



Legislation Details (With Text)

File #: O-24-4
Type: Ordinance **Status:** Enacted
File created: 2/21/2024 **In control:** City Council
Final action: 4/3/2024
Enactment date: 4/5/2024 **Enactment #:** O-2024-006

Effective date:

Title: F/S Authorizing The Issuance And Sale Of City Of Albuquerque, New Mexico General Obligation Bonds In Two Series In A Collective Par Amount Not To Exceed \$111,850,000, Consisting Of \$102,850,000 General Purpose General Obligation Bonds, Series 2024A, And \$9,000,000 General Obligation Storm Sewer Bonds, Series 2024B, Authorized At An Election Of The City Held On November 7, 2023 To Finance Projects Relating To Public Safety; Community Centers, Homelessness, Metropolitan Redevelopment And Community Enhancement; Parks And Recreation; Energy And Water Conservation, Public Buildings, Facilities And Systems; Streets And Transportation; Museums, Cultural Facilities And Libraries; And Storm Sewers (The Series 2024A Bonds And Series 2024B Bonds Are Collectively Referred To As The "Series 2024 Bonds"); Providing For The Levy And Collection Of Ad Valorem Taxes For The Payment Of The Series 2024 Bonds; Approving The Delegation Of Authority To Make Certain Determinations Regarding The Sale Of The Series 2024 Bonds Pursuant To The Supplemental Public Securities Act; Providing For The Forms, Terms, Purchase, Payment, Execution And Other Provisions Of And Concerning The Series 2024 Bonds; Prescribing Other Details In Connection With The Series 2024 Bonds And The Payment Thereof; And Ratifying Prior Action Taken In Connection Therewith (Peña, by request)

Sponsors: Klarissa J. Peña (By Request)

Indexes:

Code sections:

Attachments: 1. O-4, 2. O-4 Approved FS Peña, 3. FSO-4Enacted

| Date | Ver. | Action By | Action | Result |
|-----------|------|-------------------------------------------|--------------------------------------------------|--------|
| 4/5/2024 | 2 | City Clerk | Published | |
| 4/4/2024 | 2 | Mayor | Signed by the Mayor | |
| 4/4/2024 | 2 | City Council | Sent to Mayor for Signature | |
| 4/3/2024 | 2 | City Council | Substituted | Pass |
| 4/3/2024 | 2 | City Council | Passed as Substituted | Pass |
| 3/18/2024 | 1 | City Council | Accepted with a Recommendation Do Pass | |
| 3/11/2024 | 1 | Finance & Government Operations Committee | Sent to Council with a recommendation of Do Pass | Pass |
| 2/21/2024 | 1 | President | Referred | |
| 2/21/2024 | 1 | City Council | Introduced and Referred | |

CITY of ALBUQUERQUE
TWENTY-SIXTH COUNCIL

under the column entitled “Authorized at 2023 Election” (the “Authorized Bonds”):

| GENERAL PURPOSE <u>BONDS</u> | BOND SCHEDULE | |
|-----------------------------------------------------|---------------------------------------|---------------------------------|
| | Authorized at <u>2023 Election</u> | Series 2024 <u>Financing</u> |
| Public Safety | \$25,051,666 | \$18,500,000 |
| Citizens' Centers and Community Enhancement | 35,880,001 | 19,050,000 |
| Parks and Recreation | 34,946,666 | 14,400,000 |
| Energy/Water Conservation, Facilities and Equipment | 24,155,000 | 12,200,000 |
| Streets and Transportation | 50,061,667 | 34,200,000 |
| Museums, Cultural Facilities and Libraries | <u>15,595,000</u> | <u>4,500,000</u> |
| SUBTOTAL | | \$ 185,690,000 |
| \$102,850,000 | | |
| Storm Sewer | <u>14,310,000</u> | <u>9,000,000</u> |
| TOTAL | \$200,000,000 | \$111,850,000 |

WHEREAS, the City desires to issue part of the Authorized Bonds sufficient to finance the projects described in the Bond Schedule above under the column entitled “Series 2024 Financing”; and

WHEREAS, the Council desires to authorize the issuance and sale of the Series 2024 Bonds; and

WHEREAS, it is essential to proceed with the City’s capital improvement programs by issuing and selling the Series 2024 Bonds at a competitive sale to fund the Series 2024 Bond Projects; and

WHEREAS, it is in the best interests of the City to sell the Series 2024 Bonds to the Purchaser in accordance with the terms set forth in the Bond Ordinance as supplemented by the Sale Certificate; and

WHEREAS, all required authorizations, consents or approvals of any state governmental body, agency or authority in connection with the authorization, execution and delivery of the Series 2024 Bonds required as of the date of the adoption of the Bond Ordinance have been obtained and those required to be obtained prior to the date of the delivery of any Series 2024 Bonds will be obtained by the date of delivery of the Series 2024 Bonds; and

WHEREAS, the forms of Preliminary Official Statement and the Continuing Disclosure Undertaking (attached as Appendix D to the Preliminary Official Statement) have been on deposit with the City Clerk and presented to City Council;

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

SECTION 1. DEFINITIONS AND RULES OF CONSTRUCTION.

(A) DEFINITIONS. As used in the Bond Ordinance, the following terms shall have the meanings specified unless the context clearly requires otherwise:
ACT. Sections 3-30-1 to 3-30-9 NMSA 1978, Sections 6-15-1 to 6-15-22 NMSA 1978, Sections 6-14-8 to 6-14-12 NMSA 1978, as amended, the City Charter, the Home Rule Powers and this Bond Ordinance.

AUTHORIZED AT 2023 Election. The amount of debt authorized at the 2023 Election to be incurred by the City for each separate project listed in the Bond Schedule.

AUTHORIZED DENOMINATIONS. Denominations of \$5,000 and integral multiples of \$5,000.

AUTHORIZED OFFICER. The City's Mayor, Chief Administrative Officer, Chief Financial Officer, Director of Department of Finance and Administrative Services, Treasurer, or other officer or employee of the City when designated by a certificate signed by the Mayor of the City from time to time.

BOND COUNSEL. An attorney or attorneys at law or firm or firms of attorneys, designated by the City, of nationally recognized standing in matters pertaining to the issuance of, and the tax-exempt nature of interest on, bonds issued by states and their political subdivisions.

BOND ORDINANCE. This ordinance as amended or supplemented from time to time.

BOND SCHEDULE. The schedule in the preambles to the Bond Ordinance specifying the aggregate of the indebtedness authorized at the 2023 Election and the indebtedness for each Series 2024 Bond Project authorized at the 2023 Election.

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

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

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

CONTINUING DISCLOSURE UNDERTAKING. The agreement of the City pursuant to which the City will agree for the benefit of Owners and beneficial owners that, while the Series 2024 Bonds are Outstanding, the City will annually provide certain financial information and

operating data and will provide notice of certain material events.

COUNCIL. The Council, the governing body of the City, and any successor thereto.

DEFEASANCE OBLIGATIONS. (1) Government Obligations or; (2) if permitted by law, other obligations which would result in defeased Series 2024 Bonds receiving the same rating from any national rating agency then rating those Series 2024 Bonds as would have been received if the obligation described in clause (1) of this definition had been used.

DEPOSITORIES. The following registered securities depository: The Depository Trust Company, 570 Washington Boulevard, Jersey City, New Jersey 07310, <http://www.dtcc.com>; or in accordance with then-current guidelines of the Securities and Exchange Commission, to such other addresses and/or such other securities depositories, or no such depositories, as an Authorized Officer may designate in a certificate of the City.

EXPENSES. The reasonable and necessary fees, costs and expenses incurred by the City in connection with the issuance of the Series 2024 Bonds including, without limitation, costs of advertising and publication of the Bond Ordinance, costs of printing the Series 2024 Bonds, if any, and any disclosure documents, legal fees and expenses, fees and expenses of the Paying Agent and Registrar, and disclosure matters pertaining or allocable to, the Series 2024 Bonds, and necessary fees and administrative costs of the City relating to the foregoing.

FISCAL YEAR. The twelve-month period used by the City for its general accounting purposes as the same may be changed from time to time, presently being the period beginning July 1 each year and ending June 30 of the next succeeding year.

FITCH: Fitch Ratings, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, another nationally recognized securities rating agency designated by the City, if any.

GOVERNMENT OBLIGATIONS. Direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or certificates or receipts established by the United States Government or its agencies or instrumentalities representing direct ownership of future interests or principal payments on direct obligations of, or obligations fully guaranteed by, the United States of America or any of its agencies or instrumentalities, the obligations of which are backed by the full faith and credit of the United States, which obligations are held by a custodian in safekeeping on behalf of the holders of such receipts, and rated or assessed in its highest Rating Category by S&P, Moody's or Fitch, if then rating any of the Series 2024 Bonds.

HOME RULE POWERS. The powers of the City as a home rule city to exercise legislative powers given pursuant to the City Charter adopted by the City pursuant to Article X, Section 6 of the State Constitution and all enactments of the Council relating to the issuance of the Series 2024 Bonds, including this Bond Ordinance.

INTEREST AND SINKING FUND. The fund created herein in Section 18 for the payment of debt service on the Series 2024 Bonds.

INTEREST PAYMENT DATE. Each January 1 and July 1 (or if such day is not a Business Day, then the next succeeding Business Day), beginning July 1, 2024, or as provided in the Sale Certificate.

MOODY'S. Moody's Investor's Service, Inc. and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, another nationally recognized securities rating agency designated by the City, if any.

NMSA. New Mexico Statutes Annotated, 1978 Compilation, as amended or supplemented.

OFFICIAL STATEMENT. The final disclosure document relating to the issuance and sale of the Series 2024 Bonds.

OUTSTANDING. When used in reference to bonds, on any particular date, the aggregate of all such bonds issued and delivered under the applicable City ordinance authorizing the issuance of such bonds except:

- (1) those canceled at or prior to such date or delivered to or acquired by the City at or prior to such date for cancellation;
- (2) those which have been paid or are deemed to be paid in accordance with the City ordinance or resolution authorizing the issuance of the applicable bonds or otherwise relating thereto;
- (3) in the case of variable rate bonds, bonds deemed tendered, but not yet presented for payment; and
- (4) those in lieu of or in exchange or substitution for which other bonds shall have been delivered, unless proof satisfactory to the City and the paying agent for the applicable bonds is presented that any bond for which a new bond was issued or exchanged is held by a bona fide holder or in due course.

As used in this definition, the term bond includes any evidence of debt.

OWNER. The registered owner or owners of any Series 2024 Bond as shown on the

registration books for the Series 2024 Bonds maintained by the Registrar.

PAYING AGENT. The City Treasurer or any trust company, national or state banking association or financial institution qualified to act and appointed as the paying agent for the Series 2024 Bonds by an Authorized Officer from time to time.

PERMITTED INVESTMENTS. Any investment legally permitted pursuant to Section 6-10-10 NMSA 1978, the City Charter and the City Investment Policy.

PRELIMINARY OFFICIAL STATEMENT. The initial disclosure document relating to the issuance and sale of the Series 2024 Bonds.

PURCHASER. The purchaser identified in the Sale Certificate.

RATING CATEGORY. A generic securities rating category, without regard, in the case of a Series 2024 Bonds rating category, to any refinement or gradation of such Series 2024 Bonds rating category by a numerical modifier or otherwise.

RECORD DATE. The fifteenth day of the calendar month preceding each Interest Payment Date.

REGISTRAR. The City Treasurer or any trust company, national or state banking association or financial institution qualified to act and appointed as the registrar for the Series 2024 Bonds by an Authorized Officer from time to time.

S&P. S&P Global Ratings, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, another nationally recognized securities rating agency designated by the City, if any.

SALE CERTIFICATE. One or more certificates executed by the Chief Financial Officer, Director of the Department of Finance and Administrative Services or the City Treasurer dated on or before the date of delivery of the Series 2024 Bonds, setting forth the following final terms of the Series 2024 Bonds: (i) the interest and principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii) the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the designation of the Purchaser, (vii) the redemption and tender provisions; (viii) the creation of any capitalized interest fund, including the size and funding of such fund(s); (ix) the amount of underwriting discount, if any; and (x) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Series 2024 Bonds, all subject to the parameters and conditions contained in this Bond Ordinance.

SERIES 2024 BOND NOTICE. The notice of bond sale for publication and the Official

Notice of Bond Sale for the Series 2024 Bonds set forth in the Series 2024 Bond Notice Resolution given pursuant to Section 6-15-5 NMSA 1978, as amended.

SERIES 2024 BOND NOTICE RESOLUTION. City Resolution authorizing the giving of notice to receive bids for the sale of the Series 2024 Bonds.

SERIES 2024 BOND PROJECTS. Collectively, the projects to be financed with Series 2024 Bonds, which are listed in Section 4(C).

SERIES 2024 BONDS. The Series 2024A Bonds and the Series 2024B Bonds which collectively consist of a portion of the 2023 Election Bonds.

SERIES 2024A BONDS. The Series 2024A Bonds in an aggregate principal amount not to exceed \$102,850,000 designated as the "City of Albuquerque, New Mexico General Obligation General Purpose Bonds, Series 2024A" authorized to be issued and sold by the Bond Ordinance as supplemented by the Sale Certificate.

SERIES 2024B BONDS. The Series 2024B Bonds in an aggregate principal amount not to exceed \$9,000,000 designated as the "City of Albuquerque, New Mexico General Obligation Storm Sewer Bonds, Series 2024B" authorized to be issued and sold by the Bond Ordinance as supplemented by the Sale Certificate.

STATE. The State of New Mexico.

2023 ELECTION. The City's municipal election held on November 7, 2023.

2023 ELECTION BONDS. The general obligation bonds of the City authorized to be issued at the 2023 Election.

(B) RULES OF CONSTRUCTION. For purposes of the Bond Ordinance, unless otherwise expressly provided or unless the context requires otherwise:

(1) All references in the Bond Ordinance to designated Sections and other subdivisions are to the designated Section and other subdivision of the Bond Ordinance.

(2) The words "herein," "hereof," "hereunder," and "herewith" and other words of similar import refer to the Bond Ordinance as a whole and not to any particular Section or other subdivision.

(3) All accounting terms not otherwise defined in the Bond Ordinance have the meaning assigned to them in accordance with generally accepted accounting principles.

(4) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(5) The headings used in the Bond Ordinance are for convenience of reference only

and shall not define or limit the provisions of the Bond Ordinance.

(6) Terms in singular include plural and vice versa.

SECTION 2. RATIFICATION. All action (not inconsistent with the provisions of the Bond Ordinance) previously taken by the Council and the officers of the City directed toward the 2023 Election, the Series 2024 Bond Notice and the authorization, issuance, sale of and bidding process for the Series 2024 Bonds, is ratified, approved and confirmed.

SECTION 3. FINDINGS. The Council declares that it has considered all relevant information and data and makes the following findings:

(A) ADOPTION OF BOND ORDINANCE. The Bond Ordinance has been adopted by the affirmative vote of a majority of the members of the Council present at a regularly scheduled meeting of the Council on the date of adoption. The number of members present constituted a quorum of the Council.

(B) ISSUANCE OF SERIES 2024 BONDS. The issuance of the Series 2024 Bonds under the Act to provide funds to finance the Series 2024 Bond Projects is necessary and in the best interest of the public health, safety, morals and welfare of the residents of the City.

(C) USE OF PROCEEDS OF SERIES 2024 BONDS. The City will (i) acquire, improve and finance the Series 2024 Bond Projects, and (ii) pay Expenses with the proceeds of the Series 2024 Bonds.

(D) INTEREST RATE. The exact principal amount of the Series 2024 Bonds, the interest rate, and sale price of the Series 2024 Bonds will be established in the Sale Certificate, but in no event shall the net effective interest rate on the Bonds exceed ten percent (10%) per annum as required by Section 6-14-3 NMSA 1978.

SECTION 4. AUTHORIZATION OF SERIES 2024 BOND PROJECTS AND EXPENSES.

(A) SERIES 2024 BOND PROJECTS; PAYMENT OF EXPENSES. The acquisition and construction of the Series 2024 Bond Projects and the payment of Expenses using proceeds of the Series 2024 Bonds in a total aggregate principal amount as specified in the Sale Certificate (excluding costs of the Series 2024 Bond Projects to be paid from any source other than the proceeds of the Series 2024 Bonds), is authorized and approved; provided that the total principal amount of Series 2024 Bond proceeds used to finance each Series 2024 Bond Project shall not exceed the amount for that Series 2024 Bond Project stated under the caption "Series 2024 Financing" in the Bond Schedule (excluding costs of that Series 2024 Bond Project to be paid from any source other than the proceeds of the Series 2024 Bonds). Net premium received after payment of Expenses shall be deposited in the Interest and Sinking Fund.

(B) EXPENSES. Expenses relating to the issuance of the Series 2024 Bonds, to the extent payable from the proceeds of the Series 2024 Bonds, including net premium, attributable to each Series 2024 Bond Project shall be payable as set forth in the Bond Ordinance.

(C) DESCRIPTION OF SERIES 2024 BOND PROJECTS. Proceeds of the Series 2024 Bonds shall be used for the following Series 2024 Bond Projects:

(1) \$18,500,000 to plan, design, develop, study, construct, modernize, automate, renovate, rehabilitate, recondition, landscape, furnish, enhance and otherwise improve, and to acquire land, buildings, property, vehicles, apparatus, and equipment for, police, fire, and community safety departments (the "Public Safety Project");

(2) \$19,050,000 to plan, design, develop, construct, demolish, equip, reconstruct, renovate, rehabilitate, expand, repair, study, landscape, streetscape, enhance and

otherwise improve, and to acquire property for, city-owned community centers including those for families, youth, senior citizens, homeless, metropolitan redevelopment, support of the Workforce Housing Act to provide resources for the construction and rehabilitation of high quality, permanently affordable housing for low to moderate, income working families, including affordable senior rental, and for other community enhancement projects (the "Citizens' Center and Community Enhancement Project");

(3) \$14,400,000 to study, map, plan, design, develop, construct, rehabilitate, renovate, expand, furnish, equip, enhance and otherwise improve, and to acquire property, vehicles and equipment for park and recreational facilities, including public parks and facilities within those parks, swimming pools, tennis courts, sports fields, other recreational facilities, open space, medians, bikeways, bosque lands, and trails (the "Parks and Recreation Project");

(4) \$12,200,000 to modernize, make energy and/or water-efficient, upgrade, equip, improve, acquire, plan, design, survey, develop, construct, rehabilitate, renovate, expand, furnish, enhance and otherwise improve, and to acquire property, vehicles and equipment for, public buildings, facilities, and systems (the "Energy/Water Conservation, Facilities and Equipment Project");

(5) \$34,200,000 to study, plan, design, develop, construct, reconstruct, rehabilitate, renovate, automate, modernize, sign, enhance, landscape and otherwise improve, and to acquire vehicles, property and equipment for public transportation facilities, municipal streets and roads, interstate roadways and interchanges, medians, trails, bikeways, walkways, sidewalks, railroad crossings, and bridges (the "Streets and Transportation Project");

(6) \$9,000,000 to plan, design, develop, construct, reconstruct, rehabilitate, renovate, expand, extend, enhance, study, monitor and otherwise improve, and to acquire property and equipment for the storm sewer system (the "Storm Sewer System Project"); and

(7) \$4,500,000 to study, plan, design, develop, construct, reconstruct, rehabilitate, renovate, repair, refurbish, modernize, preserve, maintain, expand, enhance, automate, upgrade, landscape and otherwise improve, and to acquire artifacts, exhibits, furnishings, books, media, and equipment for, public libraries, City-owned museums and cultural facilities (the "Museum, Cultural Facilities and Library Project").

SECTION 5. DETAILS OF SERIES 2024 BONDS.

(A) FORM, TERMS AND PROVISIONS OF SERIES 2024 BONDS. The form, terms, and provisions of the Series 2024 Bonds, as set forth in Section 12, are hereby approved with only such changes therein as are not inconsistent with this Bond Ordinance and the Sale Certificate.

(B) AUTHORIZATION OF THE SERIES 2024 BONDS. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the City, constructing and acquiring the Series 2024 Bond Projects, it is necessary that the City issue, and the City is authorized to issue, pursuant to the Act, its fully registered Series 2024 Bonds in an aggregate principal amount of not to exceed \$111,850,000. The Series 2024 Bonds shall be issued in two series to be designated as “General Obligation General Purpose Bonds, Series 2024A,” and “General Obligation Storm Sewer Bonds, Series 2024B”. The Series 2024 Bonds shall be dated the date of delivery of the Series 2024 Bonds. No Series 2024 Bonds Authorized at 2023 Election shall be issued or sold after November 7, 2027 (four years from the date of the 2023 Election), except as permitted by Section 6-15-9 NMSA 1978, as amended from time to time.

(C) GENERAL DETAILS OF SERIES 2024 BONDS. Series 2024 Bonds shall be issued as fully registered bonds, with each series numbered from 1 upwards consecutively and with such other prefixes or other distinguishing designations as the Registrar may determine necessary or appropriate. The Series 2024 Bonds shall be issued in Authorized Denominations.

(D) MATURITIES, PRINCIPAL AMOUNTS AND INTEREST OF THE SERIES 2024 BONDS. The Series 2024 Bonds shall bear interest, at a rate not to exceed ten percent (10%) per annum, from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from the date of the Series 2024 Bonds until maturity. Interest on the Series 2024 Bonds will be paid on each Interest Payment Date and computed on the basis of a 360-day year, consisting of twelve, 30-day months. If, at maturity, payment of the principal amount of any Series 2024 Bonds is not made as required by the Bond Ordinance, interest on the unpaid principal amount on that Series 2024 Bond shall continue to accrue at the interest rate stated or described in that Series 2024 Bond, until the principal amount of that Series 2024 Bond is paid in full.

The exact principal amount, interest rates, redemption provisions, transfer restrictions, if any, and maturity schedule for the Series 2024 Bonds shall be established in the Sale Certificate, subject to the parameters and conditions contained in this Bond Ordinance.

(E) BOOK-ENTRY. The Series 2024 Bonds may be issued, in whole or in part, in book-entry form with no physical distribution of bond certificates made to the public. A Depository will act as securities depository for the Series 2024 Bonds. A single certificate for each maturity date of the Series 2024 Bonds shall be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the Series 2024 Bonds in Authorized Denominations, with transfers of ownership effected on the books of the Depository and its participants (“Participants”). As a condition to delivery of the Series 2024 Bonds in book-entry form, the Purchaser will, immediately after acceptance of delivery thereof, deposit the Series 2024 Bonds certificates with the Depository, registered in the name of the Depository or its nominee. Principal, premium, if any, and interest will be paid to the Depository or its nominee as the Owner of the Series 2024 Bonds in book-entry form. The transfer of principal and interest payments to Participants will be the responsibility of the Depository; the transfer of principal and interest payments to the beneficial owners of the Series 2024 Bonds (“Beneficial Owners”) by Participants will be the responsibility of such Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (“Indirect Participants”). Neither the City nor the Paying Agent will be responsible or liable for maintaining, supervising or reviewing the records

maintained by the Depository, Participants or Indirect Participants.

If (i) the Series 2024 Bonds are not eligible for the services of a Depository, (ii) a Depository determines to discontinue providing its services with respect to the Series 2024 Bonds, or (iii) the City determines that a continuation of the system of book-entry transfers through a Depository ceases to be beneficial to the City or the Owners of the Series 2024 Bonds, the City will either identify another Depository or bond certificates will be delivered to Beneficial Owners or their nominees and the Beneficial Owners or their nominees, upon authentication of the Series 2024 Bonds, and registration of the Series 2024 Bonds in the Beneficial Owners' or nominees' names, will become the Owners of the Series 2024 Bonds for all purposes. In that event, the City shall mail an appropriate notice to the Depository for notification to Participants, Indirect Participants and Beneficial Owners of the substitute Depository or the issuance of Series 2024 Bonds certificates to Beneficial Owners or their nominees, as applicable.

Authorized Officers are authorized to execute and deliver agreements with Depositories relating to the matters set forth in this Section.

SECTION 6. OPTIONAL REDEMPTION OF SERIES 2024 BONDS. All or any portion of the Series 2024 Bonds may be subject to optional redemption, mandatory redemption and/or mandatory sinking fund redemption prior to their stated maturities at a redemption price and on the dates established therefor in the Sale Certificate.

SECTION 7. APPOINTMENT OF PAYING AGENT AND REGISTRAR; PAYMENT OF SERIES 2024 BONDS.

(A) **APPOINTMENT.** The City Treasurer is hereby appointed as the initial Paying Agent and Registrar for the Series 2024 Bonds.

(B) **TRANSFER OF PAYMENTS TO PAYING AGENT.** The City shall transfer or credit to the Paying Agent amounts sufficient to pay the principal of and interest on the Series 2024 Bonds on or before the dates on which they become due.

(C) **PAYMENT OF SERIES 2024 BONDS.** The principal of and premium, if any, on the Series 2024 Bonds shall be payable upon presentation and surrender of the Series 2024 Bonds at the principal office of the Paying Agent at or after their maturity. Interest on Series 2024 Bonds shall be payable by check or draft mailed to the Owners (or by such other arrangement as may be mutually agreed to by the Paying Agent and an Owner). An Owner shall be deemed to be that person or entity shown on the registration books of the Series 2024 Bonds maintained by the Registrar at the address appearing in the registration books at the close of business on the applicable Record Date. However, interest which is not timely paid or provided for shall cease to be payable to the Owners of the Series 2024 Bonds (or of one or more predecessor Series 2024 Bonds) as of the regular Record Date, but shall be payable to the Owners of the Series 2024 Bonds (or of one or more predecessor Series 2024 Bonds) at the close of business on a special

record date for the payment of the overdue interest. The special record date shall be fixed by the Paying Agent and Registrar whenever money becomes available for payment of the overdue interest and notice of the special record date shall be given to the Owners of such Series 2024 Bonds not less than ten days prior to that date. Payment shall be made in the coin or currency of the United States of America that is at the time of payment legal tender for the payment of public and private debts. If the principal amount of any Series 2024 Bond presented for payment remains unpaid at maturity, the unpaid principal shall continue to bear interest at the rate designated in that Series 2024 Bond. Payments of Series 2024 Bonds shall be made without deduction for exchange or collection charges.

SECTION 8. SALE OF SERIES 2024 BONDS. The Series 2024 Bonds shall be sold and delivered to the designated Purchaser or delivered to a Depository for and on behalf of the appropriate Purchaser upon receipt by the City of the purchase price set forth in the Sale Certificate and upon the terms set forth in the Bond Ordinance and Sale Certificate.

SECTION 9. REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP OF SERIES 2024 BONDS.

(A) **REGISTRATION, TRANSFER AND EXCHANGE.** The City shall cause books for registration, transfer and exchange of the Series 2024 Bonds to be kept at the principal office of the Registrar. Upon surrender for transfer or exchange of any Series 2024 Bonds at the principal office of the Registrar duly endorsed by the Owner or his attorney duly authorized in writing, or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and properly executed, the City shall execute and the Registrar shall authenticate and deliver in the name of the transferee or Owner, as appropriate, a new Series 2024 Bond or Series 2024 Bonds of the same series, maturity, interest rate and same aggregate principal amount in Authorized Denominations.

(B) **OWNER OF SERIES 2024 BONDS.** The person in whose name any Series 2024 Bond is registered shall be deemed and regarded as its absolute Owner for all purposes, except as may otherwise be provided with respect to the payment of interest in Section 7(C). Payment of either the principal of or interest on any Series 2024 Bond shall be made only to or upon the order of its Owner or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability on Series 2024 Bonds to the extent of the amount paid.

(C) **REPLACEMENT SERIES 2024 BONDS.** If any Series 2024 Bond is lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of that Series 2024 Bond, if mutilated, and the evidence, information or indemnity which the Registrar and the City may reasonably require, authenticate and deliver a replacement Series 2024 Bond or Series 2024 Bonds of the same series, aggregate principal amount, maturity and interest rate, bearing a number or numbers not then outstanding. If any lost, stolen, destroyed or mutilated Series 2024 Bond has matured or been called for redemption, the Registrar may direct the Paying Agent to pay that Series 2024 Bond in lieu of replacement.

(D) **CHARGES.** Exchanges and transfers of Series 2024 Bonds shall be made without charge to the Owner or any transferee except that the Registrar may make a charge sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to that transfer or exchange.

(E) **RESTRAINTS ON TRANSFER OR EXCHANGE.** The Registrar shall not be

required to transfer or exchange (a) any Series 2024 Bond during the five-day period preceding the mailing of notice calling Series 2024 Bonds for redemption and (b) any Series 2024 Bond called for redemption.

SECTION 10. NEGOTIABILITY; GENERAL OBLIGATIONS; PAYMENT AND SECURITY. The Series 2024 Bonds shall be fully negotiable and have all the qualities of negotiable instruments, and the Owners of Series 2024 Bonds 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. Outstanding Series 2024 Bonds shall be equally and ratably secured in all respects, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Series 2024 Bonds. The Series 2024 Bonds constitute the general obligation of the City payable from general (ad valorem) property taxes levied against all property within the City subject to taxation, without limitation as to rate or amount, and the full faith and credit of the City is hereby pledged for their payment.

SECTION 11. EXECUTION AND CUSTODY OF SERIES 2024 BONDS.

(A) EXECUTION. The Series 2024 Bonds shall be signed and executed in the name of the City by the manual or facsimile signatures of the Mayor and the City Clerk and shall be authenticated by the manual signature of, or an authorized officer of, the Registrar. The corporate seal of the City or a printed, engraved, stamped or otherwise reproduced facsimile of that corporate seal shall be placed on each Series 2024 Bond. The Series 2024 Bonds bearing the signatures of the officers in office at the time of signing shall be the valid and binding obligations of the City. Notwithstanding that before the delivery and payment of the Series 2024 Bonds any of the persons whose signatures appear on the Series 2024 Bonds, the Mayor and the City Clerk may each adopt as his or her own facsimile signature the facsimile signature of his or her predecessor in office, if that facsimile signature appears upon any of the Series 2024 Bonds.

(B) AUTHENTICATION. The Series 2024 Bonds shall be authenticated by the manual signature of the Registrar or an authorized officer of the Registrar. No Series 2024 Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been fully executed if manually signed and inscribed by the Registrar or, if applicable, an authorized officer of the Registrar but it shall not be necessary that the same officer sign the certificate of authentication on all of the Series 2024 Bonds issued under the Bond Ordinance.

(C) FILING OF SIGNATURES. Prior to the execution of any Series 2024 Bond, pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended, the Mayor and City Clerk may each file with the New Mexico Secretary of State, his or her manual signature certified by him or her under oath, provided that filing shall not be necessary for any officer where any previous filing has legal application to the Series 2024 Bonds.

(D) CUSTODY. The Registrar shall hold in custody all Series 2024 Bonds signed and attested by the Mayor and City Clerk until ready for delivery to the Depository, Purchaser, transferee or registered owner.

SECTION 12. FORM OF SERIES 2024 BONDS.

(A) SERIES 2024A BONDS. The Series 2024A Bonds shall be issued as fully registered bonds in substantially the following form, with such changes therein as are not inconsistent with this Bond Ordinance and the Sale Certificate:

[Form Of Series 2024A Bonds]

UNITED STATES OF AMERICA

STATE OF NEW MEXICO

COUNTY OF BERNALILLO

CITY OF ALBUQUERQUE

GENERAL OBLIGATION GENERAL PURPOSE BONDS
SERIES 2024A

Bond No. _____ \$ _____

INTEREST RATE MATURITY DATE DATE OF BOND CUSIP
_____ % per annum July 1, 20__ _____, 2024 _____

Registered Owner:

Principal Amount:

The City of Albuquerque (the "City"), in the County of Bernalillo and State of New Mexico (the "State"), a municipal corporation duly organized and existing under the Constitution and other laws of the State, for value received, promises to pay the Principal Amount stated above to the Registered Owner stated above or registered assigns, on the Maturity Date stated above upon presentation and surrender of this bond at the principal office of the City Treasurer in Albuquerque, New Mexico or its successors (referred to in this bond as the "Paying Agent" or "Registrar," as applicable). The City also promises to pay interest on the unpaid Principal Amount at the Interest Rate stated above on January 1 and July 1 of each year, commencing July 1, 2024 until payment of the Principal Amount has been made or provided for at maturity or the prior redemption date if permitted and called for redemption. This bond shall bear interest from the most recent date to which interest has been paid or provided for or if no interest has been paid or provided for from the Date of Bond stated above until maturity. If, upon presentation of this bond on the Maturity Date, payment is not made as required by this Bond Ordinance, interest on the unpaid Principal Amount of this bond shall continue to accrue at the Interest Rate until the Principal Amount is paid in full.

This bond is one of a duly authorized issue of fully registered bonds of the City in the aggregate principal amount of \$102,850,000 issued in denominations of \$5,000 or integral multiples of \$5,000, designated as City of Albuquerque, New Mexico General Obligation General Purpose Bonds, Series 2024A (the "Bonds") issued under and pursuant to City Ordinance Twenty-Sixth Council Bill No. F/S O-24-4 (the "Bond Ordinance").

The Bonds constitute the general obligation of the City payable from property taxes levied against all property of the City subject to taxation by the City, without limitation as to rate or amount, and the full faith and credit of the City is irrevocably pledged for the punctual payment of the principal of and interest on the Bonds.

Payment of the principal of this bond shall be made only to or upon the order of the Registered

Owner or his legal representative. Interest on this bond is payable by check or draft mailed to the Registered Owner or his legal representative (or by such other arrangement as may be mutually agreed to by the Paying Agent and the Registered Owner) as shown on the registration books for the Bonds maintained by the Registrar at the address appearing in the registration books at the close of business on the fifteenth day of the calendar month next preceding the applicable Interest Payment Date (the "Record Date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the Registered Owner as of the Record Date but shall be payable to the Registered Owner as shown on the registration books at the close of business on a special record date to be fixed by the Paying Agent and Registrar for the payment of interest. The special record date shall be fixed whenever money becomes available for payment of the overdue interest and notice of the special record date shall be given to the owners of the Bonds as then shown on the Registrar's registration books not less than ten days prior to the special record date. If, upon presentation at maturity, payment of this bond is not made as required, all interest shall continue at the Interest Rate until the Principal Amount is paid in full. The principal of, premium, if any, and interest on this bond are payable in lawful money of the United States of America, without deduction for the services of the Paying Agent. All such payments shall be valid and effectual to satisfy and discharge the liability on this bond to the extent of the sum or sums paid.

The Bonds maturing on and after July 1, 20__ are subject to redemption prior to their maturity dates at the option of the City, in whole or in part at any time on or after July 1, 20__, at a redemption price of 100% of the principal of the Bonds to be redeemed, plus accrued interest, if any, to the date of redemption.

The Bonds are issued in book-entry form with no physical distribution of Bond certificates made to the public and a securities depository is acting as securities depository for the Bonds.

The Bonds are issued by the City, together with the City's \$9,000,000 General Obligation Storm Sewer Bonds, Series 2024B and the net premium paid therefore, upon its behalf and upon the credit of the City, for the following City purposes: (1) \$18,500,000 for public safety; (2) \$19,050,000 for citizens' centers and community enhancement; (3) \$14,400,000 for parks and other recreational facilities; (4) \$12,200,000 for energy/water conservation, facilities and equipment; (5) \$34,200,000 for streets and transportation; (6) \$9,000,000 for storm sewer systems; and (7) \$4,500,000 for museums, cultural facilities and libraries.

Books for the registration and transfer of the Bonds will be kept by the Registrar. The person in whose name this bond is registered shall be deemed and regarded as its absolute owner for all

purposes, except as may otherwise be provided with respect to payment of interest as set forth above. Upon surrender for transfer or exchange of this bond at the principal office of the Registrar duly endorsed by the Registered Owner or his attorney duly authorized in writing or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and properly executed, the City will execute and the Registrar will authenticate and deliver in the name of the transferee or Registered Owner, as appropriate, a new Bond or Bonds in fully registered form of the same maturity, interest rate and aggregate principal amount and authorized denominations.

The issuance of the Bonds has been authorized by the electors of the City qualified to vote and voting at a municipal election of the City held on November 7, 2023. All of the requirements of law have been complied with by the proper officers of the City for the issuance of the Bonds. The total indebtedness of the City, including that of the Bonds, and the indebtedness for each of the projects described in the Bonds does not exceed any limit of indebtedness prescribed by the Charter of the City or the Constitution or law of the State. Provision has been made for the levy and collection of annual taxes which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds when the same become due.

If sufficient funds are deposited with the Paying Agent to pay the principal of any Bonds becoming due at maturity, together with interest accrued to the due date, interest on such Bonds will cease to accrue on the due date, and thereafter the owners will be restricted to the funds deposited as provided in the Bond Ordinance.

All conditions, acts and things required to exist, to have happened or to have been performed precedent to or in the issuance of the Bonds exist, have happened and have been performed in due time, form and manner, as required by law.

IN WITNESS WHEREOF, the City has caused this bond to be signed and executed on the City's behalf by the manual or facsimile signature of the Mayor and the manual or facsimile signature of the City Clerk, has caused the corporate seal of the City to be placed on this bond, and has caused this bond to be authenticated with the manual signature of the Treasurer of the City, as Registrar for the bonds, all as of the Date of Bond stated above.

CITY OF ALBUQUERQUE, NEW MEXICO

By

Mayor

(SEAL)

ATTEST:

By

City Clerk

CERTIFICATE OF AUTHENTICATION

This is one of the City of Albuquerque, New Mexico General Obligation General Purpose Bonds, Series 2024A, described above and in the Bond Ordinance, and this bond has been registered on the registration books of the City by the undersigned as Registrar for the Bonds.

Date of Authentication: _____, 2024

By

As Registrar

CERTIFICATE OF ASSIGNMENT

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers this bond to _____ (please print or type name and address of assignee), whose social security or other identification number is _____, and irrevocably appoints _____, as attorney, to transfer this bond on the registration books of the City, with power of substitution of revocation.

DATE: _____

NOTICE: The signature on this assignment must correspond with the name as it appears on the face of this bond in every particular, without alteration or enlargement or any change whatsoever.

[End Of Form Of Series 2024A Bonds]

(B) SERIES 2024B BONDS. The Series 2024B Bonds shall be issued as fully registered bonds in substantially the following form, with such changes therein as are not inconsistent with this Bond Ordinance and the Sale Certificate:

[Form Of Series 2024B Bonds]

UNITED STATES OF AMERICA

STATE OF NEW MEXICO COUNTY OF BERNALILLO

CITY OF ALBUQUERQUE

GENERAL OBLIGATION STORM SEWER BONDS

SERIES 2024B

Bond No. _____ \$ _____

INTEREST RATE MATURITY DATE DATE OF BOND CUSIP
_____% per annum July 1, 20____, 2024 _____

Registered Owner:

Principal Amount:

The City of Albuquerque (the "City"), in the County of Bernalillo and State of New Mexico (the "State"), a municipal corporation duly organized and existing under the Constitution and other laws of the State, for value received, promises to pay the Principal Amount stated above to the Registered Owner stated above or registered assigns, on the Maturity Date stated above upon presentation and surrender of this bond at the principal office of the City Treasurer in Albuquerque, New Mexico or its successors (referred to in this bond as the "Paying Agent" or "Registrar," as applicable). The City also promises to pay interest on the unpaid Principal Amount at the Interest Rate stated above on January 1 and July 1 of each year (each an "Interest Payment Date") beginning July 1, 2024 until payment of the Principal Amount has been made or provided for at maturity or the prior redemption date if permitted and called for redemption. This bond shall bear interest from the most recent date to which interest has been paid or provided for or if no interest has been paid or provided for from the Date of Bond stated above until maturity. If, upon presentation of this bond on the Maturity Date, payment is not made as required by the Bond Ordinance, defined below, interest on the unpaid Principal Amount of this bond shall continue to accrue at the Interest Rate until the Principal Amount is paid in full.

This bond is one of a duly authorized issue of fully registered bonds of the City in the aggregate principal amount of \$9,000,000 issued in denominations of \$5,000 or integral multiples of \$5,000, designated as City of Albuquerque, New Mexico General Obligation Storm Sewer Bonds, Series 2024B (the "Bonds") issued under and pursuant to City Ordinance Twenty-Sixth Council Bill No. F/S O-24-4 (the "Bond Ordinance").

The Bonds constitute the general obligation of the City payable from property taxes levied against all property of the City subject to taxation by the City, without limitation as to rate or amount, and the full faith and credit of the City is irrevocably pledged for the punctual payment of the principal of and interest on the Bonds.

Payment of the principal of this bond shall be made only to or upon the order of the Registered Owner or his legal representative. Interest on this bond is payable by check or draft mailed to the Registered Owner or his legal representative (or by such other arrangement as may be mutually agreed to by the Paying Agent and the Registered Owner) as shown on the registration books for the Bonds maintained by the Registrar at the address appearing in the registration books at the close of business on the twenty-fifth day of the calendar month next preceding the applicable

Interest Payment Date (the "Record Date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the Registered Owner as of the Record Date but shall be payable to the Registered Owner as shown on the registration books at the close of business on a special record date to be fixed by the Paying Agent and Registrar for the payment of interest. The special record date shall be fixed whenever money becomes available for payment of the overdue interest and notice of the special record date shall be given to the owners of the Bonds as then shown on the Registrar's registration books not less than ten days prior to the special record date. If, upon presentation at maturity, payment of this bond is not made as required, all interest shall continue at the Interest Rate until the Principal Amount is paid in full. The principal of, premium, if any, and interest on this bond are payable in lawful money of the United States of America, without deduction for the services of the Paying Agent. All such payments shall be valid and effectual to satisfy and discharge the liability on this bond to the extent of the sum or sums paid. The Bonds maturing on and after July 1, 20__ are subject to redemption prior to their maturity dates at the option of the City, in whole or in part at any time on or after July 1, 20__, at a redemption price of 100% of the principal of the Bonds to be redeemed, plus accrued interest, if any, to the date of redemption.

The Bonds are issued in book-entry form with no physical distribution of Bond certificates made to the public and a securities depository is acting as securities depository for the Bonds.

The Bonds are issued by the City, together with its \$102,850,000 General Obligation General Purpose Bonds, Series 2024A and the net premium paid therefore, upon its behalf and upon the credit of the City, for the following City purposes: (1) \$18,500,000 for public safety; (2) \$19,050,000 for citizens' centers and community enhancement; (3) \$14,400,000 for parks and other recreational facilities; (4) \$12,200,000 for energy/water conservation, facilities and equipment; (5) \$34,200,000 for streets and transportation; (6) \$9,000,000 for storm sewer systems; and (7) \$4,500,000 for museums, cultural facilities and libraries.

Books for the registration and transfer of the Bonds will be kept by the Registrar. The person in whose name this bond is registered shall be deemed and regarded as its absolute owner for all purposes, except as may otherwise be provided with respect to payment of interest as set forth above. Upon surrender for transfer or exchange of this bond at the principal office of the Registrar duly endorsed by the Registered Owner or his attorney duly authorized in writing or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and properly executed the City will execute and the Registrar will authenticate and

deliver in the name of the transferee or Registered Owner, as appropriate, a new Bond or Bonds in fully registered form of the same maturity, interest rate and aggregate principal amount and authorized denominations.

The issuance of the Series 2024B Bonds has been authorized by the electors of the City qualified to vote and voting at the municipal election of the City held on November 7, 2023. All of the requirements of law have been complied with by the proper officers of the City for the issuance of the Bonds. The total indebtedness of the City, including that of the Bonds, and the indebtedness for each of the projects described in the Bonds does not exceed any limit of indebtedness prescribed by the Charter of the City or the Constitution or law of the State. Provision has been made for the levy and collection of annual taxes which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds when the same become due.

If sufficient funds are deposited with the Paying Agent to pay the principal of any Bonds becoming due at maturity, together with interest accrued to the due date, interest on such Bonds will cease to accrue on the due date, and thereafter the owners will be restricted to the funds deposited as provided in the Bond Ordinance.

All conditions, acts and things required to exist, to have happened or to have been performed precedent to or in the issuance of the Bonds exist, have happened and have been performed in due time, form and manner, as required by law.

IN WITNESS WHEREOF, the City has caused this bond to be signed and executed on the City's behalf by the manual or facsimile signature of the Mayor and the manual or facsimile signature of the City Clerk, has caused the corporate seal of the City to be placed on this bond, and has caused this bond to be authenticated with the manual signature of the Treasurer of the City, as Registrar for the bonds, all as of the Date of Bond stated above.

CITY OF ALBUQUERQUE, NEW MEXICO

By

Mayor

(SEAL)

ATTEST:

By _____

City

Clerk

CERTIFICATE OF AUTHENTICATION

This is one of the City of Albuquerque, New Mexico General Obligation Storm Sewer Bonds,

Series 2024B described above and in the Bond Ordinance and this bond has been registered on the registration books of the City by the undersigned as Registrar for the Bonds.

Date of Authentication: _____, 2024

By

As Registrar

CERTIFICATE OF ASSIGNMENT

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers this bond to _____ (please print or type name and address of assignee), whose social security or other identification number is _____, and irrevocably appoints _____, as attorney, to transfer this bond on the registration books of the City, with power of substitution of revocation.

DATE: _____

NOTICE: The signature on this assignment must correspond with the name as it appears on the face of this bond in every particular, without alteration or enlargement or any change whatsoever.

[End Of Form Of Series 2024B Bonds]

SECTION 13. DELIVERY OF SERIES 2024 BONDS. When the Series 2024 Bonds have been properly executed and authenticated, an Authorized Officer shall deliver the Series 2024 Bonds to the Purchaser or the Depository on behalf of the appropriate Purchaser on receipt by the City of the agreed purchase price set forth in the Sale Certificate.

SECTION 14. DISPOSITION AND USE OF SERIES 2024 BOND PROCEEDS; APPROPRIATIONS. The proceeds of the Series 2024 Bonds shall be used only for the payment of Expenses and the Series 2024 Bond Projects, in the amounts stated in the Bond Schedule under Series 2024 Financing. The Purchasers of Series 2024 Bonds shall not be responsible for the application by the City or by any of its officers of any of the proceeds of the Series 2024 Bonds. The City shall account for the proceeds of the Series 2024 Bonds as follows:

(A) PREMIUM. The premium on the purchase of the Series 2024A Bonds, as set forth in the Sale Certificate, paid for the purchase of the Series 2024A Bonds shall be credited to a separate book account and used, and is hereby appropriated, to pay Expenses of the Series 2024A Bonds, with any excess premium deposited in the Interest and Sinking Fund. The premium on the purchase of the Series 2024B Bonds, as set forth in the Sale Certificate, paid for the purchase of the Series 2024B Bonds shall be credited to a separate book account and used, and is hereby appropriated, to pay Expenses of the Series 2024B Bonds, with any excess premium deposited in the Interest and Sinking Fund.

(B) USE OF PROCEEDS OF SERIES 2024 BONDS. The following amounts shall be credited to separate book accounts for each Series 2024 Bond Project financed with the proceeds of Series 2024 Bonds. The amounts on deposit in each account shall be maintained by the City and used for the payment, in whole or in part, of the costs of the Series 2024 Bond Projects and the payment of Expenses as set forth in Section 14(C):

(1) the amount of \$18,500,000 shall be credited, and is hereby appropriated,

for the payment of the Public Safety Project;

(2) the amount of \$19,050,000 shall be credited and is hereby appropriated for the payment of the Citizens' Center and Community Enhancement Project;

(3) the amount of \$14,400,000 shall be credited, and is hereby appropriated, for the payment of the Parks and Recreation Project;

(4) the amount of \$12,200,000 shall be credited, and is hereby appropriated, for the payment of the Energy/Water Conservation, Facilities and Equipment Project;

(5) the amount of \$9,000,000 from proceeds of the Series 2024B Bonds shall be credited, and is hereby appropriated, for the payment of the Storm Sewer System Project;

(6) the amount of \$34,200,000 shall be credited, and is hereby appropriated, for the payment of the Streets and Transportation Project; and

(7) the amount of \$4,500,000 shall be credited, and is hereby appropriated, for the payment of the Museum, Cultural Facilities and Library Project.

(C) EXPENSES.

(1) The amount specified in the Sale Certificate from Series 2024A Bond proceeds, including the net premium paid therefore, is hereby appropriated for the payment of Expenses relating to the issuance of the Series 2024A Bonds. Any part of that amount, other than net premium, which is not necessary to pay such Expenses, shall be used for the respective Series 2024A Bonds Projects listed in Section 4(D), with any excess proceeds deposited in the Interest and Sinking Fund.

(2) The amount specified in the Sale Certificate from Series 2024B Bond proceeds, including the net premium paid therefore, is hereby appropriated for the payment of Expenses relating to the issuance of the Series 2024B Bonds. Any part of that amount, other than net premium, which is not necessary to pay such Expenses, shall be used for the Storm Sewer System Project listed in Section 4(D), with any excess proceeds deposited in the Interest and Sinking Fund.

SECTION 15. APPROVAL OF DOCUMENTS.

(A) COUNCIL APPROVAL. The Preliminary Official Statement and Continuing Disclosure Undertaking have been on deposit with the City Clerk and presented to the Council for approval. The form, terms and provisions of the Preliminary Official Statement and the Continuing Disclosure Undertaking are hereby ratified, approved and confirmed. The Mayor or other Authorized Officer is hereby authorized to execute the Official Statement and the Continuing Disclosure Undertaking.

(B) FURTHER ACTS. From and after the adoption of the Bond Ordinance, the officers, agents and employees of the City are authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply

with the provisions of the Bond Ordinance.

SECTION 16. DISCLOSURE MATTERS.

(A) **DISTRIBUTION AND USE.** The use and distribution of the Preliminary Official Statement for the sale of the Series 2024 Bonds are ratified, approved and confirmed. The use and distribution of the Official Statement for the sale of the Series 2024 Bonds are hereby approved.

(B) **OFFICIAL STATEMENT; MATERIAL CHANGE.** The City shall provide to the Purchaser of the Series 2024 Bonds, within seven Business Days after the date of the execution of the Sale Certificate and in sufficient time to accompany any confirmation that requires payment from any customer, copies of the Official Statement in sufficient quantities to enable the original Purchaser to comply with Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended (the "Rule"), and the rules of the Municipal Securities Rulemaking Board. The City shall notify the Purchaser of the Series 2024 Bonds promptly of any material change in the affairs or financial conditions of the City which may occur prior to the date on which the Series 2024 Bonds are initially issued and delivered. The City further agrees to notify the Purchaser of any material development impacting the Series 2024 Bonds, or the availability of funds of the City for the payment of the Series 2024 Bonds, which the City becomes aware between the date of the adoption of the Bond Ordinance and a date which is twenty-five (25) days after the end of the underwriting period for purposes of the Rule, which date shall be deemed to be the date on which the Series 2024 Bonds are initially issued and delivered. Upon such notification, if, in the opinion of the City or the Purchaser, a change would be required in the Official Statement in order to make the statements therein true and not misleading or incomplete in any material respect, then the Official Statement as so amended or supplemented will be prepared and furnished to the Purchaser, at the expense of the City, in reasonable quantities for distribution.

(C) **CONTINUING DISCLOSURE.** The City will execute, deliver and comply with the Continuing Disclosure Undertaking for the benefit of the Purchaser.

SECTION 17. FUNDS AND ACCOUNTS. Funds and accounts relating to the Series 2024 Bonds, the Series 2024 Bond proceeds and the payment of the Series 2024 Bonds shall be established by an Authorized Officer to be controlled and maintained by the City or its designee.

SECTION 18. TAX LEVIES. In order to pay the principal of and interest on the Series 2024 Bonds as they become due and, at the option of the City, to reimburse the general fund or other funds for the payment of principal of or interest on Series 2024 Bonds for which property taxes were not available, there shall be an annual assessment and levy upon all of the taxable property of the City subject to taxation which provides an amount sufficient to pay the principal of (including, without limitation, any mandatory sinking fund payments) and the interest on the Series 2024 Bonds as they become due and payable. However, the City may, at its option, apply any other funds lawfully available for the purpose to the payment of principal of or interest on the Series 2024 Bonds as they become due and the levies required by this Section may be reduced to the extent other revenues are or will be available and used for payment of the Series 2024 Bonds. To the extent property taxes are not available for that purpose, the principal of and interest accruing on Series 2024 Bonds shall be paid from the City's general fund or from any other fund lawfully available for that purpose. The taxes shall be assessed, levied and collected annually at the time and in the manner as other City taxes are assessed, levied and collected. Annually, the Council shall take all reasonable action to insure the levy and collection of taxes by the governmental authority charged with legal responsibility to levy and collect taxes in amount sufficient at the time to pay the principal of and interest on the Series 2024 Bonds. The money produced by the levy of taxes provided in this Section to pay the principal of and interest on the Series 2024 Bonds is appropriated for that purpose and that amount shall be included in the annual budget and the appropriation bills adopted and passed by the Council each year. The

taxes collected shall be maintained in the Interest and Sinking Fund, which is hereby created, and kept for and applied only to the payment of the principal of and interest on the Series 2024 Bonds when due and as otherwise required or permitted by law.

SECTION 19. GENERAL ADMINISTRATION OF FUNDS. The funds and accounts established pursuant to the Bond Ordinance shall be administered as follows:

(A) INVESTMENT OF MONEY. To the extent practicable, any money in any such fund or account shall be invested in Permitted Investments within any limitations imposed by the Bond Ordinance. Obligations purchased as an investment of money in any fund or account shall be deemed at all times to be part of that fund or account, and the interest accruing and any profit realized on those investments shall be credited to that fund or account, unless otherwise stated in the Bond Ordinance (subject to withdrawal at any time for the uses directed and permitted for such money by the Bond Ordinance), and any loss resulting from such investment shall be charged to that fund or account. The City Treasurer shall present for redemption or sale on the prevailing market any Permitted Investment in a fund or account when necessary to provide money to meet a required payment or transfer from that fund or account.

(B) DEPOSITS OF FUNDS. The money and investments which are part of the funds and accounts designated in the Bond Ordinance and the Sale Certificate shall be maintained and kept in an Insured Bank or Banks as permitted by New Mexico law. Each payment shall be made into and credited to the proper fund or account at the designated time, except that when the designated time is not a Business Day, then the payment shall be made on the next succeeding Business Day unless otherwise required in the Bond Ordinance. The City may establish one or more accounts in Insured Banks, for all of the funds and accounts or combine such funds and accounts with any other Insured Bank account or accounts for other funds and accounts of the City.

SECTION 20. PROTECTIVE COVENANTS. The City covenants and agrees with the Owners:

(A) USE OF SERIES 2024 BOND PROCEEDS. When issued, the City will proceed without unreasonable delay to use the proceeds of the Series 2024 Bonds for the acquisition and construction of the respective Series 2024 Bond Projects for which the Series 2024 Bonds are issued in the amounts stated in the Sale Certificate.

(B) PAYMENTS. The City will pay the principal of and the interest on every Series 2024 Bond at the place, on the date and in the manner specified in the Bond Ordinance, the Sale Certificate, and the Series 2024 Bonds.

(C) CITY'S EXISTENCE. The City will maintain its corporate identity and existence so long as any of the Series 2024 Bonds remain outstanding, unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any Owner. The City may annex and de-annex land.

SECTION 21. SERIES 2024 BONDS NOT PRESENTED WHEN DUE. If any Series 2024 Bonds are not duly presented for payment when due at maturity, and if money sufficient to pay those Series 2024 Bonds is on deposit with the Paying Agent for the benefit of the Owners of those Series 2024 Bonds, all liability of the City to those Owners for the payment of the Series 2024 Bonds shall be completely discharged, those Series 2024 Bonds shall not be deemed to be Outstanding and it shall be the duty of the Paying Agent to segregate and to hold the money received for payment in trust, without liability for interest to the Owners, for the benefit of those Owners.

SECTION 22. DELEGATED POWERS. The officers of the City are authorized and directed to take all action from time to time which is necessary or appropriate to effectuate the provisions of the Bond Ordinance, including, without limitation, the delivery of a "deemed final" certificate relating to the Preliminary Official Statement, the publication of a notice of adoption of the Bond

Ordinance, the distribution of material relating to Series 2024 Bonds, the printing of Series 2024 Bonds, certificates pertaining to the Series 2024 Bonds and the delivery of and security for the Series 2024 Bonds as may be reasonably required by the Purchaser.

The Chief Financial Officer, Director of the Department of Finance and Administrative Services, and City Treasurer, or his or her successor in interest, are hereby authorized and directed to make such changes or corrections to the procedures established in the Bond Ordinance relating to the times of day or the days on which actions are required to be taken, or the persons responsible for particular actions, the form of notice of the occurrence of events, the types and forms of actions required and other administrative matters which, in his judgment, are necessary and appropriate to accomplish the purposes of the Bond Ordinance and to provide for the efficient administration of the Series 2024 Bonds program. Notice of any such changes or corrections shall be given to all persons affected thereby and to Bond Counsel for the City and a certificate of such changes and corrections shall be filed with the City Clerk.

Pursuant to the Supplemental Public Securities Act, Section 6-14-8 et seq., NMSA 1978, the Chief Financial Officer, Director of the Department of Finance and Administrative Services and the City Treasurer are each hereby delegated authority to accept one or more binding bids and select the Purchasers, to execute the Sale Certificate and to determine any or all of the final terms of the Series 2024 Bonds, subject to the parameters and conditions contained in this Bond Ordinance. The Chief Financial Officer, Director of the Department of Finance and Administrative Services or the City Treasurer shall present the Sale Certificate to the Council in a timely manner, before or after delivery of the Series 2024 Bonds, at a regularly scheduled public meeting of the Council.

SECTION 23. AMENDMENT OF BOND ORDINANCE.

(A) **LIMITATIONS UPON AMENDMENTS.** The Bond Ordinance may be amended by resolution or ordinance of the Council without the consent of Owners:

(1) To cure any ambiguity, or to cure, correct or supplement any defect or inconsistent provision contained in the Bond Ordinance, which amendment, in the judgment of Bond Counsel, does not materially adversely affect the Owners;

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

(3) To obtain or maintain a rating on Series 2024 Bonds from any rating agency;

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

(5) To make any other changes in the Bond Ordinance which, in the opinion of Bond Counsel, are not materially adverse to the Owners.

(B) **ADDITIONAL AMENDMENTS.** Except as provided above, the Bond Ordinance

may only be amended or supplemented by the Sale Certificate or ordinance adopted by the Council in accordance with the laws of the State, without receipt by the City of any additional consideration, but with the written consent of the Owners of a majority of the principal amount of the Series 2024 Bonds affected by such amendment or supplement then Outstanding (not including Series 2024 Bonds which are then owned by or for the account of the City); provided, however, that no such ordinance shall have the effect of permitting:

- (1) An extension of the maturity of any Series 2024 Bond; or
- (2) A reduction in the principal amount of or interest rate on any Series 2024 Bond; or
- (3) A reduction of the principal amount of Series 2024 Bonds required for consent to such amendment or supplement.

(C) **PROOF OF INSTRUMENTS.** The fact and date of the execution of any instrument under the provisions of this Section may be proved by the certificate of any officer in any jurisdiction who by the laws of that jurisdiction is authorized to take acknowledgments of deeds within that jurisdiction that the person signing the instrument acknowledged before him the execution of that instrument, or may be proved by an affidavit of a witness to the execution sworn to before such officer.

(D) **PROOF OF SERIES 2024 BONDS.** The principal amount and numbers of Series 2024 Bonds owned by any person executing such instrument and the date of holding that instrument may be proved by a certificate executed by a responsible bank or trust company showing that on the date mentioned that person had on deposit with the bank or trust company the Series 2024 Bonds described in the certificate.

SECTION 24. DEFEASANCE. When all principal and interest in connection with all or any part of the Series 2024 Bonds have been paid or provided for, the pledge and lien and all obligations under the Bond Ordinance with respect to those Series 2024 Bonds shall be discharged and those Series 2024 Bonds shall no longer be deemed to be outstanding within the meaning of the Bond Ordinance.

Without limiting the preceding paragraph, there shall be deemed to be such payment when the Council has caused to be placed in escrow and in trust with an escrow agent located within or without the State and exercising trust powers, an amount sufficient (including the known minimum yield from Defeasance Obligations in which such amount may be initially invested) to pay all requirements of principal and interest on the Series 2024 Bonds to be defeased as the same become due to their final maturities. The escrow agent shall have received evidence satisfactory to it that the cash and Defeasance Obligations delivered to it will be sufficient to provide for the payment of the Series 2024 Bonds to be defeased as stated above. Neither the Defeasance Obligations nor money deposited with the escrow agent shall be withdrawn or used for any purpose other than as provided in the escrow agreement relating thereto and the Defeasance Obligation and money shall be segregated and held in trust for the payment of the principal or redemption price of and interest on the Series 2024 Bonds with respect to which such deposit has been made. The Defeasance Obligations shall become due prior to the respective times at which

the proceeds are needed in accordance with a schedule established and agreed upon between the City and the escrow agent at the time of the creation of the escrow, or the Defeasance Obligations shall be subject to redemption only at the option of the holders or owners thereof to assure the availability of the proceeds as needed to meet the schedule.

If any Series 2024 Bonds are deemed to be paid and discharged pursuant to this Section, then, within fifteen (15) days after the date of defeasance, the City shall cause a written notice to be given to each Owner of Series 2024 Bonds deemed paid and discharged at the address shown on the Series 2024 Bond register for the Series 2024 Bonds on the date on which those Series 2024 Bonds are deemed paid and discharged stating the numbers of the Series 2024 Bonds deemed paid and discharged (if less than all Series 2024 Bonds are deemed paid and discharged), describing the Defeasance Obligations and specifying any date or dates on which the Series 2024 Bonds defeased are to be paid.

SECTION 25. BOND ORDINANCE IRREPEALABLE. After any of the Series 2024 Bonds are issued, the Bond Ordinance shall be and remain irrevocable until the principal of and interest on all Series 2024 Bonds are fully paid and discharged or there has been defeasance of all Series 2024 Bonds and the Series 2024 Bonds have been canceled.

SECTION 26. REPEALER. All ordinances, or parts of ordinances, inconsistent with the Bond Ordinance are repealed by the Bond Ordinance but only to the extent of that inconsistency. This repealer shall not be construed to revive any ordinance, or part of any ordinance, previously repealed.

SECTION 27. SEVERABILITY. If any section, paragraph, clause or provision of the Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of the Bond Ordinance.

SECTION 28. FORM OF PUBLICATION. The title and general summary of the subject matter contained in the Bond Ordinance shall be published in substantially the following form:

[Form Of Summary Of Ordinance For Publication]

CITY OF ALBUQUERQUE, NEW MEXICO

NOTICE OF ADOPTION OF ORDINANCE

Notice is hereby given of the title and of a general summary of the subject matter contained in the City Ordinance Twenty-Sixth Council Bill No. F/S O-24-4 duly adopted and approved by the City Council of the City of Albuquerque, New Mexico on March 18, 2024. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, Albuquerque, New Mexico. The title of the Ordinance is:

AUTHORIZING THE ISSUANCE AND SALE OF CITY OF ALBUQUERQUE, NEW MEXICO GENERAL OBLIGATION BONDS IN TWO SERIES IN A COLLECTIVE PAR AMOUNT NOT TO EXCEED \$111,850,000, CONSISTING OF \$102,850,000 GENERAL PURPOSE GENERAL

OBLIGATION BONDS, SERIES 2024A, AND \$9,000,000 GENERAL OBLIGATION STORM SEWER BONDS, SERIES 2024B, AUTHORIZED AT AN ELECTION OF THE CITY HELD ON NOVEMBER 7, 2023 TO FINANCE PROJECTS RELATING TO PUBLIC SAFETY; COMMUNITY CENTERS, HOMELESSNESS, METROPOLITAN REDEVELOPMENT AND COMMUNITY ENHANCEMENT; PARKS AND RECREATION; ENERGY AND WATER CONSERVATION, PUBLIC BUILDINGS, FACILITIES AND SYSTEMS; STREETS AND TRANSPORTATION; MUSEUMS, CULTURAL FACILITIES AND LIBRARIES; AND STORM SEWERS; (THE SERIES 2024A BONDS AND SERIES 2024B BONDS ARE COLLECTIVELY REFERRED TO AS THE "SERIES 2024 BONDS"); PROVIDING FOR THE LEVY AND COLLECTION OF *AD VALOREM* TAXES FOR THE PAYMENT OF THE SERIES 2024 BONDS; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE SERIES 2024 BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE FORMS, TERMS, PURCHASE, PAYMENT, EXECUTION AND OTHER PROVISIONS OF AND CONCERNING THE SERIES 2024 BONDS; PRESCRIBING OTHER DETAILS IN CONNECTION WITH THE SERIES 2024 BONDS AND THE PAYMENT THEREOF; AND RATIFYING PRIOR ACTION TAKEN IN CONNECTION THEREWITH.

The title of the Ordinance contains a summary of its provisions. This notice constitutes compliance with Sections 6-14-4 through 6-14-7, New Mexico Statutes Annotated, 1978.

[End Of Form Of Summary Of Ordinance For Publication]

X:\CL\SHARE\CL-Staff_Legislative Staff\Legislation\26 Council\O-4 FSfinal.docx