.

16 DEBT SERVICE REQUIREMENTS. With respect to Tax Obligations and for any
17 given period, the sum of: (i) the amount required to pay the interest, or to make
18 reimbursements for payments of interest, becoming due on the Tax Obligations during that
19 period; plus (ii) the amount required to pay the principal or accreted value, or to make
20 reimbursements for the payment of principal or accreted value, becoming due on the Tax
21 Obligations during that period, whether at maturity, an accretion term date or upon
22 mandatory sinking fund redemption dates, plus (iii) the periodic payments required to be
23 made by the City pursuant to a Qualified Exchange Agreement minus (iv) the periodic
24 payments to be received by the City pursuant to a Qualified Exchange Agreement. No
25 payments required for any Tax Obligations which may be tendered or otherwise presented
26 for payment at the option or demand of the owners or holders of the Tax Obligations or which
27 may occur because of the exercise of an option by the City, or which may otherwise become
28 due by reason of any other circumstance or contingency, including acceleration or Exchange
29 Termination Payments, which constitutes other than regularly scheduled payments on Tax
30 Obligations shall be included in any computation of Debt Service Requirements for that
31 period.

32 Unless, at the time of computation of Debt Service Requirements, payments on the
33 Tax Obligations are owed to, or the Tax Obligations are owned or held by, the provider of a

1 Credit Facility pursuant to the provisions of that Credit Facility, the computation of interest for
2 the purposes of this definition shall be made without considering the interest rate payable
3 pursuant to a Credit Facility.

4 In any computation of Debt Service Requirements relating to the issuance of
5 additional New Lien Tax Obligations, there shall be deducted from that computation of Debt
6 Service Requirements amounts and investments which are irrevocably committed to make
7 designated payments on the Tax Obligations during the applicable period, including, without
8 limitation money on deposit in any debt service account, amounts on deposit in an escrow
9 account irrevocably committed to make designated payments on the Tax Obligations during
10 the applicable period and earnings on such investments which are payable during the
11 applicable period.

12 For the purpose of the definition of Debt Service Requirements, the accreted value of
13 capital appreciation bonds becoming due shall be included in the calculation of accrued and
14 unpaid and accruing interest and principal only from and after the date which is one year
15 prior to the date on which the accreted value becomes payable. In addition, the definition of
16 Debt Service Requirements shall include any expense component.

17 DEFEASANCE OBLIGATIONS. The following obligations which are not redeemable
18 at the option of the City:

- 19 (1) Government Obligations; and
- 20 (2) if permitted by law, obligations described in Section 103(a) of
21 the Code, (a) provisions for the payment of the principal of, premium, if any, and interest on
22 which (i) shall have been made by the irrevocable deposit with a bank or trust company
23 acting as a trustee, escrow agent or holder of such obligations, securities described in clause
24 (1) of this definition, the maturing principal of and interest on which, when due and payable,
25 without further investment or reinvestment thereof, will provide sufficient money to pay when
26 due the principal of, premium, if any, and interest on such obligations, and (ii) which
27 securities described in clause (1) of this definition are not available to satisfy any other claim,
28 including any claim of such trustee or escrow agent or of any person claiming through such
29 trustee or escrow agent or to whom such trustee or escrow agent may be obligated, including
30 claims in the event of insolvency of such trustee or escrow agent or proceedings arising out
31 of such insolvency or (b) rated in its highest rating category (without regard to any refinement
32 or gradation thereof by numerical modifier or otherwise) by S&P or Moody's.

1 DEPOSITORY. The following registered securities depository: The Depository Trust
2 Company, 55 Water Street, 22nd Fl., New York 10041-0099, Fax (212) 855-8440, in
3 accordance with then-current guidelines of the Securities and Exchange Commission, such
4 other address and/or such other securities depositories as an Authorized Officer may
5 designate.

6 ELECTRONIC MEANS. Telephone, telecopy, telegraph, facsimile transmission or
7 any other similar means of electronic communication. Any communication by telephone as
8 an Electronic Means shall be promptly confirmed in writing, which may be by one of the other
9 means of electronic communication listed in this definition.

10 EMMA. The Municipal Securities Rulemaking Board's Electronic Municipal Market
11 Access System located on its website at emma.msrb.org.

12 EVENT OF DEFAULT. Any of the events set forth in Section 28.

13 EXCHANGE ACT. Section 6-18-8.1 NMSA 1978, as amended from time to time.

14 EXCHANGE TERMINATION PAYMENT. The net amount payable pursuant to a
15 Qualified Exchange Agreement by the City or a Qualified Counterparty to compensate the
16 other party for any losses and costs that such other party may incur as a result of the early
17 termination of the obligations, in whole or in part, of the parties under that Qualified
18 Exchange Agreement.

19 EXPENSES. The reasonable and necessary fees, costs and expenses incurred by
20 the City in connection with the issuance of the Improvement Bonds and any transaction or
21 event contemplated by the Improvement Bonds and the Bond Legislation including, without
22 limitation: (i) costs of advertising and publication of legislation relating to any series of
23 Improvement Bonds; (ii) costs of printing certificates for any series of Improvement Bonds
24 and any disclosure documents; (iii) legal fees and expenses; (iv) fees and expenses of any
25 (a) fiscal service providers, (b) underwriter (including underwriter's discount), (c) financial
26 advisor, (d) Independent Accountant, and (e) Qualified Counterparty; (v) the initial premium
27 payable to any bond insurer; (vi) disclosure matters pertaining or allocable to any series of
28 Improvement Bonds; and (vii) all reasonable and necessary fees and administrative costs of
29 the City relating to the foregoing.

30 FISCAL AGENT. Collectively, the Paying Agent, Registrar and Authenticating Agent.

31 FISCAL YEAR. The twelve-month period commencing on the first day of July of each
32 year and ending on the 30th day of June of the next succeeding year, or any other twelve-

1 month period which the City or other appropriate authority establishes as the fiscal year for
2 the City.

3 FITCH. Fitch Ratings, its successors and their assigns, and, if such entity is
4 dissolved or liquidated or no longer performs the functions of a securities ratings agency, any
5 other nationally recognized securities rating agency designated by the City.

6 GOVERNMENT OBLIGATIONS. Direct obligations of, or obligations the principal of
7 and interest on which are unconditionally guaranteed by, the United States of America or
8 certificates or receipts established by the United States Government or its agencies or
9 instrumentalities representing direct ownership of future interests or principal payments on
10 direct obligations of, or obligations fully guaranteed by, the United States of America or any
11 of its agencies or instrumentalities, the obligations of which are backed by the full faith and
12 credit of the United States, which obligations are held by a custodian in safekeeping on
13 behalf of the holders of such receipts, and rated or assessed in its highest Rating Category
14 by S&P, if then rating any series of Improvement Bonds, Moody's, if then rating any series of
15 Improvement Bonds, and Fitch, if then rating any series of Improvement Bonds, as
16 applicable.

17 GROSS RECEIPTS TAX INCOME FUND. The "City of Albuquerque Gross Receipts
18 Tax Income Fund" continued in Section 16.

19 HOME RULE POWERS. The authority of the City to exercise legislative powers
20 given pursuant to Article X, Section 6 of the Constitution of the State and the City Charter.

21 IMPROVEMENT BONDS. The "City of Albuquerque, New Mexico Gross Receipts
22 Tax Revenue Bonds" authorized by the Bond Ordinance and to be issued in one or more
23 series in accordance with the terms of the Bond Ordinance.

24 IMPROVEMENT BONDS BOND PURCHASE AGREEMENT. A bond purchase
25 agreement among the City and the Investment Bankers relating to the sale of a series of
26 Improvement Bonds to the Investment Bankers.

27 IMPROVEMENT BONDS CONTINUING DISCLOSURE UNDERTAKING. An
28 undertaking of the City for the benefit of respective Owners and beneficial owners of the
29 each series of Improvement Bonds, if required by law, pursuant to which the City will agree
30 for the benefit of the respective Owners and beneficial owners that, while the applicable
31 Improvement Bonds are outstanding, the City will annually provide certain financial
32 information and operating data and will provide notice of certain material events in
33 accordance with Rule 15c2-12 promulgated under the Securities Exchange Act of 1934.

1 IMPROVEMENT BONDS DEBT SERVICE FUND. The "City of Albuquerque, New
2 Mexico Gross Receipts Tax Improvement Revenue Bonds Debt Service Fund" created in
3 Section 16.

4 IMPROVEMENT BONDS CLOSING DATE. The date of the original issue, sale and
5 delivery to the Investment Bankers or their designee, of a series of Improvement Bonds.

6 IMPROVEMENT BONDS INSURANCE POLICY. Any Bond Insurance Policy relating
7 to the Improvement Bonds or any series thereof.

8 IMPROVEMENT BONDS INSURER. The Insurer, if any, designated in the
9 Improvement Bonds Sale Resolution or any other Insurer designated by an Authorized
10 Officer.

11 IMPROVEMENT BONDS OFFICIAL STATEMENT. The final disclosure document
12 relating to the sale of any series of Improvement Bonds (including the cover page and all
13 summary statements, appendices and other materials included or incorporated by reference
14 or attached thereto), as amended or supplemented.

15 IMPROVEMENT BONDS PRELIMINARY OFFICIAL STATEMENT. The initial
16 disclosure document relating to the sale of any series of Improvement Bonds (including the
17 cover page and all summary statements, appendices and other materials included or
18 incorporated by reference or attached thereto), as amended or supplemented.

19 IMPROVEMENT BONDS SALE PRICE. The principal amount (plus any original
20 issue premium and less any original issue discount) of each series of Improvement Bonds
21 less an underwriter's discount to be set forth in an Improvement Bonds Sale Resolution not
22 to exceed 2.0% of the principal amount of each series of Improvement Bonds (which
23 discount includes expenses, fees, and attorneys' fees of the Investment Bankers) plus, in
24 such case, accrued interest from the date of that series of Improvement Bonds to the
25 Improvement Bonds Closing Date for that series of Improvement Bonds.

26 IMPROVEMENT BONDS SALE RESOLUTION. A resolution, and all amendments
27 thereto of the Council setting and approving specifications for any series of Improvement
28 Bonds within the parameters set in the Bond Ordinance, and relating to the issuance, sale
29 and administration thereof.

30 INDEPENDENT ACCOUNTANT. Any certified public accountant, registered
31 accountant, or firm of such accountants duly licensed to practice and practicing as such
32 under the laws of the State, appointed and paid by the City who (i) is, in fact, independent
33 and not under the domination of the City, (ii) does not have any substantial interest, direct or

1 indirect, with the City, and (iii) is not connected with the City as an officer or employee of the
2 City, but who may be regularly retained to make annual or similar audits of the books or
3 records of the City.

4 INSURED BANK. Any federally or state-chartered savings and loan association or
5 federally or state-chartered commercial bank, the deposits of which are insured by the
6 Federal Deposit Insurance Corporation and which has, or is the lead bank of a parent holding
7 company which has, combined capital, surplus and undivided profits of not less than
8 \$10,000,000.

9 INSURED BONDS. Any Improvement Bonds the payments on which are insured by
10 a Bond Insurance Policy or payable with the proceeds of another Credit Facility.

11 INSURER. Any insurer or insurers issuing a Bond Insurance Policy or Surety Bond,
12 or both, for Tax Obligations.

13 INSURANCE TRUSTEE. Any depository institution designated in writing, from time
14 to time, to the City by an Insurer to act as fiscal agent for the Insurer.

15 INTEREST PAYMENT DATE. Each January 1 and July 1, or, if any January 1 or
16 July 1 is not a Business Day, the-next succeeding Business Day, with the first such Interest
17 Payment Date for any series of Improvement Bonds to be established in the applicable
18 Improvement Bonds Sale Resolution.

19 INVESTMENT BANKERS. Collectively, Robert W. Baird & Co. Incorporated,
20 Citigroup Inc., J.P. Morgan or their successors and assigns if approved in any Improvement
21 Bonds Sale Resolution.

22 MATURITY DATE. The respective date on which any series of Improvement Bonds
23 mature.

24 MOODY'S. Moody's Investors Service, Inc., a corporation organized and existing
25 under the laws of the State of Delaware, its successors and other assigns, and, if such
26 corporation is dissolved or liquidated or no longer performs the functions of a securities rating
27 agency, any other nationally recognized securities rating agency designated by the City.

28 NEW LIEN TAX OBLIGATIONS. The Series 1991B Bonds, the Series 2001 Bonds,
29 the Series 2004 Bonds, the Series 2004B Bonds, the Series 2008A Bonds, the Series 2008B
30 Bonds, the Series 2009A Bonds, the Series 2009B Bonds, [the NMFA Surcharge Loan
31 Agreement, the NMFA Stadium Lease Loan Agreement,] the Improvement Bonds, and any
32 other Tax Obligations, issued or incurred after the adoption of this Bond Ordinance payable
33 from the Pledged Revenues, with a lien on the Pledged Revenues on a parity with the lien on

1 the Pledged Revenues of the Improvement Bonds, and subordinate to the lien of the Old
2 Lien Tax Obligations and prior to the lien of the Subordinate Tax Obligations.

3 NEW MEXICO FINANCE AUTHORITY STADIUM LEASE LOAN. The \$6,000,000
4 Loan Agreement dated October 4, 2002 by and between the NMFA and the City.

5 NEW MEXICO FINANCE AUTHORITY SURCHARGE LOAN. The \$9,000,000 Loan
6 Agreement dated December 27, 2002 by and between the NMFA and the City.

7 NMFA. The New Mexico Finance Authority.

8 NMSA 1978. The compilation of the laws of the State known as New Mexico Statutes
9 Annotated, 1978 Compilation, as amended and supplemented from time to time.

10 OLD LIEN PLEDGED REVENUES. That portion of Pledged Revenues which is equal
11 to one percent (1%) of the sum of taxable gross receipts, plus receipts which would have
12 been taxable gross receipts but for the deductions provided by Sections 7-9-92 and 7-9-93
13 NMSA 1978, plus other receipts for which a distribution in lieu of Old Lien Pledged Revenues
14 is made to the City, reported for the City for the month for which such remittance is made.

15 OLD LIEN TAX OBLIGATIONS. The Series 1996 Bonds.

16 OUTSTANDING. When used in reference to Tax Obligations, on any particular date,
17 the aggregate of all Tax Obligations issued and delivered under the applicable City ordinance
18 or resolution authorizing the issuance of the Tax Obligations, except:

19 (1) those canceled at or prior to such date or delivered to or
20 acquired by the City at or prior to such date for cancellation;

21 (2) those which have been paid or are deemed to be paid in
22 accordance with the City ordinance or resolution authorizing the issuance of the applicable
23 Tax Obligations, or otherwise relating thereto, provided that the payment of Insured Tax
24 Obligations with the proceeds of a Bond Insurance Policy shall not result in those Insured
25 Tax Obligations ceasing to be Outstanding;

26 (3) in the case of Variable Rate Tax Obligations, any Tax
27 Obligations deemed tendered but not yet presented for payment; and

28 (4) those in lieu of or in exchange or substitution for which other
29 Tax Obligations shall have been delivered, unless proof satisfactory to the City and the
30 Paying Agent for the applicable Tax Obligations is presented that any Tax Obligations for
31 which new Tax Obligations were issued or exchanged are held by a bona fide holder or in
32 due course.

1 OWNER. The registered owner of an Improvement Bond as shown, from time to
2 time, on the registration books maintained by the Registrar.

3 PAYING AGENT. The City Treasurer or other agent for the City for the payment of
4 any series of the Improvement Bonds and any co-paying agent or successor paying agent
5 which is a trust company, national or state banking association or financial institution
6 appointed by resolution of the Council or by an Authorized Officer from time to time.

7 PAYMENT OBLIGATIONS. All obligations of the City to pay a Credit Source the
8 principal amount of, interest on, and fees, costs, expenses and other amounts related to
9 drawings, term loans and other advances and Tax Obligations held by that Credit Source,
10 pursuant to the relevant Credit Facility.

11 PERMITTED INVESTMENTS. Any of the following which at the time are legal
12 investments for the City for the money to be invested and any other investments which at the
13 time of investments are legal investments of the City for the money to be invested:

14 (1) Government Obligations;

15 (2) Obligations of, or obligations guaranteed as to principal and
16 interest by any agency or instrumentality of the United States which are backed by the full
17 faith and credit of the United States, but not including: General Services Administration—
18 participation certificates; Government National Mortgage Association (GNMA)—GNMA
19 guaranteed mortgage-backed securities and GNMA guaranteed participation certificates;
20 U.S. Department of Housing & Urban Development—local authority bonds; and U.S. Export-
21 Import Bank—all fully guaranteed obligations;

22 (3) Obligations of the following government-sponsored agencies:
23 Federal Home Loan Mortgage Corporation—participation certificates and senior debt
24 obligations; Farm Credit System (formerly: Federal Land Banks and Banks for
25 Cooperatives)—consolidated system-wide bonds and notes; Federal Home Loan Banks—
26 consolidated debt obligations; Federal National Mortgage Association—senior debt
27 obligations and mortgage-backed securities (excluding stripped mortgage securities which
28 are valued greater than par on the portion of unpaid principal); Student Loan Marketing
29 Association—senior debt obligations (excluding securities that do not have a fixed par value
30 and/or whose terms do not promise a fixed dollar amount at maturity or call date) and letter
31 of credit backed issues; Financing Corporation—debt obligations; and Resolution Funding
32 Corporation—debt obligations;

1 (4) Certificates of deposit, time deposits and banker's acceptances
2 of any bank or savings and loan association, the short-term obligations of which are rated in
3 the highest Rating Categories by S&P, Moody's or Fitch, provided that such deposits must be
4 fully secured by securities designated in paragraphs (1), (2), (3) and (9) of this definition and
5 held in safekeeping for, or on behalf of, or held in book-entry form in the name of, the City;

6 (5) Accounts with banks and savings and loan associations located
7 in Bernalillo County, provided that the banks and savings and loan associations, and the
8 collateral securing the investments permitted by this paragraph, satisfy the requirements of
9 applicable State law;

10 (6) Obligations the interest on which is excluded from gross
11 income of the recipient for federal income tax purposes which are rated in the highest Rating
12 Category by S&P, Moody's or Fitch;

13 (7) Money market instruments and other securities of commercial
14 banks, broker-dealers or recognized financial investors, which securities or institutions are
15 rated in the highest Rating Category by S&P and Moody's or Fitch, or which securities are
16 guaranteed by a person or entity whose long-term debt obligations are rated in the highest
17 Rating Category by S&P and Moody's or Fitch, including, without limitation, securities of, or
18 other interests in, any open end or closed end management type investment company or
19 investment trust registered under the provisions of 15 U.S.C. Sections 80(a)-1 *et. seq.*, which
20 invest only in, or whose securities are secured only by, obligations of the type set forth in
21 paragraphs (1), (2), (3) and (9) of this definition;

22 (8) The "short-term investment fund" described in Section
23 6-10-10.1 NMSA 1978 or other similar pooled fund maintained by the State for the
24 investment of public funds of local public bodies of the State;

25 (9) Stripped Securities: (i) U.S. Treasury STRIPS and (ii)
26 REFCORP STRIPS (stripped by Federal Reserve Bank of New York);

27 (10) Repurchase agreements involving the purchase and sale of,
28 and guaranteed investment contracts, the par value of which is collateralized by a perfected
29 first pledge of, or security interest in, or the payments of which are unconditionally
30 guaranteed by, securities described in paragraphs (1), (2), (3) and (9) of this definition, which
31 collateral is held by the City, or for the benefit of the City, by a party other than the provider of
32 the guaranteed investment contract or repurchase agreement, with a collateralized value of
33 at least 102% of the par value of such repurchase agreement or guaranteed investment

1 contract or 102% of the market value thereof, valued at intervals of no less than monthly and
2 which collateral is not subject to any other pledge or security interest;

3 (11) Cash insured at all times by the Federal Deposit Insurance
4 Corporation or otherwise collateralized with Government Obligations; and

5 (12) Agreements which permit the City to require a commercial
6 bank, broker-dealer or recognized financial institution to purchase from the City at a fixed
7 price obligations described in paragraphs (1), (2), (3) and (9) of this definition; provided that,
8 if required by law, the contract relating to such agreement is approved by resolution of the
9 Council and all other requirements of law relating to any such investment are satisfied and
10 provided further that such institution, or the guarantor of such institution or agreement, shall
11 be rated in one of the top two Rating Categories by S&P, Moody's or Fitch, or by another
12 national rating agency.

13 PERSON. Any individual, corporation, partnership (in which case each general
14 partner shall be deemed a Person), limited liability company, joint venture, association, joint
15 stock company, trust, unincorporated organization, government or any agency or political
16 subdivision of a government.

17 PLAN IMPLEMENTATION COMMITTEE. The committee established pursuant to F/S
18 R-11-204 and a resolution adopted contemporaneously herewith.

19 PLEDGED REVENUES. The revenues from the State gross receipts tax derived
20 pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the
21 State, which revenues are remitted monthly by the Revenue Division of the Taxation and
22 Revenue Department of the State to the City as authorized by Sections 7-1-6 and 7-1-6.4
23 NMSA 1978, and which remittances as of the date of adoption of this Bond Ordinance are
24 equal to one and two hundred twenty-five thousandths percent (1225%) of the taxable gross
25 receipts reported for the City for the month for which such remittance is made; provided that
26 if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted
27 to the City under applicable law, such additional amounts shall be included as revenues
28 pledged pursuant to Bond Legislation; and provided further that the amount of revenues
29 pledged pursuant to the Bond Legislation shall never be less than the greater of: (i) 1.225%
30 of the taxable gross receipts remitted to the City as set forth above, or (ii) the maximum
31 amount at any time provided hereinafter to be remitted to the City under applicable law; and
32 provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the
33 amount of revenues pledged pursuant to the Bond Legislation. Pledged Revenues also

1 includes (i) the portion of the gross receipts tax distribution to the City to be made pursuant to
2 Section 7-1-6.46 NMSA 1978, which represents the amount of State gross receipts tax
3 revenues set forth in the sentence above that would have been remitted to the City but for
4 the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978 and (ii) any similar
5 distributions made to the City in lieu of State gross receipts tax revenues, but State gross
6 receipts tax revenues do not include any similar distributions in lieu of any municipal local
7 option gross receipts tax revenues.

8 PROJECTS. The Projects to be financed by series of Improvement Bonds and
9 established through the procedures set forth in Section 4(c).

10 QUALIFIED COUNTERPARTY. Any Person entering into a Qualified Exchange
11 Agreement with the City, its successors and assigns, or any substitute Qualified
12 Counterparty, appointed or consented to from time to time by an Authorized Officer.

13 QUALIFIED EXCHANGE AGREEMENT. Any financial arrangement between the City
14 and a Qualified Counterparty which satisfies the requirements of the Exchange Act at the
15 time the agreement is entered into.

16 RATING CATEGORY. A generic securities rating category, without regard, in the
17 case of a long-term rating category, to any refinement or gradation of such long-term rating
18 category by a numerical modifier or otherwise.

19 REBATE FUND. The fund, if any, for any series of Improvement Bonds created by
20 ordinance or resolution of the City relating to any series of Improvement Bonds for the
21 purpose of depositing funds to be used to make rebate payments or alternative amounts in
22 lieu of rebate to the federal government.

23 RECORD DATE. The fifteenth day of the month immediately preceding each Interest
24 Payment Date.

25 REGISTRAR. The Treasurer or other agent for the City for the transfer and exchange
26 of the Improvement Bonds and any co-registrar or successor registrar which is a trust
27 company, national or state banking association or financial institution appointed by resolution
28 of the Council or by an Authorized Officer from time to time.

29 RELATED DOCUMENTS. Any Improvement Bonds Bond Purchase Agreement,
30 Improvement Bonds Continuing Disclosure Undertaking, any Improvement Bond Insurance
31 Policy, and any other documents relating to the Improvement Bonds identified and approved
32 in the Bond Legislation.

1 S&P. Standard & Poor's Public Finance Group, a division of McGraw-Hill
2 Companies, Inc., its successors and their assigns and, if such corporation is dissolved or
3 liquidated or no longer performs the functions of a securities rating agency, any other
4 nationally recognized securities rating agency designated by the City.

5 SERIES 1991B BONDS. The "City of Albuquerque, New Mexico Gross Receipts
6 Tax/Lodgers' Tax Refunding and Improvement Revenue Bonds, Series 1991B."

7 SERIES 1996 BONDS. The "City of Albuquerque, New Mexico Gross Receipts Tax
8 Refunding Revenue Bonds, Series 1996."

9 SERIES 2001 BONDS. The "City of Albuquerque, New Mexico Taxable Golf Course
10 Net Revenue/Gross Receipts Tax Revenue Bonds, Series 2001."

11 SERIES 2004A BONDS. The "City of Albuquerque, New Mexico Tax-Exempt Gross
12 Receipts Tax/Lodgers' Tax Refunding Revenue Bonds, Series 2004A."

13 SERIES 2004B BONDS. The "City of Albuquerque, New Mexico Taxable Gross
14 Receipts Tax/Lodgers' Tax Refunding Revenue Bonds, Series 2004B."

15 SERIES 2008A BONDS. The "City of Albuquerque, New Mexico Gross Receipts Tax
16 Refunding Revenue Bonds, Taxable Series 2008A."

17 SERIES 2008B BONDS. The "City of Albuquerque, New Mexico Gross Receipts Tax
18 Revenue Refunding Bonds (Beach, Bluewater and Manzano Vista Projects), Series 2008B."

19 SERIES 2009A BONDS. The "City of Albuquerque, New Mexico Gross Receipts
20 Tax/Lodgers' Tax Refunding Revenue Bonds, Series 2009A."

21 SERIES 2009B BONDS. The "City of Albuquerque, New Mexico Gross Receipts Tax
22 Refunding Revenue Bonds, Series 2009B."

23 SPECIAL RECORD DATE. A date established for payment of overdue interest on
24 the Improvement Bonds by the Paying Agent pursuant to Section 5.(B).

25 STATE. The State of New Mexico.

26 SUBORDINATE TAX OBLIGATIONS. All Tax Obligations now Outstanding or
27 hereafter issued or incurred with a lien on the Pledged Revenues subordinate to the lien of
28 the New Lien Tax Obligations on the Pledged Revenues or the lien of the Old Lien Tax
29 Obligations on the Old Lien Pledged Revenues.

30 SURETY BOND. Any policy of insurance or surety bond with respect to a series of
31 Tax Obligations guaranteeing certain payments into a debt service reserve account or similar
32 account with respect to that series of Tax Obligations, purchased to satisfy, in whole or in

1 part, the reserve requirement for that series or to replace any money on deposit in a debt
2 service reserve account or similar account.

3 TAX OBLIGATIONS. New Lien Tax Obligations, Old Lien Tax Obligations, and any
4 other bonds, notes or other instruments which evidence a borrowing payable from and
5 secured by (i) the Old Lien Pledged Revenues; or (ii) the Pledged Revenues now
6 Outstanding or hereafter issued or incurred.

7 VALUE. The value of any investment shall be calculated as follows:

8 (A) as to investments the bid and asked prices of which are published on a
9 regular basis in The Wall Street Journal (or, if not there, then in The New York Times): the
10 average of the bid and asked prices for such investments so published on or most recently
11 prior to such time of determination;

12 (B) as to investments the bid and asked prices of which are not published
13 on a regular basis in The Wall Street Journal or The New York Times: the average bid price
14 at such time of determination for such investments by any two nationally recognized
15 government securities dealers (selected by the City in its absolute discretion) at the time
16 making a market in such investments or the bid price published by a nationally recognized
17 pricing service;

18 (C) as to certificates of deposit and bankers acceptances: the face amount
19 thereof, plus accrued interest; and

20 (D) as to any investment not specified above: the value thereof established
21 by prior agreement between the City and the Credit Source.

22 VARIABLE INTEREST RATE. An interest rate which varies or fluctuates from time to
23 time. Except for any historical period for which the actual rate or rates are determinable, and
24 unless otherwise stated in the Bond Legislation, interest shall be calculated for Variable
25 Interest Rate Tax Obligations at the maximum interest rate then permitted on such Tax
26 Obligations by the City ordinance authorizing the issuance of such Tax Obligations.

27 VARIABLE RATE OBLIGATIONS. Tax Obligations, including reimbursement
28 obligations pursuant to a Credit Facility, the interest rate on which is subject to change from
29 time to time.

30 (E) RULES OF CONSTRUCTION. Except as otherwise expressly provided
31 in the Bond Legislation, or unless the context otherwise requires:

32 (1) The singular includes the plural and the plural includes the
33 singular.

1 (2) All accounting terms not otherwise defined in the Bond
2 Legislation have the meanings assigned to them in accordance with generally accepted (..
3 accounting principles in the United States.

4 (3) All references to Sections shall refer to Sections of this Bond
5 Ordinance unless otherwise stated.

6 (4) Words importing any gender include the other gender.

7 (5) "Herein," "hereby," "hereunder," "hereof," "hereinbefore" and
8 "hereafter" refer to the Bond Legislation and not solely to the particular portion of the Bond
9 Legislation in which such word is used.

10 SECTION 2. RATIFICATION. All action heretofore taken (not inconsistent with the
11 provisions of the Bond Legislation) by the Council and the officers of the City, directed toward
12 the issuance and sale of the Improvement Bonds, is ratified, approved and confirmed,
13 including City Council Enactment No. R-2011-204, adopted by the Council by a vote of 5-3,
14 with one member excused.

15 SECTION 3. FINDINGS. The Council declares that it has considered all relevant
16 information and data in making its findings and finds and determines that:

17 (A) The Pledged Revenues may lawfully be pledged to secure the payment
18 of the Improvement Bonds to the extent and in the manner provided in the Bond Legislation.

19 (B) The Improvement Bonds are issued pursuant to the Act.

20 (C) The issuance of the Improvement Bonds in one or more series and the
21 construction, acquisition and installation of the Projects are in the interest of the public
22 health, safety and welfare of the residents of the City.

23 SECTION 4. AUTHORIZATIONS AND APPROVALS.

24 (A) AUTHORIZATION OF BONDS AND PROCEEDS OF BONDS. This
25 Bond Ordinance has been adopted by the affirmative vote of the Council. For the purpose of
26 protecting the public health, conserving the property, protecting the general welfare and
27 prosperity of the citizens of the City and achieving cost savings, it is declared necessary that
28 the City issue, and the City is hereby authorized to issue its Improvement Bonds as
29 negotiable, fully registered bonds, pursuant to the Act and as set forth in the Bond
30 Legislation.

31 The Improvement Bonds are designated as the "City of Albuquerque, New
32 Mexico Gross Receipts Tax Improvement Revenue Bonds." The Improvement Bonds may be
33 issued in one or more series, with appropriate series and other designations, as set forth in

1 an Improvement Bonds Sale Resolution to further identify each series of Improvement
2 Bonds. The issuance of the Improvement Bonds in a cumulative amount for all series of
3 Improvement Bonds not to exceed \$_____ is authorized and approved. The actual
4 principal amount of each maturity of Improvement Bonds shall be stated in the applicable
5 Improvement Bonds Sale Resolution. Each series of Improvement Bonds shall be sold to
6 the Investment Bankers pursuant to an Improvement Bonds Bond Purchase Agreement in a
7 negotiated sale at an Improvement Bonds Sale Price.

8 Proceeds of the Improvement Bonds may also be used to pay Expenses and
9 for any of the other purposes set forth in the Bond Legislation. The payment of Expenses is
10 authorized and approved.

11 (B) PROJECTS. Pursuant to F/S R-11-204 and a resolution adopted
12 contemporaneously herewith, the Counsel has identified a Plan Implementation Committee
13 for the purpose identifying Projects to be funded with the proceeds of the Improvement
14 Bonds. The Plan Implementation Committee shall make its recommendation by
15 _____, 2011 and the Council shall consider the recommendations of the Plan
16 Implementation Committee no later than _____, 2011 so that Projects can be
17 identified for the voters prior to election to be held on October 4, 2011.

18 SECTION 5. DETAILS OF THE IMPROVEMENT BONDS.

19 (A) GENERAL DETAILS. The Improvement Bonds shall be issued only as
20 fully registered bonds and shall be numbered with such prefix or other distinguishing
21 designations as the Registrar may determine necessary or appropriate to distinguish one
22 Improvement Bond from another and each series of Improvement Bonds from another. Each
23 series of Improvement Bonds shall be dated the date stated in the appropriate Improvement
24 Bonds Sale Resolution, issued in Authorized Denominations and shall bear interest on the
25 basis of a 360-day year and twelve 30-day months from the most recent date to which
26 interest has been paid or provided for or, if no interest has been paid or provided for, from
27 their date until maturity at the rate set forth in the appropriate (Improvement Bonds Sale
28 Resolution, payable semiannually on January 1 and July 1 of each year beginning on the
29 date set forth in the appropriate Improvement Bonds Sale Resolution and shall mature on the
30 date or dates stated in the appropriate Improvement Bonds Sale Resolution; provided that
31 the final Maturity Date of any series of Improvement Bonds shall not extend beyond 30 years
32 from the dated date of that series of Improvement Bonds. The net effective interest rate on
33 each series of the Improvement Bonds shall not exceed twelve percent (12%) per annum.

1 (B) PAYMENT OF IMPROVEMENT BONDS; TRANSFERS TO PAYING
2 AGENT. Payments on the Improvement Bonds shall be made in such coin or currency of the
3 United States of America as, at the respective time of payment, is legal tender for the
4 payment of public and private debts. The City shall transfer funds to the Paying Agent for the
5 Improvement Bonds on a timely basis so that the Paying Agent may make payments of the
6 principal of, premium, if any, and interest on the Improvement Bonds when due, to the
7 Owners and comply with the requirements of any Improvement Bond Insurer relating to
8 payments of Improvement Bonds. As soon as known to the City, the City shall notify the
9 Paying Agent if there is or will be an insufficient amount of money available to pay principal
10 and interest on the Improvement Bonds when due.

11 The principal of and premium, if any, on the Improvement Bonds shall be
12 payable to the Owners upon presentation and surrender of their Improvement Bonds at the
13 principal office of the Fiscal Agent.

14 Interest on the Improvement Bonds shall be payable on each Interest
15 Payment Date by the Paying Agent by check mailed on the date on which due to the Owners
16 at the close of business on the Record Date for such Interest Payment Date to the registered
17 addresses of Owners appearing on the registration books for the Improvement Bonds. In the
18 case of any Owner of the Improvement Bonds in an aggregate principal amount in excess of
19 \$1,000,000 as shown on the registration books who, prior to the Record Date for the
20 Improvement Bonds next preceding any Interest Payment Date, has provided the Paying
21 Agent with wire transfer instructions, interest shall be paid in immediately available funds in
22 accordance with the wire transfer instructions provided by that Owner.

23 If and to the extent that the City fails to make payment or provision for
24 payment of interest on any Improvement Bond on any Interest Payment Date, interest shall
25 continue to accrue on that Improvement Bond but shall cease to be payable to the Owner of
26 that Improvement Bond as of the applicable Record Date. When money becomes available
27 for payment of the interest, (i) the Registrar shall establish a Special Record Date for the
28 payment of that interest which shall be not more than 15 nor fewer than 10 days prior to the
29 date of the proposed payment, and (ii) the Registrar shall give notice by first-class mail of the
30 proposed payment and of the Special Record Date to each Owner not less than 10 days
31 prior to the Special Record Date and, thereafter, the interest shall be payable to the Owners
32 at the close of business on the Special Record Date.

1 While a Depository or its nominee is the owner of the Improvement Bonds,
2 principal and interest payments on the Improvement Bonds shall be made to the Depository,
3 or its nominee, as required by the Depository.

4 (C) BOOK-ENTRY. Unless otherwise stated in the Improvement Bonds
5 Sale Resolution, the Improvement Bonds shall initially be issued or registered in book-entry
6 form, from time to time, with a Depository acting as securities depository for the Improvement
7 Bonds with no physical distribution of bond certificates made to the public. A single
8 certificate for each maturity date of the Improvement Bonds issued in book-entry form shall
9 be delivered to such Depository and immobilized in its custody. The book-entry system shall
10 evidence ownership of Improvement Bonds in Authorized Denominations, with transfer of
11 ownership effected on the books of the Depository and its participants ("Participants"). As a
12 condition to delivery of Improvement Bonds in book-entry form, the purchaser of the
13 Improvement Bonds shall, immediately after acceptance of delivery thereof, deposit those
14 Improvement Bonds certificates with such Depository, registered in the name of such
15 Depository or its nominee. Principal, premium, if any, and interest will be paid to such
16 Depository or its nominee as the registered Owner of those Improvement Bonds. The
17 transfer of principal and interest payments to Participants shall be the responsibility of such
18 Depository; the transfer of principal and interest payments to the beneficial owners of
19 Improvement Bonds (the "Beneficial Owners") shall be the responsibility of such Participants
20 and other nominees of Beneficial Owners maintaining a relationship with Participants (the
21 "Indirect Participants"). The City shall not be responsible or liable for maintaining, supervising
22 or reviewing the records maintained by such Depository, Participants or Indirect Participants.

23 If (i) the Improvement Bonds are not eligible for the services of the institution
24 which has been acting as the Depository for the Improvement Bonds, (ii) the institution that
25 has been acting as the Depository determines to discontinue its services with respect to the
26 Improvement Bonds or (iii) the City determines that a continuation of the system of book-
27 entry transfers through the institution that has been acting as the Depository ceases to be
28 beneficial to the City or the Beneficial Owners, the City shall either identify another
29 Depository or certificates shall be delivered to Beneficial Owners or their nominees. In the
30 event of the discontinuation of the book entry system for the Improvement Bonds, the
31 Beneficial Owners or their nominees, upon authentication of the Improvement Bonds and
32 registration of the Improvement Bonds in the Beneficial Owners' or nominees' names, shall
33 become the Owners for all purposes. The City shall mail an appropriate notice to the

1 Depository for notification to Participants, Indirect Participants and Beneficial Owners of the
2 substitute Depository or the issuance of bond certificates to Beneficial Owners or their
3 nominees, as applicable.

4 Notwithstanding any other provision of the Bond Legislation to the contrary, as
5 long as all Improvement Bonds are registered in the name of a Depository or its nominee, all
6 payments with respect to principal of, redemption premium, if any, and interest on those
7 Improvement Bonds, and all notices with respect to those Improvement Bonds, shall be
8 made and given by the Paying Agent or the City to the Depository, by the Depository to its
9 Participants or Indirect Participants and by the Participants and Indirect Participants to the
10 Beneficial Owners.

11 In cases where the Improvement Bonds are issued in book-entry form, any
12 Insurance Trustee shall disburse principal and interest to an Owner only upon evidence
13 satisfactory to the Insurance Trustee and the Improvement Bond Insurer that the ownership
14 interest of the Owner in the right to payment of such principal and interest has been
15 effectively transferred to the Improvement Bond Insurer on the books maintained for such
16 purpose. Any Series Improvement Bond Insurer shall be fully subrogated to all of the
17 Owners' rights to payment to the extent of the insurance disbursements so made.

18 (D) IMPROVEMENT BONDS NOT PRESENTED FOR PAYMENT. If any
19 Improvement Bonds are not presented for payment when the principal becomes due either at
20 maturity or at the date fixed for redemption thereof or otherwise, or if any check or draft
21 mailed to an Owner in connection with a payment of interest on any Improvement Bonds is
22 not cashed by an Owner, and an amount sufficient to pay those Improvement Bonds or
23 interest is held by the Paying Agent for the benefit of the Owners, the Paying Agent shall
24 segregate and hold such money in trust without liability for interest on that money to the
25 Owners, for the benefit of the Owners of the applicable Improvement Bonds, who shall,
26 except as provided in the following paragraph, then be restricted to only the amounts
27 segregated for the satisfaction of any claim relating to that payment on such Improvement
28 Bonds.

29 Any money which the Paying Agent segregates and holds in trust for the
30 payment of the principal of, premium or interest on Improvement Bonds which remains
31 unclaimed for three years after such payment has become due shall be paid to the City.
32 After the payment of such unclaimed money to the City, the Owners shall look only to the
33 City for the payment of those Improvement Bonds.

1 SECTION 6. [REDEMPTION OF IMPROVEMENT BONDS.

2 (A) OPTIONAL REDEMPTION. The Improvement Bonds shall be subject to
3 redemption prior to maturity at the option of the City at the times and at the redemption prices
4 set forth as to each series of Improvement Bonds, in the applicable Improvement Bonds Sale
5 Resolution. Unless money sufficient to pay the principal of and premium, if any, on the
6 Improvement Bonds to be redeemed pursuant to this Section 6.(A) is received by the Paying
7 Agent prior to the giving of notice of redemption in accordance with Section 6.(D), that notice
8 shall state that the redemption is conditional upon the receipt of that money by the Paying
9 Agent by 2:00 p.m. on the redemption date. If an amount sufficient to redeem all
10 Improvement Bonds called for redemption is not received by that time, (i) the Paying Agent
11 shall redeem only those Improvement Bonds for which the redemption price was received,
12 (ii) the Improvement Bonds to be redeemed shall be selected in the manner set forth in
13 Section 6.(C) and (iii) the redemption notice shall have no effect with respect to those
14 Improvement Bonds for which the redemption price was not received and those Improvement
15 Bonds shall not be redeemed. The Registrar shall give notice to the Owners of the
16 Improvement Bonds previously called for redemption which shall not be redeemed, in the
17 manner in which notice of redemption was given, identifying the Improvement Bonds which
18 shall not be redeemed, stating that the redemption did not take place with respect to those
19 Improvement Bonds and shall promptly return any Improvement Bonds which shall not be
20 redeemed which were previously delivered by the Owners of those Improvement Bonds.

21 (B) MANDATORY SINKING FUND REDEMPTION.

22 Each series of Improvement Bonds shall be subject to mandatory sinking fund
23 redemption prior to maturity as set forth in the appropriate Improvement Bonds Sale
24 Resolution.

25 As and for a sinking fund for the redemption of a series of Improvement Bonds
26 subject to mandatory sinking fund redemption, on or before July 1 in each of the years and in
27 the principal amounts stated in the applicable Improvement Bonds Sale Resolution, the City
28 shall transfer into the applicable account of the Improvement Bonds Debt Service Fund the
29 Pledged Revenues required for the payments of principal on those Improvement Bonds with
30 a priority asset forth in Section 19 so that there is on deposit on the required redemption date
31 in the Improvement Bonds Debt Service Fund amounts sufficient to redeem the Improvement
32 Bonds called for redemption (after credit as provided below). Subject to the last paragraph of
33 this subsection (C), Improvement Bonds which are term bonds shall be subject to mandatory

1 sinking fund redemption at a redemption price equal to 100.0% of the principal amount
2 thereof plus accrued interest to the redemption date on July 1 in the years and in the
3 principal amounts stated in the applicable Improvement Bonds Sale Resolution.

4 At its option, to be exercised on or before the 45th day next preceding any
5 July 1 mandatory sinking fund redemption date, the City may irrevocably elect to (i) deliver to
6 the Paying Agent for cancellation Improvement Bonds of the same series and Maturity Date,
7 as the case may be, in any aggregate principal amount and/or (ii) receive a credit in respect
8 of its sinking fund redemption obligation for any Improvement Bonds of the same series and
9 Maturity Date which, prior to such date, have been redeemed (otherwise than through the
10 operation of the sinking fund) and canceled by the Paying Agent and not theretofore applied
11 as a credit against any sinking fund redemption obligation. Each Improvement Bond so
12 delivered or previously redeemed shall be credited by the Paying Agent at the principal
13 amount thereof against the amounts required to be paid by the City on the respective July 1
14 mandatory sinking fund redemption date or dates designated by the City and the principal
15 amount of Improvement Bonds to be redeemed by operation of such sinking fund on such
16 date shall be accordingly reduced.

17 (C) PARTIAL REDEMPTION. If less than all of the Outstanding
18 Improvement Bonds are to be redeemed, the Maturity Dates of the Improvement Bonds to be
19 redeemed shall be selected by the City. If less than all Improvement Bonds of a given series
20 and Maturity Date are redeemed, the Improvement Bonds of that series and Maturity Date to
21 be redeemed shall be selected by lot in such manner as determined by the Fiscal Agent.
22 However, the portion of any Improvement Bonds to be redeemed and the portion of any
23 Improvement Bond not redeemed shall both be in Authorized Denominations. If, as indicated
24 in a certificate of an Authorized Officer delivered to the Fiscal Agent, the City has offered to
25 purchase all Improvement Bonds then Outstanding and less than all of the Improvement
26 Bonds have been tendered to the City for purchase, the Fiscal Agent, at the direction of an
27 Authorized Officer, shall select for redemption all, or any part designated by the City, of the
28 Improvement Bonds which have not been tendered.

29 In selecting Improvement Bonds for redemption, the Fiscal Agent shall treat
30 each Improvement Bond as representing that number of Improvement Bonds which is
31 obtained by dividing the principal amount of any Improvement Bond by the minimum
32 Authorized Denomination. If it is determined that one or more, but not all, of the units of
33 principal amount represented by any Improvement Bond is to be called for redemption, then,

1 upon notice of intention to redeem such unit or units, the Owner of such Improvement Bond
2 (except with respect to Improvement Bonds registered to a Depository or its nominee, in
3 which case a notation as to the amount redeemed may be made on such Improvement
4 Bonds) shall promptly surrender such Improvement Bond to the Fiscal Agent for (i) payment
5 to such Owner of the redemption price of the unit or units of principal amount called for
6 redemption, and (ii) delivery to such Owner of a new Improvement Bond of the same series
7 and Maturity Date in the aggregate principal amount of the unredeemed balance, without
8 charge therefor.

9 If the Owner of any such Improvement Bond fails to present that Improvement
10 Bond to the Fiscal Agent for payment, that Improvement Bond nevertheless shall become
11 due and payable on the date fixed for redemption to the extent of the unit or units of principal
12 amount called for redemption and interest shall cease to accrue on that principal amount.

13 (D) NOTICE. Notice of redemption of Improvement Bonds shall be given by
14 the Fiscal Agent by sending a copy of such notice by registered or certified first class,
15 postage prepaid mail not less than 30 days prior to the redemption date to the Improvement
16 Bond Insurer, if any, of the Improvement Bonds being redeemed, to all Depositories, to one
17 or more Information Services and to the Owner of each Improvement Bond, or portion
18 thereof, to be redeemed at the address shown as of the fifth day prior to the mailing of notice
19 on the Bond Register. The City shall give the Fiscal Agent notice of the redemption date and
20 the Maturity Date and the principal amounts of each maturity of Improvement Bonds to be
21 called for redemption pursuant to Section 6.(A) at least five Business Days prior to the date
22 that the Fiscal Agent is required to give Owners notice of redemption. Improvement Bonds
23 to be called for redemption pursuant to Section 6.(B) shall be called for redemption by the
24 Fiscal Agent without the necessity of any notice to the Fiscal Agent from the City. Neither
25 the City's failure to give such notice, the Fiscal Agent's failure to give such notice to any
26 Improvement Bond Insurer, any Depository (other than as the Owner of Improvement Bonds
27 being redeemed), or the registered Owner of any Improvement Bonds to be redeemed, or
28 any defect therein, nor the failure of the Depository to notify a Participant or any Participant
29 or Indirect Participant to notify a Beneficial Owner of any such redemption, shall affect the
30 validity of the proceedings for the redemption of any Improvement Bonds for which proper
31 notice was given.

32 The official notice of redemption to Owners shall state:

1 (1) the CUSIP numbers of the Improvement Bonds to be
2 redeemed,

3 (2) the redemption date,

4 (3) the redemption price,

5 (4) the Improvement Bonds to be redeemed,

6 (5) it less than all Outstanding Improvement Bonds are to be
7 redeemed, the bond numbers and Maturity Dates of the Improvement Bonds to be redeemed
8 and, in the case of a partial redemption of an Improvement Bond, the principal amount to be
9 redeemed,

10 (6) that, subject to the provisions of Section 6.(A), if applicable, on
11 the redemption date, the redemption price will become due and payable on each
12 Improvement Bond or portion thereof called for redemption, and that interest thereon shall
13 cease to accrue from and after that date,

14 (7) the place where such Improvement Bonds are to be
15 surrendered for payment of the redemption price, the name of a contact person (if the book-
16 entry system described in Section 5.(C) is in effect), and the phone number at the office of
17 the Paying Agent, and

18 (8) if the redemption is pursuant to Section 6.(A), that the
19 redemption is conditional, if applicable, stating the conditions set forth in Section 6.(A).

20 The Paying Agent shall comply with any other terms regarding redemption
21 and notice of redemption, as are required by any agreement with a Depository.

22 Except as provided in Section 6.(A), notice having been given in the manner
23 provided above, the Improvement Bonds or part thereof called for redemption shall become
24 due and payable on the redemption date designated and the Improvement Bonds, or part
25 thereof to be redeemed, for which the redemption price is on deposit with the Fiscal Agent,
26 shall not be deemed to be Outstanding and shall cease to bear or accrue interest from and
27 after such redemption date. Subject to Section 6.(A), upon presentation of an Improvement
28 Bond to be redeemed at the office of the Fiscal Agent on or after the redemption date, or, so
29 long as the book-entry system is used for determining beneficial ownership of the
30 Improvement Bond being redeemed, upon satisfaction of the terms of any other arrangement
31 between the Fiscal Agent and the Depository, the Fiscal Agent will pay such Improvement
32 Bonds or portion thereof called for redemption.

1 (E) IMPROVEMENT BONDS NOT PRESENTED FOR REDEMPTION.
2 Money for payment of the principal of, premium, if any, and interest, to the date fixed for
3 redemption, on Improvement Bonds called for redemption which are not presented for
4 payment on the date fixed for redemption shall be set aside by the Fiscal Agent in trust for
5 the Owners of such Improvement Bonds and held as set forth in Section 5.(D). Interest on
6 such Improvement Bonds shall cease to accrue on the date fixed for redemption.

7 (F) CANCELLATION. All Improvement Bonds which have been redeemed
8 or received for transfer shall be canceled and destroyed by the Fiscal Agent and shall not be
9 reissued and a counterpart of the certificate of destruction evidencing such destruction shall
10 be furnished by the Fiscal Agent to the City.]

11 SECTION 7. [BOND INSURANCE POLICIES.

12 (A) BOND INSURANCE POLICY OR OTHER CREDIT FACILITY FOR
13 PAYMENT OF THE IMPROVEMENT BONDS. Payments of all or any part of the principal of
14 and interest in the Improvement Bonds may be guaranteed by a Bond Insurance Policy or
15 otherwise by an Insurer or Credit Source as and to the extent set forth in the applicable
16 Improvement Bonds Sale Resolution and any Credit Facility.

17 (B) INSURANCE TERMS. Terms and provisions with respect to any Bond
18 Insurance Policy or other Credit Facility for the Improvement Bonds shall be set forth in the
19 applicable Improvement Bonds Sale Resolution.

20 (C) CONSENT OF CREDIT SOURCE. Any provision of the Bond
21 Legislation expressly recognizing or granting rights in or to an Insurer or other Credit Source
22 may not be amended in any manner which affects the rights of the Insurer or Credit Source
23 without the prior written consent of that Insurer or Credit Source.

24 (D) ADVERSE EFFECT ON OWNERS. In determining whether the rights of
25 the Owners will be adversely affected by any action taken pursuant to the terms and
26 provisions of the Bond Legislation, the City shall consider the effect on such Owner as if
27 there were no Credit Facility in effect.

28 (E) CREDIT FACILITY. The rights and obligations of any Insurer or Credit
29 Source under any Credit Facility shall be as set forth in the Bond Legislation or Credit Facility
30 but shall not exceed any of the limitations included in this Bond Ordinance. The City shall
31 promptly notify any rating agency then rating the Improvement Bonds, as applicable, of
32 changes to a Credit Facility.]

1 SECTION 8. REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP OF
2 IMPROVEMENT BONDS.

3 (A) REGISTRATION, TRANSFER AND EXCHANGE. The City shall cause
4 books for the registration, transfer and exchange of the Improvement Bonds to be kept at the
5 principal office of the Registrar. Upon surrender for transfer or exchange of any
6 Improvement Bonds at the principal office of the Registrar duly endorsed by the Owner or his
7 attorney duly authorized in writing, or accompanied by a written instrument or instruments of
8 transfer or exchange in form satisfactory to such Registrar and properly executed, the City
9 shall execute and the Registrar shall authenticate and deliver in the name of the transferee
10 or Owner a new Improvement Bond or Bonds of the same Maturity Date, series, interest rate
11 and same aggregate principal amount in Authorized Denominations.

12 (B) OWNER OF BONDS. The person in whose name any Improvement
13 Bond is registered shall be deemed and regarded as its absolute Owner for all purposes,
14 except as may otherwise be provided with respect to the payment of interest on Improvement
15 Bonds in Section 5.(C). Payment of the principal on any Improvement Bonds shall be made
16 only to or upon the order of its Owner or his legal representative. All such payments shall be
17 valid and effectual to satisfy and discharge the liability on Improvement Bonds to the extent
18 of the amount paid.

19 (C) REPLACEMENT OF BONDS. If any Improvement Bond is lost, stolen,
20 destroyed or mutilated, the Registrar shall, upon receipt of that Improvement Bond if
21 mutilated, and evidence, information or indemnity which the Registrar may reasonably
22 require, authenticate and deliver a replacement Improvement Bond or Bonds of the same
23 aggregate principal amount, Maturity Date, series and interest rate, bearing a number or
24 numbers not then outstanding. If any lost, stolen, destroyed or mutilated Improvement Bond
25 has matured or been called for redemption, the Registrar may direct the Paying Agent to pay
26 that Improvement Bond in lieu of replacement.

27 (D) CHARGES. Exchanges and transfers of Improvement Bonds shall be
28 made without charge to the Owners or any transferee except that the Registrar may make a
29 charge sufficient to reimburse the Registrar for any tax, fee or other governmental charge
30 required to be paid with respect to that transfer or exchange.

31 (E) BONDS CALLED FOR REDEMPTION. The Fiscal Agent shall not be
32 required to transfer or exchange (i) any Improvement Bonds during the five-day period

preceding the mailing of notice calling Improvement Bonds for redemption and (ii) any Series 1939C Bonds or Improvement Bonds called for redemption.

(F) UNAUTHENTICATED BONDS. The officers of the City are authorized to deliver to the Registrar fully registered but unauthenticated Improvement Bonds in such quantities as may be convenient to be held in custody by the Registrar pending the use thereof as provided in the Bond Legislation.

SECTION 9. NEGOTIABILITY. Improvement Bonds shall be fully negotiable and shall have all the qualities of negotiable paper, and the owner or owners thereof shall possess all rights enjoyed by the owners of negotiable instruments under the provisions of the Uniform Commercial Code—Investment Securities in effect in the State.

SECTION 10. SPECIAL LIMITED OBLIGATIONS. The Improvement Bonds and all payments of principal, premium, if any, and interest thereon, (whether at maturity or on a redemption date) and the obligations of the City for all other payments, fees, costs, interest and expenses under the Bond Legislation and under all Related Documents shall be special limited obligations of the City payable solely from the Pledged Revenues, which revenues are pledged and are payable as set forth in Sections 19 and 20. However, the Improvement Bonds are also payable from (a) amounts on deposit in the Acquisition Fund and the Debt Service Fund and, if applicable, (b) the proceeds of any Improvement Bond Insurance Policy, in accordance with the provisions thereof.

Owners and the parties under any Related Documents may not look to any general or other fund of the City for the payment of the principal of or interest on, or the fees, costs and expenses relating to, such obligations, except the designated special funds pledged therefor. Neither the Improvement Bonds nor the obligations of the City under any Related Documents shall constitute an indebtedness of the City within the meaning of any constitutional, charter or statutory prohibition or limitation, nor shall they be considered or held to be general obligations of the City, and the Improvement Bonds shall recite that they are payable and collectable solely out of the Pledged Revenues and from any other sources stated in the Bond Legislation and that the Owners may not look to any general or other municipal fund for the payment of the principal, premium, if any, or interest, as applicable, on the Improvement Bonds or for the payment of any amounts owed under any Related Documents.

SECTION 11. EXECUTION AND CUSTODY OF IMPROVEMENT BONDS.

(A) FILING MANUAL SIGNATURES. Prior to the execution of any Improvement Bonds pursuant to Sections 6-9-1 through 6-9-6 NMSA, the Mayor, City Clerk

1 and City Treasurer shall each file with the Secretary of State of New Mexico his or her
2 manual signature certified by him or her under oath; provided that such filing shall not be
3 necessary for any officer where any previous filing may have legal application.

4 (B) EXECUTION. Improvement Bonds shall be signed with the manual or
5 facsimile signature of the Mayor and the manual or facsimile signature of the City Treasurer
6 or City Clerk. There shall be placed on each Improvement Bond the printed, engraved,
7 stamped or otherwise placed facsimile or imprint of the City's corporate seal. Improvement
8 Bonds when authenticated and bearing the manual or facsimile signatures of the officers in
9 office at the time of their signing shall be valid and binding obligations of the City,
10 notwithstanding that before delivery of those Improvement Bonds, any or all of the persons
11 who executed those Improvement Bonds shall have ceased to fill their respective offices.
12 The Mayor, City Clerk and City Treasurer, at the time of the execution of the Improvement
13 Bonds, each may adopt as and for his or her own facsimile signature the facsimile signature
14 of his or her predecessor in office if such facsimile signature appears upon any of the
15 Improvement Bonds or certificates pertaining to the Improvement Bonds. No manual or
16 facsimile signature of any officer of the City or an Authenticating Agent shall be required if
17 the Improvement Bonds are issued in book-entry form without the delivery of any physical
18 securities.

19 (C) CUSTODY. The Registrar shall hold in custody all Improvement Bonds
20 signed and attested by the Mayor, City Clerk and City Treasurer until ready for delivery to the
21 purchaser, transferee or Owner. The City shall, from time to time, at the written request of
22 the Registrar, provide the Registrar an adequate supply of Improvement Bonds.

23 (D) AUTHENTICATION. No Improvement Bonds shall be valid or obligatory
24 for any purpose unless the certificate of authentication has been duly executed by the
25 Registrar. That Registrars certificate of authentication shall be deemed to have been duly
26 executed if manually signed by an authorized officer of the Registrar, but it shall not be
27 necessary that the same officer sign the certificate of authentication on all Improvement
28 Bonds.

29 SECTION 12. APPOINTMENT OF FISCAL AGENT. The initial Fiscal Agent for the
30 Improvement Bonds shall be the City Treasurer, unless otherwise set forth in the
31 Improvement Bonds Sale Resolution. The Paying Agent, Authenticating Agent and Registrar
32 shall be the same Person for the Improvement Bonds, unless otherwise set forth in the
33 Improvement Bonds Sale Resolution.

1 SECTION 13. SUCCESSION REGISTRAR OR PAYING AGENT. If the Registrar or
2 Paying Agent initially appointed shall resign, or if the City shall determine to appoint a
3 successor or co-Registrar or co-Paying Agent or shall reasonably determine that a Registrar
4 or Paying Agent has become incapable of fulfilling its duties under the Bond Legislation, the
5 City may, upon notice mailed to any Improvement Bond Insurer and to each Owner at the
6 address last shown on the registration books, appoint a successor or co-Registrar or Paying
7 Agent. Every such successor or co-Registrar or Paying Agent shall be a bank or trust
8 company located and in good standing in the United States with a capital stock, surplus and
9 undivided profits, however denominated, of not less than \$75,000,000 or the City Treasurer,
10 or any successor in office, or as otherwise required by any Improvement Bond Insurer, and
11 approved by any Improvement Bond Insurer in writing. Notwithstanding any other provision
12 of the Bond Legislation, no removal, resignation or termination of the Paying Agent shall take
13 effect until a successor, acceptable to any Improvement Bond Insurer, shall be appointed.
14 Additional provisions relating to the Registrar and the Paying Agent and the payment of the
15 Improvement Bonds may be in a separate paying agent agreement executed on behalf of the
16 City by an Authorized Officer.

17 SECTION 14. IMPROVEMENT BOND FORM. Each series of Improvement Bonds
18 shall be in substantially the form set forth in the Improvement Bonds Sale Resolution for
19 each series, with only such changes as are not inconsistent with the Bond Legislation.

20 SECTION 15. SALE OF IMPROVEMENT BONDS.

21 Each series of Improvement Bonds shall be sold to the Investment Bankers at
22 the Improvement Bonds Sale Price for that series, pursuant to the terms of the Bond
23 Legislation and the appropriate Improvement Bonds Bond Purchase Agreement. After a
24 series of Improvement Bonds have been duly executed and authenticated by the Registrar,
25 upon receipt of the Improvement Bonds Sale Price for that series by the City and delivery of
26 any Improvement Bond Insurance Policy by the Improvement Bonds Insurer, that series of
27 Improvement Bonds shall be delivered to the Investment Bankers by an Authorized Officer or
28 to the Depository, if any, on behalf of the Investment Bankers if the Improvement Bonds of
29 that series are issued in book-entry form.

30 SECTION 16. FUNDS. The City creates or continues, as applicable, the following
31 funds:

32 (A) GROSS RECEIPTS TAX INCOME FUND. Continues the Gross
33 Receipts Tax Income Fund previously established and maintained by the City.

1 (B) ACQUISITION FUND. Creates the Acquisition Fund to be maintained
2 by the City. Separate accounts in the Acquisition Fund may be created by the City in each
3 Improvement Bonds Sale Resolution.

4 (C) IMPROVEMENT BONDS DEBT SERVICE FUND. Creates the
5 Improvement Bonds Debt Service Fund to be maintained by the City. Separate accounts in
6 the Improvement Bonds Debt Service Fund may be created by the City in each Improvement
7 Bonds Sale Resolution.

8 (D) ADDITIONAL FUNDS. The City shall create any additional funds which
9 may be required.

10 SECTION 17. BOND PROCEEDS; BOND FUND DEPOSIT; APPROPRIATIONS.

11 The total amount of proceeds from the sale of any series of Improvement Bonds shall
12 be applied and appropriated as set forth in the applicable Improvement Bonds Sale
13 Resolution for that series. Proceeds of any series of Improvement Bonds that are deposited
14 in the Acquisition Fund or any account thereof shall be applied to the Projects or the
15 appropriate portion thereof or for the payment of Expenses related to that series of
16 Improvement Bonds and for any other purpose related to the Projects or incidental to the
17 issuance or administration of the Improvement Bonds permitted by the Bond Legislation;
18 provided that the City may pay Expenses related to any series of Improvement Bonds from
19 the proceeds of that series of Improvement Bonds without first depositing such proceeds in
20 the Acquisition Fund or any account thereof. The Completion Date for any portion of the
21 Projects funded by a series of Improvement Bonds shall be evidenced by a certificate of an
22 Authorized Officer stating that portion of the Projects have been completed. As soon as
23 practicable, and in any event not more than 60 days after the Completion Date, any balance
24 remaining in the applicable account of the Acquisition Fund (other than any amount certified
25 by an Authorized Officer as being necessary for costs of the Projects not then due and
26 payable) shall be transferred to the applicable account of that Improvement Bonds Debt
27 Service Fund and used by the City for the payment of the principal of or interest next coming
28 due on that series of Improvement Bonds. The Investment Bankers shall not be responsible
29 for the application or use by the City or by its officers of the Improvement Bond proceeds or
30 of any other funds designated in the Bond Legislation.

31 On the Improvement Bonds Closing Date, the City Treasurer or other Authorized
32 Officer may approve variations in the amounts to be deposited, transferred and used as set
33 forth in this Section 17 as necessary or desirable, to the extent permitted by law.

1 SECTION 18. APPROVAL OF DOCUMENTS; PAYMENT OF EXPENSES.

2 (A) DOCUMENT APPROVAL. As to any series of Improvement Bonds, the
3 Council shall adopt in the applicable Improvement Bonds Sale Resolution an Improvement
4 Bonds Bond Purchase Agreement, Improvement Bonds Continuing Disclosure Undertaking,
5 and Improvement Bonds Preliminary Official Statement in substantially the form presented to
6 the Council at that time with such changes and additions necessary and appropriate for the
7 issuance of such series of Improvement Bonds. Additional Related Documents for the
8 applicable series of Improvement Bonds shall also be identified and approved by the Council
9 in the applicable Improvement Bonds Sale Resolution.

10 (B) EXPENSES. All Expenses shall be paid directly by the City to the party
11 entitled thereto using moneys available from the proceeds of the Improvement Bonds or from
12 the Gross Receipts Tax Income Fund, pursuant to the priorities established by Section 19.

13 (C) FURTHER ACTS. From and after the date of the adoption of the Bond
14 Legislation, the officers, agents and employees of the City are authorized, empowered and
15 directed to do all such acts and things and to execute all such documents as may be
16 necessary to issue the Improvement Bonds and to carry out and comply with the provisions
17 of the Bond Legislation and the Related Documents.

18 SECTION 19. DEPOSIT AND PRIORITIES FOR USE OF PLEDGED REVENUES.

19 (A) DEBT SERVICE FUND. So long as any Improvement Bonds are
20 Outstanding, either as to principal or interest, or both, the Pledged Revenues shall be set
21 aside and deposited as follows:

22 Pledged Tax Revenues shall, immediately upon receipt thereof by the City, be
23 set aside and deposited into the Gross Receipts Tax Income Fund. All money deposited into
24 the Gross Receipts Tax Income Fund shall be held separate and apart from the City's
25 general fund and applied only in accordance with the provisions of the Bond Legislation and
26 any other City ordinance authorizing the issuance of Tax Obligations. Money shall not be
27 accumulated in or transferred from the Gross Receipts Tax Income Fund for the payment of
28 the principal of, premium, if any, or interest on the Improvement Bonds or other Tax
29 Obligations after the payment each month of, or the setting aside of funds each month
30 sufficient to pay, the amounts required to be deposited pursuant to this Section 19. The
31 following payments shall be made from the Pledged Revenues:

32 Firstly, as a first charge on the Pledged Revenues, but only to the extent the
33 Pledged Revenues consist of Old Lien Pledged Revenues, the amounts necessary to pay

1 the Debt Service Requirements on Old Lien Tax Obligations at the time Outstanding or to
2 fund any reserve account as required by the terms of any ordinance or resolution authorizing
3 the issuance of such Old Lien Tax Obligations shall be withdrawn from the Gross Receipts
4 Tax Income Fund at the time prescribed in the ordinance or resolution of the City authorizing
5 issuance of such Old Lien Tax Obligations and shall be paid or deposited in accordance with
6 such ordinances and resolutions.

7 Secondly, as a second charge on the Pledged Revenues, the amounts
8 necessary to pay the Debt Service Requirements on New Lien Tax Obligations at the time
9 Outstanding shall be withdrawn from the Gross Receipts Tax Income Fund and shall be
10 concurrently credited to the Improvement Bonds Debt Service Fund (including any account
11 therein established by an Improvement Bonds Sale Resolution) or any relevant debt service
12 account, with the same priority and, if insufficient to pay all of the enumerated Debt Service
13 Requirements, pro rated in proportion to the amounts of such Debt Service Requirements
14 (monthly, in the case of the Improvement Bonds, in accordance with Section 20.(G)):

15 (1) Prior to each interest payment date, that amount necessary to
16 pay or reimburse the next maturing installment of interest of each series of New Lien Tax
17 Obligations then Outstanding.

18 (2) Prior to each principal payment date, that amount necessary to
19 pay the next regularly scheduled installment of principal, whether at maturity or a mandatory
20 sinking fund redemption date, of each series of New Lien Tax Obligations then Outstanding.

21 (3) Prior to their respective due dates, the amounts necessary to
22 pay or reimburse the provider of a Credit Facility for payments of Debt Service Requirements
23 (but not tender price) on New Lien Tax Obligations made by the relevant Credit Source. The
24 tender price of a series of New Lien Tax Obligations and any interest payment owed to any
25 Credit Source which exceeds the amount of interest which would be payable at the maximum
26 bond interest rate on that series, shall not be reimbursed from the Gross Receipts Tax
27 Income Fund with the priority set forth in this Section 19.(A) but shall be reimbursed with the
28 priority set forth in Section 19.(B).

29 (4) The City may pay the Debt Service Requirements on the
30 Improvement Bonds and, unless otherwise required under the ordinance or resolution under
31 which they were issued, any other Tax Obligations that are New Lien Tax Obligations from
32 Pledged Revenues as described in Section 19 in such order, in whole or in part, as to the
33 use of Pledged Revenues as the City may from time to time determine in its sole discretion.

1 (B) OTHER NEW LIEN TAX OBLIGATIONS. To the extent not required to
2 be deposited or paid pursuant to Sections 19.(A), Pledged Revenues available in the Gross
3 Receipts Tax Income Fund shall be used, as necessary, to pay (i) payment obligations owed
4 by the City to a Credit Source for New Lien Tax Obligations, including the tender price of and
5 certain interest payments on, New Lien Tax Obligations paid by that Credit Source; and (ii)
6 fees, expenses and interest owed by the City to any other provider of fiscal services for a
7 series of New Lien Tax Obligations. Amounts from the Gross Receipts Tax Income Fund to
8 be used to pay interest pursuant to this Section 19.(B) shall be deposited by the City into a
9 separate account maintained by the City on or before the due date thereof.

10 (C) DEBT SERVICE RESERVE REQUIREMENTS. To the extent not
11 required to be deposited or paid pursuant to Sections 19.(A) or 19.(B), Pledged Revenues
12 available in the Gross Receipts Tax Income Fund shall be used, as necessary, to pay any
13 debt service reserve account as required by the terms of any ordinance or resolution
14 authorizing the issuance of New Lien Tax Obligations.

15 (D) SUBORDINATE TAX OBLIGATIONS. To the extent not required to be
16 deposited or paid pursuant to Sections 19.(A), 19.(B) or 19.(C), Pledged Tax Revenues
17 available in the Gross Receipts Tax Income Fund shall be used, as necessary, to pay Debt
18 Service Requirements on Subordinate Tax Obligations as the same accrue.

19 (E) USE OF SURPLUS PLEDGED REVENUES. To the extent not required
20 in any month to be deposited or paid pursuant to Sections 19.(A), 19.(B), 19.(C) or 19.(D),
21 any moneys remaining in the Gross Receipts Tax Income Fund may be transferred from the
22 Gross Receipts Tax Income Fund, and applied as required by the terms of any ordinance or
23 resolution authorizing the issuance of any Old Lien Tax Obligations and, if not so required to
24 be applied, to any other lawful purpose or purposes authorized by applicable law, as
25 determined by the City, subject to any limitations imposed by the Code.

26 SECTION 20. GENERAL ADMINISTRATION OF FUNDS.

27 (A) USE OF AMOUNTS AND TERMINATION OF DEPOSITS IN DEBT
28 SERVICE FUNDS.

29 (1) MONEY IN DEBT SERVICE FUNDS. Except as provided in
30 Section 20.(A)(2), the money credited to the Improvement Bonds Debt Service Fund
31 including any account therein established by an Improvement Bonds Sale Resolution shall
32 be used by the City only to pay, or to reimburse a Credit Source for the payment of, the Debt
33 Service Requirements of the applicable series of Improvement Bonds. Money on deposit in

1 the Improvement Bonds Debt Service Fund and any account therein shall be transferred to
2 the Paying Agent on or before each relevant payment date.

3 (2) TERMINATION UPON DEPOSITS TO MATURITY. No
4 payment needs to be made into the Improvement Bonds Debt Service Fund or to any
5 applicable account therein if no Debt Service Requirements on the Improvement Bonds are
6 then past due and the amounts on deposit in the applicable account of the Improvement
7 Bonds Debt Service Fund for the payment of the applicable series of Improvement Bonds are
8 at least equal to all Debt Service Requirements on the applicable series of Improvement
9 Bonds prior to their Maturity Dates or mandatory redemption dates, or to any date for which
10 the City has exercised or has obligated itself to exercise its option to redeem the applicable
11 series of Improvement Bonds prior to their Maturity Dates or redemption dates, as the case
12 may be. In such event, money in the applicable series of Improvement Bonds Debt Service
13 Fund shall be used for the payment of the Debt Service Requirements or such optional
14 redemption payments, if applicable, when due, on the applicable series of Improvement
15 Bonds. Any money in those accounts in excess of the amounts required by the preceding
16 sentence may be used as provided in Section 19.(E).

17 (B) CREDIT OR DEFICIENCY. In making the determinations of the
18 amounts to be transferred from the Gross Receipts Tax Income Fund as provided in Section
19 19 or this Section 20, the City may take into account any amount then on deposit in any fund
20 relating to the Improvement Bonds which is available and required to be used for the
21 designated payment. If any deposit made to a fund for the payment of the Improvement
22 Bonds is less than the amount required to be deposited, the City shall pay or credit to that
23 fund from Pledged Revenues in the Gross Receipts Tax Income Fund the first money
24 available to pay that deficiency using the priorities set forth in Section 19 and this Section 20.

25 (C) TRANSFER OF MONEY. Each payment of principal and interest
26 coming due on the Improvement Bonds shall be transferred from the applicable fund to the
27 Paying Agent.

28 (D) VARIABLE INTEREST RATE. In making the computations required by
29 Section 19 and this Section 20, interest on Variable Interest Rate Tax Obligations which
30 Cannot be computed exactly shall be computed at the maximum interest rate permitted for
31 those Obligations unless otherwise required by the City ordinance authorizing the issuance
32 of such Obligations.

1 (E) INVESTMENT OF MONEY. Any money in any fund created or
2 Continued in Section 16 shall be invested in Permitted Investments. The investments
3 purchased using money in any such fund shall be deemed at all times to be part of that fund.
4 The interest accruing in the funds and any profit realized therefrom shall be credited to the
5 fund in which the relevant investments are deemed to be held. Any loss resulting from such
6 investment shall be charged to the applicable fund. The City Treasurer shall present for
7 redemption or sale on the prevailing market any obligations purchased as an investment of
8 money in the applicable fund whenever it shall be necessary to do so in order to provide
9 money to meet any payment or transfer from such fund. Neither the City Treasurer nor any
10 other officer of the City shall be liable or responsible for any loss resulting from any such
11 investment made in accordance with the Bond Legislation.

12 (F) DEPOSITS OF FUNDS. The money and investments deposited in the
13 funds created or continued in Section 16 shall be maintained and kept in one or more
14 Insured Banks. Each payment shall be made into and credited to the proper fund at the
15 designated time, except that when the designated time is not a Business Day, then such
16 payment shall be made on the next succeeding Business Day. Nothing herein shall prevent
17 the establishment of one or more such funds in insured banks for all of the accounts
18 designated in Section 16.

19 (G) DEPOSITS OF PLEDGED REVENUES FOR IMPROVEMENT BONDS.

20 (1) The City shall make substantially equal monthly deposits in the
21 applicable account in the Improvement Bonds Debt Service Fund in order to pay the amount
22 of interest on the applicable series of Improvement Bonds which will become due on the
23 Interest Payment Date next following the date of deposit. The monthly deposits required in
24 the preceding sentence shall begin in the calendar month subsequent to the Improvement
25 Bonds Closing Date for that series of Improvement Bonds.

26 (2) Deposits to the applicable account in the Improvement Bonds
27 Debt Service Fund for the next installment of principal becoming due on the applicable series
28 of Improvement Bonds shall be made in substantially equal monthly deposits commencing in
29 the first month which is less than 13 months prior to the month in which that installment of
30 principal is due.

31 (H) VALUATION. The "value" of Permitted Investments shall be determined
32 at least every six months as follows:

1 (1) if the price of the investment is not set as described in Section
2 20(H)(4), as to investments the bid and asked prices of which are published on a regular
3 basis in The Wall Street Journal (or, if not there, then in The New York Times): the average
4 of the bid and asked prices for such investments published on or more recently prior to such
5 time of determination;

6 (2) as to investments the bid and asked prices of which are not
7 published on a regular basis in The Wall Street Journal or The New York Times: the average
8 bid price at such time of determination for such investments by any two nationally recognized
9 government securities dealers (selected by the City in its absolute discretion) at the time
10 making a market in such investments or the bid price published by a nationally recognized
11 pricing service;

12 (3) as to certificates of deposit and bankers acceptances: the face
13 amount thereof, plus accrued interest;

14 (4) as to investments in clauses (1), (2), (3) and (9) of the definition
15 of Permitted Investments pursuant to which a financial institution is obligated to purchase the
16 investment from the City at a fixed price through maturity of the investment: the price set
17 forth in such agreement, provided that such institution, or the guarantor of such institution or
18 agreement, shall be rated in one of the top two Rating Categories by S&P, Moody's and Fitch
19 if then rating the Series 2009 Bonds, or by another national rating agency; and

20 (5) as to any investment not specified above: the cost of the
21 Permitted Investments (including any amount paid as accrued interest) or the principal
22 amount thereof, whichever is less; except that Permitted Investments purchased at a
23 premium may initially be valued at the cost thereof, but in each year after such purchase
24 shall be valued at a lesser amount determined by ratably amortizing the premium over the
25 remaining term.

26 No loss or profit on Permitted Investments shall be deemed to take place as a result
27 of fluctuations in the market quotations prior to the sale or maturity thereof.

28 (I) Deposits for the payment of principal of and interest on other New Lien
29 Tax Obligations required by Section 19.(B) may be made more or less frequently than
30 monthly.

31 SECTION 21. LIEN ON PLEDGED REVENUES; PROCEEDS; ETC.

32 (A) IMPROVEMENT BONDS. Payments of Debt Service Requirements on
33 the Improvement Bonds are secured by an irrevocable lien on and the City grants and

1 confirms to the owners of the Improvement Bonds a security interest in the Pledged
2 Revenues for the payment of the principal or premium, if any, and interest on the
3 Improvement Bonds. The Improvement Bonds shall be issued as New Lien Tax Obligations.

4 The City pledges and grants a security interest in and lien (but not an
5 exclusive lien) on the money and Permitted Investments on deposit in the applicable account
6 in the Improvement Bonds Debt Service Fund, the applicable account in the Acquisition Fund
7 and any other fund (other than any Rebate Fund) held pursuant to the Bond Legislation for
8 the corresponding series of Improvement Bonds for the payment of such Improvement
9 Bonds.

10 (B) OTHER RELATED DOCUMENTS. Payments under any other Related
11 Documents shall be secured by an irrevocable lien on, and the City grants to the parties
12 entitled to payments under those Related Documents, a security interest in, the Pledged
13 Revenues for those payments.

14 (C) REBATE PAYMENTS. Any investment income which is required to be
15 rebated to the United States pursuant to Section 148(f) of the Code is not subject to the
16 pledge and security interest provided in this Section 21.

17 SECTION 22. EQUALITY OF BONDS. Except as specifically stated in the Bond
18 Legislation, each series of the Improvement Bonds from time to time Outstanding shall not
19 be entitled to any priority one over the other in the application of the Pledged Revenues,
20 regardless of the time or times of their issuance, it being the intention of the Council that
21 there shall be no priority among the series of the Improvement Bonds, regardless of the fact
22 that they may be actually issued and delivered at different times.

23 SECTION 23. ADDITIONAL BONDS OR OTHER OBLIGATIONS PAYABLE FROM
24 PLEDGED REVENUES.

25 (A) LIMITATIONS UPON ISSUANCE OF NEW LIEN TAX OBLIGATIONS.
26 No provision of the Bond Legislation shall be construed to prevent the issuance by the City of
27 additional New Lien Tax Obligations, nor to prevent the issuance of bonds or other
28 obligations refunding all or a part of any New Lien Tax Obligations. However, before any
29 additional New Lien Tax Obligations are issued:

30 (1) The City shall then be current in the accumulations required to
31 be made pursuant to any ordinance or resolution authorizing the issuance of any Old Lien
32 Tax Obligations and New Lien Tax Obligations; and

33 (2) With respect to additional New Lien Tax Obligations:

1 (a) The Pledged Revenues received by the City for either –
2 (i) the Fiscal Year or (ii) any twelve consecutive months out of the eighteen calendar months
3 immediately preceding the date of the issuance of such additional New Lien Tax Obligations
4 – shall have been sufficient to pay an amount representing two hundred and twenty-five
5 percent (225%) of the combined maximum annual principal and interest payments (excluding
6 any reserves therefor) coming due in any subsequent Fiscal Year on: (i) the then
7 Outstanding Old Lien Tax Obligations, (ii) the then Outstanding New Lien Tax Obligations,
8 and (iii) the New Lien Tax Obligations proposed to be issued.

9 (b) A written certificate or opinion by an Independent
10 Accountant that such annual Pledged Revenues are sufficient to pay the amounts required
11 by paragraph (a) above shall be conclusively presumed to be accurate in determining the
12 right of the City to authorize, issue, sell and deliver the proposed additional New Lien Tax
13 Obligations.

14 (c) In making the computations required by this Section
15 23.(A)(2) and Section 24.(B), that part of the interest rate on Variable Rate Obligations which
16 cannot be computed exactly shall be computed at the maximum interest rate then permitted
17 on such obligations by the City ordinance authorizing the issuance of such obligations.

18 (B) SUBORDINATE TAX OBLIGATIONS PERMITTED. No provision of the
19 Bond Legislation shall be construed to prevent the issuance by the City of Subordinate Tax
20 Obligations.

21 (C) SUPERIOR TAX OBLIGATIONS PROHIBITED. No provision of the
22 Bond Legislation shall be construed to permit the City to issue, and the City shall not issue,
23 obligations payable from the Pledged Revenues having a lien thereon prior and superior to
24 the New Lien Tax Obligations.

25 SECTION 24. REFUNDING BONDS PAYABLE FROM PLEDGED REVENUES.
26 The provisions of Section 23 are subject to the following exceptions:

27 (A) PRIVILEGE OF ISSUING REFUNDING TAX OBLIGATIONS.
28 Outstanding Tax Obligations may be refunded, regardless of whether the priority of the lien
29 for the payment of the refunding obligations on the Pledged Revenues is different than the
30 lien of the refunded Tax Obligations on Pledged Revenues, except as provided in Section
31 23.(C) and in Sections 24.(B), 24.(C) and 24.(D).

1 (B) LIMITATIONS UPON ISSUANCE OF REFUNDING TAX
2 OBLIGATIONS. No Refunding Tax Obligations shall be issued as New Lien Tax Obligations
3 unless:

4 (1) The Tax Obligations refunded are Old Lien Tax Obligations or
5 New Lien Tax Obligations and the issuance of the refunding Tax Obligations does not
6 increase the maximum annual Debt Service Requirements of the refunded Tax Obligations
7 and all other Outstanding New Lien Tax Obligations on the refunding date; or

8 (2) The refunding New Lien Tax Obligations are issued in
9 compliance with Section 23.(A).

10 (C) REFUNDING PART OF A SERIES. While any series of Improvement
11 Bonds are Outstanding, except as set forth in subparagraph (3) below, the refunding Tax
12 Obligations shall enjoy complete equality of lien on the Pledged Revenues with the portion of
13 any Tax Obligations of the same series which is not refunded and the Owners of the
14 refunding Tax Obligations shall be subrogated to all of the rights and privileges enjoyed by
15 the Owners of the refunded Tax Obligations.

16 A part of a series of Outstanding Tax Obligations may be refunded only with
17 the consent of the Owners of the unrefunded portion of that series unless:

18 (1) The issuance of the refunding Tax Obligations does not
19 increase the maximum annual Debt Service Requirements evidenced by the refunded Tax
20 Obligations and by the Outstanding Tax Obligations of such series not refunded on the
21 refunding date; or

22 (2) The refunding New Lien Tax Obligations are issued in
23 compliance with Section 23.(A); or

24 (3) The lien on the Pledged Revenues for the payment of the
25 refunding Tax Obligations is subordinate to the lien thereon for the payment of the
26 unrefunded portion of the series.

27 (D) LIMITATIONS UPON ISSUANCE OF REFUNDING TAX
28 OBLIGATIONS. Any refunding Tax Obligations shall be issued with such details as the City
29 may provide by ordinance and resolution, but without any impairment of any contractual
30 obligations imposed upon the City by any proceedings authorizing the issuance of any
31 Outstanding Obligations.

32 SECTION 25. PROTECTIVE COVENANTS. The City covenants and agrees, so
33 long as any series of Improvement Bonds remain Outstanding:

1 (A) USE OF PROCEEDS OF TAX OBLIGATIONS. The City shall proceed
2 without delay to apply the proceeds of each series of Tax Obligations to the purposes for
3 which they are issued.

4 (B) PAYMENT OF TAX OBLIGATIONS. The City shall promptly pay Debt
5 Service Requirements on each series of Tax Obligations at the place, on the date and in the
6 manner specified in the City ordinances and resolutions and the documents relating to those
7 Tax Obligations.

8 (C) CITY'S EXISTENCE. The City shall maintain its corporate identity and
9 existence unless another political subdivision by operation of law succeeds to the liabilities
10 and rights of the City under the Bond Legislation, without adversely affecting to any
11 substantial degree the privileges and rights of any Owner.

12 (D) PROHIBITION OF ANY EXTENSION OF INTEREST PAYMENTS. In
13 order to prevent any accumulation of claims for interest after maturity, the City shall not
14 directly or indirectly extend or assent to the extension of time for the payment of any claim for
15 interest on any Improvement Bonds. If the time for payment of any interest is extended, such
16 payment shall not be made by the City, in case of default under the Bond Legislation, until
17 the prior payment in full of the Debt Service Requirements on all Improvement Bonds on
18 which the payment of interest has not been extended.

19 (E) RECORDS. The City shall keep proper books of record and account,
20 separate and apart from all other records and accounts, showing complete and correct
21 entries of all transactions relating to the Pledged Revenues.

22 (F) AUDITS. The City shall, within 270 days following the close of each
23 Fiscal Year, cause an audit of its books and accounts relating to the Pledged Revenues to be
24 completed by an Independent Accountant showing the receipts and disbursements in
25 connection with the Pledged Revenues

26 (G) DUTY TO IMPOSE TAX. If State law or the City Charter or any City
27 ordinance or part thereof, which affects the Pledged Revenues, shall ever be held to be
28 invalid or unenforceable, the City shall immediately take any action which is legally available
29 to the City necessary to produce sufficient Pledged Revenues to comply with the obligations
30 of the City under the Bond Legislation.

31 (H) IMPAIRMENT OF CONTRACT. In accordance with Section 3-31-6(C)
32 NMSA 1978, no law, ordinance or resolution of the City which affects the Pledged Revenues
33 or the Improvement Bonds shall be repealed or otherwise directly or indirectly modified in

1 such a manner as to impair adversely Outstanding Improvement Bonds or obligations of the
2 City under the Bond Legislation or any Related Documents, unless the Improvement Bonds
3 or obligations have been discharged in full or provision has been fully made therefor.

4 SECTION 26. REPRESENTATIONS AND WARRANTIES OF THE CITY. The City
5 represents and warrants that:

6 (A) HOME RULE POWER; EXISTENCE. The City has Home Rule Powers
7 and has been validly created and is operating under the laws of the State and the City's
8 Charter.

9 (B) AUTHORITY. The City has all requisite power and authority under the
10 laws of the State and the Home Rule Powers to enter into, execute and deliver the Related
11 Documents, to issue and sell the Improvement Bonds and to perform its covenants contained
12 in the Bond Legislation.

13 (C) EXECUTION AUTHORIZED. The execution and delivery of the Related
14 Documents and use of the disclosure documents for the Improvement Bonds and the
15 issuance and sale of the Improvement Bonds [will be] duly authorized by the Council and,
16 except for the approval of the State Department of Finance and Administration referred to in
17 Section 4.(A), no further authorization or approval of such execution, use, delivery, issuance
18 or sale is required by law.

19 (D) ENFORCEABILITY OF BONDS. The Improvement Bonds, when
20 issued, delivered and paid for, shall constitute valid and binding special, limited obligations of
21 the City enforceable in accordance with their terms and entitled to the benefits and security
22 of the Bond Legislation, subject to the limitations contained in the Bond Legislation and
23 subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws
24 affecting the enforcement of creditors' rights generally and the enforceability of
25 indemnification provisions and except to the extent that the enforceability thereof may be
26 limited by the availability of equitable remedies.

27 (E) ENFORCEABILITY OF RELATED DOCUMENTS. The Related
28 Documents, when executed and delivered by the City shall constitute valid and binding
29 special limited obligations of the City enforceable in accordance with their terms, subject to
30 any applicable bankruptcy, insolvency, moratorium or other laws affecting the enforcement of
31 creditors' rights generally and the enforceability of indemnification provisions except to the
32 extent that the enforceability thereof may be limited by the availability of equitable remedies.

1 (F) NO CONFLICT. The execution and delivery of the Related Documents,
2 Improvement Bonds and the other agreements contemplated by the Bond Legislation and
3 compliance with the provisions thereof, shall not conflict with nor constitute on the part of the
4 City a breach of or a default under any existing law, court or administrative regulation,
5 decree, order or, to the knowledge of the City, any agreement, indenture, mortgage or lease
6 to which the City is a party or by which it is or may be bound.

7 (G) OTHER LIENS. Other than as described and identified by the Bond
8 Legislation, there are no liens or encumbrances of any nature on or against the Pledged
9 Revenues on the date of adoption of the Bond Legislation.

10 SECTION 27. TAX COMPLIANCE. The City covenants that it shall use, and shall
11 restrict the use and investment of, the proceeds of any series of Improvement Bonds
12 intended by the City to be issued as bonds the interest on which will not be included as gross
13 income for federal income tax purposes in such manner and to such extent as may be
14 necessary so that (a) any series of Improvement Bonds intended by the City to be issued as
15 bonds the interest on which will not be included as gross income for federal income tax
16 purposes shall not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under
17 Sections 141, 148 or 149 of the Code, or (ii) be treated other than as bonds to which Section
18 103(a) of the Code applies, and (b) the interest thereon shall not be treated as a preference
19 item under Section 57 of the Code. The City further covenants (a) that it shall take or cause
20 to be taken such actions that may be required of it for the interest on any series of
21 Improvement Bonds intended by the City to be issued as bonds the interest on which will not
22 be included as gross income for federal income tax purposes to be and to remain excluded
23 from gross income for federal income tax purposes, (b) that it shall not take or authorize to
24 be taken any actions that would adversely affect that exclusion, and (c) that it, or persons
25 acting for it, shall, among other acts of compliance, (i) apply the proceeds of any series of
26 Improvement Bonds intended by the City to be issued as bonds the interest on which will not
27 be included as gross income for federal income tax purposes to the governmental purposes
28 of the borrowings, (ii) restrict the yield on investment property, (iii) make timely and adequate
29 rebate payments or payments of alternative amounts in lieu of rebate to the federal
30 government, (iv) maintain books and records and make calculations and reports, and (v)
31 refrain from certain uses of those proceeds and, as applicable, of property financed with such
32 proceeds, all in such manner and to the extent necessary to assure such exclusion of that
33 interest under the Code.

1 Authorized Officers are authorized (a) to make or effect any election, selection,
2 designation, choice, consent, approval, or waiver on behalf of the City with respect to any
3 series of Improvement Bonds intended by the City to be issued as bonds the interest on
4 which will not be included as gross income for federal income tax purposes as the City is
5 permitted or required to make or give under the federal income tax laws, including, without
6 limitation thereto, any of the elections available under Section 148 of the Code for the
7 purpose of assuring, enhancing or protecting favorable tax treatment or status of any series
8 of Improvement Bonds intended by the City to be issued as bonds the interest on which will
9 not be included as gross income for federal income tax purposes or interest thereon or
10 assisting in the compliance with requirements for that purpose, reducing the burden or
11 expense of such compliance, reducing the rebate amount or payments of penalties, or
12 making payments of special amounts in lieu of making computations to determine, or paying,
13 excess earnings as rebate, or obviating those amounts or payments, as determined by that
14 officer, which action shall be in writing and signed by the officer, (b) to take any and all other
15 actions, make or obtain calculations, make payments, and make or give reports, covenants
16 and certifications of and on behalf of the City, as may be appropriate to assure the exclusion
17 of interest from gross income and the intended tax status of any series of improvement
18 Bonds intended by the City to be issued as bonds the interest on which will not be included
19 as gross in come for federal income tax purposes, and (c) to give one or more appropriate
20 certificates of the City, for inclusion in the transcripts of the proceedings for any series of
21 Improvement Bonds intended by the City to be issued as bonds the interest on which will not
22 be included as gross income for federal income tax purposes, setting forth the reasonable
23 expectations of the City regarding the amount and use of all the proceeds of any series of
24 Improvement Bonds intended by the City to be issued as bonds the interest on which will not
25 be included as gross income for federal income tax purposes, the facts, circumstances and
26 estimates on which they are based, and other facts and circumstances relevant to the tax
27 treatment of the interest on and the tax status of any series of Improvement Bonds intended
28 by the City to be issued as bonds the interest on which will not be included as gross income
29 for federal income tax purposes.

30 SECTION 28. EVENTS OF DEFAULT. Each of the following events is an "Event of
31 Default":

32 (A) NONPAYMENT OF PRINCIPAL. As to any series of Improvement
33 Bonds, failure to pay the principal of that series of Improvement Bonds when the same

1 becomes due and payable, either at maturity, or by proceedings for prior redemption, or
2 otherwise.

3 (B) NONPAYMENT OF INTEREST. As to any series of Improvement
4 Bonds, failure to pay any installment of interest on that series of Improvement Bonds on the
5 due date thereof.

6 (C) INCAPABLE TO PERFORM. The City shall for any reason be rendered
7 incapable of performing its obligations under the Bond Ordinance or the Improvement Bonds
8 Sale Resolution.

9 (D) DEFAULT OF ANY OTHER PROVISION. Default by the City in the due
10 and punctual performance of its covenants or conditions, agreements and provisions
11 contained in any series of Improvement Bonds or in the Bond Ordinance or the applicable
12 Improvement Bonds Sale Resolution on its part to be performed, and the continuance of
13 such default (other than a default set forth in Sections 28.(A), 28.(B) or 28.(C)) for 60 days
14 after written notice specifying such default and requiring the same to be remedied has been
15 given to the City by the Owners of 25% in aggregate principal amount of that series of
16 Improvement Bonds then Outstanding or by any Improvement Bond Insurer.

17 SECTION 29. REMEDIES UPON DEFAULT.

18 (A) IMPROVEMENT BONDS REMEDIES UPON DEFAULT. Upon the
19 happening and during the continuance of any Event of Default relating to a series of
20 Improvement Bonds: any Improvement Bond Insurer or the Owners of not less than 25% in
21 aggregate principal amount of the Improvement Bonds then Outstanding affected by the
22 Event of Default, including but not limited to a trustee or trustees therefor, with the consent of
23 any Improvement Bond Insurer may proceed against the City to:

24 (1) protect and enforce the rights of the Owners by mandamus or
25 other suit, action or special proceedings in equity or at law, in any court of competent
26 jurisdiction, either for the appointment of a receiver or for the specific performance of any
27 covenant or agreement contained in the Bond Legislation or for the enforcement of any
28 proper legal or equitable remedy as those Owners or the Improvement Bond Insurer, if any,
29 may deem necessary or desirable to protect and enforce their respective rights;

30 (2) enjoin any act or thing which may be unlawful or in violation of
31 any right of any Owner;

32 (3) require the Council to act as if it were the trustee of an express
33 trust; and

1 (4) any combination of those remedies.

2 All proceedings shall be instituted and maintained for the equal benefit of all
3 Owners of the Improvement Bonds then Outstanding. The failure of any Improvement Bond
4 Insurer or an Owner to exercise any right granted by this Section 29 shall not relieve the City
5 of any obligation to perform any duty. Each right or privilege of any Improvement Bond
6 Insurer or any such Owner (or trustee or receiver therefor) is in addition and cumulative to
7 any other right or privilege and the exercise of any right or privilege by or on behalf of any
8 Improvement Bond Insurer or any Owner shall not be deemed a waiver of any other right or
9 privilege of the Improvement Bond Insurer or such Owner.

10 (B) GENERAL. No remedy in the Bond Legislation is intended to be
11 exclusive of any other remedy or remedies, and each and every such remedy shall be
12 cumulative, and shall be in addition to every other remedy given under the Bond Legislation
13 or now or hereafter existing at law or in equity or by statute.

14 All rights, remedies and powers provided by the Bond Legislation may be
15 exercised only to the extent that the exercise thereof does not violate any applicable
16 provision of law and all the provisions relating to an Event of Default or the exercise of
17 remedies upon the occurrence of an Event of Default are intended to be subject to all
18 applicable provisions of law which may be controlling and to be limited to the extent
19 necessary so that they shall not render the Bond Legislation invalid or unenforceable under
20 the provisions of any applicable law.

21 SECTION 30. APPLICATION OF MONEY. All money received with respect to any
22 right given or action taken under the provisions of the Bond Legislation after the occurrence,
23 and during the continuance, of an Event of Default with respect to the Improvement Bonds,
24 except as otherwise specified in the Bond Legislation, after payment' of the costs, fees and
25 expenses of the proceedings resulting in the collection of such money, shall be deposited in
26 the applicable account of the Improvement Bonds Debt Service Fund and applied to the
27 payment of the applicable series of the Improvement Bonds in accordance with the terms
28 and provisions of Section 19. The proceeds of any Improvement Bond Insurance Policy shall
29 be used only to pay Debt Service Requirements on the appropriate series of the
30 Improvement Bonds.

31 Whenever money is to be applied pursuant to the provisions of this Section 30, it shall
32 be applied at such times, and from time to time, as the Paying Agent determines, having due
33 regard to the amount of money available for application and the likelihood of additional

1 money becoming available in the future. Whenever the Paying Agent determines to apply
2 such money, the Paying Agent shall fix a Special Record Date and the date (which shall be
3 an Interest Payment Date unless the Paying Agent deems another date more suitable) upon
4 which payment is to be made and on such date interest on the amounts of principal to be
5 paid on such dates shall cease to accrue. The Paying Agent shall give notice to the Owners
6 of the deposit of any such money and of the fixing of any such date, and shall not be required
7 to make payment of principal to the Owner of any Improvement Bonds until presented to the
8 Paying Agent for appropriate endorsement or for cancellation if fully paid.

9 SECTION 31. DUTIES UPON DEFAULT; RIGHTS CONFERRED. Upon the
10 happening and during the continuance of any Event of Default, the City will do and perform
11 all proper acts on behalf and for the Owners to protect and preserve the security created for
12 the payment of the Improvement Bonds and any Payment Obligations and to insure the
13 payment of the Debt Service Requirements promptly as the same become due. The Owners
14 of not less than 25% in aggregate principal amount of Outstanding series of Improvement
15 Bonds, after written demand, may proceed to protect and enforce the rights provided by this
16 Section 31.

17 SECTION 32. DEFEASANCE.

18 (A) DEFEASANCE OF BOND LEGISLATION. If, when a series of
19 Improvement Bonds become due and payable in accordance with their terms or otherwise as
20 provided in the Bond Legislation and the entire amount of the principal of, premium, if any,
21 and interest due and payable on all of that series of Improvement Bonds is paid or if
22 provisions are made for the payment thereof when due and payable, and all other sums
23 payable under the Bond Legislation (including amounts owed to any Improvement Bond
24 Insurer) are paid, then all covenants, agreements and other obligations of the City to the
25 Owners and that series of Improvement Bond Insurer shall cease, terminate and become
26 void and be discharged and satisfied. However, the covenants of the Bond Legislation
27 relating to the rebate requirements of Section 148(f) of the Code shall survive until all
28 applicable requirements have been satisfied.

29 (B) IMPROVEMENT BONDS.

30 (1) When all principal, interest and prior redemption premium, if
31 any, in connection with any Improvement Bond has been duly paid or provided for, the
32 pledge and lien of the Bond Legislation, and all obligations hereunder (except as provided in
33 Section 34), shall be discharged with respect to that Improvement Bond and that

1 Improvement Bond shall no longer be deemed to be Outstanding within the meaning of the
2 Bond Legislation. There shall be deemed to be such due payment or to be adequate
3 provisions for the prompt and complete payment of an Improvement Bond when the City has
4 placed in escrow and in trust with a commercial bank or trust company located within or
5 without the State and exercising trust powers, an amount sufficient (including the known
6 minimum yield from Defeasance Obligations in which such amount may be initially invested)
7 to meet all requirements of principal, interest and prior redemption premium, if any, on that
8 Improvement Bond as the same become due to its final maturity or upon the designated prior
9 redemption date. The Defeasance Obligations shall become due prior to the respective
10 times at which the proceeds thereof shall be needed, in accordance with a schedule
11 established and agreed upon between the City and such bank or trust company (at the time
12 of the creation of the escrow, or the Defeasance Obligations shall be subject to redemption
13 at the option of the owners thereof to assure such availability as so needed to meet such
14 schedule.

15 (2) Notwithstanding anything to the contrary in the Bond
16 Legislation, if payments of principal of and/or interest due on the Improvement Bonds are
17 paid by any Improvement Bond Insurer, the Improvement Bonds shall remain Outstanding for
18 all purposes and shall not be considered to be defeased or otherwise satisfied and shall not
19 be considered paid by the City until payment is made by the City from funds other than the
20 Improvement Bond Insurance Policy, the Pledged Revenues shall continue to be pledged for
21 the payment of the Improvement Bonds and all covenants, agreements and other obligations
22 of the City under the Bond Legislation to the Owners of the Improvement Bonds shall
23 continue to exist and shall run to the benefit of the Improvement Bond Insurer and the
24 Improvement Bond Insurer shall be subrogated to the rights of the Owners of Improvement
25 Bonds for which payment was made by the Improvement Bond Insurer.

26 (3) If any Improvement Bonds are deemed to be paid and
27 discharged pursuant to this Section 33, within 15 days after the date of defeasance, the City
28 shall irrevocably direct the Fiscal Agent to give written notice to any Improvement Bond
29 Insurer and each Owner of Improvement Bonds deemed paid and discharged at the address
30 shown on the Bond Register on the date on which those Improvement Bonds are deemed
31 paid and discharged. The notice shall state, to the extent applicable, the same information
32 required by Section 6.(D) for the redemption of Improvement Bonds and shall describe the
33 Defeasance Obligations.

1 SECTION 33. SURVIVAL OF CERTAIN PROVISIONS. Notwithstanding the
2 foregoing, with respect to Improvement Bonds deemed paid pursuant to Section 33.(B), any
3 provisions of the Bond Legislation which relate to indemnification and the payment of fees
4 and expenses, the payment of the principal of and premium on Improvement Bonds at
5 maturity or on a prior redemption date, interest payments and dates thereof, exchange,
6 registration of transfer and registration of Improvement Bonds, replacement of mutilated,
7 destroyed, lost or stolen Improvement Bonds, the safekeeping and cancellation of
8 Improvement Bonds, non-presentment of Improvement Bonds, the holding of money in trust
9 and payments to the Fiscal Agent in connection with all of the foregoing, and the applicable
10 requirements of the Code pertaining to any series of Improvement Bonds intended by the
11 City to be issued as bonds the interest on which will not be included as gross income for
12 federal income tax purposes, including the payment of excess earnings to the federal
13 government, shall remain in effect and be binding upon the Owners of Improvement Bonds
14 and the Fiscal Agent for those Improvement Bonds, notwithstanding the release and
15 discharge of the Bond Legislation. The provisions of this Section 34 shall survive the
16 release, discharge and satisfaction of the Bond Legislation.

17 SECTION 34. NOTICES. Except as otherwise specifically required in the Bond
18 Legislation, notice with respect to the Improvement Bonds shall be effective when received
19 and it shall be sufficient service of any notice, request, demand or other paper if the same is
20 given: (i) orally, or (ii) by certified or registered mail, or (iii) by Electronic Means, or (iv) hand
21 delivered; provided that any notice given orally, including notice by telephone, must be
22 confirmed by notice in writing as set forth in clause (ii), (iii) (except by telephone) or (iv)
23 above initiated within one Business Day after oral notice is given. Notice shall be given as
24 follows:

25 If to the City:

26 City of Albuquerque, New Mexico
27 One Civic Plaza, N.W. (87102)
28 Post Office Box 1293 (87103)
29 Albuquerque, New Mexico
30 Attention: Director, Department of Finance and
31 Administrative Services
32 Telephone: (505) 768-3396
33 Facsimile: (505) 768-3447

1 Copy to City Attorney at same address

2 Telephone: (505) 748-4500

3 Facsimile: (605) 768-4525

4 If to the Fiscal Agent:

5 City Treasurer

6 City of Albuquerque, New Mexico

7 One Civic Plaza, N.W., First Floor (87102)

8 Post Office Box 1293 (87103)

9 Albuquerque, New Mexico

10 Telephone: (505) 768-3309

11 Facsimile: (505) 768-3447

12 If to any Improvement Bond Insurer:

13 As set forth in a Related Document or Improvement Bonds Sale
14 Resolution.

15 Any such party may, by notice as set forth above to the other parties,
16 designate any further or different address to which subsequent notices, certificates or other
17 communication shall be sent. All notices sent pursuant to the Bond Legislation to any Owner
18 shall also be sent to the Improvement Bond Insurer, if any.

19 When the Bond Legislation provides for notice to the Owners of Improvement Bonds
20 of any event, such notice shall be sufficiently given (unless otherwise expressly provided in
21 the Bond Legislation) if in writing and given in accordance with this Section 35 to each Owner
22 of Improvement Bonds affected by such event, at his address as it appears on the register
23 for the Improvement Bonds. In any case where notice to an Owner of Improvement Bonds is
24 given by mail, neither the failure to mail such notice nor any defect in any notice mailed to
25 any particular Owner of Improvement Bonds shall affect the sufficiency of such notice with
26 respect to any other Owner, and any notice which is mailed in the manner provided in this
27 paragraph shall conclusively be presumed to have been duly given.

28 Where the Bond Legislation provides for notice upon the occurrence of any event,
29 that notice may be waived by the person entitled to receive that notice, either before or after
30 the event, and such waiver shall be the equivalent of notice.

31 The Fiscal Agent shall provide S&P, if the Improvement Bonds are then rated by
32 S&P, Moody's, if the Improvement Bonds are then rated by Moody's, and Fitch, if the
33 Improvement Bonds are then rated by Fitch, with prior written notice of any amendments to

1 the Bond Legislation and the redemption of Improvement Bonds pursuant to Sections 6.(A)
2 or 6.(B) or paid pursuant to Section 33.(B). Such notice shall be sent (a) to Moody's at:
3 Moody's Investors Service, 7 World Trade Center, 250 Greenwich Street, New York, New
4 York 10007, (b) to S&P at: Standard & Poor's Corporation, Attention: Municipal Finance
5 Department 55 Water Street, New York, New York 10041, and (c) to Fitch at: Fitch Ratings,
6 Inc., One State Street Plaza, New York, New York 10004.

7 SECTION 35. REFERENCES TO INSURER. Notwithstanding anything in the Bond
8 Legislation to the contrary: (i) if there is no Improvement Bond Insurance Policy in effect or
9 no Improvement Bonds Outstanding, then the references in the Bond Legislation relating to
10 an Improvement Bond Insurance Policy or the Improvement Bond Insurer, as applicable,
11 shall have no force and effect and (ii) if the Improvement Bond Insurer has failed to make a
12 payment in accordance with the terms of the Improvement Bond Insurance Policy, any rights
13 or benefits conferred on the Improvement Bond Insurer by the Bond Legislation shall be
14 suspended until such time as such default has been fully cured.

15 SECTION 36. AMENDMENT OF BOND LEGISLATION.

16 (A) LIMITATIONS UPON AMENDMENTS. Prior to any Improvement Bonds
17 being issued, the Bond Legislation may be amended by ordinance or resolution of the
18 Council without the consent of Owners but with the consent of the Improvement Bond
19 Insurer, if any. After Improvement Bonds have been issued, the Bond Legislation may be
20 amended by ordinance or resolution of the Council without the consent of Owners but with
21 the consent of the Improvement Bond Insurer, if any:

22 (1) To cure any ambiguity, or to cure, correct or supplement any
23 defect or inconsistent provision contained in the Bond Legislation;

24 (2) To grant to the Owners any additional rights, remedies, powers
25 or authority that may lawfully be granted to them;

26 (3) To obtain or maintain a rating or shadow rating on any
27 Improvement Bonds from any rating agency which amendment, in the judgment of Bond
28 Counsel, does not materially adversely affect the Owners;

29 (4) To achieve compliance with federal securities or tax laws;

30 (5) To make any other changes in the Bond Legislation which, in
31 the opinion of Bond Counsel, is not materially adverse to the Owners; and

32 (6) To make changes in procedural matters relating to any Bond
33 Insurance Policy.

1 (B) ADDITIONAL AMENDMENTS. Except as provided above, the Bond
2 Legislation may only be amended or supplemented by ordinance adopted by the Council
3 without receipt by the City of any additional consideration, but with the written consent of the
4 Owners of a majority of the principal amount of the Outstanding Improvement Bonds which
5 are affected by the amendment or supplement (not including Improvement Bonds which are
6 then owned by or for the account of the City) and the Improvement Bond Insurer, if any.
7 However, no such ordinance shall have the effect of permitting:

- 8 (1) An extension of the maturity of any Improvement Bonds; or
9 (2) A reduction in the principal amount of, premium, if any, or
10 interest rate on any Improvement Bonds; or
11 (3) The creation or continuance of a lien on or a pledge of the
12 Pledged Revenues ranking prior to the lien or pledge of New Lien Tax Obligations on the
13 Pledged Revenues; or
14 (4) A reduction of the principal amount of Series 19990 Bonds or
15 Improvement Bonds required for consent to such amendment or supplement.

16 (C) NOTICE OF AMENDMENT. Notice of a proposed amendment requiring
17 the consent of the Owners shall be mailed to any Improvement Bond Insurer, and the
18 Owners of the Improvement Bonds then Outstanding affected by the amendment at their
19 addresses as the same last appear in the registration books kept by the Registrar. Such
20 notice shall briefly set forth the nature of the proposed amendment and shall state that
21 copies of the instrument pertaining to such amendment are on file at the principal corporate
22 office of the Registrar for inspection by all Owners. If, within 60 days or such longer period
23 as shall be prescribed by the City following the giving of such notice, the requisite percentage
24 of Owners affected by the amendment and any Improvement Bond Insurer have consented
25 to and approved the amendment, the amendment shall become effective and no Owner shall
26 have any right to object to such amendment, or the operation thereof.

27 SECTION 37. MANNER OF EVIDENCING OWNERSHIP OF IMPROVEMENT
28 BONDS. Any request, direction, consent or other instrument provided or required by the
29 Bond Legislation to be signed and executed by the Owners may be in any number of
30 concurrent writings of similar tenor and may be signed or executed by Owners in person or
31 by an agent appointed in writing. Proof of the execution of any such request, direction or
32 other instrument or of the writing appointing any such agent and of the ownership of the
33 applicable Improvement Bonds, if made in the following manner, shall be sufficient for any of

1 the purposes of the Bond Legislation and shall be conclusive in favor of the Fiscal Agent and
2 the City with regard to any action taken by them, or either of them, under such request or
3 other instrument, namely:

4 (A) The fact and date of the execution by any person of any such writing
5 may be proved by the certificate of any officer in any jurisdiction who by law has power to
6 take acknowledgments in such jurisdiction that the person signing such writing
7 acknowledged before him the execution thereof or by the affidavit of a witness of such
8 execution; and

9 (B) The ownership of the Improvement Bonds shall be proved by the Bond
10 Register.

11 Any action taken or suffered by the Fiscal Agent pursuant to any provision of the
12 Bond Legislation, upon the request or with the assent of any person who at the time is the
13 Owner of any Improvement Bonds, shall be conclusive and binding upon all future Owners of
14 the same Improvement Bonds.

15 SECTION 38. APPLICABLE LAW. The Bond Legislation shall be governed by the
16 laws of the State without reference to choice of law principles thereof.

17 SECTION 39. PAYMENTS AND PERFORMANCE ON BUSINESS DAYS. Except
18 as otherwise required in the Bond Legislation: (i) any covenant required to be performed on
19 any date which is not a Business Day may be performed on the first Business Day thereafter
20 and (ii) if the date for any payment on the Improvement Bonds at a place of payment shall be
21 other than a Business Day, then payment shall be made on the next succeeding Business
22 Day, and no interest shall accrue for the intervening period other than as specifically
23 provided for in the Bond Legislation.

24 SECTION 40. LIMITATION OF RIGHTS. With the exception of rights in the Bond
25 Legislation expressly conferred, nothing in the Bond Legislation or the Improvement Bonds,
26 expressed or implied, is intended or shall be construed to give to any Person other than the
27 Owners, any Improvement Bond Insurer, the Fiscal Agent, the City and the parties to which
28 such right, remedy or claim is expressly granted by the Bond Legislation or the Improvement
29 Bonds, any legal or equitable right, remedy or claim under or in respect to the Bond
30 Legislation, the Improvement Bonds or any covenant, condition or stipulation of the Bond
31 Legislation, the Improvement Bonds, and all covenants, stipulations, promises and
32 agreements in the Bond Legislation, and the Improvement Bonds shall be for the sole and

1 exclusive benefit of the Owners, each Insurer, the City and the parties to which such right,
2 remedy or claim is expressly granted.

3 SECTION 41. DELEGATED POWERS. The officers of the City are authorized and
4 directed to take all action necessary or appropriate to effectuate the provisions of the Bond
5 Legislation, including, without limiting the generality of the foregoing, the publication of the
6 summary substantially in the form set out in Section 49, the printing of the Improvement
7 Bonds, and the execution of such documents as are not inconsistent with the terms of the
8 Bond Legislation including, without limitation, certificates as may be required by the
9 Investment Bankers and any Improvement Bond Insurer, including, but not limited to the
10 absence and existence of factors affecting the exemption of interest on the Improvement
11 Bonds from federal income taxation.

12 The Director of the Department of Finance and Administrative Services of the City, or
13 his successor in interest or title, is authorized and directed to make such changes or
14 corrections to the procedures established in the Bond Legislation relating to the times of day
15 or the days on which actions are required to be taken, or the persons responsible for
16 particular actions, the form of notice of the occurrence of events, the types and forms of
17 actions required and other similar administrative matters which, in his judgment, are
18 necessary and appropriate to accomplish the purposes of the Bond Legislation. The Director
19 of the Department of Finance and Administrative Services, or his successor in interest or
20 title, shall give notice of any such changes or corrections to all persons affected thereby, to
21 any Improvement Bond Insurer and to Bond Counsel for the City and shall file with the City
22 Clerk a certificate of such changes and corrections.

23 SECTION 42. IMMUNITY OF MAYOR, COUNCIL MEMBERS, COMMISSIONERS,
24 OFFICERS AND EMPLOYEES OF CITY. No recourse shall be had for the enforcement of
25 any obligation, promise or agreement of the City contained in the Bond Legislation or in any
26 Improvement Bonds for any claim based thereon or otherwise in respect thereof, against any
27 Mayor, Council member, officer or employee, as such, in his individual capacity, past,
28 present or future, of the City or of any successor to the City, whether by virtue of any
29 constitutional provision, statute or rule of law, or by the enforcement of any assignment or
30 penalty or otherwise. It is expressly agreed and understood that no personal liability shall
31 attach to, or be incurred by, any Mayor, Council member, officer or employee, as such, past,
32 present or future, of the City or of any successor to the City, either directly or through the City
33 or any successor to the City. All personal liability against every such Mayor, Council

1 member, officer and employee is, as a condition of, and as part of the consideration for, the
2 adoption of the Bond Legislation, expressly waived and released.

3 SECTION 43. LIMITATION OF ACTION. After the passage of 35 days from the
4 publication required by Section 49, any action attacking the validity of any proceedings had
5 or taken by the City preliminary to and in the authorization and issuance of the Improvement
6 Bonds shall be perpetually barred.

7 SECTION 44. [Reserved].

8 SECTION 45. BOND LEGISLATION IRREPEALABLE AS TO IMPROVEMENT
9 BONDS. After any series of the Improvement Bonds are issued, the Bond Legislation shall
10 be and remain irrepealable until all series of the Improvement Bonds and the interest thereon
11 shall be fully paid, canceled and discharged, as provided in the Bond Legislation, or there
12 has been defeasance as provided in the Bond Legislation.

13 SECTION 46. SEVERABILITY CLAUSE. If any provision of the Bond Legislation
14 shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in
15 any particular case in any jurisdiction because it conflicts with any other provision or
16 provisions of any constitution or statute or rule of public policy, or for any other reason, such
17 circumstances shall not have the effect of rendering the provision in question inoperative or
18 unenforceable in any other case or circumstance, or of rendering any other provision or
19 provisions in the Bond Legislation invalid, inoperative, or unenforceable to any extent
20 whatever.

21 The invalidity of any one or more phrases, sentences, clauses or sections in the Bond
22 Legislation, shall not affect the remaining portions of the Bond Legislation, or any part
23 thereof.

24 SECTION 47. REPEALER CLAUSE. Any bylaws, orders, resolutions and
25 ordinances, or parts thereof, inconsistent with the Bond Legislation are repealed to the extent
26 only of such inconsistency. This repealer shall not be construed to revive any bylaw, order,
27 resolution or ordinance, or part thereof, heretofore repealed.

28 SECTION 48. EFFECTIVENESS OF ORDINANCE. The Ordinance shall not be
29 deemed effective until approved by the voters of the City at an election to be held on October
30 4, 2011.

31 SECTION 49. [GENERAL SUMMARY FOR PUBLICATION. The title and a general
32 summary of the subject matter contained in the Bond Legislation shall be published in
33 substantially the following form:

1 CITY OF ALBUQUERQUE, NEW MEXICO

2 NOTICE OF ADOPTION OF ORDINANCE

3 Notice is given of the title and of a general summary of the subject matter contained
4 in City Ordinance City Council Bill No. _____ (the "Ordinance"), duly adopted and
5 approved by the City Council of the City of Albuquerque, New Mexico, on _____, 2011.
6 Complete copies of the Ordinance are available for public inspection during the normal and
7 regular business hours of the City Clerk in the office of the City Clerk, Albuquerque/Bernalillo
8 County Government Center, One Civic Plaza, N.W., Albuquerque, New Mexico.

9 The title of the Ordinance is:

10 **AUTHORIZING, SUBJECT TO THE APPROVAL BY THE VOTERS OF THE CITY OF**
11 **ALBUQUERQUE AT AN ELECTION TO BE HELD OCTOBER 4, 2011, THE ISSUE AND**
12 **SALE OF A MAXIMUM PRINCIPAL AMOUNT OF \$_____ CITY OF**
13 **ALBUQUERQUE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE**
14 **BONDS, TO BE ISSUED IN ONE OR MORE SERIES FOR THE PURPOSE OF**
15 **[CONSTRUCTING, PURCHASING, FURNISHING, EQUIPPING, REHABILITATING,**
16 **MAKING ADDITIONS TO OR MAKING IMPROVEMENTS TO ONE OR MORE PUBLIC**
17 **BUILDINGS AND PUBLIC FACILITIES OR PURCHASING OR IMPROVING ANY**
18 **GROUND RELATING THERETO;] PROVIDING FOR THE PAYMENT OF THE**
19 **IMPROVEMENT BONDS FROM GROSS RECEIPTS TAX REVENUES; PROVIDING FOR**
20 **CERTAIN TERMS OR THE METHOD OF DETERMINING THE TERMS AND OTHER**
21 **DETAILS OF THE IMPROVEMENT BONDS; PROVIDING FOR CERTAIN DOCUMENTS**
22 **PERTAINING TO THE IMPROVEMENT BONDS; RATIFYING ACTION PREVIOUSLY**
23 **TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE;**
24 **AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUE**
25 **AND SALE OF THE IMPROVEMENT BONDS; AND DECLARING AN EMERGENCY.**

26 The following is a general summary of the subject matter contained in the Ordinance:

27 Preambles recite and include such matters as the operation of the City of
28 Albuquerque, New Mexico (the "City") as a home rule municipality; the authority for the
29 issuance of its Gross Receipts Tax Improvement Revenue Bonds (the "Improvement Bonds")
30 to be issued in one or more series, payable from gross receipts tax revenues [for the purpose
31 of constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or
32 making improvements to one or more public buildings and public facilities or purchasing or

1 improving any ground relating thereto, (the "Projects");] and the determination of the Council
2 that it is in the best interest of the City to finance the Projects and effect the Projects.

3 Sections 1 through 3 define the terms used in the ordinance; ratify and confirm all
4 previous actions taken by the City relating to the Improvement Bonds; and declare the
5 general findings of the City Council relating to the Improvement Bonds and the Projects.

6 Sections 4 and 5 approve the use of one or more series of Improvement Bonds in the
7 maximum principal amount of not to exceed \$_____ to finance the Projects; and
8 provide that details of the Improvement Bonds will be provided in one or more Sale
9 Resolutions, that the Improvement Bonds shall be issued as fully registered bonds in book-
10 entry form and dated the date of delivery to the purchasers, the net effective interest rate on
11 the Improvement Bonds does not exceed 12% per annum, the interest and principal payment
12 dates for the Improvement Bonds, and the method of paying the Improvement Bonds.

13 Sections 6 through 10 provide for optional, mandatory sinking fund and extraordinary
14 redemption of the Improvement Bonds under terms to be set forth in one or more Sale
15 Resolutions; authorize the purchase of municipal bond insurance policies for the
16 Improvement Bonds under terms which may be amended or supplemented as set forth in
17 one or more Sale Resolutions; provide for the ownership, registration, exchange and transfer
18 of the Improvement Bonds; provide that the Improvement Bonds shall be fully negotiable;
19 and provide that the Improvement Bonds shall be special limited obligations of the City
20 payable and collectible solely from gross receipts tax revenues, proceeds of the
21 Improvement Bonds, any municipal bond insurance policy and amounts on deposit in certain
22 funds and accounts and that the Improvement Bonds shall not be general obligations of the
23 City.

24 Sections 11 through 15 provide details concerning the execution and authentication
25 of the Improvement Bonds; provide for the appointment of a fiscal agent, paying agent,
26 authenticating agent and registrar under the terms to be set forth in the appropriate Sale
27 Resolution; provide for a successor registrar or paying agent; provide that forms of
28 Improvement Bonds will be set forth in the appropriate Sale Resolution; and provide for the
29 sale of the Improvement Bonds to the purchasers.

30 Sections 16 through 20 provide for the establishment of various funds relating to the
31 Improvement Bonds; provide that the disposition of the proceeds of the Improvement Bonds
32 and certain other funds will be set forth in the appropriate Sale Resolution; provide for the
33 approval of certain documents relating to the Improvement Bonds; provide for the application

1 of gross receipts tax revenues to the payment of the Improvement Bonds and other bonds
2 and obligations payable from gross receipts tax revenues; and provide details relating to the
3 investment of Improvement Bond proceeds and gross receipts tax revenues.

4 Sections 21 through 24 provide that the Improvement Bonds are secured by an
5 irrevocable lien upon the gross receipts tax revenues; provide for equality among
6 Improvement Bonds; and permit the issuance of additional bonds, refunding bonds and other
7 obligations payable from gross receipts tax revenues under certain conditions.

8 Sections 25 through 32 provide protective covenants, including tax covenants, for the
9 benefit of the purchasers of Improvement Bonds; define events of default; establish remedies
10 and duties upon default; and provide for the application of money received pursuant to
11 default.

12 Sections 33 through 38 provide details relating to defeasance of the ordinance and
13 the Improvement Bonds and the survival of certain provisions of the ordinance after
14 defeasance; provide details relating to notices; limit the references in the ordinance to an
15 insurer; provide details relating to amendments to the ordinance; and provide for the method
16 of evidencing ownership of Improvement Bonds.

17 Sections 39 through 50 provide that the ordinance shall be governed by the laws of
18 New Mexico; provide for payments and covenants to be performed on business days; limit
19 rights of parties under the ordinance; delegate powers to the officers of the City to effectuate
20 the provisions of the ordinance; provide for the immunity of officials; provide a limitation of
21 action period; state that the ordinance is irrevocable; provide severability and repealer
22 clauses; declare the existence of an emergency; provide that the ordinance will become
23 effective upon publication of this notice; and provide a summary of the ordinance for
24 publication.

25 There is also a statement by the President of the Council and the Mayor that the
26 Ordinance is an emergency.

27 COMPLETE COPIES OF THE ORDINANCE ARE ON FILE IN THE OFFICE OF THE
28 CITY CLERK AT CITY HALL AT THE ADDRESS STATED ABOVE AND ARE AVAILABLE
29 FOR INSPECTION DURING REGULAR OFFICE HOURS. THIS NOTICE ALSO
30 CONSTITUTES COMPLIANCE WITH SECTION 6-14-4 THROUGH 6-14-7, NMSA 1978.

31
32 City Clerk]
33

1 PASSED AND ADOPTED THIS _____ DAY OF _____, 2011 BY A VOTE
2 OF _____ FOR AND _____ AGAINST.

3 Yes
4 Excused:
5
6
7
8

9 _____
10 _____, President
11 City Council
12
13
14

15
16 APPROVED THIS _____ DAY OF _____, 2011
17
18
19
20
21

22 _____
23 Richard Berry, Mayor
24 City of Albuquerque
25
26
27

28
29 ATTEST:
30
31
32

33 _____
34 City Clerk

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