

STATE OF NEW MEXICO)
COUNTY OF SOCORRO) ss.
CITY OF SOCORRO)

The City Council of the City of Socorro, New Mexico, met in regular session in full conformity with law and the rules and regulations of the City Council at the City Hall, 111 School of Mines Road, NW, Socorro, New Mexico, being the regular meeting place of the City Council, on the 15th day of November 2022, at the hour of 6:00 p.m. Upon roll call, the following members, which constitute a quorum of the City Council, were found to be present:

Present:

Councilor Mary Ann Chavez-Lopez

Councilor Gordy Hicks

Councilor Damien Ocampo

Councilor Michael Olguin Jr.

Councilor Peter Romero

Councilor Anton Salome

Absent:

Councilor Deborah Dean

Councilor Nick Fleming

Thereupon, there was officially filed with the Mayor, each Councilor and the City Clerk a copy of a proposed bond ordinance in final form.

CITY OF SOCORRO, NEW MEXICO
ORDINANCE NO. 22-11-15

AUTHORIZING THE ISSUANCE OF THE \$3,265,000 CITY OF SOCORRO, NEW MEXICO JOINT UTILITY SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2022 IN TWO SERIES IN THE PRINCIPAL AMOUNTS OF (I) \$2,725,500 JOINT UTILITY SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2022A, AND (II) \$540,000 JOINT UTILITY SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2022B, FOR THE PURPOSE OF ACQUIRING, EXTENDING, ENLARGING, BETTERING, REPAIRING OR OTHERWISE IMPROVING THE CITY'S WASTEWATER TREATMENT FACILITY; PROVIDING FOR THE ISSUANCE AND SALE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM NET REVENUES TO BE DERIVED FROM THE OPERATION OF THE CITY'S JOINT UTILITY SYSTEM; PROVIDING FOR THE TERMS AND CONDITIONS OF THE BONDS, THE MANNER OF THEIR EXECUTION, THE METHOD OF PAYING THE BONDS AND OTHER DETAILS CONCERNING THE BONDS AND SUCH SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH AND APPERTAINING THERETO.

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

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

WHEREAS, the City now owns, operates and maintains a public joint utility comprised of water, wastewater and gas services, and which the City hereby declares shall be continued to be operated as a public utility; and

WHEREAS, the City has heretofore provided for the imposition of rates and charges against users of the System; and

WHEREAS, on December 19, 2009, the City entered into a loan agreement with the New Mexico Environment Department in the aggregate principal amount of \$75,075, which loan agreement is payable from a subordinate lien on Net Revenues of the System; and

WHEREAS, on February 19, 2010, the City issued the Series 2010 Bonds in the aggregate principal amount of \$132,000, which bonds are payable Net Revenues of the System; and

WHEREAS, on August 4, 2011, the City issued the Series 2011 Bonds in the aggregate principal amount of \$515,000, which bonds are payable from Net Revenues of the System; and

WHEREAS, on January 18, 2013, the City issued the Series 2013A Bonds in the aggregate principal amount of \$1,230,000, which bonds are payable from Net Revenues of the System; and

WHEREAS, on May 28, 2013, the City entered into a loan agreement with the New Mexico Finance Authority in the aggregate principal amount of \$185,130, which loan agreement is payable from a subordinate lien on the Net Revenues of the System; and

WHEREAS, on June 28, 2014, the City entered into a loan agreement with the New Mexico Finance Authority in the aggregate principal amount of \$484,000, which loan agreement is payable from a subordinate lien on Net Revenues of the System; and

WHEREAS, on May 6, 2015, the City entered into a loan agreement with the New Mexico Environment Department in the aggregate principal amount of \$950,000, which loan agreement is payable from a subordinate lien on the Net Revenues of the System; and

WHEREAS, on September 30, 2016, the City entered a loan agreement with the New Mexico Finance Authority in the aggregate principal amount of \$811,138, which loan agreement is payable from a subordinate lien on the Net Revenues of the System; and

WHEREAS, on April 12, 2018, the City entered into a loan agreement with the New Mexico Environment Department in the aggregate principal amount of \$417,635, which loan agreement is payable from a subordinate lien on the Net Revenues of the System; and

WHEREAS, on August 28, 2020, the City entered into a loan agreement with the New Mexico Finance Authority in the aggregate principal amount of \$250,000, which loan agreement is payable from a subordinate lien on the Net Revenues of the System; and

WHEREAS, on October 31, 2020, the City entered into a loan agreement with the New Mexico Finance Authority in the aggregate principal amount of \$150,000, which loan agreement is payable from a subordinate lien on the Net Revenues of the System; and

WHEREAS, on November 4, 2021, the City issued the Series 2021A&B Bonds in the aggregate principal amount of \$6,424,000, which bonds are payable from Net Revenues of the System; and

WHEREAS, other than as identified in this Ordinance, the City has not pledged nor in any way hypothecated revenues derived from the System, or any part thereof, to the payment of any bonds or any other obligations now outstanding or for any other purpose; and

WHEREAS, the City is authorized under the Act to issue revenue bonds for the Project and the Series 2022 Bonds shall be issued pursuant to the Act; and

WHEREAS, the issuance of the Series 2022 Bonds will provide for the preservation of the public health, peace and safety; and

WHEREAS, it is in the best interest of the City that the Series 2022 Bonds be issued with a lien on the Net Revenues of the System; and

WHEREAS, the United States of America has offered to purchase the Series 2022A Bonds in the aggregate principal amount of \$2,725,500 at par and at an interest rate of 2.75% per annum pursuant to this Ordinance, plus accrued interest, if any, to the date of delivery; and

WHEREAS, the United States of America has offered to purchase the Series 2022B Bonds in the aggregate principal amount of \$540,000 at par and at an interest rate of 1.75% per annum pursuant to this Ordinance, plus accrued interest, if any, to the date of delivery; and

WHEREAS, all required authorizations, consents or approvals of any state, governmental body, agency or authority, in connection with the authorization, execution and delivery of the Series 2022 Bonds which are required to have been obtained by the date hereof have been obtained, and which will be required to be obtained prior to the date of the issuance of the Series 2022 Bonds, will have been obtained by such date.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SOCORRO, NEW MEXICO:

Section 1. Definitions. In addition to words and terms elsewhere defined in this Ordinance, the following words and terms shall have the following meanings:

“Act” means the powers of the City under the authority given by the provisions of Sections 3-31-1 through 3-31-12 NMSA 1978, as amended and supplemented, and all enactments of the Council relating to the issuance of the Series 2022 Bonds.

“Aggregate Annual Debt Service Requirement” means the total principal, interest, and premium payments, if any, due and payable pursuant to the Series 2022 Bonds and on all Parity Obligations secured by a pledge of Net Revenues for any one Fiscal Year.

“Asset Management Reserve Fund” means a reserve fund created herein and funded from Net Revenues in the amount of \$76,593 annually (collectively with the Series 2021 Bonds).

“Bond Fund” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2022, Interest and Bond Retirement Fund” created in Section 16 hereof.

“Bondholder”, “holder” or “owner” means any registered owner of the Series 2022 Bonds.

“City” means the municipal corporation, a body corporate and politic known as the “City of Socorro, New Mexico.”

“Construction Fund” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2022, Construction Fund” created in Section 14 hereof.

“Consulting Engineer” means any registered or licensed professional engineer or firm of such engineers having a wide and favorable repute for skill and experience in the field of

designing, preparing plans and specifications for, and supervising construction of wastewater systems and facilities entitled to practice and practicing as such under the laws of the State of New Mexico.

“Council” means the City Council, or any succeeding legislative body of the City, as such governing body from time to time may be constituted and authorized to act and approve actions by a properly constituted quorum.

“Debt Service Reserve Fund” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2022, Debt Service Reserve Fund” created in Section 16 hereof.

“Debt Service Schedule” means the payment schedule for the Series 2022 Bonds as provided by the Purchaser, as the same may be revised in the event of partial prepayment of the Series 2022 Bonds.

“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” or “hereby” or “hereunder” or “hereof” or “hereinbefore” or “hereinafter” refers to this Ordinance and not solely to the particular portion thereof in which such word is used.

“Income Fund” means the “Joint Utility System Gross Income Fund” continued in Section 16 hereof.

“Independent Accountant” means an accountant employed by the State of New Mexico and under supervision of the State Auditor or 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 (a) is, in fact, independent and not under the domination of the City, (b) does not have any substantial interest, direct or indirect, with the City, and (c) 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 a bank or savings and loan association insured by an agency of the United States and which invests public funds in accordance with the provisions of Section 6-10-10 NMSA 1978, as amended.

“Loan Resolutions” means Rural Utilities Service Form 1780-27 as approved and adopted by the Council on November 15, 2022 relating to loans in the amount of \$2,725,500 and \$540,000 and signed by the Mayor.

“Mayor” means the Mayor of the City, or if the form of government of the City is changed, the presiding officer of the City no matter how such officer may be designated.

“Net Revenues” means the Gross Revenues of the System less Operation and Maintenance Expenses, which net revenues are pledged to the payment of the Series 2022 Bonds are provided herein.

“NMED Loan Agreement (2009)” means the loan agreement dated December 19, 2009, by and between the City and the New Mexico Environment Department in the aggregate amount of \$75,075, which loan agreement has a subordinate lien on Net Revenues of the System.

“NMED Loan Agreement (2015)” means the loan agreement dated May 6, 2015, by and between the City and the New Mexico Environment Department in the aggregate amount of \$950,000, which loan agreement has a subordinate lien on Net Revenues of the System.

“NMED Loan Agreement (2018)” means the loan agreement dated April 12, 2018, by and between the City and the New Mexico Environment Department in the aggregate amount of \$417,635, which loan agreement has a subordinate lien on Net Revenues of the System.

“NMFA Loan Agreement (2013)” means the loan agreement dated May 28, 2013, by and between the City and the New Mexico Finance Authority in the aggregate amount of \$185,130, which loan agreement has a subordinate lien on Net Revenues of the System.

“NMFA Loan Agreement (2014)” means the loan agreement dated June 28, 2014, by and between the City and the New Mexico Finance Authority in the aggregate amount of \$484,000, which loan agreement has a subordinate lien on Net Revenues of the System.

“NMFA Loan Agreement (2016)” means the loan agreement dated September 30, 2016, by and between the City and the New Mexico Finance Authority in the aggregate amount of \$811,138, which loan agreement has a subordinate lien on Net Revenues of the System.

“NMFA Loan Agreement (2020-1)” means the loan agreement dated August 28, 2020, by and between the City and the New Mexico Finance Authority in the aggregate amount of \$250,000, which loan agreement has a subordinate lien on Net Revenues of the System.

“NMFA Loan Agreement (2020-2)” means the loan agreement dated October 31, 2020, by and between the City and the New Mexico Finance Authority in the aggregate amount of \$150,000, which loan agreement has a subordinate lien on Net Revenues of the System.

“NMSA 1978” means the compilation of the laws of the State of New Mexico known as New Mexico Statutes Annotated, 1978 Compilation, as from time to time amended and supplemented.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the System, and shall include without limiting the generality of the foregoing, insurance premiums, reasonable charges of depository banks, paying agents and bond registrars, contractual services, professional services required by this Ordinance, salaries and System administrative expenses, labor, cost of materials and supplies used for current operations, legal and overhead expenses of the various City

departments directly related and reasonably allocable to the administration of the System, any payments made to the City's general fund as payments in lieu of franchise taxes or fees or other City taxes or fees or other similar payments or transfers to other funds of the City, but shall not include any allowance for depreciation, liabilities incurred by the City as the result of negligence in the operation of the System, costs of improvements, extensions, enlargements or betterments, or any charges for the accumulation of reserves for capital replacements.

“Operation and Maintenance Fund” means the “Operation and Maintenance Fund” created in City Ordinance No. 09-11-25, adopted on December 21, 2009, and continued herein.

“Ordinance” means this ordinance.

“Outstanding” or “outstanding” means, on any particular date, the aggregate of such bonds issued and delivered under the City ordinance authorizing the issuance of such bonds except:

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

B. Those which have been paid or are deemed to be paid in accordance with the City ordinance authorizing the issuance of the applicable bonds or otherwise relating thereto; and

C. Those in lieu of or in exchange or substitution for which other bonds have been delivered, unless proof satisfactory to the City and paying agent for the applicable bonds is presented that any bond for which a new bond was issued or exchanged is held by a bona fide holder in due course.

“Parity Obligations” or “Parity Bonds” means the Series 2010 Bonds, the Series 2011A Bonds, the Series 2013 Bonds, the Series 2021 Bonds and any other bonds and other obligations now or hereafter issued or incurred payable from the Net Revenues and issued or incurred with a lien on the Net Revenues on parity with the Series 2022 Bonds.

“Paying Agent” means the City Finance Director or any successor thereto designated by the Council to act in such capacity for the Series 2022 Bonds.

“Project” means acquiring, extending, enlarging, bettering, repairing or otherwise improving the City's wastewater treatment facilities as approved by the Rural Utilities Service.

“Purchaser” means the United States of America to whom the Series 2022 Bonds are to be originally sold and delivered.

“Registrar” means the City Finance Director or any successor thereto designated by the Council to act in such capacity for the Series 2022 Bonds.

“Required Reserve Fund Deposit” means the monthly amount required to be deposited in the Debt Service Reserve Fund as described in Section 17(G).

“Revenues”, “gross revenues”, “income” or “gross income” from, or of, the System means all income and revenues (including but not limited to interest income from the investment of System revenues) derived by the City from the operation of the System, or any part thereof, whether resulting from improvements, extensions, enlargements, repairs or betterments to the System, or otherwise, and includes all revenues derived by the City or any municipal corporation succeeding to the rights of the City, from the System and from the sale and use of gas, water, or wastewater service and facilities, or any combination thereof, to the residents of what is now the City (including all territorial annexations which may be made while the Series 2022 Bonds or any part thereof are outstanding), or from the sale and use of gas, water, or wastewater service and facilities, by means of the System owned and operated by the City as the same may at any time exist to serve customers outside the City limits as well as customers within the City limits.

“Rural Utilities Service” means the United States Department of Agriculture, Rural Utilities Service.

“Series 2010 Bonds” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2010” issued on February 19, 2010 in the aggregate principal amount of \$132,000.

“Series 2011A Bonds” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2011A” issued on August 4, 2011 in the aggregate principal amount of \$515,000.

“Series 2013A Bonds” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2013A” issued on January 18, 2013 in the aggregate principal amount of \$1,230,000.

“Series 2021 Bonds” means collectively the Series 2021A Bonds and Series 2021B Bonds authorized by Section 5 hereof.

“Series 2021A Bonds” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2021A” issued in the aggregate principal amount of \$4,950,000.

“Series 2021B Bonds” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2021B” issued in the aggregate principal amount of \$1,474,000.

“Series 2022 Bonds” means collectively the Series 2022A Bonds and Series 2022B Bonds authorized by Section 5 hereof.

“Series 2022A Bonds” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2022A” issued in the aggregate principal amount of \$2,725,500.

“Series 2022B Bonds” means the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2022B” issued in the aggregate principal amount of \$540,000.

“Subordinate Obligations” or “Subordinate Bonds” means the NMED Loan Agreement (2009), NMFA Loan Agreement (2013), NMFA Loan Agreement (2014), NMED Loan Agreement (2015), NMFA Loan Agreement (2016), NMED Loan Agreement (2018), NMFA Loan Agreement (2020-1), NMFA Loan Agreement (2020-2) and any other bonds and other obligations now or hereafter issued or incurred payable from the Net Revenues and issued or incurred with a lien on the Net Revenues subordinate to the Series 2022 Bonds.

“System” or “Utility” means the municipally owned joint public utility designated as the City's gas, water and wastewater system, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City through purchase, construction or otherwise, and used in connection with said gas, water and wastewater system of the City, and in anywise appertaining thereto, whether situated within or without the limits of the City.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council and the officers of the City directed toward the Project and toward the issuance of the Series 2022 Bonds and the sale of the Series 2022 Bonds to the Purchaser is hereby ratified, approved and confirmed.

Section 3. Authorization of Project. The Project shall be constructed and acquired at a total estimated cost not exceeding \$3,265,500 with costs in excess of the amount of the purchase price of the Series 2022 Bonds to be defrayed from sources other than proceeds from the issuance of the Series 2022 Bonds. The Project is authorized and approved.

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

A. It is in the best interest of the City and its residents to undertake the sale of the Series 2022 Bonds.

B. Moneys available for the Project from all sources other than the issuance of the Series 2022 Bonds are not sufficient to accomplish the Project.

C. The issuance by the City of the Series 2022 Bonds under the Act to provide funds for the Project is necessary and in the interest of the public health, safety, morals and welfare of the residents of the City.

D. The Net Revenues may lawfully be pledged to secure the payment of the Series 2022 Bonds as set forth herein.

E. The net effective interest rate on the Series 2022A Bonds of 2.75% is less than the statutory maximum of 12% per annum.

F. The net effective interest rate on the Series 2022B Bonds of 1.75% is less than the statutory maximum of 12% per annum.

Section 5. The Series 2022 Bonds.

A. Authorization. This Ordinance has been adopted by the affirmative vote of at least a 75% majority of all of the members of the Council. Pursuant to the findings of Section 4 hereof, it is hereby declared that the City, pursuant to the Act, shall issue and sell the Series 2022 Bonds in two series. The Series 2022A Bonds, in the principal amount of \$2,725,500, are hereby authorized to be issued and sold at par to the Purchaser. The Series 2022B Bonds, in the principal amount of \$540,000, are hereby authorized to be issued and sold at par to the Purchaser.

B. Details of the Series 2022 Bonds. There are hereby authorized and created a series of bonds designated as the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2022A” issued as one fully registered, negotiable instrument in the denomination of \$2,725,500, and a series of bonds designated as the “City of Socorro, New Mexico Joint Utility System Improvement Revenue Bonds, Series 2022B” issued as one fully registered, negotiable instrument in the denomination of \$540,000.

The Series 2022 Bonds shall be dated as of the date of issuance and delivery, shall be originally issued in two series, each as one bond in the respective denominations of \$2,725,500 (Series 2022A) and \$540,000 (Series 2022B), each numbered R-1, shall be payable to the registered owner, and shall bear interest on the outstanding principal amount of the Series 2022A Bonds at a rate of 2.75% per annum and the Series 2022B Bonds at a rate of 1.75% per annum, each series of bonds calculated on the basis of a 365-day year, actual number of days elapsed. Both principal and interest on the Series 2022 Bonds shall be payable in equal monthly installments commencing January 1, 2023 and continuing on the 1st day of each month until the principal and interest are fully paid, except that the final installment of the entire balance of principal and interest, if not sooner paid in accordance with the terms of the Series 2022 Bonds, shall become due and payable on December 1, 2062 (each installment being applied first to interest due and then to unpaid principal).

The form, term, and provisions of the Series 2022 Bonds, in the form set forth in Section 12 hereof are hereby approved with only such changes therein as are not inconsistent with this Ordinance.

Section 6. Prior Redemption.

A. Optional Redemption, Date and Price. The Series 2022 Bonds, maturing on and after January 1, 2033, are subject to prior redemption at the option of the City on any date, in whole or in part, as the City may determine, at a redemption price equal to the principal amount being redeemed, plus accrued interest to the date fixed for redemption. Additionally, any Series 2022 Bonds owned by the United States of America are subject to redemption prior to maturity, on any date without restriction, in whole or in part, as the City may determine, at a redemption price equal to the principal amount being redeemed, plus accrued interest to the date fixed for redemption. Any partial redemption of the Series 2022 Bonds shall be in inverse order of principal