DEPARTMENT HEAD REPORTS

1. Presentation of the FY2018 audit performed by CliftonLarsonAllen LLP (Matt Bone and Laura Beltran-Schmitz)

   Action Requested of Council:

   Accept the FY2018 audit and Comprehensive Annual Financial Report (CAFR) as compiled by the City’s Finance Division and approved by the New Mexico State Auditor.

   Background/Rationale:

   In accordance with Audit Rule 2018 2.2.2 NMAC, once an audit report is officially released to an agency by the state auditor, the audit report shall be presented by the independent auditor at a quorum of the governing authority of the agency. New Mexico State Statute NMSA 12-6-3 requires that the financial affairs of every agency be audited each year by an independent auditor approved by the State Auditor.

   Staff Recommendation:

   Accept the FY2018 audit/Comprehensive Annual Financial Report.

2. Art in the Alley-HQ Mural Proposal (Shaña Reeves)

   Action Requested of Council:

   Approve the request to proceed with the proposed mural painting on the HQ building located at 119 West Main Street.

   Background/Rationale:

   In an effort to prepare for the Complete Streets Main Street construction, staff began a series of projects to clean-up the alleys and make them more inviting and accessible. Art in the Alley is a large-scale mural project for the north and south sides of Main Street and one alley that runs the length of Miller Street to Auburn Avenue. The Art in the Alley committee has identified 15 to 20 buildings that are candidates for murals and have obtained permission from many of the property and business owners. The Merrion Foundation donated $25,000 to fund the project and the Northwest New Mexico Arts Council is a non-profit organization acting as the fiscal agent and pays the artists and purchases the paint. To-date, three murals have been completed.
Staff Recommendation:

Authorize Ivan Lee to paint the proposed mural on the HQ building located at 119 West Main Street.

Instructions Upon Approval:

Staff will work with Northwest New Mexico Arts Council and the Art in the Alley committee to prepare a contract for Ivan Lee.

3. Update on the Alternative Response Unit (Dave Burke)

Action Requested of Council:

Consideration for funding a demo project.

4. Presentation regarding Small Cell Facilities (Jennifer Breakell)

Action Requested of Council:

Information only

Background/Rationale:

The City has been approached by several telecommunication companies asking to deploy small cell facilities within the city. The State legislature passed a law last year that regulates what Cities can do to telecommunication companies that deploy small cells.

5. Presentation regarding pavement management and bond options (David Sypher, Andy Mason and Evan Kist)

6. Proposed ordinance authorizing the issuance, sale and delivery of the City of Farmington, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019, in an aggregate principal amount not to exceed $12,500,000 for the purpose of defraying the costs of designing, engineering, constructing, acquiring and improving streets and traffic improvements, and paying costs of issuance of the Series 2019 Bonds. (Jennifer Breakell)

Action Requested of Council:

Grant permission to publish Notice of Proposed Ordinance.

Background/Rationale:

The City is seeking to bond a portion of the Gross Receipts Tax for the purpose of paving streets.

Staff Recommendation:

Grant Permission to publish Notice of Proposed Ordinance.
Instructions Upon Approval:

The City Attorney will notify the Modrall law firm that permission has been granted and the Modrall law firm will do the publication.

CITY MANAGER BUSINESS

7. Discussion and direction to staff concerning the scope of work for the Comprehensive Plan Request for Proposal (Rob Mayes)

COUNCIL BUSINESS

8. Appointments to the Airport Advisory Commission (Mayor)

9. Appointment of Primary and Alternate members to the San Juan Water Commission (Mayor)

CLOSED MEETING

10. To discuss a request for proposals for utility statement processing and mailing services, pursuant to Section 10-15-1H(6) NMSA 1978.

DEPARTMENT HEAD REPORTS

11. Request for proposals for utility statement processing and mailing services (Kristi Benson)

Action Requested of Council:

Approve recommendation to award the contract.

Background/Rationale:

Proposals for utility statement processing and mailing services (Electric) were opened on November 28, 2018 with seven offerors participating.

Staff Recommendation:

The evaluation committee recommends that the contract be awarded to DataProse, LLC as the top evaluated firm after application of the five percent In-State and Veterans preferences.
Instructions Upon Approval:

Award the contract.

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

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk’s Office at 599-1106 or 599-1101 prior to the meeting so that arrangements can be made.
ORDINANCE NO. ___

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE CITY OF FARMINGTON, NEW MEXICO MUNICIPAL GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2019 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $12,500,000 FOR THE PURPOSE OF DEFRAYING THE COSTS OF DESIGNING, ENGINEERING, CONSTRUCTING, ACQUIRING AND IMPROVING STREETS AND TRAFFIC IMPROVEMENTS, AND PAYING COSTS OF ISSUANCE OF THE SERIES 2019 BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE FROM MUNICIPAL GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY PURSUANT TO SECTION 7-1-6.12 NMSA 1978, PROVIDING THAT THE MATURITY DATES, PRINCIPAL AMOUNTS, INTEREST RATES, REDEMPTION PROVISIONS AND OTHER DETAILS OF THE BONDS WILL BE ESTABLISHED IN A BOND PURCHASE AGREEMENT AND PRICING CERTIFICATE, AND DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY ADMINISTRATIVE SERVICES DIRECTOR TO APPROVE THE FINAL TERMS OF THE BONDS AND TO EXECUTE AND DELIVER THE BOND PURCHASE AGREEMENT; PROVIDING FOR THE EXECUTION OF THE BONDS AND OTHER DOCUMENTS AND AGREEMENTS RELATING TO THE BONDS BY AUTHORIZED OFFICERS OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

The City Council is informed that:

Capitalized terms used in the following preambles have the same meaning as defined in Section 1 of this Bond Ordinance unless the context requires otherwise.

WHEREAS, the City is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico; and

WHEREAS, pursuant to Section 7-19D-9 NMSA 1978, as amended, and Ordinance No. 2018-1312 adopted by the City Council on August 21, 2018 ("Ordinance No. 2018-1312"), the City enacted a municipal gross receipts tax in an amount equal to one-half of one percent (0.5%) of the gross receipts reported or required to be reported by persons engaging in business in the City for the month in which the tax is distributed to the City (the "Municipal Gross Receipts Tax"); and

WHEREAS, Ordinance No. 2018-1312 provides that one-quarter of the revenue derived from the Municipal Gross Receipts Tax shall be dedicated for Public Works Purposes (the "Public Works Dedication"); and

WHEREAS, pursuant to Section 7-1-6.12 NMSA 1978, the City receives monthly distributions of Municipal Gross Receipts Tax Revenues from the New Mexico Department of Taxation and Revenue equal to one half of one percent (0.5%) of the gross receipts of persons
engaging in business within the City, as determined and adjusted under the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9 NMSA 1978; and

WHEREAS, the City Council intends to pledge the Public Works Dedication portion of the Municipal Gross Receipts Tax, i.e. the 0.125% increment of Municipal Gross Receipts Tax (the "Pledged Revenues") as security for repayment of the Bonds; and

WHEREAS, the Pledged Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding; and

WHEREAS, the City Council hereby determines that issuance of the Bonds for the purpose of paying costs of designing, engineering, constructing, acquiring and improving streets and traffic improvements and paying the Expenses allocable to the financing of those improvements (the "Project") is necessary and in the interest of the City and its residents; and

WHEREAS, the City Council has determined and hereby determines that it is in the best interests of the City and its residents that the Bonds be issued with a first lien, but not an exclusive first lien, on the Pledged Revenues on parity with the lien thereon of outstanding Parity Bonds; and

WHEREAS, Section 3-31-6(C) NMSA 1978 provides:

"C. Any law which authorizes the pledge of any or all of the pledged revenues to the payment of any revenue bonds issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978, or which affects the pledged revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds, unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor;" and

WHEREAS, the proposed form of this Bond Ordinance has been filed with the City Clerk and presented to the City Council; and

WHEREAS, the City Council anticipates that the Bonds will be sold to the New Mexico Finance Authority (the "Purchaser") pursuant to the Bond Purchase Agreement which, together with the exact principal amounts, interest rates, redemption features and other final terms of the Bonds, shall be as set forth in the Bond Purchase Agreement and Pricing Certificate, both of which shall be deemed to supplement this Bond Ordinance; and

WHEREAS, the City Council intends to delegate authority to the Mayor, the City Manager or the City Treasurer/Administrative Services Director to approve the final terms of the Bonds and to execute the Pricing Certificate, and to executed and deliver the Bond Purchase Agreement to the Purchaser, pursuant to and as authorized by as permitted by Section 6-14-10.2 NMSA 1978, on or before the date of delivery of the Bonds, setting forth the final terms of the Bonds; and
WHEREAS, forms of the Bond Purchase Agreement and contingent Intercept Agreement have been presented to the City Council in connection with this Bond Ordinance; and

WHEREAS, the City Council has determined that it is in the best interests of the City to authorize the issuance of the Bonds pursuant to this Bond Ordinance.

NOW, THEREFORE, be it ordained by the governing body of the City of Farmington:

Section 1. Definitions. As used in this Bond Ordinance, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

“Act” means the general laws of the State, including Sections 3-31-1 through 3-31-12 NMSA 1978, as amended, and enactments of the City Council relating to the Pledged Revenues and the issuance of the Bonds, including this Bond Ordinance.

“Authorized Officer” means the following officers of the City: Mayor, City Manager, City Treasurer/Administrative Services Director, or other officer of the City when designated by a certificate signed by the Mayor of the City from time to time, a certified copy of which shall be delivered to the Paying Agent and the Registrar.

“Bond Fund” has the meaning assigned to that term in Section 16 of this Bond Ordinance.

“Bond Ordinance” means this City Ordinance No. _____.

“Bond Purchase Agreement” means the bond purchase agreement between the City and the Purchaser.

“Bondholder,” “holder,” “owner” or “Owner” means the registered owner of any Bond as shown on the registration books of the City for the Bonds, from time to time, maintained by the Registrar. Any reference to a majority or a particular percentage or proportion of the Bondholders shall mean the Holders at the particular time of a majority or of the specified percentage or proportion in aggregate principal amount of all Bonds then outstanding.

“Bonds” means the “City of Farmington, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019” authorized by this Bond Ordinance.

“Business Day” means a day on which commercial banks in the city in which the principal office of the Paying Agent and Registrar is located are open for conduct of substantially all of their business operations.

“City” means the City of Farmington, in the County of San Juan and State of New Mexico.

“City Council” means the City Council of the City or any future successor governing body of the City.
“Closing Date” means the date on which the Bonds are issued and delivered to the Purchaser.

“Closing Memorandum” means the memorandum prepared on behalf of the City by its municipal advisor which shall specify the deposit and application of proceeds of the Bonds on the Closing Date.

“Code” means the Internal Revenue Code of 1986, as amended, including, when appropriate, the statutory predecessor of the Code, and all applicable regulations whether proposed, temporary or final, including regulations issued and proposed pursuant to the statutory predecessor of the Code, and, in addition, all official rulings and judicial determinations applicable to the Bonds, and under the statutory predecessor of the Code and any successor provisions to those sections or regulations.

“Continuing Disclosure Undertaking” means the continuing disclosure undertaking with respect to the Bonds to be executed on the day of issuance and delivery of the Bonds to the Purchaser, if required.

“Costs of Issuance” or “Expenses” means all costs relating to issuance of the Bonds, including, without limitation, costs of advertising and publication, costs of preparing the Bonds, fees and expenses of the financial advisor, bond counsel, the Paying Agent, the Registrar, rating fees and other reasonable and necessary fees and costs, including applicable gross receipts taxes, related to the issuance of the Bonds.

“Event of Default” means any of the events stated in Section 28 of this Bond Ordinance.

“Fiscal Year” means the period commencing on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the City as its fiscal year.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to the entire Bond Ordinance and not solely to the particular section or paragraph of this Bond Ordinance in which such word is used.

“Hold Harmless MGRT Distribution” means the distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, as that distribution relates to one eighth of one percent (0.125%) increment of municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 2018-1312, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93 NMSA 1978; provided that the percentage of such distribution decreases annually as provided in Section 7-1-6.46 NMSA 1978 each year beginning on July 1, 2015 until the distribution is eliminated after July 1, 2029.

“Independent Accountant” means (A) an accountant employed by the State and under supervision of the State Auditor of the State, or (B) any certified public accountant, registered accountant, or firm of such accountants duly licensed to practice and practicing as such under the laws of the State of New Mexico, appointed and paid by the City who (i) is, in fact, independent and not under the domination of the City, (ii) does not have any substantial
interest, direct or indirect, with the City, and (iii) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or similar audits of the books or records of the City.

“Insured Bank” means any federally or state-chartered savings and loan association or federally or state-chartered commercial bank, the deposits of which are insured by the Federal Deposit Insurance Corporation and which has, or is the lead bank of a parent holding company which has (i) unsecured, uninsured and unguaranteed obligations which are rated AA or better by Fitch and S&P or (ii) combined capital, surplus and undivided profits of not less than $10,000,000.

“Intercept Agreement” means the agreement between the City and the Purchaser (which becomes effective only upon the City’s failure to timely make payments of principal and interest on the Bonds), which provides for the direct payment by New Mexico Department of Taxation and Revenue to the Purchaser of the Pledged Revenues in amounts sufficient to pay principal and interest on the Bonds, and any amendments or supplements to the Intercept Agreement.

“Interest Payment Date” means each June 1 and December 1, commencing December 1, 2019.

“Municipal Gross Receipts Tax” means the excise tax imposed by the City pursuant to Section 7-19D-9 NMSA 1978, as amended, and Ordinance No. 2018-1312 adopted by the City Council on August 21, 2018, in an amount equal to one-half of one percent (0.5%) of the gross receipts reported or required to be reported by persons engaging in business in the City for the month in which the tax is distributed to the City.

“Municipal Gross Receipts Tax Income Fund” means the Pledged Revenue Fund established in Section 16 of this Bond Ordinance and maintained by the City.


“Outstanding” or “outstanding” when used in reference to bonds means, on any particular date, the aggregate of all Bonds delivered under this Bond Ordinance except:

A. those cancelled at or prior to such date or delivered or acquired by the City at or prior to such date for cancellation;

B. those otherwise deemed to be paid in accordance with Section 34 of this Bond Ordinance;

C. 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 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.
“Parity Gross Receipts Tax Bonds” means the Bonds and any other bonds or obligations which may in the future be issued by the City with a lien on Pledged Revenues on parity with the lien thereon of the Bonds.

“Paying Agent” means the City Treasurer, as agent for the City for the payment of the Bonds or any other entity at the time appointed Paying Agent by resolution of the City Council.

“Permitted Investments” means, but only to the extent permitted by applicable laws of the State, ordinances of the City or the Investment Policy of the City, as amended from time to time, including the following:

A. Certificates of deposit issued by banks and savings and loan associations located within the geographical boundaries of the City, collateralized in accordance with this policy and with a maximum stated maturity of five (5) years.

B. Obligations of the United States Government, its agencies, or instrumentalities excluding mortgage backed securities which are either direct obligations of the United States or are backed by the full faith and credit of the United States Government with a maximum stated maturity of five (5) years.

C. Repurchase agreements collateralized by obligations of the U.S. Government, its agencies, or instrumentalities.

D. The New Mexico State Treasurer's Local Government Investment Pool established pursuant to Sec. 6-10-10.1 NMSA 1978, and operated by the New Mexico State Treasurer.

E. Interest bearing demand accounts in approved depositories.

“Pledged Revenues” means the revenues derived from the (i) one eighth of one percent (.125%) portion of the one-half of one percent (0.5%) municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 2018-1332, adopted on August 21, 2018, with an effective date of January 1, 2019, which portion equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one eighth of one percent (.125%) of the gross receipts of all persons engaging in business in the City for the month in which the tax is distributed to the City and (ii) the Hold Harmless Distribution associated with such portion; provided that the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Bond Ordinance (the City is not pledging and the term “Pledged Revenues” does not include the state-shared gross receipts tax or any other local option gross receipts tax income received by the City).

“Pricing Certificate” means one or more certificates executed by the Mayor, or in the Mayor’s absence, the City Manager or City Administrator, dated on or before the date of delivery of the Bonds, setting forth the following final terms of the 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
redemption and tender provisions; (vii) the creation of any capitalized interest fund, including the size and funding of such fund(s); (viii) the amount of underwriting discount, if any; (ix) the amount of the Reserve Requirement, if any, and whether such Reserve Account shall be funded with proceeds of the Bonds or through the deposit of a Reserve Account Insurance Policy; (x) whether an Insurance Policy shall be acquired and the terms of the Insurance Policy, if any, and (xi) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Bonds, all subject to the parameters and conditions contained in this Ordinance.

"Project" means designing, engineering, constructing, acquiring and improving streets and traffic improvements and paying the Expenses of the issuance of the Bonds.

"Purchaser" means the New Mexico Finance Authority or such other purchaser as may be designated in the Bond Purchase Agreement.

"Registrar" means the City Treasurer, as agent for the City for transfer and exchange of the Bonds or any other entity at the time appointed by resolution of the City Council.

"Related Documents" means the Bond Purchase Agreement, the Pricing Certificate, the Intercept Agreement, Tax Compliance Certificate, and any other document or agreement containing an obligation of the City as may be required in connection with the issuance of the Bonds and the application of the proceeds thereof to the Project.

"Reserve Requirement" means the reserve requirement for the Bonds, if any, the amount and method of funding of which shall be specified in the Pricing Certificate.

"State" means the State of New Mexico.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Bond Ordinance) by the City Council and the officers of the City, directed toward the Improvement Project, the issuance of the Bonds for the Improvement Project and the sale of the Bonds to the Purchaser be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Project. The Project and the method of financing the Improvement Project are hereby authorized and ordered at a total cost not to exceed $12,500,000 to be paid from proceeds of the Bonds.

Section 4. Findings. The City Council hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Project is necessary and in the best interest of the City and its residents.

B. Moneys available for the Project from all sources other than the issuance of Revenue Bonds are not sufficient to defray the cost of the Project.
D. The Pledged Revenues may lawfully be pledged to secure the payment and redemption of the Bonds.

E. It is economically feasible to defray, in part, the cost of the Project by the issuance of the Bonds.

F. The issuance of the Bonds pursuant to the Act, to provide funds to finance the costs of the Project, is necessary and in the interest of the public health, safety and welfare of the residents of the City.

Section 5. Bonds – Authorization and Detail.

A. Authorization. This Bond Ordinance has been adopted by the affirmative vote of at least three-fourths of all of the members of the City Council. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the citizens of the City, it is hereby declared necessary that the City, pursuant to the Act, issue its negotiable, fully registered, revenue bonds to be designated the “City of Farmington, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019” in an aggregate principal amount not to exceed $12,500,000 (excluding any premium paid for the Bonds by the Purchaser) and the issuance, sale and delivery of the Bonds is hereby authorized. The Bonds shall be payable and collectible, both as to principal and interest, solely from the Pledged Revenues. The Bonds shall be sold by a private sale to the Purchaser pursuant to the Bond Purchase Agreement at the price established in the Bond Purchase Agreement.

B. Parameters Authorized; Details of Bonds. There is hereby authorized and created a series of bonds designated as the City of Farmington, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019.”

(1) The Bonds shall be issued subject to the following parameters:

   (aa) The Bonds shall be issued in an aggregate principal amount not to exceed $12,500,000 (excluding any premium paid for the Bonds by the Purchaser) for the Project.

   (bb) The net effective interest rate on the Bonds shall not exceed 12% per annum.

   (cc) The final maturity of the Bonds shall not be later than June 1, 2039, or such other earlier date as is specified in the Bond Purchase Agreement and Pricing Certificate.

(2) The forms, terms, and provisions of the Bonds in the form set forth in Section 13 are hereby approved with only such changes therein as are not inconsistent with this Bond Ordinance and as shall be set forth in the Bond Purchase Agreement and Pricing Certificate.

(3) The Bonds shall be negotiable instruments but shall be issued only
as fully registered bonds, in such numbers and denominations as may be requested by the Purchaser, but exchangeable for other fully registered Bonds of any denominations which are multiples of $5,000. The Bonds shall be numbered separately and consecutively, shall be dated the date of their delivery to the Purchaser, shall mature on June 1 of each year and 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 their date, payable semi-annually on June 1 and December 1 in each year commencing on December 1, 2019 until their respective maturities. The Bonds shall bear the rates of interest, maturities and provisions for redemption prior to maturity as shall be established in the Bond Purchase Agreement and Pricing Certificate.

Section 6. Prior Redemption.

A. Optional Redemption. Provisions for optional redemption of the Bonds shall be as established in the Bond Purchase Agreement and Pricing Certificate.

B. Notice. Notice of redemption shall be given by the Registrar by sending a copy of such notice in the manner required by the Depository or by first-class, postage prepaid mail at least thirty (30) days prior to the redemption date to the registered owner of each Bond, or portion thereof, to be redeemed at the address shown as of the close of business of the Registrar on the fifth day prior to the mailing of notice on the registration books kept by the Registrar. The City shall give notice of optional redemption of the Bonds to the Registrar at least forty-five (45) days prior to the redemption date (unless such deadline is waived by the Registrar). The Registrar's failure to give such notice to the registered owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bonds for which proper notice was given. Notices of redemption shall specify the maturity dates and the number or numbers of the Bonds to be redeemed (if less than all are to be redeemed) and if less than the full amount of any Bond is to be redeemed, the amount of such Bond to be redeemed, the date fixed for redemption, and that on such redemption date there will become and be due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount to be redeemed plus accrued interest to the redemption date and that from and after such date interest will cease to accrue on such amount. Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount to be redeemed plus accrued interest to the redemption date and that from and after such date interest will cease to accrue on such amount. Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable upon the redemption date so designated and if an amount of money sufficient to redeem all Bonds called for redemption shall on the redemption date be on deposit with the Paying Agent, the Bonds to be redeemed shall be deemed not outstanding and shall cease to bear interest from and after such redemption date. Upon presentation of the Bonds to be redeemed at the office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption with funds deposited with the Paying Agent by the City.

C. Conditional Redemption. If money or Defeasance Obligations (as defined in Section 34) sufficient to pay the optional redemption price of the Bonds to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to subsection B of this Section, such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which
the optional redemption price is on deposit with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Bonds to be redeemed shall be selected in the manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice or optional redemption was given, that such money was not received and the information required by subsection B of this Section. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been optionally redeemed.

Section 7. Filing of Manual Signatures. Prior to the execution of any Bond pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended, the Mayor or Mayor Pro-Tem and City Clerk shall 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 may have legal application to the Bonds.

Section 8. Execution and Authentication of Bonds.

A. Execution. The Bonds shall be signed with the engraved, imprinted, stamped or otherwise reproduced facsimile of the signature, or the manual signature, of the Mayor or Mayor Pro Tem and shall be attested with the facsimile or manual signature of the City Clerk. There shall be affixed to each Bond the printed, engraved, stamped or otherwise placed facsimile of, or imprint of, the City's corporate seal. The Bonds shall be authenticated by the manual signature of an authorized officer of the Registrar. The Bonds when authenticated and bearing the manual or facsimile signatures of the officers in office at the time of signing thereof shall be valid and binding special obligations of the City, notwithstanding that before delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices. The Mayor or Mayor Pro-Tem and City Clerk, at the time of the execution of the Bonds and the signature certificate, each may adopt as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office if such facsimile signature appears upon any of the Bonds or certificates pertaining to the Bonds.

B. Authentication. No 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 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 Bonds issued hereunder.

Section 9. Negotiability. The Bonds shall be fully negotiable and shall have all the qualities of negotiable paper and the Bondholders shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code. Except as set forth herein, the Bonds outstanding shall in all respects be equally and ratably secured, 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 Bonds.

Section 10. Payment and Presentation of Bonds for Payment. Principal and interest on the Bonds shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. Principal shall be payable in immediately available funds at maturity or redemption thereof upon presentation and surrender of such Bond at the principal
office of the Paying Agent or at the designated office of any successor Paying Agent. Upon any partial prior redemption of any Bond, the registered owner, in its discretion, may request the Registrar to authenticate a new Bond or to make a notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. Interest on the Bonds shall be payable by check or draft mailed to the registered owner thereof (or in such other manner as may be agreed upon by the Paying Agent and the registered owner), as shown on the registration books maintained by the Registrar at the address appearing therein on the 15th day of the calendar month next preceding the Interest Payment Date (the “Record Date”). Any interest which is not timely paid or provided for shall cease to be payable to the owner thereof (or of one or more predecessor Bonds) as of the Record Date, but shall be payable to the owner thereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to Bond owners not less than ten (10) days prior thereto. If any Bond presented for payment remains unpaid at maturity or redemption, it shall continue to bear interest at the rate or rates designated in, and applicable to, such Bond from time to time. If any Bond is not presented for payment at maturity or redemption when funds available therefor have been deposited with the Paying Agent, it shall cease bearing interest on and from the date of maturity or redemption.

Section 11. Registration, Transfer, Exchange and Ownership of Bonds.

A. Registration, Transfer and Exchange. The City shall cause books for registration, transfer, and exchange of the Bonds as provided herein to be kept at the principal office of the Registrar. Upon surrender for transfer or exchange of any fully registered 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 duly executed, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or registered owner, as appropriate, a new Bond or Bonds in authorized denominations, in fully registered form of the same aggregate principal amount, maturity and interest rate.

B. Limitations. The Registrar shall not be required to transfer or exchange any Bond (i) during the period of fifteen (15) days next preceding the mailing of notice calling any Bonds for redemption as herein provided, or (ii) after the mailing to registered owners of notice calling such Bonds or portion thereof for redemption as herein provided. The Registrar shall close books for change of registered owners’ addresses on each Record Date; transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.

C. Owner of the Bonds. The person in whose name any Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either the principal of or interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative as stated herein, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.
D. **Lost Bonds.** If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If any such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may request the Paying Agent to pay such bond in lieu of replacement.

E. **Additional Bonds.** Executed but unauthenticated Bonds are hereby authorized to be delivered to the Registrar in such quantities as may be convenient to be held in custody by the Registrar pending delivery as herein provided.

F. **Charges.** For each new Bond issued in connection with a transfer or exchange, the Registrar may make a charge to the owner of the Bond requesting such exchange or transfer sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

G. **Successor Registrar or Paying Agent.** If the Registrar or Paying Agent initially appointed hereunder shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the City shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the City may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having a shareholders' equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than $50,000,000. It shall not be required that the same institution serves as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

H. **Book-Entry.** The Bonds may be issued or registered, in whole or in part, in book-entry form from time to time with no physical distribution of bond certificates made to the public, with a Depository acting as securities depository for the Bonds. A single certificate for each maturity date of the Bonds issued in book-entry form will be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in authorized denominations, with transfer of ownership effected on the books of the Depository and its participants (“Participants”). As a condition to delivery of the Bonds in book-entry form, the Underwriters will, immediately after acceptance of delivery thereof, deposit, or cause to be deposited, the Bond 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 registered owner of the Bonds. The transfer of principal, premium, if any, and interest payments to Participants will be the responsibility of the Depository; the transfer of principal, premium, if any, and interest payments to the beneficial owners of the Bonds (the “Beneficial Owners”) will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the “Indirect Participants”). The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.
If (i) the Bonds are not eligible for the services of the Depository, (ii) the Depository determines to discontinue providing its services with respect to the Bonds or (iii) the City determines that a continuation of the system of book-entry transfers through the Depository ceases to be beneficial to the City or the Beneficial Owners, the City will either identify another Depository or certificates for the Bonds will be delivered to the Beneficial Owners or their nominees, and the Beneficial Owners or their nominees, upon authentication of Bonds and registration of those Bonds in the Beneficial Owners' or nominees' names, will become the owners of the 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 bond certificates to Beneficial Owners or their nominees, as applicable.

Officers of the City are authorized to sign agreements with the Depository relating to the matters set forth in this Section.

Notwithstanding any other provision of this Bond Ordinance, so long as all of the Bonds are registered in the name of the Depository or its nominee, all payments of principal, premium, if any, and interest on the Bonds, and all notices with respect to the Bonds, shall be made and given by the Paying Agent, Registrar or the City to the Depository as provided in this Bond Ordinance and by the Depository to its Participants or Indirect Participants and notices to the Beneficial Owners of the Bonds in the manner provided in an agreement or letter of the City to the Depository.

Section 12. Special Limited Obligations. All of the Bonds and all payments of principal, premium, if any, and interest thereon whether at maturity or on a redemption date, together with any interest accruing thereon, shall be special limited obligations of the City and shall be payable and collectible solely from the Pledged Revenues, which revenues are so pledged and are payable as set forth in Section 19 of this Bond Ordinance. The owner or owners of the Bonds may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor. The Bonds shall not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or held to be general obligations of the City, and each of the Bonds shall recite that it is payable and collectible solely out of the Pledged Revenues, pledged as set forth in this Bond Ordinance, and that the holders thereof may not look to any general or other municipal fund for the payment of the principal of and interest on the Bonds. Nothing herein shall prevent the City from applying other funds of the City legally available therefor to the payment of the Bonds, in its sole discretion.

Section 13. Form of Bonds. The forms, terms and provisions of the Bonds shall be substantially in the form set forth below, with such changes therein as are not inconsistent with this Bond Ordinance.
(Form of Bond)

UNITED STATES OF AMERICA

STATE OF NEW-MEXICO  COUNTY OF SAN JUAN

CITY OF FARMINGTON, NEW MEXICO
MUNICIPAL GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS
SERIES 2019

Bond No. __________  $__________

<table>
<thead>
<tr>
<th>INTEREST RATE</th>
<th>MATURITY DATE</th>
<th>DATE OF BOND</th>
<th>CUSIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>_____% per annum</td>
<td>June 1, _____</td>
<td>__________, 2019</td>
<td>n/a</td>
</tr>
</tbody>
</table>

REGISTERED OWNER: NEW MEXICO FINANCE AUTHORITY

PRINCIPAL AMOUNT: _______________________________ DOLLARS

The City of Farmington (the "City"), in the County of San Juan and State of New Mexico, a municipal corporation duly organized and existing under the Constitution and laws of the State of New Mexico, for value received, hereby promises to pay, solely from the special funds available for the purpose as hereinafter set forth, to the registered owner named above or registered assigns, on the Maturity Date specified above, upon presentation and surrender hereof at the principal office of the City Treasurer, Farmington, New Mexico, as paying agent, or any successor paying agent (the "Paying Agent"), the Principal Amount stated above, in lawful money of the United States of America, and to pay from such sources interest on the unpaid principal amount at the Interest Rate on December 1, 2019 and each June 1 and December 1 of each year (each an "Interest Payment Date") thereafter to its maturity, or until redeemed if called for redemption prior to maturity. This bond will 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 its date. Interest on this bond is payable by check mailed to the registered owner hereof (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 this issue maintained by the City Treasurer, Farmington, New Mexico, as registrar, or any successor registrar (the "Registrar") at the address appearing therein at the close of business on the fifteenth day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the owner hereof as of the Record Date but shall be payable to the owner hereof at the close of business on a special record date to be fixed by the Paying Agent for the payment of interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to owners of Bonds (defined below) as then shown on the Registrar's registration books not less than ten (10) days prior to the special record date. If, upon presentation at maturity or redemption, payment of this bond is not made as herein provided, interest hereon shall continue at the Interest Rate until the principal hereof is paid in full. The
principal, 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 or the Registrar.

This bond is one of a duly authorized series of fully registered bonds of the City in the aggregate principal amount of $__________ issued in denominations of $5,000 or integral multiples thereof, designated as the City of Farmington Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019 (the “Bonds”) issued under and pursuant to City Ordinance No. ________ (the “Bond Ordinance”).

The Bonds maturing on and after June 1, 20__, are subject to prior redemption at the City’s option in one or more units of principal of $5,000 on and after June 1, 20__ in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair), for the principal amount of each $5,000 unit of principal so redeemed plus accrued interest to the redemption date.

Redemption shall be made upon prior notice mailed to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

Notice of redemption of this bond will be given by providing at least thirty (30) days prior written notice in the manner required by the depository for the Bonds or by first-class postage prepaid mail to the owner hereof at the address shown on the registration books as of the fifth day prior to the mailing of notice as provided in the Bond Ordinance. Notices of redemption will specify the number or numbers and maturity date of the Bonds to be redeemed (if less than all are to be redeemed), the date fixed for redemption, the amount of such Bond to be redeemed (if less than the full amount of any Bond is to be redeemed), and shall further state that on such redemption date there will become and be due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount thereof plus accrued interest to the redemption date and that from and after such date, the redemption amount having been deposited and notice having been given, interest will cease to accrue. Upon any partial prior redemption of this bond, the registered owner, in its discretion, may request the Registrar to authenticate a new bond or to make an appropriate notation on this bond indicating the date and amount of prepayment, except in the case of final maturity, in which case this bond must be presented to the Paying Agent prior to payment.

Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer or exchange of a Bond at the principal office of the Registrar, duly endorsed or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or owner a new Bond or Bonds in fully registered form of the same aggregate principal amount, maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond of any tax or other similar governmental charge required to be paid with respect to such exchange or transfer. The Registrar shall not be required (i) to transfer or exchange any Bond during the period of fifteen
(15) days next preceding the mailing of notice calling any Bonds for redemption, or (ii) to transfer or exchange any Bond or part thereof called for redemption. The Registrar will close books for change of registered owners' addresses on each Record Date; transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.

The person in whose name any Bond is registered on the registration books kept by the Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes except as may otherwise be provided with respect to payment of interest in the Bond Ordinance; and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar will, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.

This Bond does not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the City, and is payable and collectible solely out of the revenues derived from the revenues from the Pledged Revenues (as such term is defined in the Bond Ordinance) and the bondholders may not look to any other general or other municipal fund for the payment of the interest and principal of this bond. The lien of the Bonds on the Pledged Revenues is an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues. Upon satisfaction of the conditions set forth in the Bond Ordinance, additional bonds may be issued and made payable from the Pledged Revenues having a lien thereon either on a parity with, or subordinate and junior to, the lien on the Pledged Revenues of the Bonds, but additional bonds may not be issued with a lien thereon superior to the lien thereon of the Bonds. Amounts and securities held in the Bond Fund, as such terms are defined in the Bond Ordinance, have been exclusively pledged for payment of the principal of, premium, if any, and interest on the Bonds.

The Bonds are issued to provide funds for designing, engineering, constructing, acquiring and improving streets and traffic improvements and paying the Expenses of the issuance of the Bonds.

The City covenants and agrees with the owner of this Bond and with each and every person who may become the owner hereof that it will keep and perform all of the covenants of the Bond Ordinance.

This Bond is subject to the condition, and every owner hereof by accepting the same agrees with the obligor and every subsequent owner hereof, that the principal of and interest on
this bond shall be paid, and this bond is transferable, free from and without regard to any equities, set-offs or crossclaims between the obligor and the original or any other owner hereof.

It is hereby certified that all acts and conditions necessary to be done or performed by the City or to have happened precedent to and in the issuance of the Bonds to make them legal, valid and binding special obligations of the City have been performed and have happened as required by law, and that the Bonds do not exceed or violate any constitutional or statutory limitation of or pertaining to the City.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the Certificate of Authentication.

IN WITNESS WHEREOF, the City of Farmington, New Mexico has caused this bond to be signed and executed on the City's behalf with the facsimile or manual signature of the Mayor or Mayor Pro-Tem and the facsimile or manual signature of the City Clerk and has caused the corporate seal of the City or a facsimile thereof to be affixed hereon, all as of the Date of Bond.

CITY OF FARMINGTON, NEW MEXICO

By________________________
Mayor or Mayor Pro-Tem

By________________________
City Clerk

(SEAL)
Certificate of Authentication

This is one of the Bonds described in the Bond Ordinance, and this bond has been registered on the registration books kept by the undersigned as Registrar for the Bonds.

Date of Authentication:

City Treasurer of the City of Farmington,
New Mexico, as Registrar

By

Authorized Officer

(End of Form of Registrar's Certificate of Authentication)

(End of Form of Bond)
Section 14. **Period of Usefulness of the Project.** It is hereby determined and recited that the period of usefulness of the assets financed with proceeds of the Bonds is not less than twenty (20) years.

Section 15. **Use of Bond Proceeds and Other Funds; Completion of Project.** Except as herein otherwise specifically provided, the proceeds derived from the sale of the Bonds, shall be used and paid solely for the valid costs of the Project.

A. **Expenses.** An amount necessary, together with other legally available funds of the City, shall be used to pay Expenses.

B. **Program Account Deposit.** The amount specified in the Closing Memorandum shall be deposited to the City’s Program Account in the Program Fund maintained on behalf of the Purchaser by BOKF, NA and applied toward costs of the Project.

Section 16. **Funds and Accounts.** The City hereby creates and continues the following special and separate funds and accounts:

A. **Municipal Gross Receipts Tax Income Fund.** So long as any of the Bonds or Parity Obligations shall be outstanding, either as to principal or interest, or both, the Pledged Revenues shall be set aside and deposited monthly into a separate fund (which shall be a segregated account) known as the “City of Farmington Municipal Gross Receipts Tax Income Fund.”

B. **Bond Fund.** The City of Farmington Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019 Bond Fund is hereby established and shall be maintained by the City for the purposes described in Section 19 hereof.

C. **Program Account.** The City hereby consents to the establishment of the Program Account maintained on behalf of the Purchaser by BOKF, NA and applied toward costs of the Project.

Section 17. **Purchaser Not Responsible.** The Purchaser of the Bonds shall in no manner be responsible for the application or disposal by the City or by its officers of the funds derived from the sale thereof or any other funds herein designated.

Section 18. **Reserved.**

Section 19. **Administration of Income Fund.** So long as any of the Bonds shall remain outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Pledged Revenues:

A. **Bond Fund Payments.** As a first charge on the Pledged Revenues, the following amounts shall be withdrawn from the Income Fund and shall be concurrently credited to the Bond Fund for the purposes described in this Section 19:
(1) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds, and monthly thereafter, commencing on each Interest Payment Date, one-sixth (1/6) of the amount necessary to pay the next maturing installment of interest on the Bonds then outstanding.

(2) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of principal of the outstanding Bonds and monthly thereafter, commencing on each principal payment date, one-twelfth (1/12) of the amount necessary to pay the next maturing installment of principal on the Bonds then outstanding.

B. Credit. In making the deposits required to be made into the Bond Fund, if there are any amounts then on deposit in the Bond Fund available for the purpose for which such deposit is to be made, the amount of the deposit to be made pursuant to subsection A above shall be reduced by the amount available in such fund for such purpose.

C. Transfer of Money out of Bond Fund. Each payment of principal and interest becoming due on the Bonds shall be transferred from the Bond Fund to the Paying Agent on or before two Business Days prior to the due date of such payment.

D. Defraying Delinquencies in the Bond Fund. If, in any month, the City shall, for any reason, fail to pay into the Bond Fund the full amount required, the difference between the amount paid and the amount so stipulated shall be paid therein from the first Pledged Revenues thereafter received and not required to be otherwise applied.

E. Payment of Parity Obligations. Concurrently with the payment of the Pledged Revenues required by subsections A and D of this Section, any amounts on deposit in the Income Fund shall be used by the City for the payment of principal of, interest on and debt service reserve fund deposits relating to outstanding Parity Gross Receipts Tax Bonds payable from such Pledged Revenues, as the same become due. If funds on deposit in the respective Income Funds are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the Bonds and any other outstanding Parity Bonds, then the available funds in the Income Fund will be used, first, on a pro-rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Bonds, for the payment of principal of and interest on all series of outstanding Parity Bonds and, second, to the extent of remaining available funds in the Income Funds on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Bonds, for the required debt service reserve fund deposits for all series of outstanding Parity Bonds.

F. Termination upon Deposits to Maturity. No payment shall be made into the Bond Fund if the amounts in such funds total a sum at least equal to the entire aggregate amount due as to principal, premium, if any, and interest, on the Bonds to their respective
maturities or applicable redemption dates, in which case moneys in the Bond Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in the Bond Fund may be used as provided below.

G. Payment of Subordinate Lien Obligations. Subsequent to the payments required by subsections A, D and E of this Section, any balance remaining in the Income Fund, after making the payments hereinabove provided shall be used by the City for the payment of interest on and the principal of additional bonds or other obligations, if any, having a lien on any of the Pledged Revenues subordinate to the lien thereon of the Bonds hereafter authorized, issued and payable from the Pledged Revenues, as the same become due. Payments with respect to principal, interest and reserve funds for any such subordinate lien obligations may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional obligations.

H. Surplus Revenues. After making all the payments hereinabove required to be made by this Section, the remaining Pledged Revenues, if any, may be applied to any other lawful purpose, as the City may from time to time determine.

Section 20. General Administration of Funds. The funds and accounts designated in this Bond Ordinance shall be administered as follows:

A. Investment of Money. Any moneys in any fund or account designated in Sections 16 through 19 hereof may be invested in any Permitted Investment then permitted by New Mexico law, except as is provided in Section 34 hereof with respect to defeasance. The obligations so purchased as an investment of moneys in any such fund or account shall be deemed at all times to be part of said fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund or account, and any loss resulting from each investment shall be charged to the fund or account. The City Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund or account.

B. Deposits of Funds and Accounts. The moneys and investments comprising each of the funds and accounts hereinabove designated in Sections 16 through 19 of this Bond Ordinance shall be maintained and kept separate from all other funds and accounts in an Insured Bank or Insured Banks. The amounts prescribed shall be paid to the appropriate funds or accounts as specified in Sections 16 through 19. Each payment shall be made into the proper bank account and credited to the proper fund or account not later than the last day designated; provided that when the designated date is a Saturday, Sunday or a legal holiday, then such payment shall be made on the next preceding business day. Nothing herein shall prevent the establishment of one such bank account or more (or consolidation with any existing bank account), for all of the funds and accounts in Sections 16 through 19 of this Bond Ordinance.

Section 21. Lien on Pledged Revenues. The Pledged Revenues and the amounts and securities on deposit in the Bond Fund, and the proceeds thereof, are hereby authorized to be
pledged to, and are hereby pledged, and the City grants a security interest therein for, the payment of the principal of, premium, if any, and interest on the Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this Bond Ordinance. The Bonds constitute an irrevocable and first lien, but not an exclusive first lien on the Pledged Revenues on parity with the lien thereon of additional Parity Bonds, if any, hereafter authorized to be issued and payable from the Pledged Revenues.

Section 22. Reserved.

Section 23. Additional Bonds and Other Obligations.

A. Limitations upon Issuance of Other Parity Obligations. Nothing in this Bond Ordinance contained shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other obligations payable from the Pledged Revenues and constituting a lien upon said revenues on a parity with, but not prior nor superior to, the lien of the Bonds herein authorized, nor to prevent the issuance of bonds or other obligations refunding all or a part of the Bonds herein authorized, provided, however, that before any such additional Parity Obligations are authorized or actually issued, (excluding refunding bonds the proceeds of which are used to refund Parity Obligations as provided in Section 24, but including Parity refunding bonds which refund subordinate bonds or other subordinate obligations), the following conditions shall be met:

1. The City is then current in all of the accumulations required to be made into the Bond Fund pursuant to Section 19 of this Bond Ordinance; and

2. The Pledged Revenues received by the City for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Obligations shall have been sufficient to pay an amount representing at least 200% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then outstanding Bonds, all other then outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding any accumulation for reserves therefor).

For purposes of the tests set forth in clauses (1) and (2) above, if on the date of issuance of any such Parity Obligations the full amount of a reserve fund requirement for the Parity Obligations is immediately funded or capitalized from the proceeds of such Parity Obligations, the amount of such reserve fund requirement so funded shall be deducted from the principal and interest coming due in the final Fiscal Year for the proposed additional Parity Obligations.

B. Certificate or Opinion of Earnings. A written certification or opinion by an Independent Accountant or the City’s Administrative Services Director that said annual Pledged Revenues for such preceding Fiscal Year are sufficient to pay the amounts set forth in Subsection A(2) of this Section, as applicable, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver said additional bonds or other obligations on parity with the Bonds herein authorized.
C. **Subordinate Obligations Permitted.** Nothing in this Bond Ordinance contained shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other obligations payable from the Pledged Revenues and constituting a lien upon said Pledged Revenues subordinate or junior in all respects to the lien of the Bonds herein authorized.

D. **Superior Obligations Prohibited.** Nothing herein contained shall be construed so as to permit the City to issue bonds or other obligations payable from the Pledged Revenues having a lien thereon prior and superior to the Bonds.

Section 24. **Refunding Bonds.** The provisions of Section 23 hereof are subject to the following exceptions:

A. **Privilege of Issuing Refunding Obligations.** If at any time after the Bonds, or any part thereof, shall have been issued and remain outstanding, the City shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from Pledged Revenues, such bonds or other obligations, or any part thereof, may be refunded (but only with the consent of the registered owner or owners thereof, unless the bonds or other obligations, at the time of their required surrender for payment shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed (except as provided in subsection D of Section 23 and in subsections B and C of this Section).

B. **Limitations Upon Issuance of Parity Refunding Obligations.** No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on parity with the Bonds herein authorized, unless:

   (1) The lien on the Pledged Revenues of the outstanding obligations so refunded is on a parity with the lien thereon of the Bonds herein authorized; or

   (2) The refunding bonds or other refunding obligations are issued in compliance with Subsection A of Section 23 hereof.

C. **Refunding Part of an Issue.** The refunding bonds or other obligations so issued shall enjoy complete equality of lien with the portion of any bonds or other obligations of the same issue which is not refunded, if any there be; and the registered owner or owners of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the registered owner or owners of the bonds or other obligations of the same issue refunded thereby.

D. **Limitations Upon Issuance of any Refunding Obligations.** Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the City may by ordinance or resolution provide, subject to the inclusion of any such rights and privileges designated in Subsection C of this Section, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unfunded portion of such outstanding obligations of any one or more issues (including but not necessarily limited to the issue herein authorized). If only a part of the outstanding bonds and any other outstanding obligations of any issue or issues payable from the
Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the registered owner or owners of the unrefunded portion of such obligations, unless:

1. The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest requirements evidenced by such refunding obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations, or

2. The refunding bonds or other refunding obligations are issued in compliance with Subsection A of Section 23 hereof, or

3. The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

Section 25. Equality of Parity Bonds. The Parity Bonds from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of their issuance or the date incurred, it being the intention of the City Council that, except as set forth herein, there shall be no priority among Parity Bonds regardless of whether they are actually issued and delivered or incurred at different times.

Section 26. Protective Covenants. The City hereby covenants and agrees with each and every holder of the Bonds issued hereunder:

A. Use of Bond Proceeds. The City will proceed without delay to apply the proceeds of the Bonds as set forth in Section 15 of this Bond Ordinance.

B. Payment of Bonds Herein Authorized. The City will promptly pay the principal of and the interest on every Bond at the place, on the date and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

C. City's Existence. The City will maintain its corporate identity and existence so long as any of the 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 of the Bonds.

D. Extension of Interest Payments. In order to prevent any accumulation of claims for interest after maturity, the City will not directly or indirectly extend or assent to the extension of time for the payment of any claim for interest on any of the Bonds, and the City will not directly or indirectly be a party to or approve any arrangements for any such extension.

E. Records. So long as any of the Bonds remain outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.

F. Audits and Budgets. The City will, within two hundred and seventy (270) days following the close of each Fiscal Year, cause an audit of its books and accounts relating to
the Pledged Revenues to be commenced by an Independent Accountant showing the receipts and disbursements in connection with such revenues.

G. **Other Liens.** Other than as described and identified by this Bond Ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues.

H. **Impairment of Contract.** The City agrees that any law, ordinance or resolution of the City that in any manner affects the Pledged Revenues or the Bonds shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor or unless the required consents of the holders of the then outstanding Bonds are obtained pursuant to Section 33 of this Bond Ordinance.

I. **Bond Fund.** The Bond Fund shall be used solely and only, and those funds are hereby pledged, for the purposes set forth in this Bond Ordinance.

J. **Surety Bonds.** Each municipal official and employee being responsible for receiving Pledged Revenues shall be bonded at all times, which bond shall be conditioned upon the proper application of such funds.

K. **Performing Duties.** The City will faithfully and punctually perform all duties with respect to the Bonds required by the Constitution and laws of the State of New Mexico and the ordinances and resolutions of the City relating to the Bonds.

L. **Tax Covenants.** The City covenants that it will restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. The Mayor, Mayor Pro-Tem and other officers of the City having responsibility for the issuance of the Bonds shall give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Bonds.

The City covenants that it (a) will take or cause to be taken such actions which may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and (b) will not take or permit to be taken any actions which would adversely affect that exclusion, and that it or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments, yield reduction payments or payments of alternative amounts in lieu of rebate to the federal government, if required, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Mayor, Mayor Pro Tem and other appropriate officers are hereby authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, if any, as may be required or appropriate to assure such exclusion of that interest.
In furtherance of the covenants set forth above, the City hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund (the "Rebate Fund"). Money and investments in the Rebate Fund shall not be used for the payment of the Bonds and amounts credited to the Rebate fund shall be fee and clear under any pledge under this Bond Ordinance. Money in the Rebate Fund shall be invested in a manner provided in Section 20 for investment of money, and all amounts on deposit in the Rebate Fund shall be held by the City, or a designated trustee, in trust, to the extent required to pay rebatable arbitrage to the United States of America. The City shall unconditionally be entitled to accept and rely upon the recommendation, advice, calculation and opinion of an accounting firm or other person or firm with knowledge of or experience in advising with respect to the provisions of the Code relating to rebatable arbitrage. The City shall remit all rebate installments and the final rebate payment to the United States of America as required by the provisions of the Code. Any moneys remaining in the Rebate Fund after redemption and payment of all the Bonds and payment and satisfaction of any rebatable arbitrage shall be withdrawn and remitted to the City.

Section 27. Reserved.

Section 28. Events of Default. Each of the following events is hereby declared an "event of default":

A. Nonpayment of Principal. Failure to pay the principal of any of the Bonds when the same becomes due and payable, either at maturity, or by proceedings for redemption, or otherwise.

B. Nonpayment of Interest. Failure to pay any installment of interest when the same becomes due and payable.

C. Incapable of Performing. If the City shall for any reason be rendered incapable of fulfilling its obligations hereunder.

D. Default of any Provision. Default by the City in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in this Bond Ordinance on its part to be performed (other than a default set forth in subsections A and B of this Section), and the continuance of such default for thirty (30) days after written notice specifying such default and requiring the same to be remedied has been given to the City by the holders of twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding.

E. Bankruptcy. The City (i) files a petition or application seeking reorganization or arrangement of debt under Federal Bankruptcy law, or other debtor relief under the laws of any jurisdiction, or (ii) is the subject of such petition or application which the City does not contest or is not dismissed or discharged within sixty (60) days.

Section 29. Remedies upon Default. Upon the happening and continuance of any of the events of default as provided in Section 28 of this Bond Ordinance, then and in every case, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, including, but not limited to, a trustee or trustees therefor, may
proceed against the City, the City Council and its agents, officers and employees, but only in their official capacities, to protect and enforce the rights of any holder of Bonds under this Bond Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award relating to the execution of any power herein granted for the enforcement of any legal or equitable remedy as such holder or holders may deem most effectual to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of any Bondholder, or to require the City Council to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all holders of the Bonds then outstanding. The failure of any Bondholder so to proceed shall not relieve the City or any of its officers, agents or employees of any responsibility for failure to perform, in their official capacities, any duty. Each right or privilege of such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege.

Section 30. Duties upon Default. Upon the happening of any of the events of default provided in Section 28 of this Bond Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the owners of the Bonds to protect and preserve the security created for the payment of the Bonds and to insure the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived therefrom, so long as any of the Bonds, either as to principal or interest, are outstanding and unpaid, shall be applied as set forth in Section 19 of this Bond Ordinance. In the event the City fails or refuses to proceed as provided in this Section, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the owners of the Bonds as hereinabove provided.

Section 31. Bonds Not Presented When Due. If any Bonds shall not be duly presented for payment when due at maturity or on the redemption date thereof, and if moneys sufficient to pay such Bonds are on deposit with the Paying Agent for the benefit of the owners of such Bonds, all liability of the City to such owners for the payments of such Bonds shall be completely discharged, such Bonds shall not be deemed to be outstanding and it shall be the duty of the Paying Agent to segregate and to hold such moneys in trust, without liability for interest thereon, for the benefit of the owners of such Bonds as may be provided in any agreement hereafter entered into between the Paying Agent and an officer of the City.

Section 32. Delegated Powers. The officers of the City are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limiting the generality of the foregoing, the publication of the summary of this Ordinance set out in Section 39 (with such changes, additions and deletions as they may determine). The Mayor or, in the absence of the Mayor, the Mayor Pro-Tem, is authorized and directed to execute and the Clerk is authorized and directed to affix the seal of the City to and attest, where applicable, the Related Documents, in substantially the form as hereby approved or with such changes therein as are not inconsistent with this Ordinance and as shall be approved by the Mayor or, in the absence of the Mayor, the Mayor Pro-Tem, the execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions thereof from
the form presented to the City Council. From and after adoption of this Ordinance and the
execution and delivery of the Related Documents, the officers, agents and employees of the City
are hereby authorized, empowered, and directed to do all such acts and to execute all such
documents as may be necessary to carry out and comply with the provisions of the Related
Documents. Pursuant to Section 6-14-10.2, NMSA 1978, any of the Mayor, City Manager and
City Treasurer/Administrative Services Director is each individually delegated authority to
execute and deliver the Bond Purchase Agreement to the Purchaser, to execute the Pricing
Certificate, and to determine any or all of the final terms of the Bonds, subject to the parameters
and conditions contained in this Bond Ordinance. The Mayor, City Manager or City
Treasurer/Administrative Services Director shall present the Bond Purchase Agreement to the
City Council in a timely manner, before or after delivery of the Bonds, at a regularly scheduled
public meeting of the City Council.

Section 33. Amendment of Bond Ordinance. This Bond Ordinance may be amended
without the consent of the holder of any Bond to cure any ambiguity or to cure, correct or
supplement any defect or inconsistent provision contained herein. Prior to the date of the initial
delivery of the Bonds to the Purchaser, the provisions of this Bond Ordinance may be amended
with the written consent of the Purchaser, with respect to any changes which are not inconsistent
with the substantive provisions of this Bond Ordinance. In addition, this Bond Ordinance may
be amended without receipt by the City of any additional consideration, but with the written
consent of the holders of seventy-five percent (75%) of the Bonds then outstanding (not
including Bonds which may be held for the account of the City); but no ordinance adopted
without the written consent of the holders of all outstanding Bonds shall have the effect of
permitting:

A. An extension of the maturity of any Bond; or

B. A reduction of the principal amount or interest rate of any Bond; or

C. The creation of a lien upon the Pledged Revenues ranking prior to the lien
or pledge created by this Bond Ordinance; or

D. A reduction of the principal amount of Bonds required for consent to such
amendatory ordinance; or

E. The establishment of priorities as between Bonds issued and outstanding
under the provisions of this Bond Ordinance; or

F. The modification of or otherwise affecting the rights of the holders of less
than all the outstanding Bonds.

Section 34. Defeasance. When all principal and interest in connection with the Bonds
hereby authorized have been duly paid, the pledge and lien on the Pledged Revenues for the
payment of the Bonds shall thereby be discharged and the Bonds shall no longer be deemed to be
outstanding within the meaning of this Bond Ordinance. Payment shall be deemed made with
respect to any Bond or Bonds when the City has placed in escrow with a commercial bank
exercising trust powers, an amount sufficient (including the known minimum yield from
Defeasance Obligations, as defined below) to meet all requirements of principal and interest as
the same become due to their final maturities or upon designated redemption dates. Any Defeasance Obligations shall become due when needed in accordance with a schedule agreed upon between the City and such bank at the time of the creation of the escrow. Defeasance Obligations within the meaning of this Section shall include only (1) cash, (2) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – “SLGs”), and (3) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

Section 35. **Bond Ordinance Irrepealable.** After any of the Bonds are issued, this Bond Ordinance shall be and remain irrepealable until the Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided, or there has been defeasance of the Bonds as herein provided.

Section 36. **Severability Clause.** If any Section, paragraph, clause or provision of this Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 37. **Repealer Clause.** All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 38. **Effective Date.** Upon due adoption of this Bond Ordinance, it shall be recorded in the book of ordinances of the City kept for that purpose, authenticated by the signatures of the Mayor or Mayor Pro-Tem and City Clerk, and the title and general summary of the subject matter contained in this Bond Ordinance (set out in Section 39 below) shall be published in a newspaper which maintains an office and is of general circulation in the City and this Bond Ordinance shall be in full force and effect in accordance with law.

Section 39. **General Summary for Publication.** Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Bond Ordinance for Publication)

City of Farmington, 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 an ordinance duly adopted and approved by the City Council of the City of Farmington, on February 12, 2019 relating to the authorization and issuance of the City's Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, Farmington City Hall, 800 Municipal Drive, Farmington, New Mexico.

The title of the Ordinance is:

**ORDINANCE NO. ___**
AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE CITY OF FARMINGTON, NEW MEXICO MUNICIPAL GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2019 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $12,500,000 FOR THE PURPOSE OF DEFRAYING THE COSTS OF DESIGNING, ENGINEERING, CONSTRUCTING, ACQUIRING AND IMPROVING STREETS AND TRAFFIC IMPROVEMENTS, AND PAYING COSTS OF ISSUANCE OF THE SERIES 2019 BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE FROM MUNICIPAL GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY PURSUANT TO SECTION 7-1-6.12 NMSA 1978, PROVIDING THAT THE MATURITY DATES, PRINCIPAL AMOUNTS, INTEREST RATES, REDEMPTION PROVISIONS AND OTHER DETAILS OF THE BONDS WILL BE ESTABLISHED IN A BOND PURCHASE AGREEMENT AND PRICING CERTIFICATE, AND DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY ADMINISTRATIVE SERVICES DIRECTOR TO APPROVE THE FINAL TERMS OF THE BONDS AND TO EXECUTE AND DELIVER THE BOND PURCHASE AGREEMENT; PROVIDING FOR THE EXECUTION OF THE BONDS AND OTHER DOCUMENTS AND AGREEMENTS RELATING TO THE BONDS BY AUTHORIZED OFFICERS OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

A general summary of the Ordinance is contained in its title. This notice constitutes compliance with § 6-14-6 N.M.S.A. 1978.

(End of Form of Summary for Publication)
DONE AND APPROVED this 12th day of February, 2019.

APPROVED:

Nate Duckett, Mayor

ATTEST:

Diane Smylie, MMC, City Clerk

APPROVED AS TO FORM:

City Attorney
CONTINGENT INTERCEPT AGREEMENT

This CONTINGENT INTERCEPT AGREEMENT is made and entered into June 7, 2019, by and between the NEW MEXICO FINANCE AUTHORITY (the “Finance Authority”), a public body politic and corporate constituting a governmental instrumentality separate and apart from the State of New Mexico (the “State”) under the laws of the State and the CITY OF FARMINGTON, NEW MEXICO, a political subdivision duly organized and existing under the laws of the State (the “Governmental Unit”).

WITNESSETH:

WHEREAS, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, authorized the creation of the Finance Authority within the State to assist in financing the cost of public projects of participating qualified entities, including the Governmental Unit, such as the issuance of the City of Farmington, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019 (the “Bonds”) to finance the design, engineering, construction, acquisition and improvement of streets and traffic improvements and paying the Expenses of the issuance of the Bonds (collectively, the “Project”); and

WHEREAS, the Governmental Unit has authorized the Bonds through the adoption by the City Council of the Governmental Unit of Ordinance No. 2019-____ on February 12, 2019 (the “Ordinance”), and Section 3-31-1 through 3-31-12, NMSA 1978, as amended (the “Governmental Unit Act”); and

WHEREAS, pursuant to Sections 6-21-1 through 6-21-31, NMSA 1978, as amended (the “Act”) the Finance Authority and the Governmental Unit are authorized to enter into agreements to purchase and sell the Bonds and to facilitate the financing of the Project as described in the Bond Purchase Agreement by and between the Finance Authority and the Governmental Unit dated _______, 2019 (the “Bond Purchase Agreement”); and

WHEREAS, the Governmental Unit desires to finance the Project and such financing is permitted under the Governmental Unit Act; and

WHEREAS, the Finance Authority has established its Loan Program (the “Program”) funded by its public project revolving fund (as defined in the Act) for the financing and refinancing of infrastructure and equipment projects upon the execution of the Bond Purchase Agreement and the assignment of bonds to a trustee (the “Trustee”); and

WHEREAS, the Finance Authority has agreed to purchase the Bonds from the Governmental Unit for the purpose of financing the Project for the Governmental Unit, which bond purchase is to be governed by the Bond Purchase Agreement and the Ordinance; and

WHEREAS, the Act confers upon the Finance Authority the authority to purchase the Bonds from the Governmental Unit to finance the Project, and

WHEREAS, Section 7-1-6.15, NMSA 1978, as amended, authorizes the Governmental Unit to direct that the revenues distributed to the Governmental Unit monthly by the New
Mexico Department of Taxation and Revenue pursuant to Sections 7-1-6 NMSA 1978, derived from the (i) one eighth of one percent (.125%) portion of the one-half of one percent (0.5%) municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 2018-1332, adopted on August 21, 2018, with an effective date of January 1, 2019, which portion equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one eighth of one percent (.125%) of the gross receipts of all persons engaging in business in the City for the month in which the tax is distributed to the City and (ii) the Hold Harmless Distribution associated with such portion; provided that the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Bond Ordinance (the “Pledged Revenues”) to be paid to the Finance Authority or its assignee, to secure payments on the Bonds.

NOW THEREFORE, the parties hereto agree:

Unless otherwise defined in this Intercept Agreement and except where the context by clear implication otherwise requires, capitalized terms used in this Intercept Agreement shall have for all purposes of this Intercept Agreement the meanings assigned thereto in the Bond Purchase Agreement, the Ordinance and the Indenture, as defined in the Bond Purchase Agreement.

Section 1. Authorization to the Finance Authority. The Governmental Unit hereby recognizes that the Finance Authority has purchased the Bonds to finance the Project. Pursuant to the Bond Purchase Agreement and this Intercept Agreement, the Governmental Unit shall directly make timely payment of all principal of and interest on the Bonds to the Finance Authority. In the event that the Governmental Unit fails to make timely payment of all principal of and interest on the Bonds to the Finance Authority, the Governmental Unit agrees that all payments due on the Bonds from the Pledged Revenues shall be paid by the Distributing State Agency to the Finance Authority or its designee, on behalf of the Governmental Unit, from scheduled distributions of the Pledged Revenues in accordance with the Intercept Schedule attached hereto as Exhibit “A” (the “Intercept Schedule”).

This Intercept Agreement shall be deemed a written certification, authorization and request by the Governmental Unit to the Distributing State Agency to pay to the Finance Authority, on behalf of the Governmental Unit, sums shown on the Intercept Schedule from monthly distributions of the Pledged Revenues to the Governmental Unit to assure the timely payment of the principal of and interest on the Bonds.

To the extent that the Pledged Revenues are insufficient to meet the debt service requirements due on the Bonds and other Parity Obligations now or hereafter issued or incurred, the amounts intercepted under this Intercept Agreement shall be applied to allow partial payment on a pro-rata basis of the debt service due and owing on the Bonds and other Parity Obligations. The Finance Authority is aware of Parity Obligations existing as of the Closing Date and will take those Parity Obligations into account in determining the pro-rata distribution of the Pledged Revenues. The Governmental Unit must inform the Finance Authority of any additional Parity Obligations issued during the term of the Bonds.
Section 2. **Term; Amendments.** This Intercept Agreement will remain in full force and effect from its effective date as herein provided until such time as the Bonds and this Intercept Agreement have been paid in full. Nothing herein shall be deemed in any way to limit or restrict the Governmental Unit from issuing its own obligations, providing its own program or participating in any other program for the financing of public projects which the Governmental Unit may choose to finance. This Intercept Agreement may be amended only by written instrument signed by the parties hereto.

Section 3. **Authorization.** The execution and performance of the terms of this Intercept Agreement have been authorized and approved by the Ordinance.

Section 4. **Severability of Invalid Provisions.** If any one or more of the provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separable from the remaining provisions and shall in no way affect the validity of any of the other provisions hereof.

Section 5. **Counterparts.** This Intercept Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6. **Further Authorization.** The Governmental Unit agrees that the Finance Authority shall do all things necessary or convenient to the implementation of the Program to facilitate the purchase of the Bonds from the Governmental Unit pursuant to the terms of the Bond Purchase Agreement.

Section 7. **Effective Date.** This Intercept Agreement shall take effect on the Closing Date of the Bonds.

Section 8. **Initial Intercept Date.** As indicated on the Intercept Schedule, the first distribution of the Pledged Revenues that is subject to interception by the Distributing State Agency under the terms of this Intercept Agreement consist of Pledged Revenues due to the Governmental Unit distributed in July, 2019.

Section 9. **Final Intercept Date.** Once the Bonds have been fully paid off and satisfied or earlier as otherwise determined by the Finance Authority, the Finance Authority shall provide written notice to the Distributing State Agency and the Governmental Unit to discontinue the interception of the Governmental Unit’s Pledged Revenues.

[Remainder of page left intentionally blank]

[Signature page follows]
IN WITNESS WHEREOF, the parties to this Intercept Agreement have caused their names to be affixed hereto by the proper officers thereof as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By: ___________________________
    John Gasparich, Chief Executive Officer

CITY OF FARMINGTON, NEW MEXICO

By: ___________________________
    Nate Duckett, Mayor

(SEAL)

Attest:

By: ___________________________
    Dianne Smylie, City Clerk

Acknowledged:

By: ___________________________
    State Taxation and Revenue Department

Date: __________________________
EXHIBIT "A"

INTERCEPT SCHEDULE
CITY OF FARMINGTON, NEW MEXICO

<table>
<thead>
<tr>
<th>Month</th>
<th>Pledged Revenues</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly, beginning July, 2019 through May 2039</td>
<td>The distribution of revenues to the Governmental Unit monthly by the New Mexico Department of Taxation and Revenue pursuant to Sections 7-1-6, derived from the (i) one eighth of one percent (.125%) portion of the one-half of one percent (0.5%) municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 2018-1332, adopted on August 21, 2018, with an effective date of January 1, 2019, which portion equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one eighth of one percent (.125%) of the gross receipts of all persons engaging in business in the City for the month in which the tax is distributed to the City and (ii) the Hold Harmless Distribution associated with such portion; provided that the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Bond Ordinance.</td>
<td>$0*</td>
</tr>
</tbody>
</table>

*Except in the event that the Governmental Unit fails to make timely payments of principal and interest on the Bonds, as provided in the Bond Purchase Agreement at which time a monthly collection schedule will be prepared by the Finance Authority and given to the Governmental Unit and the State Taxation and Revenue Department. The State Taxation and Revenue Department shall thereafter distribute Pledged Revenues set forth in the collection schedule to be applied to payment of the principal and interest on the Bonds.
$12,500,000
CITY OF FARMINGTON, NEW MEXICO
MUNICIPAL GROSS RECEIPTS TAX IMPROVEMENT
REVENUE BONDS
SERIES 2019
(Loan No.______)

BOND PURCHASE AGREEMENT
_______, 2019

City of Farmington
Farmington, New Mexico 87401

The New Mexico Finance Authority (the “Purchaser”) enters into this Bond Purchase Agreement (the “Agreement”) with the City of Farmington, New Mexico (the “City”), to purchase the City of Farmington, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019 in the aggregate principal amount of $12,500,000 (the “Bonds”). The Bonds are issued pursuant to, Sections 3-31-1 to 3-31-12 and 6-21-1, et seq., NMSA 1978, as amended (the “Act”) and Ordinance No. 2019-_______ of the Farmington City Council (the “Council”) authorizing the sale of the Bonds adopted on February 12, 2019 (the “Ordinance”). Capitalized terms in this Agreement have the same definitions as set forth in the Ordinance, unless the context clearly requires otherwise.

1. Purchase, Sale and Delivery of the Bonds.

A. On the basis of the representations, warranties, covenants and agreements contained in this Agreement, the Ordinance and the Bonds, and subject to the terms and conditions set forth herein and therein, the City agrees to sell to the Purchaser, and the Purchaser agrees to purchase from the City the Bonds at a purchase price equal to $______ (the principal amount of $12,500,000.00 plus a premium of $______). The Bonds shall be in the principal amounts, mature on the dates, bear interest at the rates and have the terms set forth in the Ordinance and this Agreement, as authorized by Section 6-14-10.2 NMSA 1978.

B. The date of delivery of and payment for the Bonds is referred to in subparagraph C below as the “Closing Date.” The Bonds shall be delivered to the Purchaser in typewritten form on the Closing Date upon receipt of the purchase price for the Bonds by the City, and a copy of the Bonds shall be available for examination by the Purchaser prior to the Closing Date.

C. The parties hereto understand and agree that the Closing Date will occur on or about June 7, 2019, or such other mutually agreeable date.

D. The net proceeds from the issuance of the Bonds will be used to provide funds

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E. Proceeds from the sale of the Bonds in an amount equal to the amount of the deposit into the City’s Account in the Program Fund (as such term is defined in the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Purchaser and BOKF, NA, as successor trustee (the “Trustee”), and the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Purchaser and the Trustee (collectively, the “Indenture”)) and as set forth in the form of Delivery, Deposit and Cross-Receipt Certificate attached as Exhibit A to this Agreement shall be available for requisition beginning on the Closing Date, upon receipt of a properly executed requisition in substantially the same form attached to this Agreement as Exhibit B.

F. Interest on the Bonds shall be payable on each June 1 and December 1, commencing on December 1, 2019. The Bonds shall be payable as to principal on each June 1, commencing on June 1, 2020.

2. Representations, Warranties and Covenants of the City. By the City’s acceptance of this Agreement, the City hereby represents and warrants to, and agrees with, the Purchaser as follows:

A. The City is authorized to issue the Bonds for the purpose of financing the costs of the Improvement Project. The City has the power to enter into the transactions contemplated by, and to carry out its obligations under, this Agreement and the Ordinance. The City Council of the City has duly adopted the Ordinance and this Agreement, which are valid and enforceable against the City and which authorize the execution and delivery of this Agreement and the execution, issuance, sale and delivery of the Bonds. At or prior to Closing, the City (i) will have full legal right, power and authority to (A) perform its obligations under and comply with the provisions of the Ordinance and the Act, (B) issue, execute and deliver, and perform its obligations under the Bonds, and (C) carry out and consummate the transactions contemplated by and perform its obligations under this Agreement, and the documents delivered in connection with the Ordinance and the Act; and (ii) will have the full legal right, power and authority under the Act to execute and deliver this Agreement and to adopt the Ordinance.

B. The Ordinance and this Agreement constitute legal, valid and binding agreements of the City, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors’ rights; the Bonds, when issued, delivered and paid for, in accordance with the Ordinance and this Agreement, will constitute legal, valid and binding obligations of the City entitled to the benefits of the Ordinance and will be enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors’ rights and upon the issuance, authentication and delivery of the Bonds as aforesaid, the Ordinance and will provide the legally valid and binding pledge of the revenues it purports to create as set forth in the Ordinance.
C. The "Pledged Revenues" consist of the revenues derived from the (i) one eighth of one percent (.125%) portion of the one-half of one percent (0.5%) municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 2018-1332, adopted on August 21, 2018, with an effective date of January 1, 2019, which portion equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one eighth of one percent (.125%) of the gross receipts of all persons engaging in business in the City for the month in which the tax is distributed to the City and (ii) the Hold Harmless Distribution associated with such portion; provided that the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Bond Ordinance (the City is not pledging and the term "Pledged Revenues" does not include the state-shared gross receipts tax or any other local option gross receipts tax income received by the City).

D. The proceeds of the Bonds will be deposited in certain funds and accounts created pursuant to the Ordinance as set forth in the Delivery, Deposit and Cross-Receipt Certificate in substantially the form attached to this Agreement as Exhibit A and shall be used by the City only (i) for payment of costs of Project, (ii) to pay debt service on the Bonds and (iii) for payment of the City’s costs of issuance of the Bonds. The distribution and use of the Bond proceeds will be in compliance with the provisions of the Ordinance.

E. The proceeds of the Bonds are expected to be fully expended within 3 years of the Closing Date, except for certain costs of issuance, which will be expended within six months after the Closing Date, unless a longer term is approved by Bond Counsel in writing.

F. Payments of principal and interest on the Bonds will be made by the City or the New Mexico Taxation and Revenue Department (the Distributing State Agency) to the Purchaser pursuant to the terms and conditions of an Intercept Agreement dated the Closing Date (the “Contingent Intercept Agreement”).

G. There is no litigation or proceeding pending or, to the knowledge of the undersigned, threatened, in any way affecting the existence of the City, or seeking to restrain or to enjoin the issuance, sale or delivery of the Bonds, or in any way contesting or affecting the validity or enforceability of the Bonds, the Ordinance or this Agreement, or contesting the powers of the City or its authority with respect to the Bonds, the Ordinance or this Agreement.

H. The issuance, sale and delivery of the Bonds, the execution and delivery of this Agreement and compliance with the obligations on the City’s part contained in this Agreement and in the Bonds do not conflict with or constitute a breach or default under any administrative regulation, judgment, decree, loan agreement, indenture, note, bond, resolution, ordinance, agreement or other instrument to which the City is a party or to which the City, or any of its properties or other assets, is otherwise subject.

I. Statements contained in the Ordinance or any certificate of the City provided to the Purchaser pursuant to this Agreement or in connection with the delivery of the Bonds and delivered to the Purchaser shall be deemed representations and warranties by the City to the Purchaser.
J. The City is not in default, and has not been in default, in the payment of principal of, premium, if any, or interest on, any bonds, notes or other obligations which it has issued, assumed or guaranteed as to payment of principal, premium, or interest.

K. Since the date of this Agreement, the City has not incurred any material liabilities, direct or contingent, nor has there been any adverse change in the financial position of the City affecting the Pledged Revenues, whether or not arising from transactions in the ordinary course of business.

L. At or prior to the Closing Date, except as may be required under the securities law of the State, all approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to any of the actions to be taken by the City with respect to the Bonds prior to the Closing Date will have been obtained and will be in full force and effect.

M. The City agrees to provide continuing disclosure to the Purchaser, as the Purchaser may reasonably require, that shall include, but not be limited to: annual audits, operational data required to update information in any disclosure documents used to assign or securitize debt service on the Bonds by issuance of bonds by the Purchaser pursuant to the Indenture, as defined below, and notification of any event deemed material by the Purchaser.

N. The City agrees that this Agreement will not be amended without the prior written consent of the Purchaser, and, if the Bonds have been pledged under the Indenture (as defined below), without the prior written consent of the Trustee (as defined below) pursuant to the Indenture.

3. Representations and Warranties of the Purchaser. The Purchaser represents and warrants, and agrees with the City, as follows:

A. The Purchaser is authorized to purchase the Bonds.

B. In connection with the purchase of the Bonds, the Purchaser acknowledges that no offering document or prospectus has been prepared with respect to the sale of the Bonds to the Purchaser, and that the Purchaser is buying the Bonds in a private placement by the City to the Purchaser. The Purchaser has reviewed such information as it deems relevant in making its decision to purchase the Bonds.

C. The Purchaser acknowledges that the Bonds will not be listed on any securities exchanges and that no trading market now exists in the Bonds, and none may exist in the future.

D. The Purchaser is purchasing the Bonds for its own account (and not on behalf of another) and has no present intention of reselling the Bonds; however, the Purchaser reserves the right to sell, pledge, transfer, convey, hypothecate, mortgage, or dispose of the

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Bonds at some future date determined by the Purchaser, but only to persons who have been provided sufficient information with which to make an informed decision to invest in the Bonds and in compliance with the Securities Act of 1933, as amended, the regulations promulgated thereunder and applicable state securities laws and regulations.

E. The Purchaser intends to reimburse the Public Project Revolving Fund (as defined in the New Mexico Finance Authority Act, NMSA 1978, Section 6-21-1 et seq.) for the amount of the Bonds from the proceeds of tax-exempt bonds.

F. Redemption. The Bonds maturing on or after June 1, 2029 are subject to prior redemption at the City’s option in one or more units of principal of $5,000 on and after June 1, 2028 in whole or in part at any time, in such order of maturities as the County may determine (and by lot if less than all Bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner as considered appropriate and fair) for the principal amount of each $5,000 unit of principal so redeemed plus accrued interest to the redemption date. Redemption shall be made upon prior notice mailed to the Purchaser as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Ordinance.

4. Conditions of Closing. The City’s obligation to sell and the Purchaser’s obligations under this Agreement to purchase and pay for the Bonds shall be subject to the following conditions:

A. The City shall have performed its obligations and agreements to be performed under the Ordinance and this Agreement at or before the Closing Date, and the representations and warranties of the City contained in this Agreement shall be accurate as of the date of this Agreement and as of the Closing Date.

B. This Agreement shall have been duly authorized and executed by the City and the Purchaser and shall be in full force and effect.

C. As determined by the Purchaser in its sole discretion, there shall not have been any material adverse change since the date of this Agreement relating to the City, or its operations, or any material adverse change in the law affecting the validity or tax-exempt status of the Bonds.

D. On the Closing Date, the Purchaser shall receive:

(1) An opinion of Modrall, Sperling, Roehl, Harris & Sisk, P.A., Bond Counsel, dated the Closing Date approving the legality and enforceability of the Bonds and the tax-exempt status of the Bonds addressed and delivered to the Purchaser.

(2) An opinion of the City Attorney’s office dated the Closing Date, in form and substance satisfactory to the City and the Purchaser.
(3) A written opinion of Purchaser’s Counsel that the Bonds may be
pledged by the Purchaser as a loan or as securities pursuant to the Indenture as determined by the
Purchaser.

(4) A certificate, dated the Closing Date, of an authorized officer of
the City to the effect that each of the representations and warranties of the City set forth in this
Agreement is true, accurate and complete as of the Closing Date.

(5) A General and No-Litigation Certificate of the City dated the
Closing Date.

(6) Specimen Bonds.

(7) Executed Contingent Intercept Agreement.

(8) An executed Arbitrage and Tax Certificate of the City.

(9) A copy of the Final Terms Certificate executed by an Authorized
Officer of the City.

(10) Such additional certificates, opinions or other documents as Bond
Counsel may reasonably require to evidence the satisfaction, as of the Closing Date, of the
conditions then to be satisfied in connection with the transactions contemplated by the Ordinance
and this Agreement. Such additional certificates, opinions or other documents may include, but
not be limited to:

(a) an executed IRS Form 8038-G for the Bonds; and

(b) a Delivery, Deposit and Cross-Receipt Certificate, in
substantially the form attached to this Agreement as Exhibit A or otherwise satisfactory to the
Purchaser and Bond Counsel, providing for the deposit of the purchase price of the Bonds in a
program account established for the City with the Trustee under the Indenture.

E. All matters relating to this Agreement, the Bonds, the sale of the Bonds to
the Purchaser, the Ordinance and the consummation of the transactions contemplated by this
Agreement and the Ordinance shall be mutually satisfactory to and approved by the City and
Purchaser.

F. No order, decree or injunction of any court of competent jurisdiction, nor
any order, ruling, regulation or administrative proceeding by any governmental body or council,
shall have been issued or commenced with the purpose or effect of prohibiting the issuance or
sale of the Bonds.

G. As determined by the Purchaser in its sole discretion, there shall not have
been any material adverse change since the date of this Agreement relating to the City, or its
operations, or any material adverse change in the law affecting the validity or tax-exempt status of the Bonds.

If the City is unable to satisfy the conditions to the obligations of the Purchaser contained in this Agreement, or if the obligations of the Purchaser are terminated for any reason permitted by this Agreement, this Agreement may be terminated and neither the Purchaser nor the City shall have any further obligations under this Agreement. Payment by the Purchaser to the City of the purchase price of the Bonds shall be conclusive evidence that all of the conditions set forth in this section have been satisfied or waived by the Purchaser.

5. **The Purchaser’s Right to Cancel.** The Purchaser shall have the right in its sole discretion to cancel its obligations under this Agreement to purchase the Bonds by notifying the City in writing of its election to do so between the date hereof and the Closing Date, if any of the following events occur prior to the Closing:

A. Legislation, including legislation not introduced in Congress as of the date of this Agreement, shall be enacted or actively considered for enactment by the Congress, or recommended by the President of the United States of America to the Congress for passage, or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration; a decision by a court of the United States of America or the United States Tax Court shall be rendered; or a ruling, regulation (proposed, temporary or final) or an official statement by or on behalf of the Treasury Department of the United States of America, the Internal Revenue Service or other agency or department of the United States of America shall be made or proposed to be made which has the purpose or effect, directly or indirectly, of imposing federal income taxes upon interest on the Bonds;

B. Any other action or event shall have transpired which has the purpose or effect, directly or indirectly, of materially adversely affecting the federal income tax consequences of any of the transactions contemplated herewith or contemplated by the Ordinance and this Agreement and, in the sole judgment of the Purchaser, materially adversely affects the purchase of the Bonds by the Purchaser;

C. Legislation shall be enacted, or actively considered for enactment by the Congress, with an effective date on or prior to the date of Closing, or a decision by a court of the United States of America shall be rendered, or a ruling or regulation by the SEC or other governmental agency having jurisdiction over the subject matter shall be made, the effect of which is that (1) the Bonds are not exempt from the registration, qualification or other requirements of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and then in effect, or (2) the Ordinance is not exempt from the registration, qualification or other requirements of the Trust Indenture Act of 1939, as amended and then in effect;

D. A stop order, ruling or regulation by the SEC shall be issued or made, the effect of which is that the sale of the Bonds, as contemplated herein, is in violation of any
provision of the Securities Act of 1933, as amended and as then in effect, the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect;

E. There shall exist any fact or there shall occur any event which, in the sole judgment of the Purchaser, either (1) makes untrue or incorrect in any material respect any statement or information provided by the City to the Purchaser in connection with the sale of the Bonds by the City to the Purchaser or (2) is not reflected in statements or information provided by the City to the Purchaser in connection with the sale of the Bonds by the City to the Purchaser but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect;

F. There shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the sole judgment of the Purchaser, impractical or inadvisable to proceed with the purchase of the Bonds;

G. Trading in the City’s outstanding securities shall have been suspended by the SEC or trading in securities generally on the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on such Exchange;

H. A banking moratorium shall have been declared either by Federal, New York or State authorities;

I. Any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance, sale or delivery of the Bonds or in any way contesting or affecting any authority for or the validity of the Bonds, this Agreement, the Ordinance, the existence or powers of the City, or any of the transactions described herein; or

6. Representations and Agreements to Survive Delivery. All representations, warranties, covenants and agreements of the City and the Purchaser set forth in this Agreement and any other documents relating to the issuance of the Bonds shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the City or the Purchaser, and shall survive the delivery of the Bonds to the Purchaser.

7. Payment of Expenses. The Purchaser shall pay the expenses incurred by it, its legal counsel and its financial advisor relating to the preparation, issuance, delivery and sale of the Bonds. The City shall pay the expenses incurred by it, its legal counsel and its financial advisor relating to the preparation, issuance, delivery and sale of the Bonds from the proceeds of the Bonds or other legally available moneys.

8. Parties in Interest. This Agreement is solely for the benefit of the Purchaser and the City and their respective successors and no other person, partnership, association or corporation shall acquire or have any right under or by virtue of this Agreement. This Agreement may not be assigned by the City or the Purchaser.
9. **Applicable Law.** This Agreement shall be construed in accordance with the laws of the State of New Mexico.

10. **Notices.** Any notice or other communication to be given to the Purchaser under this Agreement may be given by mailing or delivering the same in writing to the New Mexico Finance Authority, 207 Shelby Street, Santa Fe, New Mexico 87501, Attention: Chief Executive Officer; and any notice or other communication to be given to the City under this Agreement may be given by delivering the same in writing to 800 Municipal Drive, Farmington, New Mexico 87401, Attention: Finance Director.

11. **Entire Agreement.** This Agreement, when accepted by the City in writing as heretofore specified, shall constitute the entire agreement among the City and the Purchaser and is made solely for the benefit of the Purchaser and the City, and no other person shall acquire or have any right hereunder or by virtue hereof.

12. **Amendments; Execution of Counterparts.** This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document. This Agreement may not be effectively amended, changed, modified or altered without the written consent of all the parties hereto, and, if the Bonds have been pledged under the Indenture, without the prior written consent of the Trustee pursuant to the Indenture.

[Remainder of page intentionally left blank]

[Signature page follows]
Please sign and return a duplicate original of this Agreement to the Purchaser. Upon your signing and delivering this Agreement, it will constitute a binding agreement.

NEW MEXICO FINANCE AUTHORITY

By: ________________________________
    John Gasparich Chief Executive Officer

Accepted and confirmed
as of _____________, 2019:

CITY OF FARMINGTON, NEW MEXICO

By: ________________________________
    City Treasurer and
    Administrative Services Director

(SEAL)

ATTEST:

By: ________________________________
    Dianne Smylie, City Clerk
EXHIBIT A

$12,500,000
CITY OF FARMINGTON, NEW MEXICO
MUNICIPAL GROSS RECEIPTS TAX IMPROVEMENT
REVENUE BONDS
SERIES 2019
(Loan No. _______)

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
CITY OF FARMINGTON

DELIVERY, DEPOSIT AND CROSS-RECEIPT CERTIFICATE

We, the undersigned officers of the City of Farmington, New Mexico (the “City”), do hereby certify:

1. On the 7th day of June, 2019, the City of Farmington, authenticated and delivered the City of Farmington, New Mexico, Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019 in the aggregate principal amount of $12,500,000 (the “Bonds”) to the New Mexico Finance Authority (“Finance Authority”), the purchaser of the Bonds, as authorized by Ordinance No. 2019-____ adopted by the City Council of the City (the “Council”) on February 12, 2019 relating to the issuance, sale and delivery of the Bonds (the “Ordinance”).

2. The undersigned has received $________________ as proceeds of the Bonds (the principal amount of $12,500,000.00, plus a premium of $________________, which will be placed in the funds and accounts created under either the General Indenture of Trust and Pledge dated as of June 1, 1995, between the Finance Authority and BOKF, NA, as successor Trustee (the “Trustee”), as amended and supplemented, and its successors and assigns, and all supplemental indentures thereto and used as set forth below and in the Ordinance:

   Deposit to the City’s account in the Program Fund, for the Project, including Costs of Issuance of $________________: $________________

   Deposit to the Finance Authority Debt Service Account: ________________

   Processing Fee paid to the Finance Authority: ________________

   TOTAL: ________________ $________________

3. The proceeds of the Bonds will be available to the City upon submittal of a Requisition Form to the Finance Authority in the form attached to the Bond Purchase Agreement as Exhibit B and will be used as set forth in the Ordinance.

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IN WITNESS WHEREOF, we have hereunto set our hands and seal of the City of Farmington, this 7th day of June, 2019.

CITY OF FARMINGTON, NEW MEXICO

By: ________________________________
    Nate Duckett, Mayor

(SEAL)

ATTEST:

By: ________________________________
    Dianne Smylie, City Clerk
It is hereby certified by the undersigned, on behalf of the Finance Authority, the lawful purchaser of the Bonds, that this day, the Finance Authority received from City of Farmington, New Mexico, its Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019 in the aggregate principal amount of $12,500,000.

NEW MEXICO FINANCE AUTHORITY

By: ______________________________
    John Gasparich, Chief Executive Officer
EXHIBIT B

(Form of Requisition)

REQUISITION NO. 1

RE: City of Farmington, New Mexico, Municipal Gross Receipts Improvement Revenue Bonds, Series 2019–New Mexico Finance Authority Bond Purchase Transaction

TO: BOKF, NA
   c/o New Mexico Finance Authority
   207 Shelby Street
   Santa Fe, New Mexico 87501
   Attention: Accounting

You are hereby authorized to disburse from the Program Account – City of Farmington, New Mexico, Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019, with regard to the above-referenced Bond Purchase Transaction, the following:

LOAN NO. __________  CLOSING DATE: June 7, 2019
REQUISITION NUMBER: 1
NAME AND ADDRESS OF PAYEE:

AMOUNT OF REQUISITION: $________
PURPOSE OF REQUISITION: ______________

The requisition of funds are for the purposes stated above and are a proper charge against the Program Account – City of Farmington, New Mexico, Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019. All representations contained in the Bond Purchase Agreement and the related closing documents remain true and correct and the City of Farmington is not in breach of any of the covenants contained therein.

If this is the final requisition, payment of costs of the Project is complete or, if not complete, City of Farmington understands its obligation to complete the acquisition of the Project from other legally available funds.

Capitalized terms used herein, are used as defined or used in the Bond Purchase Agreement dated ______________, 2019 between the New Mexico Finance Authority and the City of Farmington relating to the City of Farmington, New Mexico, Municipal Gross Receipts Tax Improvement Revenue Bonds, Series 2019.
TO: Mayor Duckett and City Council

FROM: Kristi Benson, CPPO, CPPB
Chief Procurement Officer

DATE: January 10, 2019

SUBJECT: Utility Statement Processing and Mailing Services, RFP #19-127614

USING DEPARTMENT: Electric Utility

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A proposal opening was held on November 28, 2018 for Utility Statement Processing and Mailing Services. Seven (7) offers were submitted.

The Central Purchasing Department concurs with the recommendation from the evaluation committee to award the contract to DataProse, LLC. the top evaluated firm. Award is based on the pricing schedule for services as required. The In-state or Veterans preference was given to qualified bidders. The final rankings are listed below:

- DataProse, LLC – Coppell, TX
- Postal Pros, Inc. – Albuquerque, NM
- Technical Programming Services, Inc. – Albuquerque, NM
- Info Send Inc. – Anaheim, CA
- Pinnacle Data Systems - Birmingham, AL
- The Master's Touch, LLC – Spokane, WA
- The Data Center, LLC – Salt Lake City, UT

Kristi Benson (Presenter)
Council Meeting, January 15, 2019 Close/Reopen

xc: H. Andrew Mason, Administrative Services Director
Hank Adair, Electric Utility Director
File – 19-127614/EM

Evaluation Committee:
Hank Adair, Electric Utility
John Armenta, Electric Utility
Nicki Parks, Electric Utility
Lori Richardson, Electric Utility
Dianne Smylie, City Clerk