

STATE OF NEW MEXICO)
COUNTY OF GRANT) ss.
TOWN OF SILVER CITY)

The Town Council (the “Council”) of the Town of Silver City (the “Town”), in the State of New Mexico, met in open special session in full conformity with law and the ordinances and rules of the Town, in the Town’s Annex Building, 1203 N. Hudson Street, Silver City, New Mexico, being the meeting place of the Council, at 8:00 a.m., on Tuesday, September 1, 2015, at which time there were present and answering the roll call the following members:

Mayor:	Michael S. Morones
Councilors:	Cynthia Ann Bettison Lynda D. Aiman-Smith Jose A. Ray, Jr. Guadalupe Cano

Absent:	None
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There was officially filed with the Town Clerk, the Mayor and each Councilor, a copy of an ordinance in final form, which is as follows:

ORDINANCE NO. 1240

CONCERNING THE MUNICIPAL JOINT UTILITY SYSTEM OF THE TOWN OF SILVER CITY, NEW MEXICO; PROVIDING FOR THE ISSUANCE OF THE TOWN'S (I) JOINT UTILITY SYSTEM IMPROVEMENT REVENUE BONDS (QUALIFIED ENERGY CONSERVATION BONDS – DIRECT PAYMENT), TAXABLE SERIES 2015A IN THE AGGREGATE PRINCIPAL AMOUNT OF \$3,910,000, TO (a) ACQUIRE, INSTALL, RETROFIT AND REPLACE WATER METERS FOR THE TOWN'S JOINT UTILITY SYSTEM UNDER THE TOWN'S GREEN COMMUNITY PROGRAM, AND (B) PAY COSTS OF ISSUANCE OF THE SERIES 2015A BONDS, AND (II) JOINT UTILITY SYSTEM REFUNDING REVENUE BONDS, TAX-EXEMPT SERIES 2015B IN THE AGGREGATE PRINCIPAL AMOUNT OF \$905,000 TO (a) REFUND, REDEEM AND PAY THE TOWN'S OUTSTANDING LOAN AGREEMENT, AS AMENDED, WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT, AND (b) PAY COSTS OF ISSUANCE OF THE SERIES 2015B BONDS; PROVIDING THAT THE SERIES 2015 BONDS SHALL BE PAYABLE OUT OF THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH JOINT UTILITY SYSTEM AND THAT THE SERIES 2015A BONDS SHALL ALSO BE PAYABLE FROM THE FEDERAL SUBSIDY PAYMENTS FROM THE UNITED STATE TREASURY; PROVIDING FOR THE DISPOSITION OF THE REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH JOINT UTILITY SYSTEM; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE SERIES 2015 BONDS, THE METHOD OF PAYING SUCH AND THE SECURITY THEREFOR; APPROVING ACQUISITION OF A MUNICIPAL BOND INSURANCE POLICY AND DEBT SERVICE RESERVE FUND POLICY; PRESCRIBING OTHER DETAILS CONCERNING THE JOINT UTILITY REVENUES AND THE JOINT UTILITY SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND WITH FUTURE FINANCING THEREFOR; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

Capitalized terms in the following preambles have the same definitions as are set forth in Section 1 unless the context provides otherwise.

WHEREAS, the Town of Silver City, in the County of Grant and State of New Mexico (herein the "Town"), is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State; and

WHEREAS, the Town now owns, operates and maintains a joint public utility constituting a joint water and sanitary sewer system (referred to herein variously as the "System," "Joint Utility" or the "Utility"); and

WHEREAS, the Revenues of the System have previously been pledged to the payment of the Town's outstanding loan agreement with the New Mexico Environment Department, as amended, as authorized by Town Ordinance No. 977 adopted on December 23, 1996, and Town Ordinance No. 1102 adopted on December 14, 2004, of which \$858,184 in aggregate principal amount remains outstanding (the "NMED Loan"); and

WHEREAS, the NMED Loan is callable prior to maturity at the option of the Town without penalty or premium; and

WHEREAS the current refunding of the NMED Loan is anticipated to result in more efficient management of the Town's debt; and

WHEREAS, other than the NMED Loan there are no other obligations currently outstanding that are payable from the revenues of the System; and

WHEREAS, improvements to the System are now necessary and advisable to meet the current and anticipated needs of the Town; and

WHEREAS, the Council hereby determines that there is an urgent need for the Project as herein defined and that the Bonds shall be issued for the Project which consequently also will provide for the public health, peace and safety of the Town and its citizens; and

WHEREAS, the Bonds shall be issued pursuant to Sections 3-31-1 through 3-31-12, NMSA 1978, and with an irrevocable first lien, but necessarily an exclusive first lien, on the Net Revenues of the System; and

WHEREAS, the Town herein designates the Series 2015A Bonds as "Qualified Energy Conservation Bonds" under Section 54D(a) of the Tax Code and irrevocably elects to receive direct cash subsidies from the United States Treasury pursuant to Section 6431 of the Tax Code; and

WHEREAS, the Series 2015A Bonds shall be additionally secured with an irrevocable and exclusive first lien on the Federal Subsidy Payments received pursuant to Section 54D and Section 6431 of the Tax Code; and

WHEREAS, after negotiation, the Council has determined and hereby determines that it is in the best interests of the Town and its citizens that (i) the Series 2015A Bonds be sold at negotiated sale to the Underwriter at a purchase price of \$3,887,674.76 which equals par (\$3,910,000.00) and less an underwriter's discount of (\$22,325.24), and (ii) the Series 2015B Bonds be sold at negotiated sale to the Underwriter at a purchase price of \$916,207.81 which equals par (\$905,000.00), plus original issue premium (\$18,736.50) and less an underwriter's discount of (\$7,528.69), pursuant to the Bond Purchase Agreement dated September 1, 2015, between the Underwriter and the Town ("Bond Purchase Agreement") and the Council hereby determines to sell, and hereby does sell such Bonds to the Underwriter pursuant to the Bond Purchase Agreement which is hereby accepted; and

WHEREAS, the Council hereby determines that it is in the best interest of the Town and its citizens that a Municipal Bond Insurance Policy and a Reserve Fund Insurance Policy be acquired from Build America Mutual Assurance Company; and

WHEREAS, the Town will enter into an Insurance Agreement dated October 6, 2015, with the Bond Insurer in connection with the Reserve Fund Insurance Policy; and

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

“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, there have been presented to the Council and there presently are on file with the Town Clerk (a) the Bond Purchase Agreement, (b) the Preliminary Official Statement dated August 24, 2015 (the “Preliminary Official Statement”) previously distributed by the Underwriter to prospective purchasers of the Bonds, (c) a form of Continuing Disclosure Undertaking, (d) Commitments for a Municipal Bond Insurance Policy and Reserve Fund Insurance Policy from the Bond Insurer, and (d) an Insurance Agreement from the Bond Insurer for the Reserve Fund Insurance Policy to be provided in connection with the Reserve Fund for the Bonds, each of which documents is incorporated by reference and considered to be a part hereof; and

WHEREAS, the Council hereby determines that the Improvement Project being acquired in part with the proceeds of the Series 2015A Bonds is a governmental purpose and is not a project which would cause the Series 2015A Bonds to be “private activity bonds” as defined by the Tax Code.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY (THE TOWN COUNCIL) OF THE TOWN OF SILVER CITY, NEW MEXICO:

Section 1. Definitions. The terms in this section defined for all purposes of this Ordinance and of any ordinance amendatory hereof or supplemental hereto, or relating hereto, and of any instrument or document appertaining hereto, except where the context by clear implication herein otherwise requires, shall have meanings herein specified:

“2015A Debt Service Account” means the account of the Bond Fund so denominated and established in Section 20(B) hereof to be held by the Paying Agent.

“2015B Debt Service Account” means the account of the Bond Fund so denominated and established in Section 20(B) hereof to be held by the Paying Agent.

“Acquisition Fund” means the “Town of Silver City Joint Utility System Improvement Revenue Bonds (Qualified Energy Conservation Bonds – Direct Payment), Taxable Series 2015A, Acquisition Fund,” established in Section 17(B) hereof and to be held by the Town.

“Bond Fund” means the “Town of Silver City Joint Utility System Improvement and Refunding Revenue Bonds, Series 2015, Interest and Bond Retirement Fund,” created in Section 20(B) hereof and to be held by the Paying Agent.

“Bond Insurer” or “BAM” means Build America Mutual Assurance Company.

“Bond Purchase Agreement” means the agreement between the Town and the Underwriter providing for the sale by the Town and the purchase by the Underwriter of the Bonds.

“Bonds” or “Series 2015 Bonds” means, collectively, the “Town of Silver City Joint Utility System Improvement Revenue Bonds (Qualified Energy Conservation Bonds – Direct Payment), Taxable Series 2015A” and the “Town of Silver City Joint Utility System Refunding Revenue Bonds, Tax-Exempt Series 2015B” authorized by this Ordinance.

“Business Day” means any day other than (i) a Saturday or Sunday or (ii) any day on which the offices of the Town and banks located in the cities in which the principal offices of the Paying Agent and Registrar are located are authorized or required to remain closed or (iii) a day on which the New York Stock Exchange is closed.

“Commitment” means the written commitments to the Town from the Bond Insurer for the Municipal Bond Insurance Policy and the Reserve Fund Insurance Policy.

“Consulting Engineer” means any registered or licensed professional engineer or firm of such engineers, entitled to practice and practicing as such under the laws of the State, retained and compensated by the Town, but not in the regular employ of the Town. The written determination by the Mayor or Town Manager or the authorized designee of either, that an engineer or firm of engineers meets the foregoing qualifications of the preceding sentence shall be conclusive for purposes of any provision of this Ordinance. As to construction drawings and specifications prepared for the Project by Town employees working under the supervision of the Town Engineer, this term may include the Town Engineer.

“Continuing Disclosure Undertaking” means the agreement of the Town to provide certain annual financial information for the benefit of the owners of the Bonds and to be dated the date of issuance and delivery of the Bonds.

“Depository” means the following registered securities depository: The Depository Trust Company, 570 Washington Boulevard, Jersey City, New Jersey 07310, <http://www.dtcc.com>, in accordance with then-current guidelines of the Securities and Exchange Commission, or such other address and/or such other securities depositories as an Authorized Officer may designate.

“Expenses” means the reasonable and necessary fees, costs and expenses incurred by the Town in connection with the issuance of the Bonds and any transaction or event contemplated by the Bonds and this Ordinance including, without limitation: (i) costs of advertising and publication of legislation relating to any series of Bonds; (ii) costs of printing certificates for any series of Bonds and any disclosure documents; (iii) legal fees and expenses; (iv) fees and expenses of any (a) fiscal service providers, (b) underwriter (including underwriter's discount), (c) financial advisor, and (d) Independent Accountant; (v) the initial premium and other costs payable to the Bond Insurer for the Reserve Fund Insurance Policy and the Municipal Bond Insurance Policy; (vi) disclosure matters pertaining or allocable to any series of Bonds; and (vii) all reasonable and necessary fees and administrative costs of the Town relating to the foregoing.

“Federal Securities” means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

“Federal Subsidy Payments” means the semi-annual payments from the United States Treasury to the Town related to the Town’s designation of the Series 2015A Bonds as “Qualified Energy Conservation Bonds” and the direct payments pursuant to Section 54D and Section 6431 of the Tax Code. Federal Subsidy Payments are equal to the lesser of (i) the interest payable on the Series 2015A Bonds or (ii) 70% of the amount of the applicable tax credit rate determined on the date of sale of the Series 2015A Bonds under Section 54A(b)(3) of the Code; provided that the Town makes certain required filings in accordance with applicable federal rules pertaining to the Federal Subsidy Payments.

“Fiscal Year” for the purposes of this Ordinance means the twelve months commencing on the first day of July of any calendar year and ending on the last day of June of the next calendar year; but it may mean any other 12-month period which any appropriate authority hereafter may establish for the System.

“Governing Body,” “Town Council,” or “Council” means the Town Council of the Town.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore” and “hereafter” refer to this Ordinance and not solely to the particular portion thereof in which such word is used. Definitions include both singular and plural. Pronouns include both singular and plural and cover all genders.

“Improvement Project” means to provide Series 2015A Bond proceeds (i) to acquire, install, retrofit and replace water meters for the Town’s Joint Utility System in compliance with the Town’s Green Community Program, and (ii) to pay all Expenses pertaining to the foregoing and the issuance of the Series 2015A Bonds in an amount not to exceed 2% of the proceeds of the Series 2015A Bonds.

“Income Fund” means the “Town of Silver City Joint Utility System Gross Income Fund” which is continued in Section 19 hereof and is held by the Town.

“Independent Accountant” means any registered or certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Town, who (1) is, in fact, independent and not under the domination of

the Town, (2) does not have any substantial interest, direct or indirect, with the Town, and (3) is not connected with the Town as an officer or employee of the Town, but who may be regularly retained to make annual or similar audits of the books or records of the Town; “Independent Accountant” also means the State Auditor of the State.

“Insurance Agreement” means the agreement between the Town and the Bond Insurer related to acquisition of a Reserve Fund Insurance Policy.

“Insured Bank” means a bank which is a member of the Federal Deposit Insurance Corporation.

“Joint Utility System” or “System” means the municipally owned public utility designated as the Town’s water system and sanitary sewer system (continued as a joint system in Section 3 hereof) consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the Town through purchase, construction or otherwise, and used in connection with the Town’s water system and sanitary sewer system and in any way appertaining thereto, whether situated within or without the limits of the Town.

“Late Payment Rate” means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in the City of New York, New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as BAM, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to BAM shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

“Municipal Bond Insurance Policy” or “Policy” means the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Bonds when due.

“Net Revenues” or “net revenues” means the Revenues of the System after deducting Operation and Maintenance Expenses of the System.

“NMED” means the New Mexico Environment Department.

“NMED Loan” means the New Mexico Environment Department Loan Agreement with the Town, as amended, currently outstanding in the aggregate principal amount of \$858,184.

“NMSA” means New Mexico Statutes Annotated.

“Official Statement” means the final disclosure document relating to the sale of the Bonds (including the cover page and all summary statements, appendices and other materials included or incorporated by reference or attached thereto), as amended or supplemented.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the Town, paid or accrued, of operating, maintaining and repairing the System, and shall include, without limiting the generality of the foregoing, legal and overhead expense of the various Town departments directly related and reasonably allocable to the administration of the System, insurance premiums, taxes, the reasonable charges of depository banks and paying agents, contractual services, professional services required by this ordinance, salaries and administrative expenses, labor, the cost of materials and supplies used for current operation, but shall not include any allowance for depreciation, liabilities incurred by the Town as the result of its negligence in the operation of the System, costs of extensions, enlargements or betterments of the System, or any charges for the accumulation of reserves for capital replacements.

“Operation and Maintenance Fund” means the “Town of Silver City Joint Utility Operation and Maintenance Fund” which is continued in Section 20(A) hereof and held by the Town.

“Ordinance” or “Bond Ordinance” shall mean this Ordinance and any ordinance or resolution amendatory hereof or supplemental hereof.

“Parity Obligations” means bonds or other obligations payable from revenues of the System hereafter issued with a lien on the Net Revenues of the System on parity with the Bonds herein authorized to be issued.

“Paying Agent” means BOKF, NA, Albuquerque, New Mexico, as agent for the Town for the payment of the Bonds, the interest thereon and any prior redemption premium in connection therewith.

“Permitted Investments” means an investment or security permitted by laws of the State and by policies of the Town for investment of public money.

“Preliminary Official Statement” means the initial disclosure document relating to the sale of the Bonds (including the cover page and all summary statements, appendices and other materials included or incorporated by reference or attached thereto), as amended or supplemented.

“Project” means the Improvement Project and the Refunding Project.

“Rebate Fund” means the “Town of Silver City Joint Utility System Refunding Revenue Bonds, Series 2015 Bond Rebate Fund” created in Section 20(F) hereof, which is to be held by the Town.

“Redemption Date” means October 6, 2015, the redemption date of the NMED Loan upon issuance of the Series 2015B Bonds.

“Refunded Bonds” means the NMED Loan maturing after August 6, 2015.

“Refunding Project” means to provide Series 2015B Bond proceeds (i) to refund, redeem and pay the principal of the NMED Loan maturing on and after August 6, 2015 and interest

accruing thereon to the Redemption Date, and (ii) to pay all Expenses pertaining to the foregoing and the issuance of the Series 2015B Bonds.

“Registrar” means BOKF, NA, Albuquerque, New Mexico, as registrar and transfer agent for the Bonds.

“Regular Record Date” means the 15th day of the calendar month (whether or not a business day) preceding each regularly scheduled interest payment date on the Bonds.

“Reserve Fund” means the “Town of Silver City Joint Utility System Improvement and Refunding Revenue Bonds, Series 2015, Reserve Fund” established in Section 20(C) hereof, and to be held by the Town.

“Reserve Fund Insurance Policy” means any insurance policy, surety bond or letter of credit deposited in or credited to the Reserve Fund as provided in Section 20(C) hereof in lieu of or in partial substitution for cash or allowable investments on deposit in the Reserve Fund. Any such insurance policy, surety bond or letter of credit must be issued by an entity having a rating in one of the two highest rating categories assigned by any nationally recognized rating agency at the time such policy, bond or letter of credit is initially deposited in or credited to the Reserve Fund.

“Reserve Fund Requirement” means an amount equal to the least of (i) ten percent of the principal amount of the outstanding Bonds, (ii) the maximum annual debt service on the outstanding Bonds, or (iii) 125% of the average annual debt service on the outstanding Bonds. The Reserve Fund Requirement shall be recalculated every year on or about December 1.

“Revenues,” “revenues,” “gross revenues,” “income” or “gross income” from the System means all income and revenues derived by the Town from the operation of the System, or any part thereof, whether resulting from extensions, enlargements or betterments to the System, or otherwise, and includes all revenues received by the Town or any municipal corporation succeeding to the rights of the Town from the System and from the sale and use of water, water service and facilities, sanitary sewer service and facilities, or any combination thereof to the citizens of the Town (including all territorial annexations which may be made while any of the Bonds are outstanding), or from the sale and use of water, water service and facilities, sanitary sewer service and sewer facilities, and facilities or any combination thereof, by means of the System owned and operated by the Town as the same may at any time exist to serve customers outside the Town limits as well as customers within the Town limits, and also means income derived from the investment of any money in any of the funds established herein or contained herein even though such investment income is to be credited to the particular fund from which such investment is made, as further provided by Section 21(A) hereof.

“Security Documents” shall mean the resolution, trust agreement, indenture, ordinance, loan agreement, lease agreement, bond, note, certificate and/or any additional or supplemental document executed in connection with the Bonds.

“Series 2015A Bonds” means the “Town of Silver City Joint Utility System Improvement Revenue Bonds (Qualified Energy Conservation Bonds – Direct Payment), Taxable Series 2015A”.

“Series 2015B Bonds” means the “Town of Silver City Joint Utility System Refunding Revenue Bonds, Tax-Exempt Series 2015B”.

“Series Date” means the date of initial issuance and delivery of the Bonds.

“Special Record Date” means a special date fixed to determine the names and addresses of registered owners of the Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest thereon, all as further provided in Section 5(B) hereof.

“State” means the State of New Mexico.

“Tax Code” means the Internal Revenue Code of 1986, as amended to the date of initial delivery of the Bonds.

“Town” means the municipal corporation and body corporate and politic known as the Town of Silver City, Grant County, New Mexico.

“Underwriter” means Stifel, Nicolaus & Company, Incorporated.

Section 2. Ratification. All action heretofore taken (not inconsistent with the express provisions of this Ordinance) by the Council and officers of the Town directed toward the Project and the authorization, sale and issuance of the Bonds to the Underwriter as herein authorized, be, and the same hereby is, ratified, approved and confirmed.

Section 3. Joint Utility System. The municipal water facilities or system and the municipal sanitary sewer facilities or system shall continue to constitute a joint municipal utility and shall be operated and maintained as such Joint Utility System.

Section 4. Authorization of the Project and the Bonds.

A. Authorization of Project.

(1) The Improvement Project is hereby authorized at a total cost of \$3,910,000 excluding any such cost defrayed or to be defrayed by any source other than the Series 2015A Bonds. The Improvement Project is hereby declared to be necessary for the health, safety and welfare of the citizens of the Town.

(2) The Refunding Project is hereby authorized at a total cost of \$905,000 excluding any such cost defrayed or to be defrayed by any source other than the Series 2015B Bonds. The Refunding Project is hereby declared to be necessary for the public health, safety and welfare of the citizens of the Town.

B. Authorization of Bonds. For the purpose of protecting the public health, conserving the property and advancing the general welfare of the citizens of the Town, and for the purpose of defraying the cost of the Project, it is hereby declared that the interest or necessity of the Town and the citizens thereof demand the issuance by the Town of its fully registered (*i.e.*, registered as to payment of both principal and interest) revenue bonds without coupons to be designated the (i) “Town of Silver City Joint Utility System Improvement Revenue Bonds

(Qualified Energy Conservation Bonds – Direct Payment), Taxable Series 2015A” in the aggregate principal of \$3,910,000, and (ii) “Town of Silver City Joint Utility System Refunding Revenue Bonds, Tax-Exempt Series 2015B” in the aggregate principal amount of \$905,000. The Bonds shall be payable and collectible, both as to principal and interest, from the Net Revenues of the System and constituting special obligations of the Town. The Series 2015A Bonds are further secured by an irrevocable and exclusive lien on the Federal Subsidy Payments. George K. Baum & Company is hereby engaged as municipal advisor to the Town in connection with the Bonds.

C. Designation as “Qualified Energy Conservation Bonds”. The Series 2015A Bonds are hereby designated as “Qualified Energy Conservation Bonds” under Section 54D(a) of the Code, and the Town irrevocably elects to receive Federal Subsidy Payments from the United States Treasury in connection therewith pursuant to Section 6431 of the Code. As a result of this election, interest on the Series 2015A Bonds will be included in the gross income of holders thereof for federal income tax purposes, and the holders will not be entitled to any federal tax credits otherwise applicable to Qualified Energy Conservation Bonds in connection with their holding the Series 2015A Bonds. The Federal Subsidy Payments received by the Town are pledged as security for the payment of debt service exclusively as to the Series 2015A Bonds as further described herein. The Town shall make payments of the principal of and interest on the Series 2015A Bonds whether or not it receives Federal Subsidy Payments.

Section 5. Bond Details.

A. Basic Details. The Bonds shall be dated as of the Series Date, are issuable in the denomination of \$5,000 each or any integral multiple thereof (provided that no Bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual Bond will be issued for more than one maturity), shall be numbered consecutively from 1 upwards, shall bear interest from the Series Date until their respective maturities at the per annum rates hereafter designated payable semiannually on June 1 and December 1 of each year commencing on June 1, 2016.

The Series 2015A Bonds shall mature on December 1 in each of the years hereinafter designated, as follows:

Series 2015A Bonds

<u>Maturity Date (December 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2020	\$230,000	2.85%
2021	230,000	3.25%
2022	230,000	3.55%
2023	230,000	3.80%
2024	230,000	4.00%
2025	235,000	4.10%
2030*	1,200,000	4.65%
2035*	1,325,000	5.10%

*Term Bonds, subject to sinking fund redemption.

provided, however, that the individual Series 2015A Bonds shall bear interest from the most recent interest payment date to which interest has been fully paid or duly provided for in full or, if no interest has been paid, from the Series Date.

The Series 2015B Bonds shall mature on December 1 in each of the years hereinafter designated, as follows:

Series 2015B Bonds

Maturity Date (December 1)	Principal Amount	Interest Rate
2016	\$125,000	2.00%
2017	255,000	2.00%
2018	260,000	2.00%
2019	265,000	2.00%

provided, however, that the individual Series 2015B Bonds shall bear interest from the most recent interest payment date to which interest has been fully paid or duly provided for in full or, if no interest has been paid, from the Series Date.

B. Payment - Regular and Special Record Dates. The principal of and any prior redemption premium applicable to any Bond shall be payable to the registered owner thereof as shown on the registration books kept by the Registrar (which is hereby appointed as registrar, *i.e.*, transfer agent, for the Bonds) upon maturity or prior redemption thereof and upon presentation and surrender at the Paying Agent, which is hereby appointed as the paying agent for the Bonds. If any Bond shall not be paid upon such presentation and surrender at or after maturity, mandatory redemption date or on a designated optional prior redemption date on which the Town may exercise its right to prior redeem the Bond pursuant to this Ordinance, it shall continue to draw interest at the rate borne by the Bond until the principal thereof is paid in full. Payment of interest on any Bond shall be made to the registered owner thereof as of the Regular Record Date (as herein defined) by check or draft mailed by the Registrar, on or before each interest payment date (or, if such interest payment date is not a business day, on or before the next succeeding business day), to the registered owner thereof on the Regular Record Date at his address as it last appears on the registration books kept by the Registrar on the Regular Record Date (or by such other arrangement as may be mutually agreed to by the Registrar and any registered owner on such Regular Record Date). All such payments shall be made in lawful money of the United States of America. The person in whose name any Bond is registered at the close of business on any Regular Record Date with respect to any interest payment date shall be entitled to receive the interest payable thereon on such interest payment date notwithstanding any transfer or exchange thereof registered subsequent to such Regular Record Date and prior to such interest payment date; but any such interest not so timely paid or duly provided for shall cease to be payable as provided above and shall be payable to the person in whose name any Bond is registered at the close of business on a Special Record Date fixed by the Registrar for the payment of any such defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for defaulted interest, and notice of any such Special Record Date shall be given not less than ten days prior thereto, by first-class mail, to the registered

owners of the Bonds as of a date selected by the Registrar, stating the Special Record Date and the date fixed for the payment of such defaulted interest.

Section 6. Prior Redemption.

A. Optional Redemption. Series 2015A Bonds maturing on and after December 1, 2026 shall be subject to redemption prior to maturity at the Town’s option in one or more units of principal of \$5,000 on and after December 1, 2025, in whole or in part at any time, in such order of maturities as the Town 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 as it shall consider appropriate and fair) for the principal amount of each \$5,000 unit so redeemed and accrued interest thereon to the redemption date.

B. Extraordinary Redemption. The Series 2015A Bonds shall be subject to extraordinary redemption at the option of the Town, in whole or in part, on any Business Day upon the occurrence of any Extraordinary Event (hereinafter defined), at a redemption price of one hundred percent (100%) of the principal amount of the Series 2015A Bonds being redeemed plus accrued interest to the redemption date. An “Extraordinary Event” will have occurred if (i) there is a final determination by the Internal Revenue Service (after the Town has exhausted all administrative appeal remedies) determining that the Series 2015A Bonds have lost their status as Qualified Energy Conservation Bonds under Section 54D of the Tax Code that are “specified tax credit bonds” under Section 6431 of the Tax Code; (ii) there is entered a final non-appealable order by a court of competent jurisdiction holding that the Series 2015A Bonds have lost their status as Qualified Energy Conservation Bonds under Section 54D of the Tax Code that are “specified tax credit bonds” under Section 6431 of the Tax Code; or (iii) Section 54D or Section 6431 of the Tax Code (or other applicable section of the Tax Code or Treasury Regulations) is modified, amended or revised in a manner pursuant to which the Federal Subsidy Payment is reduced by 10% or more below that set forth in Section 54D or Section 6431 of the Tax Code (or other applicable section of the Tax Code or Treasury Regulations) or eliminated.

C. Sinking Fund Redemption. The Series 2015A Bonds maturing on December 1, 2030 and December 1, 2035 are subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of the Bonds maturing on December 1, 2030 and December 1, 2035, the Town shall cause to be deposited in the Bond Fund a sum which is sufficient to redeem and there shall be redeemed (after credit as provided below) on the following dates the following principal amounts of such Series 2015A Bonds:

2030 Term Bond	
Redemption Dates (December 1)	Principal Amount
2026	\$230,000
2027	235,000
2028	240,000
2029	245,000
2030*	250,000

2035 Term Bond

Redemption Dates (December 1)	Principal Amount
2031	\$255,000
2032	260,000
2033	265,000
2034	270,000
2035*	275,000

On or before the fortieth day prior to the sinking fund redemption date, the Registrar shall proceed to select for redemption (by lot in such manner as the Registrar shall deem equitable and fair) from all Series 2015A Bonds outstanding maturing on December 1, 2030 and December 1, 2035, \$5,000 units of such Series 2015A Bonds equal in the aggregate to the total principal amount of such Series 2015A Bonds redeemable with the required sinking fund payment, and shall call such Series 2015A Bonds, or portions thereof, for redemption from the sinking fund on the next December 1, and give notice of such call, as provided below. At the option of the Town to be exercised by delivery of a written certificate to the Registrar on or before the forty-fifth day next preceding any sinking fund redemption date, it may (i) deliver to the Registrar for cancellation Series 2015A Bonds maturing on December 1, 2030 and December 1, 2035, or portions thereof (\$5,000 or any integral multiple thereof) in an aggregate principal amount desired by the Town or (ii) specify a principal amount of Series 2015A Bonds maturing on December 1, 2030 and December 1, 2035, or portions thereof (\$5,000 or any integral multiple thereof) which prior to that date have been redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Registrar and not theretofore applied as a credit against any sinking fund redemption obligation. Each Series 2015A Bond or portion thereof so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Town on such sinking fund redemption date and any excess over such amount shall be credited against future sinking fund redemption obligations for the Series 2015A Bonds of such maturity in chronological order or any other order specified by the Town. In the event the Town shall avail itself of the provisions of clause (i) of the second sentence of this Subsection B, the certificate required by the second sentence of this Subsection B shall be accompanied by the Series 2015A Bonds or portions thereof to be cancelled.

D. Notice by Town. At least 45 days prior to any date selected by the Town for optional prior redemption of any of the Series 2015A Bonds, the Town shall give written instructions to the Registrar with respect to optional prior redemption pursuant to Subsection A of this Section 6, unless waived by the Registrar and if the Registrar is not also the Paying Agent, such written instructions shall also be given to the Paying Agent. The provisions of the preceding sentence shall not apply to the redemption of Series 2015A Bonds pursuant to sinking fund redemption as provided by Subsection B of this Section 6 which shall be called for redemption by the Registrar as provided in Subsection D without any additional action by the Town. Notice of redemption shall be given by the Town by sending a copy of such notice by first-class, postage prepaid mail, not less than thirty days prior to the redemption date to the Underwriter and if the Registrar is not the Paying Agent, to the Paying Agent.

E. Notice by Registrar. Notice of prior redemption shall be given by the Registrar by delivery or by sending a copy of such notice by first-class, postage prepaid mail, not more than 60 days and not less than 30 days prior to the redemption date to each registered owner as shown on the registration books kept by the Registrar as of the date of selection of units of principal for redemption. The Registrar shall not be required to give notice of any optional prior redemption pursuant to Subsection A of this Section 6 unless it has received written instructions from the Town in regard thereto at least 45 days prior to such redemption date or unless it waives such 60 day written instructions requirement. Failure to give such notice by mailing to the registered owner of any Series 2015A Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any other Series 2015A Bonds. No notice of mandatory sinking fund redemption of the term bonds to the Registrar from the Town shall be required

F. Other Redemption Details. The notice required by Subsection D of this Section shall specify the number or numbers of the Series 2015A Bond or Bonds or portions thereof to be so redeemed if less than all are to be redeemed (provided that inclusion of the number or numbers or such Series 2015A Bonds to be redeemed is not necessary with respect to the instructions prescribed in Subsection C hereof); and all notices required by Subsection D of this Section shall specify the date fixed for redemption, and shall further state that on such redemption date there will become and be due and payable upon each \$5,000 unit of principal so to be redeemed at the Paying Agent the principal thereof and that from and after such date interest will cease to accrue. Notwithstanding the provisions of this section, any notice of optional prior redemption pursuant to Subsection A may contain a statement that the redemption is conditioned upon the receipt by the Paying Agent of funds on or before the date fixed for redemption sufficient to pay the redemption price of the Series 2015A Bonds so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the registered owner of the Series 2015A Bonds called for redemption in the same manner as the original redemption notice was mailed. Accrued interest to the redemption date will be paid by check or draft mailed to the registered owner (or by alternative means if so agreed to by the Paying Agent and the registered owner). Notice having been given in the manner hereinbefore provided, the Series 2015A Bond or Bonds so called for redemption shall become due and payable on the redemption date so designated; and upon presentation thereof at the Paying Agent, the Town will pay the Series 2015A Bond or Bonds so called for redemption. In the event that only a portion of the principal amount of a Series 2015A Bond is so redeemed, a new Series 2015A Bond representing the unredeemed principal shall be duly completed, authenticated and delivered by the Registrar to the registered owner pursuant to Section 9 hereof and without charge to the registered owner thereof.

G. Series 2015B Bonds. The Series 2015B Bonds are not subject to optional extraordinary or mandatory sinking fund redemption.

Section 7. Negotiability. Subject to the provisions made or necessarily implied herein, the Bonds shall be fully negotiable, and shall have all the qualities of negotiable paper, and the registered owner or owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code.

Section 8. Execution.

A. Filing Manual Signatures. Prior to the execution and authentication of any Bond by facsimile signature pursuant to Sections 6-9-1 through 6-9-6, both inclusive, NMSA 1978, the Mayor and Town Clerk shall each forthwith file with the Secretary of State of New Mexico, his or her manual signature certified by him or her under oath; provided, that such filing shall not be necessary for any officer where any previous such filing may have legal application to the Bonds or if facsimile signatures are not used on the Bonds.

B. Method of Execution. Each Bond shall be signed and executed by the manual or facsimile signature of the Mayor under a manual impression of the seal of the Town or a facsimile thereof which shall be printed, stamped, engraved or otherwise placed thereon; each Bond shall be executed and attested with the manual or facsimile signature of the Town Clerk; and each Bond shall be authenticated by the manual signature by an authorized officer of the Registrar as hereafter provided. The Bonds bearing the manual or facsimile signatures of the officers in office at the time of the authorization thereof shall be the valid and binding obligations of the Town (subject to the requirement of authentication by the Registrar as hereinafter provided) notwithstanding that before the delivery thereof and payment therefor, or before the issuance thereof upon transfer or exchange, any or all of the persons whose manual or facsimile signatures appear thereon shall have ceased to fill their respective offices. The Mayor and Clerk of the Town shall, by the execution of a signature certificate pertaining to the Bonds, adopt as and for their respective signatures the manual or facsimile signatures thereof appearing on the Bonds; and, at the time of the execution of the signature certificate, the Mayor and Town Clerk may each adopt as and for his or her facsimile signature the manual or facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon any of the Bonds.

C. Certificate of Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication, substantially in the form hereinafter provided, has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been duly executed by it if manually signed 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. Provisions Relating to Registration, Transfer, Exchange, Replacement and Cancellation of and Registration Records for the Bonds.

A. Registration Books - Transfer and Exchange - Authentication. Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer of any Bonds at the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at the Registrar for an equal aggregate principal amount of Bonds of the same maturity of other authorized

denominations. The Registrar shall authenticate and deliver a Bond or Bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds as herein provided shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

B. Times When Transfer or Exchange Not Required. The Registrar shall not be required (1) to transfer or exchange all or a portion of any Series 2015A Bond subject to prior redemption during the period of fifteen days next preceding the mailing of notice to the registered owners calling any Series 2015A Bonds for prior redemption pursuant to Section 6 hereof or (2) to transfer or exchange all or a portion of a Series 2015A Bond after the mailing to registered owners of notice calling such Series 2015A Bond or portion thereof for prior redemption.

C. Payment - Registered Owners. The person in whose name any Bond shall be 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 as is provided in Section 5(B) hereof; 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, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided herein. 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.

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

E. Delivery of Bond Certificates to Registrar. The officers of the Town are authorized to deliver to the Registrar fully executed but unauthenticated Bonds in such quantities as may be convenient to be held in custody by the Registrar pending use as herein provided.

F. Cancellation of Bonds. Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Registrar for transfer, exchange or replacement as provided herein, such Bond shall be promptly canceled by the Paying Agent or Registrar, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or Registrar to the Town.

Section 10. Depository for the Bonds.

A. Procedures Relating to Registration and Depository. Notwithstanding the foregoing provisions of Sections 4 through 9 hereof, the Bonds shall initially be evidenced by one Bond for each stated maturity in a denomination equal to the aggregate principal amount of

such maturity for the Bonds. Such initially delivered Bond shall be registered in the name of “Cede & Co.,” as nominee for The Depository Trust Company, New York, New York, the Depository for the Bonds. The Bonds may not thereafter be transferred or exchanged except:

(1) To any successor of The Depository Trust Company, or any nominee of such successor, upon the merger, consolidation, sale of substantially all of the assets or other reorganization of The Depository Trust Company, or its successor, which successor of The Depository Trust Company must be both a “clearing corporation” as defined in Section 55-8-102(3), NMSA 1978, and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended;

(2) To any new Depository (a) upon the resignation of (i) The Depository Trust Company or a successor or new Depository pursuant to clause (1) hereof or (ii) any new Depository under this clause (2) or (b) upon a determination by the Town that The Depository Trust Company or such successor or new Depository is no longer able to carry out its functions and the designation by the Town of another Depository institution acceptable to the Depository then holding the Bond or Bonds, which new Depository institution must be both a “clearing corporation” as defined in Section 55-8-102(3), NMSA 1978, and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of The Depository Trust Company or such successor or new depository; or

(3) To any registered owner as specified in the transfer instructions in Subsection B of this section (a)(i) upon the resignation of The Depository Trust Company or any successor Depository under clause (1) hereof or of any new Depository under clause (2) hereof or (ii) upon a determination by the Town that The Depository Trust Company or such successor or new Depository is no longer able to carry out its functions or (iii) upon a determination by the Town that the continuation of book-entry only transfers through The Depository Trust Company or such successor or new Depository is not in the best interest of the beneficial owners of the Bonds or the Town, and (b) upon the failure by the Town, after reasonable investigation, to locate another qualified Depository institution under clause (2) to carry out the functions of The Depository Trust Company or such successor or new Depository.

B. Procedures Relating to New Bonds. In the case of a transfer to a successor of The Depository Trust Company or its nominee as referred to in clause (1) of Subsection A hereof or in the case of the designation of a new Depository pursuant to clause (2) of Subsection A hereof, upon receipt of the outstanding Bond or Bonds by the Registrar together with written instructions for transfer satisfactory to the Registrar, a new Bond for each maturity shall be issued to such successor or new Depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (3) of Subsection A hereof and the failure after reasonable investigation to locate another qualified Depository institution for the Bonds as provided in clause (3) of Subsection A hereof, and upon receipt of the outstanding Bond by the Registrar together with written instructions for transfer satisfactory to the Registrar, new Bonds shall be issued in the denominations of \$5,000 or any integral multiple thereof, as provided in and subject to the limitations of Section 5 hereof, registered in the names of such persons, and in such denominations as are requested in such written transfer instructions; however, the Registrar shall not be required to deliver such new

Bonds within a period of less than 30 days from the date of receipt of such written transfer instructions.

C. Responsibilities of the Town and Registrar. The Town and the Registrar shall be entitled to treat the registered owner of any Bond as the absolute owner thereof for any purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them, and the Town and the Registrar shall have no responsibility for transmitting payments to the beneficial owners of the Bonds held by The Depository Trust Company or any successor or new Depository named pursuant to Subsection A hereof.

D. Cooperation of the Town and Registrar. The Town and the Registrar shall endeavor to cooperate with The Depository Trust Company or any successor or new Depository named pursuant to clause (1) or (2) of Subsection A hereof in effectuating payment of principal of and interest on the Bonds by arranging for payment in such a manner that funds representing such payments are available to the Depository on the date they are due.

E. Partial Redemption. Upon any partial redemption of any maturity of the Bonds, Cede & Co., (or its successor) in its discretion may request the Town to issue and authenticate a new Bond or shall make an appropriate 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 Registrar prior to payment.

Section 11. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign, or if the Town shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the Town 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 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 Town shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

Section 12. Special Obligations. All of the Bonds and any obligations under any agreement relating to any draw on any Reserve Fund Insurance Policy which may hereafter be acquired as part of the Reserve Fund Requirement as provided in Section 20(C) hereof related to the Bonds, together with the interest accruing thereon, shall be payable and collectible solely out of the Net Revenues of the System and amounts in the Bond Fund and Reserve Fund, all of which are irrevocably so pledged; the registered owner or owners thereof and the issuer of any Reserve Fund Insurance Policy, if any, 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 as further provided in this ordinance; and the Bonds and any obligations under a Reserve Fund Insurance Policy, if any, shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision; nor shall they be considered or held to be general obligations of the Town; and each of the Bonds herein authorized to be issued shall recite on its face that it is payable and collectible solely from the Net Revenues of the System and amounts in the Bond Fund and Reserve Fund all of which are irrevocably so pledged, and that

the registered owner thereof may not look to any general or other fund for the payment of principal and interest on, and prior redemption premium due in connection with, the Bonds. The Series 2015A Bonds are further secured by an irrevocable and exclusive pledge of Federal Subsidy Payments.

Section 13. Forms of Bonds, Certificate of Authentication, Assignment and Legal Opinion Certificate. The Bonds, Registrar’s Certificate of Authentication and Form of Assignment shall be in substantially the following forms:

(Form of Series 2015A Bond)

Build America Mutual Assurance Company (“BAM”), New York, New York, has delivered its municipal bond insurance policy (the “Policy”) with respect to the scheduled payments due of principal and interest on this Bond to BOKF, NA, Albuquerque, New Mexico, or its successor, as payment agent for the Bonds (the “Paying Agent”). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from BAM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these bonds, the owner acknowledges and consents to the subrogation and all other rights of BAM as more fully set forth in the Policy.

UNITED STATES OF AMERICA

STATE OF NEW MEXICO

COUNTY OF GRANT

No. R-__

\$ _____

TOWN OF SILVER CITY
 JOINT UTILITY SYSTEM IMPROVEMENT REVENUE BONDS
 (QUALIFIED ENERGY CONSERVATION BONDS – DIRECT PAYMENT)
 TAXABLE SERIES 2015A

INTEREST RATE	MATURITY DATE	SERIES DATE	CUSIP
____% per annum	_____, 20__	_____, 2015	_____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ DOLLARS

The Town of Silver City (herein “Town”), in the County of Grant and State of New Mexico, for value received, hereby promises to pay upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, to the registered owner named above, or registered assigns, on the maturity date specified above (unless this bond, if subject to prior redemption, shall have been called for prior redemption, in which case, on such redemption date), upon the presentation and surrender hereof at the office of BOKF, NA (or successor in function) Albuquerque, New Mexico, or its successor (herein the “Paying Agent”) as paying agent for this Bond, the Principal Amount stated above, in lawful money of the United

States of America, and to pay to the registered owner hereof as of the Regular Record Date (defined in Ordinance No. 1240, adopted on September 1, 2015, authorizing this bond and herein the “Bond Ordinance”), by check or draft mailed to such registered owner, on or before each interest payment date as hereinafter provided (or, if such interest payment date is not a business day, on or before the next succeeding business day), at his address as it last appears on the Regular Record Date (being the 15th day of the calendar month, whether or not a business day, preceding each regularly scheduled interest payment date) on the registration books kept for that purpose by the office of BOKF, NA (or successor in function) Albuquerque, New Mexico, as registrar (*i.e.*, transfer agent) for the bonds, or its successor (herein the “Registrar”) or by such other arrangement as may be agreed to by the Registrar and the registered owner hereof, interest on such sum in lawful money of the United States of America from the Series Date specified above or the most recent interest payment date to which interest has been fully paid or duly provided for in full (as more fully provided in the Bond Ordinance) until maturity at the Interest Rate specified above, payable semiannually on June 1 and December 1 in each year commencing on June 1, 2016. Any such interest not so timely paid or duly provided for shall cease to be payable to the registered owner as of the Regular Record Date and shall be payable to the registered owner as of a Special Record Date (as defined in the Bond Ordinance), as further provided in the Bond Ordinance. If upon presentation and surrender to the Paying Agent at or after maturity or on any designated optional prior redemption date on which the Town may have exercised its right to prior redeem this bond pursuant to the Bond Ordinance, payment of this bond is not made as herein provided, interest hereon shall continue at the rate herein designated until the principal hereof is paid in full. All capitalized terms herein shall have the same meanings as set forth in the Bond Ordinance unless otherwise expressly defined herein.

The bonds of the series of which this bond is a part maturing on and after December 1, 2026, are subject to prior redemption at the Town’s option in one or more units of principal of \$5,000 on and after December 1, 2025, in whole or in part at any time, in such order of maturities as the Town may determine (and by lot if less than all of the bonds of any maturity is called, such selection by lot to be made by the Registrar in such manner as it shall consider appropriate and fair) for the principal amount of each \$5,000 unit of principal so redeemed and accrued interest thereon to the redemption date. Redemption shall be made upon mailed notice to each registered owner as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

The Bonds are subject to extraordinary redemption at the option of the Town, in whole or in part, on any Business Day upon the occurrence of any Extraordinary Event, at a redemption price of one hundred percent (100%) of the principal amount of the Bonds being redeemed plus accrued interest to the redemption date. An “Extraordinary Event” will have occurred if (i) there is a final determination by the Internal Revenue Service (after the Town has exhausted all administrative appeal remedies) determining that the Bonds have lost their status as Qualified Energy Conservation Bonds under Section 54D of the Tax Code that are “specified tax credit bonds” under Section 6431 of the Tax Code; (ii) there is entered a final non-appealable order by a court of competent jurisdiction holding that the Bonds have lost their status as Qualified Energy Conservation Bonds under Section 54D of the Tax Code that are “specified tax credit bonds” under Section 6431 of the Tax Code; (iii) Section 54D or Section 6431 of the Tax Code (or other applicable section of the Tax Code or Treasury Regulations) is modified, amended or revised in a manner pursuant to which the Federal Subsidy Payment is reduced by 10% or more

below that set forth in Section 54D or Section 6431 of the Tax Code (or other applicable section of the Tax Code or Treasury Regulations) or eliminated. “Federal Subsidy Payments” means the amount payable by the United States Treasury to the Town pursuant to Section 6431 of the Tax Code in an amount equal to the lesser of (i) interest payable on the Series 2015A Bonds or (ii) 70% of the amount of the applicable tax credit rate determined on the date of sale of the Series 2015A Bonds under Section 54A(b)(3) of the Tax Code; provided that the Town makes certain required filings in accordance with applicable federal rules pertaining to the Federal Subsidy Payments.

The Bonds maturing on December 1, 2030 and December 1, 2035 are subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of the Bonds maturing on December 1, 2030 and December 1, 2035, the Town shall cause to be deposited in the Bond Fund a sum which is sufficient to redeem and there shall be redeemed (after credit as provided in the Bond Ordinance) on the following dates the following principal amounts of such Bonds:

2030 Term Bond	
Redemption Dates (December 1)	Principal Amount
2026	\$230,000
2027	235,000
2028	240,000
2029	245,000
2030*	250,000

2035 Term Bond	
Redemption Dates (December 1)	Principal Amount
2031	\$255,000
2032	260,000
2033	265,000
2034	270,000
2035*	275,000

The bonds of the series of which this is one are fully registered (*i.e.*, registered as to payment of both principal and interest), and are issuable in the denomination of \$5,000 or any denomination which is an integral multiple of \$5,000 (provided that no bond may be in a denomination which exceeds the principal coming due on any maturity date and no bond may be issued for more than one maturity). Upon surrender of any of such bonds at the Registrar with a written instrument satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney, such bond may, at the option of the registered owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such bonds of the same maturity of other authorized denominations, subject to such terms and conditions as set forth in the Bond Ordinance.

This bond is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration books kept by the Registrar upon surrender of this bond together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered bond of authorized denomination or denominations of the same aggregate principal amount and maturity will be issued to the transferee in exchange for this bond, subject to such terms and conditions as set forth in the Bond Ordinance. The Town and the Registrar and Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes, except to the extent otherwise provided above and in this Ordinance with respect to Regular and Special Record Dates for the payment of interest.

The Registrar shall not be required (1) to transfer or exchange all or a portion of any bond subject to optional prior redemption during the period of fifteen days next preceding the mailing of notice to the registered owners calling any bonds for prior redemption pursuant to the Bond Ordinance or (2) to transfer or exchange all or a portion of a bond after the mailing to registered owners of notice calling such bond or portion thereof for prior redemption.

This bond is one of a series of bonds designated “Town of Silver City Joint Utility System Improvement Revenue Bonds (Qualified Energy Conservation Bonds – Direct Payment), Taxable Series 2015A,” of like tenor and date, except as to interest rate, number, maturity and prior redemption provision. The Series 2015 Bonds are authorized for the purpose of financing the costs of extending, enlarging, bettering, retrofitting, repairing and otherwise improving the Town’s Joint Water and Sewer System (the “System”).

This bond does not constitute an indebtedness of the Town within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the Town, and is payable and collectible solely out of the Net Revenues derived from the operation of the System, Federal Subsidy Payments pursuant to Section 54D and Section 6431 of the Tax Code, and amounts in the Bond Fund and 2015A Reserve Fund which are irrevocably so pledged; and the registered owner hereof may not look to any general or other fund for payment of the principal of, interest on, and any prior redemption premium due in connection with this obligation, except the special funds pledged therefor. Payment of the principal of and interest on the bonds of the series of which this is one shall be made solely from, and as security for such payment there are pledged, pursuant to the Bond Ordinance, two special funds identified as the “Town of Silver City Joint Utility System Improvement Revenue Bonds, Taxable Series 2015A, Debt Service Account” (the “2015A Debt Service Account”) and the “Town of Silver City Joint Utility System Improvement and Refunding Revenue Bonds, Series 2015, Reserve Fund” (the “Reserve Fund”), into which the Town covenants to pay from the Revenues derived from the operation of the System, after provision only for all necessary and reasonable Operation and Maintenance Expenses of the System (the “Net Revenues”) and Federal Subsidy Payments, sums sufficient to pay when due the principal of and the interest on the bonds of the series of which this is one and to create (except to the extent created from other funds or except to the extent a Reserve Fund Insurance Policy, as defined in the Bond Ordinance, in the required amount may be credited thereto after the issuance of this bond) and maintain a reasonable and specified reserve for such purpose. For a description of the funds and the nature and extent of the security afforded thereby for the payment of the principal of and interest on the bonds, reference is made to the Bond Ordinance.

The bonds of the series of which this is one are equitably and ratably secured by a lien on the Net Revenues of the System and the bonds constitute an irrevocable first lien, but not necessarily an exclusive first lien, on the Net Revenues of the System. The bonds are further secured by an irrevocable and exclusive first lien on the Federal Subsidy Payments. Bonds in addition to the series of which this is one may be issued and made payable from the Net Revenues of the System, having a lien thereon inferior and junior to the lien or, subject to designated conditions, having a lien thereon on parity with the lien of the bonds of the series of which this is one, in accordance with the provisions of the Bond Ordinance. No additional bonds may be issued with a lien on the Federal Subsidy Payments.

The Town covenants and agrees with the registered owner of this bond and with each and every person who may become the registered owner hereof that it will keep and perform all of the covenants of the Bond Ordinance, including, without limiting the generality of the foregoing, its covenant against the sale or mortgage of the System or any part thereof, unless provision shall be made for the payment of the principal of and interest on the bonds of the series of which this is one, and including its covenant that it fix, maintain and collect rates for services rendered by the System sufficient to produce Revenues annually sufficient to pay the annual Operation and Maintenance Expenses of the System and one hundred twenty-five per cent (125%) of both the principal of (including amounts coming due on mandatory sinking fund redemption) and interest on the Bonds and any other Parity Obligations payable annually from the revenues of the System (excluding the reserves therefor).

This bond is subject to the conditions, and every registered owner hereof by accepting the same agrees with the obligor and every subsequent registered owner hereof that the principal of and the interest on this bond shall be paid, and this bond is transferable, free from, and without regard to any equities between the obligor and the original or any intermediate registered owner hereof for any setoffs or cross-claims.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the Town Council and officers of the Town in the issue of this bond; and that it is issued pursuant to and in strict conformity with the Constitution and laws of the State of New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the certificate of authentication herein.

IN WITNESS WHEREOF, the Town of Silver City has caused this bond to be signed, subscribed, executed, and attested with the manual or facsimile signatures of its Mayor and its Town Clerk, respectively; and has caused its corporate seal to be affixed hereon either manually or by facsimile, all as of the Series Date.

(Manual or Facsimile Signature)

Mayor

(MANUAL OR FACSIMILE SEAL)

Attest:

(Manual or Facsimile Signature)
Town Clerk

(Form of Registrar's Certificate of Authentication)

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

Date of Authentication: _____, 2015

BOKF, NA
Albuquerque, New Mexico, as Registrar

By _____
Authorized Officer

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

(Form of Assignment)

For value received, _____ hereby sells, assigns and transfers unto _____ the within bond and hereby irrevocably constitutes and appoints _____ attorney, to transfer the same on the books of the Registrar, with full power of substitution in the premises.

Signature

Dated: _____

Signature Guaranteed:

Name and address of transferee:

Social Security or other Tax
Identification Number of
Transferee:

(End of Form of Assignment)

(End of Form of Series 2015A Bond)

(Form of Series 2015B Bond)

Build America Mutual Assurance Company (“BAM”), New York, New York, has delivered its municipal bond insurance policy (the “Policy”) with respect to the scheduled payments due of principal and interest on this Bond to BOKF, NA, Albuquerque, New Mexico, or its successor, as payment agent for the Bonds (the “Paying Agent”). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from BAM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these bonds, the owner acknowledges and consents to the subrogation and all other rights of BAM as more fully set forth in the Policy.

UNITED STATES OF AMERICA

STATE OF NEW MEXICO

COUNTY OF GRANT

No. R-__

\$ _____

TOWN OF SILVER CITY
JOINT UTILITY SYSTEM REFUNDING REVENUE BONDS
TAX-EXEMPT SERIES 2015B

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>SERIES DATE</u>	<u>CUSIP</u>
____% per annum	_____, 20__	_____, 2015	_____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ DOLLARS

The Town of Silver City (herein “Town”), in the County of Grant and State of New Mexico, for value received, hereby promises to pay upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, to the registered owner named above, or registered assigns, on the maturity date specified above (unless this bond, if

subject to prior redemption, shall have been called for prior redemption, in which case, on such redemption date), upon the presentation and surrender hereof at the office of BOKF, NA (or successor in function) Albuquerque, New Mexico, or its successor (herein the "Paying Agent") as paying agent for this Bond, the Principal Amount stated above, in lawful money of the United States of America, and to pay to the registered owner hereof as of the Regular Record Date (defined in Ordinance No. 1240, adopted on September 1, 2015, authorizing this bond and herein the "Bond Ordinance"), by check or draft mailed to such registered owner, on or before each interest payment date as hereinafter provided (or, if such interest payment date is not a business day, on or before the next succeeding business day), at his address as it last appears on the Regular Record Date (being the 15th day of the calendar month [whether or not a business day] preceding each regularly scheduled interest payment date) on the registration books kept for that purpose by the office of BOKF, NA (or successor in function) Albuquerque, New Mexico, as registrar (*i.e.*, transfer agent) for the bonds, or its successor (herein the "Registrar") or by such other arrangement as may be agreed to by the Registrar and the registered owner hereof, interest on such sum in lawful money of the United States of America from the Series Date specified above or the most recent interest payment date to which interest has been fully paid or duly provided for in full (as more fully provided in the Bond Ordinance) until maturity at the Interest Rate specified above, payable semiannually on June 1 and December 1 in each year commencing on June 1, 2016. Any such interest not so timely paid or duly provided for shall cease to be payable to the registered owner as of the Regular Record Date and shall be payable to the registered owner as of a Special Record Date (as defined in the Bond Ordinance), as further provided in the Bond Ordinance. If upon presentation and surrender to the Paying Agent at or after maturity or on any designated optional prior redemption date on which the Town may have exercised its right to prior redeem this bond pursuant to the Bond Ordinance, payment of this bond is not made as herein provided, interest hereon shall continue at the rate herein designated until the principal hereof is paid in full. All capitalized terms herein shall have the same meanings as set forth in the Bond Ordinance unless otherwise expressly defined herein.

The Series 2015B Bonds are not subject to redemption prior to maturity.

The bonds of the series of which this is one are fully registered (*i.e.*, registered as to payment of both principal and interest), and are issuable in the denomination of \$5,000 or any denomination which is an integral multiple of \$5,000 (provided that no bond may be in a denomination which exceeds the principal coming due on any maturity date and no bond may be issued for more than one maturity). Upon surrender of any of such bonds at the Registrar with a written instrument satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney, such bond may, at the option of the registered owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such bonds of the same maturity of other authorized denominations, subject to such terms and conditions as set forth in the Bond Ordinance.

This bond is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration books kept by the Registrar upon surrender of this bond together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered bond of authorized denomination or denominations of the same aggregate principal amount and maturity will be issued to the transferee in exchange for this bond, subject to such terms and conditions as set forth in the Bond Ordinance. The Town

and the Registrar and Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes, except to the extent otherwise provided above and in this Ordinance with respect to Regular and Special Record Dates for the payment of interest.

The Registrar shall not be required (1) to transfer or exchange all or a portion of any bond subject to optional prior redemption during the period of fifteen days next preceding the mailing of notice to the registered owners calling any bonds for prior redemption pursuant to the Bond Ordinance or (2) to transfer or exchange all or a portion of a bond after the mailing to registered owners of notice calling such bond or portion thereof for prior redemption.

This bond is one of a series of bonds designated "Town of Silver City Joint Utility System Refunding Revenue Bonds, Tax-Exempt Series 2015B," of like tenor and date, except as to interest rate, number, maturity and prior redemption provision. The Series 2015B Bonds are authorized for the purpose of refunding, redeeming and paying upon issuance of the Series 2015B Bonds, the Town's outstanding Loan Agreement with the New Mexico Environment Department, as amended, maturing after August 6, 2015.

This bond does not constitute an indebtedness of the Town within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the Town, and is payable and collectible solely out of the Net Revenues derived from the operation of the Joint Utility System (the "System") and amounts in the Bond Fund which are irrevocably so pledged; and the registered owner hereof may not look to any general or other fund for payment of the principal of and interest on, this obligation, except the special funds pledged therefor. Payment of the principal of and interest on the bonds of the series of which this is one shall be made solely from, and as security for such payment there are pledged, pursuant to the Bond Ordinance, a special fund identified as the "Town of Silver City Joint Utility System Improvement Revenue Bonds, Taxable Series 2015B, Debt Service Account" (the "2015B Debt Service Account") and the "Town of Silver City Joint Utility System Improvement and Refunding Revenue Bonds, Series 2015, Reserve Fund" (the "Reserve Fund"), into which the Town covenants to pay from the Revenues derived from the operation of the System, after provision only for all necessary and reasonable Operation and Maintenance Expenses of the System (the "Net Revenues"), sums sufficient to pay when due the principal of and the interest on the bonds of the series of which this is one and to create (except to the extent created from other funds in the required amount may be credited thereto after the issuance of this bond) and maintain a reasonable and specified reserve for such purpose. For a description of the funds and the nature and extent of the security afforded thereby for the payment of the principal of and interest on the bonds, reference is made to the Bond Ordinance.

The bonds of the series of which this is one are equitably and ratably secured by a lien on the Net Revenues of the System and the bonds constitute an irrevocable first lien, but not necessarily an exclusive first lien, on the Net Revenues of the System. Series 2015B Bonds in addition to the series of which this is one may be issued and made payable from the Net Revenues of the System, having a lien thereon inferior and junior to the lien or, subject to designated conditions, having a lien thereon on parity with the lien of the bonds of the series of which this is one, in accordance with the provisions of the Bond Ordinance.

The Town covenants and agrees with the registered owner of this bond and with each and every person who may become the registered owner hereof that it will keep and perform all of the covenants of the Bond Ordinance, including, without limiting the generality of the foregoing, its covenant against the sale or mortgage of the System or any part thereof, unless provision shall be made for the payment of the principal of and interest on the bonds of the series of which this is one, and including its covenant that it fix, maintain and collect rates for services rendered by the System sufficient to produce Revenues annually sufficient to pay the annual Operation and Maintenance Expenses of the System and one hundred twenty per cent (125%) of both the principal of (including amounts coming due on mandatory sinking fund redemption) and interest on the Bonds and any other Parity Obligations payable annually from the revenues of the System (excluding the reserves therefor).

This bond is subject to the conditions, and every registered owner hereof by accepting the same agrees with the obligor and every subsequent registered owner hereof that the principal of and the interest on this bond shall be paid, and this bond is transferable, free from, and without regard to any equities between the obligor and the original or any intermediate registered owner hereof for any setoffs or cross-claims.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the Town Council and officers of the Town in the issue of this bond; and that it is issued pursuant to and in strict conformity with the Constitution and laws of the State of New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the certificate of authentication herein.

IN WITNESS WHEREOF, the Town of Silver City has caused this bond to be signed, subscribed, executed, and attested with the manual or facsimile signatures of its Mayor and its Town Clerk, respectively; has caused its corporate seal to be affixed hereon either manually or by facsimile, all as of the Series Date.

(Manual or Facsimile Signature)

Mayor

(MANUAL OR FACSIMILE SEAL)

Attest:

(Manual or Facsimile Signature)

Town Clerk

(Form of Registrar's Certificate of Authentication)

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This is one of the bonds described in the within-mentioned Bond Ordinance, and this bond has been duly registered on the registration books kept by the undersigned as Registrar for such Series 2015B Bonds.

Date of Authentication: _____, 2015

BOKF, NA
Albuquerque, New Mexico, as Registrar

By _____
Authorized Officer

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

(Form of Assignment)

For value received, _____ hereby sells, assigns and transfers unto _____ the within bond and hereby irrevocably constitutes and appoints _____ attorney, to transfer the same on the books of the Registrar, with full power of substitution in the premises.

Signature

Dated: _____

Signature Guaranteed:

Name and address of transferee:

Social Security or other Tax
Identification Number of
Transferee:

(End of Form of Assignment)

(End of Form of Series 2015B Bond)

Section 14. Sale of Bonds and Approval of Documents. The Town hereby agrees to sell the Bonds to the Underwriter in accordance with the Bond Purchase Agreement. The form, terms and provisions of the Bond Purchase Agreement, the Preliminary Official Statement, the Official Statement, the Continuing Disclosure Undertaking, the Insurance Agreement and the Commitments in the forms heretofore on file with the Town Clerk and presented at the meeting, are in all respects approved, authorized and confirmed. The information in the Preliminary Official Statement was “deemed final” by the Town as of its date for purposes within the meaning of Rule 15c2-12 under the Securities and Exchange Act of 1934 except for omission of information described in paragraph (b)(1) of such Rule 15c2-12. The Mayor is authorized and directed, and the Town Clerk is authorized and directed to affix the seal of the Town to and attest, the Bond Purchase Agreement, the Continuing Disclosure Undertaking, the Insurance Agreement, the Commitments, the Preliminary Official Statement, and the Official Statement in substantially the same form as the Preliminary Official Statement with such changes therein as are not inconsistent with this Ordinance and as shall be approved by the Mayor, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions thereof from the form now before this meeting. From and after the execution and delivery of the Bond Purchase Agreement and the Continuing Disclosure Undertaking, the officers, agents and employees of the Town are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Bond Purchase Agreement as executed. The use and distribution of the Preliminary Official Statement and the Official Statement in connection with the sale of the Bonds to the public are hereby authorized and acknowledged.

Section 15. Delivery of Bonds and Registration. When the Bonds have been duly executed, authenticated, registered and sold, the Registrar shall deliver them to The Depository Trust Company on behalf of the Underwriter upon receipt of the agreed purchase price unless otherwise provided in writing by the Underwriter. The Registrar shall initially register the Bonds in the name of “Cede & Co.”

Section 16. Use of Proceeds - Period of Usefulness. Except as herein otherwise specifically provided, the proceeds derived from the sale of the Bonds shall be used and paid solely for the purpose of the Project. The Improvement Project is hereby determined to have a period of usefulness of not less than 20 years from the date of this ordinance.

Section 17. Disposition of Proceeds and Other Funds. On the date of delivery of the Bonds, the net proceeds from the sale of the Bonds, together with \$40,000.00 of available funds of the Town, shall be deposited or used as follows:

A. The accrued interest of \$-0- received on the date of delivery of the Bonds shall be deposited into the Bond Account.

B. \$3,831,800.00 from the proceeds of the Series 2015A Bonds shall be deposited in the Acquisition Fund, which is hereby established and which shall be maintained by or on behalf of the Town in an Insured Bank. Until the completion of the Improvement Project, the money in the 2015A Acquisition Fund shall be used and paid out solely for the purpose of the Improvement Project in compliance with applicable law. As soon as practicable after completion of the Improvement Project, and in any event not more than 60 days after completion of the Improvement Project, any proceeds remaining unspent (other than any amount retained by the Town for the any Improvement Project costs not then due and payable) shall be transferred and deposited in the 2015A Debt Service Account and used by the Town to pay principal and interest on the Series 2015A Bonds as the same become due.

C. \$864,143.61 from the proceeds of the Series 2015B Bonds shall be used for the Refunding Project.

D. \$78,200.00 be used to pay Expenses related to issuance of the Series 2015A Bonds, including \$24,826.70 to be used to pay the premiums for the Municipal Bond Insurance Policy and the Reserve Fund Insurance Policy as related to the Series 2015A Bonds and \$22,325.24 for underwriter's discount, which does not exceed 2% of the proceeds of the Series 2015A Bonds, together with \$40,000.00 of available funds of the Town to pay all remaining Expenses of the Series 2015A Bonds in an amount greater than 2% of the proceeds of the Series 2015A Bonds.

E. \$46,186.83 be used to pay Expenses, which includes \$7,528.69 for underwriter's discount, related to issuance of the Series 2015B Bonds.

F. \$5,746.33 from the proceeds of the Series 2015B Bonds to be used to pay the premiums for the Municipal Bond Insurance Policy and the Reserve Fund Insurance Policy as related to the Series 2015B Bonds.

G. \$7,659.73 shall be deposited in the 2015B Debt Service Account for payment of debt service on the Series 2015B Bonds.

The Town Finance Director shall be, and hereby is, authorized to make any necessary adjustments in the amounts to be deposited in the funds and accounts described in this Section on the Closing Date.

Section 18. Underwriter Not Responsible. The validity of the Bonds is neither dependent on nor affected by the validity or regularity of any proceedings related to the completion of the Project. The Underwriter of the Bonds, and any subsequent owner of any Bonds, shall in no manner be responsible for the application or disposal by the Town or by any officer or any employee or other agent of the Town of the moneys derived from the sale of the Bonds or of any other moneys herein designated.

Section 19. Income Fund. So long as any of the Bonds shall be outstanding, either as to principal or interest, or both, the Revenues of the System shall be set aside and deposited

monthly into a separate account hereby continued and held by the Town known as the “Town of Silver City Joint Utility System Gross Income Fund” (the “Income Fund”).

Section 20. Administration of Income Fund. So long as any of the Bonds shall be outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Income Fund:

A. Operation and Maintenance Expenses. First, as a first charge thereon, there shall from time to time be set aside into and credited to the “Town of Silver City Joint Utility Operation and Maintenance Fund” (herein in the “Operation and Maintenance Fund”), which is hereby continued and held by the Town, moneys in the Income Fund sufficient to pay Operation and Maintenance Expenses as they become due and payable, and thereupon they shall be promptly paid.

B. Bond Fund. Second, subject and subordinate to the provisions of Subsection A of this Section 20, concurrently with and on parity with any monthly deposits for payment of principal and interest on additional Parity Obligations, from any moneys remaining in the Income Fund, there shall be credited to a separate fund hereby created and to be known as the “Town of Silver City Joint Utility System Improvement and Refunding Revenue Bonds, Series 2015, Interest and Bond Retirement Fund” (herein “Bond Fund”) and, within the Bond Fund, to a “2015A Debt Service Account” and a “2015B Debt Service Account”, which are hereby created and held by the Paying Agent, the following amounts:

(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 moneys therein and available therefor, to pay the next maturing installment of interest on the Series 2015A Bonds and Series 2015B Bonds then outstanding, and monthly thereafter commencing on that interest payment date one-sixth of the amount necessary to pay the next maturing installment of interest on the outstanding Series 2015A Bonds and Series 2015B Bonds.

(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 moneys therein and available therefor, to pay the next maturing installment of principal on the Series 2015A Bonds and the Series 2015B Bonds then outstanding and monthly thereafter commencing on that principal payment date, one-twelfth of the amount necessary to pay the next maturing installment of principal on the outstanding Series 2015A Bonds and Series 2015B Bonds.

Upon receipt semi-annually, the Town shall deposit Federal Subsidy Payments directly into the 2015A Debt Service Account to be used for debt service payments on the Series 2015A Bonds. Nothing herein shall prevent the Town, in its discretion, from making any of the foregoing deposits from other legally available funds. If, prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payments required in subparagraph (1) or (2) (whichever is applicable) of this Section 20(B) may be appropriately reduced, and the required monthly amounts shall be credited to such account

commencing on such interest payment date or principal payment date (whichever is applicable). The moneys in the Bond Fund are irrevocably and exclusively pledged to the payment of the Bonds.

C. Reserve Fund. Immediately upon delivery of the Bonds a Reserve Fund Insurance Policy in the amount of the Reserve Fund Requirement, shall be deposited into and credited to a separate fund hereby created to be known as the “Town of Silver City Joint Utility System Improvement and Refunding Revenue Bonds, Series 2015, Reserve Fund” (the “Reserve Fund”) so that the Reserve Fund Requirement is accumulated upon delivery of the Bonds. Any moneys and investments thereof or, in lieu thereof, a Reserve Fund Insurance Policy deposited in the Reserve Fund are irrevocably and exclusively pledged to payment of the Bonds.

After deposit of the Reserve Fund Requirement, subordinate to the payments required by the prior paragraph, there shall be credited monthly to the Reserve Fund from the Income Fund, such amount or amounts, if any as are necessary to maintain the Reserve Fund as a continuing reserve in an amount not less than the Reserve Fund Requirement to meet possible deficiencies in the Bond Fund and to pay all amounts owed to the Bond Insurer under the Bond Ordinance and the Insurance Agreement in connection with the Reserve Policy. The moneys in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as provided in the following two paragraphs, only to prevent deficiencies in the payment of the principal of and interest on the Bonds resulting from failure to deposit into the Bond Fund sufficient funds to pay principal of and interest on the Bonds as the same become due. Amounts in the Reserve Fund in excess of the Reserve Fund Requirement shall be withdrawn from the Reserve Fund and deposited into the Bond Fund (including investment income therefrom) and shall be used to pay the principal of or interest on the Bonds or any obligations refunding the Bonds. Also, subordinate to the payments required by the prior paragraph and coequal and on a parity with payments into the Reserve Fund, there may be credited on a periodic basis of not more frequently than monthly, amounts necessary to establish, maintain or reestablish reasonable reserve funds for additional Parity Obligations or necessary to reimburse a credit facility provider for amounts due in connection with a draw on any debt service reserve surety bond or similar credit facility for any such additional Parity Obligations.

D. Termination Upon Deposits to Maturity. No payment need be made into the Bond Fund, the Reserve Fund or both if the amounts (exclusive of amounts available under the Reserve Fund Insurance Policy) in the Bond Fund and Reserve Fund total a sum at least equal to the entire amount of the Bonds then outstanding, both as to principal and interest to their respective maturities, and both accrued and not accrued, in which case, moneys in said funds in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue and any moneys in excess thereof in said funds and any other moneys derived from the Net Revenues may be used in any lawful manner determined by the Town.

E. Defraying Delinquencies in Bond Fund and Reserve Fund. If, at any designated time, the Town shall, for any reason, fail to pay into the Bond Fund the full amount above stipulated from the Net Revenues, or as to the Series 2015A Bonds from Federal Subsidy Payments, then an amount shall be paid into said Bond Fund at the designated time from the moneys in the Reserve Fund equal to the difference between that paid from said Net Revenues, or as to the Series 2015A Bonds from Federal Subsidy Payments, and the full amount so

stipulated. The money in the Reserve Fund so used shall be replaced in the Reserve Fund from the available Net Revenues then on deposit in the Income Fund and from the first revenues thereafter received from the Net Revenues not required to be otherwise applied. If the Town shall, for any reason, fail to pay into the Reserve Fund the full amount above stipulated from the Net Revenues, the difference between the amount paid and the amount so stipulated shall in like manner be paid therein from the first Net Revenues thereafter available in the Income Fund. The moneys in the Bond Fund and the Reserve Fund shall be used solely and only for the purpose of paying the principal of and the interest on the Bonds. Cash accumulated in the Reserve Fund shall not be invested in a manner which could cause the Bonds to become arbitrage bonds within the meaning of the Tax Code. Any investments held in the Reserve Fund shall be valued annually, on or about December 1, at their current fair market value and, if the amount then on deposit in the Reserve Fund exceeds the Reserve Fund Requirement, all amounts in excess of the Reserve Fund Requirement shall be transferred to the Bond Fund and used to pay principal of and interest on the Bonds. Any moneys in the Bond Fund and the Reserve Fund in excess of accrued and unaccrued principal and interest requirements to the respective maturities of the outstanding Bonds may be used as provided in this Ordinance.

F. Rebate Fund. There is hereby created a separate account to be known as the “Town of Silver City Joint Utility System Refunding Revenue Bonds, Series 2015, Bond Rebate Fund” (the “Rebate Fund”). All of the amounts on deposit in the accounts and funds created and established by this Ordinance and all amounts pledged to the payment of debt service for the Bonds shall be invested in compliance with the requirements of Section 27(V) hereof. Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this Ordinance to the extent such amounts are required to be paid to the United States Treasury. Fourth, and after and subordinate to the payments required by Subsections A through E of this Section 20, but on parity with any rebate fund or account which may be established for any Parity Obligations to which the Net Revenues have been pledged in whole or in part, there shall be transferred into the Rebate Fund from the Income Fund, such amounts as are required to be deposited therein to meet the Town’s obligations under the covenant contained in Section 27(V) hereof, in accordance with Section 148(f) of the Tax Code and which have not been deposited into the Rebate Fund from other sources. Amounts in the Rebate Fund shall be used for the purpose of making the payments to the United States required by Section 148(f) of the Tax Code. Any amounts in the Rebate Fund in excess of the amount required to be on deposit therein by Section 148(f) of the Tax Code shall be withdrawn therefrom and deposited into the Income Fund or Bond Fund as may be permitted by law.

G. Interest on and Expenses relating to any Reserve Fund Insurance Policy Draws. Fifth, but subordinate and subsequent to the payments required by Subsections A through F of this Section 20, moneys in the Income Fund shall be used to pay interest on amounts advanced under and reasonable expenses relating thereto under any agreement relating to any Reserve Fund Insurance Policy.

H. Subordinate Obligations. Sixth, but subordinate to, and after making the payments required by Subsections A through G of this Section 20, any moneys in the Income Fund shall be used to pay principal of, interest on and any reserve fund for obligations payable from the Net Revenues having a lien thereon which is subordinate and junior to the lien of the Bonds.

I. Use of Surplus Revenues. Seventh, subordinate to, and after making the payments required to be made by Subsections A through H of this Section 20, and after any payments which may be required by any ordinance or resolution hereafter adopted relating to the payment of additional obligations, the remaining moneys in the Income Fund, if any, may be applied to any other lawful purpose or purposes authorized by the Constitution and laws of the State as the Town Council may direct.

Section 21. General Administration of Funds. The funds and accounts designated in Sections 17 through 20 of this Ordinance shall be administered as follows:

A. Investment of Money. Any moneys in any fund designated in Sections 17 through 20 may be invested in Permitted Investments. The obligations purchased as an investment of moneys in a particular fund shall be deemed at all times to be part of that fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund, and any loss resulting from each investment shall be charged to that fund. The Town Finance Director shall present for redemption or sale on the prevailing market any obligations purchased as an investment of moneys in the fund whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

B. Deposits of Funds. The moneys and investments comprising each of the funds and accounts designated in Sections 17 through 20 of this Ordinance shall be held by the Town and 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 as specified in Section 20. Each payment shall be made into the proper bank account and credited to the proper fund not later than the last day designated; provided that when the designated date is not a business day, then such payment shall be made on the next succeeding 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 17 through 20 of this Ordinance.

Section 22. Lien on Net Revenues of the System and Federal Subsidy Payments. The Bonds constitute an irrevocable and valid first lien on the Net Revenues of the System. The Series 2015A Bonds constitute an irrevocable, exclusive and valid first lien on the Federal Subsidy Payments.

Section 23. Additional Bonds and Other Obligations.

A. Limitations Upon Issuance of Parity Obligations. Nothing in this Ordinance shall be construed in such a manner as to prevent the issuance by the Town of additional bonds or other obligations payable from the Net Revenues derived from the operation of the System and constituting a lien upon Net Revenues on parity with, but not prior or 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, provided, however, that before any such additional Parity Obligations are issued, including those Parity Obligations which refund subordinate lien bonds and other subordinate lien obligations (but not including Parity Obligations which refund outstanding Parity Obligations as permitted by Sections 24B(1) and 24D(1) hereof):

(1) the Town is then current in all of the accumulations then required to be made in the Bond Fund and Reserve Fund (which includes any amount furnished by any Reserve Fund Insurance Policy) pursuant to Section 20 hereof and is then current in any payments to be made to any Bond Insurer pursuant to any agreement relevant thereto; and

(2) either:

a. the gross revenues derived from the operation of the System for the Fiscal Year or for any twelve (12) consecutive months out of the twenty-four (24) months immediately preceding the date of the issuance of such additional Parity Obligations (the "Historic Test Period") shall have been sufficient to pay the annual Operation and Maintenance Expenses for such Historic Test Period and in addition, sufficient to pay an amount representing at least 150% of the maximum annual principal and interest coming due in any subsequent Fiscal Year on the outstanding Bonds and other outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding any reserves therefor); or

b. (i) the gross revenues derived from the operation of the System for the Fiscal Year or for the Historic Test Period shall have been sufficient to pay the annual Operation and Maintenance Expenses for such Historic Test Period, and in addition, sufficient to pay an amount representing at least 150% of the maximum annual principal and interest coming due in any subsequent Fiscal Year on only the outstanding Bonds and other outstanding Parity Obligations of the Town (excluding any reserves therefor) and (ii) the estimated gross revenues derived from the operation of the System for the twelve months ("succeeding twelve months") commencing on the first day of the thirty-sixth month following the estimated completion date of the project for which such additional Parity Obligations are proposed to be issued or the first day of the thirty-sixth month following the delivery of such Parity Obligations, whichever is earlier, shall be sufficient to pay the estimated Operation and Maintenance Expenses for such succeeding twelve months and an amount representing at least 150% of the maximum annual principal and interest coming due in any subsequent Fiscal Year on the outstanding Bonds and other outstanding Parity Obligations of the Town and the Parity Obligations proposed to be issued (excluding any reserves therefor).

With respect to any Parity Obligations which bear interest at floating or variable rates, the maximum allowable rate under the applicable ordinance or resolution authorizing such Parity Obligations shall be used for purposes of the tests set forth in subparagraph (2) of Subsection A of this Section 23. For purposes of the tests set forth in clauses (a) and (b) above, if on the date of issuance of any such Parity Obligations the full amount of a reserve fund requirement or minimum reserve for the Parity Obligations is immediately funded or capitalized from the proceeds of such Parity Obligations (but excluding the amount of any Reserve Fund Insurance Policy), the amount of such reserve fund requirement or minimum reserve so funded shall be deducted from the principal and interest coming due in the final Fiscal Year for the proposed additional Parity Obligations.

B. Adjustment of Expenses and Revenues. In determining whether or not the additional Parity Obligations may be issued as provided in Subsection A of this Section 23:

(1) Consideration shall be given to any probable increase or reduction in Operation and Maintenance Expenses that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the Parity Obligations or other obligations; and

(2) The revenues of the System shall be increased if any schedule of rate increases shall have been adopted by ordinance, resolution or other appropriate action and shall have become effective (and the time during which a referendum petition, if applicable, with respect to such ordinance, resolution or other appropriate action has expired prior to the issuance of the Parity Obligations), by an amount conservatively estimated to equal the difference between the gross revenues actually received by the Town and the gross revenues which the Town probably would have received during the Fiscal Year if the last of any such schedule of rate increases had been in effect during the entire Fiscal Year.

C. Certification or Opinion of Net Revenues. A written certification or opinion by the Town's Finance Director, that such Net Revenues, when adjusted as provided in Subsection (B) of this Section 23, are sufficient to pay the specified amounts, shall be conclusively presumed to be accurate in determining the right of the Town to authorize, issue, sell and deliver additional Parity Obligations; provided that a written certification or opinion of a Consulting Engineer as to the estimated completion date of any such project, and the estimated revenues and estimated Operation and Maintenance Expenses for the succeeding twelve months also shall be conclusively presumed to be accurate and the Town's Finance Director may conclusively rely upon such written opinion of the Consulting Engineer in determining the test under (2)(b)(ii) of Subsection (A) of this Section 23. A written estimate by a Consulting Engineer as to the increase or decrease in Operation and Maintenance Expenses in Subsection (B)(1) of this Section 23 shall be conclusively presumed to be accurate and the Town's Finance Director may conclusively rely thereupon. The adjustment referred to in Subsection (B)(2) of this Section 23 shall be conclusive and may be relied on by all parties if made in writing by the Town's Finance Director.

D. Subordinate Obligations Permitted. Nothing in this Ordinance shall be construed in such a manner as to prevent the issuance by the Town of additional bonds or other obligations payable from the Net Revenues of the System and constituting a lien upon the Net Revenues of the System subordinate, inferior and junior to the lien thereon of the Bonds.

E. Superior Obligations Prohibited. Nothing in this Ordinance shall be construed so as to permit the Town to issue bonds or other obligations payable from the Net Revenues of the System having a lien thereon prior and superior to the Bonds.

F. Federal Subsidy Payments. The Federal Subsidy Payments are pledged exclusively to the Series 2015A Bonds and may not be pledged as security for any other obligations now or hereafter outstanding.

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 Town shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Net Revenues of the System, 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 (i) shall then mature or (ii) shall then be callable for prior redemption at the Town's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Net Revenues of the System is changed (except as provided in Subsection (E) of Section 23 and in Subsections (B) and (C) of this Section 24).

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

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

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

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; and the registered owner or owners of such refunding bonds or such other refunding obligations shall be subrogated to all 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 Net Revenues of the System shall be issued with such details as the Town may provide by ordinance or resolution, subject to the inclusion of any such rights and privileges designated in Subsection (C) of this Section 24, but without any impairment of any contractual obligations imposed upon the Town by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including but not necessarily limited to the Bonds authorized herein). If only a part of the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Net Revenues of the System are 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 the aggregate annual principal and interest coming due in connection both with such refunding obligations and 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 and, if applicable, Subsection (B) of Section 23, or

(3) The lien on the Net Revenues of the System for the payment of the refunding obligations is subordinate to the lien thereon for the payment of any obligations not refunded.

Section 25. Equality of Bonds. The Bonds authorized to be issued hereunder and from time to time outstanding shall not be entitled to any priority one over the other in the application of the Net Revenues of the System, regardless of the time or times of their issuance, it being the intention of the Town Council that there shall be no priority among the Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 26. Protective Covenants. The Town hereby covenants and agrees with each and every registered owner of the Bonds that:

A. Use of Bond Proceeds. The Town, with the proceeds derived from the sale of the Bonds, will proceed without delay to complete the Improvement Project and the Refunding Project as herein provided.

B. Payment of Bonds Herein Authorized. The Town will promptly pay the principal of and the interest on every Bond issued hereunder and secured hereby at the place, on the dates and in the manner specified herein and in the Bonds according to the true intent and meaning hereof. Such principal and interest are payable solely from the Net Revenues to be derived from the operation of, the resultant rates and charges for the use of, and the products and services rendered by, the System, and nothing in the Bonds or in this Ordinance shall be construed as obligating the Town to redeem any of the Bonds or to pay the principal thereof or interest thereon from, and the registered owner or owners thereof may not look to, any general or other fund except the income which is pledged under the provisions of this Ordinance.

C. Use Charges. Rates for all services rendered by the System to the Town and its citizens shall be reasonable and just, taking into account and consideration the cost and value of the System and the proper and necessary allowances for the depreciation thereof and the amounts necessary for the retirement of all bonds and other securities or obligations payable from the revenues of the System, accruing interest thereon, and reserves therefor, and there shall be charged against all purchasers of service, including the Town, such rates and amounts as shall be adequate to meet the requirement of this and the preceding Sections hereof, and which shall be sufficient to produce Revenues annually to pay the annual Operation and Maintenance Expenses of the System and one hundred twenty-five percent (125%) of both the principal of and interest on the Bonds and any other Parity Obligations payable annually from the revenues thereof one hundred percent (100%) of both the principal of and interest on any obligations constituting a lien upon the Net Revenues of the System subordinate to the lien thereon of the Bonds (in each case, excluding the reserves therefor but including amounts coming due under mandatory sinking fund redemption provisions), all of which revenues, including those received from the Town, shall be subject to distribution to the payment of the cost of operating and maintaining the System and the payment of principal (including payments coming due on

mandatory sinking fund redemption) of and interest on all obligations payable from the revenues of the System, including reasonable reserves therefor. No free service, facilities nor commodities shall be furnished by the System. Should the Town elect to use for municipal purposes water supplied by, or the sanitary sewer or other facilities of, the System, or any combination thereof, or in any other manner use the System, or any part thereof, any use of the System by or of the services rendered thereby to the Town, or any department, board or agency thereof, will be reimbursed from the Town's general fund or other available revenues at the reasonable value of the use so made, or service, facility or commodity so rendered; and all the revenue so derived from the Town shall be deemed to be revenues derived from the operation of the System, to be used and accounted for in the same manner as any other income derived from the operation of the System. The Town is granted by statute a lien upon each lot or parcel of land in the Town for the charges imposed hereunder for water and sewer services supplied by the System to the owner thereof (except as otherwise provided in Section 3-23-6 NMSA 1978), and the Town expressly covenants and agrees that it will cause each such lien to be perfected in accordance with the provisions of Sections 3-23-6 and 3-36-1 through 3-36-7 NMSA 1978, as from time to time amended and supplemented, and the Town covenants and agrees that it will take all reasonable steps necessary to enforce such lien as to each piece of property the owner of which shall be delinquent for more than six months in the payment of charges imposed hereunder.

D. Levy of Charges. The Town will forthwith and in any event prior to the delivery of any of the Bonds fix, establish and levy the rates and charges which are required by Subsection C of this Section, if such action be necessary therefor. No reduction in any initial or existing rate schedule for the System may be made unless:

(1) The Town has fully complied with the provisions of Section 20 of this Ordinance for at least the full Fiscal Year immediately preceding such reduction of the initial rate schedule; and

(2) The audit of the Independent Accountant required by Subsection H of this Section 26 for the full Fiscal Year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule, after its proposed reduction, will be sufficient to pay an amount at least equal to the annual cost for that period of Operation and Maintenance Expenses, and, in addition, (i) one hundred fifty percent (150%) of both the principal of and interest on the Bonds and any other Parity Obligations payable annually from the revenues of the System, and (ii) one hundred percent (100%) of both the principal of and interest on any obligations constituting a lien upon the Net Revenues of the System subordinate to the lien thereon of the Bonds (in each case excluding reasonable reserves therefor but including amounts coming due under mandatory sinking fund redemption provisions).

E. Efficient Operation. The Town will operate the System so long as any of the Bonds herein authorized are outstanding, maintain the System in efficient operating condition and make such improvements, extensions, enlargements, repairs and betterments thereto as may be necessary or advisable to insure its economical and efficient operation at all times and to the extent sufficient to supply public or private demands for service within the Town and the territory served by the System.

F. Records. So long as any of the Bonds remain outstanding, proper books of record and account will be kept by the Town, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the System. Such books shall include (but not necessarily be limited to) monthly records showing:

(1) The number of customers separately for the water facilities and sanitary sewer facilities;

(2) The revenues separately received from charges by classes of customers, including but not necessarily limited to classification by water facilities and sanitary sewer facilities; and

(3) A detailed statement of the expenses of the System.

G. Right to Inspect. Any registered owner of any of the Bonds, or any duly authorized agent or agents of such registered owner, shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect the System and all properties comprising the System.

H. Audits. The Town further agrees that, except where the State Auditor of the State performs the audit or where the due date for the audit has been postponed as may otherwise be required by the State Auditor or any other state office or agency with appropriate authority, it will, within 270 days following the close of each Fiscal Year, cause an audit of such books and accounts to be made by an Independent Accountant, showing the receipts and disbursements for the account of the System, and that such audit will be available for inspection by any registered owner of any of the Bonds, provided that where the State Auditor performs the audit or the audit has been postponed as aforesaid so that the audit is not available until more than 270 days following the close of the Fiscal Year, the Town will use its best efforts to have the audit completed as soon as possible following the close of the Fiscal Year. All expenses incurred in the making of the audits and reports required by this Section shall be regarded and paid as an Operation and Maintenance Expense. The Town agrees to furnish forthwith a copy of each of such audits and reports as may be provided in the Continuing Disclosure Undertaking.

I. Billing Procedure. All bills for water, water service or facilities, sewer service or facilities, or any combination thereof, furnished or served by or through the System shall be rendered to customers on a regularly established basis in each and every month either monthly in advance or in the month next succeeding the month in which the service was rendered and shall be due within 20 days from the date rendered; and in the event that any bill is not paid within 35 days after the date when rendered, water and water service shall be discontinued, except as otherwise provided by law, and the rates and charges due shall be collected in a lawful manner, including but not limited to the cost of disconnection and reconnection. Water charges and sewer charges may be billed jointly with each other; provided that each joint bill shall show separately water and sewer charges.

J. Use of Bond Fund and Reserve Fund. The Bond Fund and the Reserve Fund shall be used solely and only for the purposes set forth in Subsections (B), (C), (D), and (E) of Section 20 hereof.

K. Charges and Liens upon System. From the Revenues of the System, the Town will pay all taxes and assessments or other municipal or governmental charges, if any, lawfully levied, assessed upon or in respect to the System, or any part thereof, when the same shall become due, and it will duly observe and comply with all valid requirements of any municipal or governmental authority relative to any part of the System. The Town will not create or suffer to be created any lien or charge upon the System or upon the Revenues therefrom except as permitted by this Ordinance, or it will make adequate provisions to satisfy and discharge within sixty days after the same shall accrue, all lawful claims and demands for labor, materials, supplies or other objects, which, if unpaid, might by law become a lien upon the System or upon the Revenues therefrom; provided, however, that nothing herein shall require the Town to pay or cause to be discharged, or make provision for any such tax assessment, lien or charge before the time when payment thereof shall be due or so long as the validity thereof shall be contested in good faith by appropriate legal proceedings.

L. Insurance. The Town in its operation of the System will carry fire and extended coverage insurance, and other types of insurance in such amounts and to such extent as is normally carried by municipal corporations operating public utilities of the same type including, but not limited to self-insurance and self-insurance pools. The cost of such insurance shall be considered as one of the Operation and Maintenance Expenses of the System. In the event of property loss or damage, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged, and any remainder shall be treated as Net Revenues of the System, and shall be subject to distribution in the manner provided in Section 20 hereof, for Net Revenues derived from the operation of the System.

M. Competing System. As long as any of the Bonds hereby authorized are outstanding and to the extent permitted by law, the Town shall not grant any franchise or license to a competing system, nor shall it permit during that period (except as it may legally be required to do so) any person, association, firm or corporation to sell water, water service or facilities, or sanitary sewer service or facilities, to any consumer, public or private, within the Town, except that nothing herein shall prevent the sale of bottled water by other persons, associations, firms or corporations.

N. Alienating System. The Town will not sell, lease, mortgage, pledge, or otherwise encumber, or in any manner dispose of, or otherwise alienate, the System, or any part thereof, including any and all extensions and additions that may be made thereto, until all the Bonds shall have been paid in full, both principal and interest, or there has been defeasance as provided in Section 27 hereof or unless provision has been made therefor, except that the Town may sell any portion of such property which shall have been replaced by other property of at least equal value, or which shall cease to be necessary for the efficient operation of the System, but in no manner nor to such extent as might prejudice the security for the payment of the Bonds, provided, however, that in the event of any sale, the proceeds thereof shall be distributed as Net Revenues of the System in accordance with the provisions of Section 20 hereof.

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

purpose of keeping alive any of the interest and in case the time for payment of any such interest shall be extended, such installment or installments of interest after such extension or arrangement shall not be entitled in case of default hereunder to the benefit or security of this Ordinance except subject to the prior payment in full of the principal of all Bonds then outstanding, and of matured interest on such Bonds the payment of which has not been extended.

P. Surety Bonds. Each municipal official or other person having custody of any funds derived from operation of the System, or responsible for their handling, shall be bonded at all times, which bond shall be conditioned upon the proper application of the funds. The cost of each such bond shall be considered an operating cost of the System.

Q. Competent Management. The Town shall employ or contract for experienced and competent management personnel for each component of the System. In the event of (i) default on the part of the Town in paying principal of or interest on the Bonds promptly as each becomes due, (ii) failure of the Town to perform any covenants (other than with respect to payment of principal and interest on the Bonds as provided in this Ordinance or with respect to continuing disclosure) which failure shall continue for a period of sixty days, or (iii) failure of the Net Revenues of the System in any Fiscal Year to equal at least the amount of the principal of and interest on the revenue bonds and other obligations (including all reserves therefor specified in the authorizing proceedings, including but not limited to this Ordinance) payable from Net Revenues in that Fiscal Year, the Town shall retain a firm of competent Consulting Engineers skilled in the operation of water and sanitary sewer systems to assist the management of the System so long as such default continues or the Net Revenues are less than the amount specified in this Subsection (Q). Nothing herein shall prevent the Town from contracting with persons or private entities to manage or operate the System or any part thereof.

R. Performing Duties. The Town will faithfully and punctually perform all duties with respect to the System required by the Constitution and laws of the State and the ordinances and resolutions of the Town, including but not limited to the making and collecting of reasonable and sufficient rates and charges for services rendered or furnished by the System as provided in this Ordinance, and the proper segregation of the revenues of the System and their application to the respective funds.

S. Other Liens. Other than as provided by this Ordinance, there are no liens or encumbrances of any nature, whatsoever, on or against the System or the Revenues derived or to be derived from the operation of the same.

T. Completion Bonds. In order to insure the completion of the Improvement Project, and to protect the registered owner or owners of the Bonds, the Town will require that the contractor to whom is given any contract for construction appertaining to the Improvement Project supply a completion bond or bonds satisfactory to the Town, and that any sum or sums derived from the completion bond or bonds shall be used within six months after such receipt for the completion of the Improvement Project, and if not so used within such period, shall be placed in and be subject to the provisions of the Income Fund provided for herein.

U. Town's Existence. The Town will maintain its corporate identity and existence so long as any of the Bonds herein authorized remain outstanding unless another

political subdivision by operation of law succeeds to the duties, privileges, powers, liabilities, disabilities, immunities and rights of the Town and is obligated by law to receive and distribute the Revenues of the System in place of the Town, without affecting to any substantial degree the privileges and rights of any registered owner of any outstanding Bonds.

V. Series 2015A Tax Covenant.

(1) Ownership and Location of the QECB Projects. The projects financed with the Series 2015A Bonds are and will be owned by the Town and constitute a “Green Community Program” under Section 54D(f)(1)(A)(ii) of the Tax Code. Accordingly, the Series 2015A Bonds are being issued for “qualified conservation purposes” under Section 54D(f)(1)(A)(i) of the Tax Code. The facilities comprising the projects are located within the territorial limits of the Town.

(2) Qualified Expenditures of the Series 2015A Bonds. The Town reasonably expects and hereby covenants that one hundred percent (100%) of the available project proceeds (which includes investment earnings) will be used with diligence for qualified expenditures as defined in Tax Code Section 54D(f).

(3) No Financial Conflicts of Interest. The Town certifies that (i) applicable New Mexico and local law requirements governing conflicts of interest are satisfied with respect to the Series 2015A Bonds, and (ii) if in accordance with Section 54A(d)(6)(B) of the Tax Code the Secretary of the Treasury prescribes additional conflicts of interest rules governing members of Congress, federal, state and local officials, and their spouses, the Town will satisfy such additional rules with respect to the Series 2015A Bonds.

(4) Wage and Labor Standards Requirements. The Town expressly acknowledges that Davis Bacon Act, 40 U.S.C. §276a (“Davis-Bacon Act”) applies to the projects financed with proceeds of the Series 2015A Bonds. The Davis-Bacon Act contains labor standards and prevailing wage rates applicable to certain contracts for laborer and mechanics utilized in the construction installation and equipping of Qualified Energy Conservation Bond projects as described in subchapter IV of Chapter 31 of Title 40 of the United States Code and in the American Recovery and Reinvestment Act of 2009, Pub.L.No. 111-5, 123 Stat. 115 (2009). The Town represents and warrants that it will comply with the Davis-Bacon Act requirements with respect to the projects financed with proceeds of the Series 2015A Bonds.

W. Series 2015B Tax Covenant. The Town covenants for the benefit of the owners of the Series 2015B Bonds that it will not take any action or omit to take any action with respect to the Series 2015B Bonds, the proceeds thereof, any other funds of the Town or any facilities financed with the proceeds of the Series 2015B Bonds if such action or omission (i) would cause the interest on the Series 2015B Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code or (ii) would cause interest on the Series 2015B Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance

of the Series 2015B Bonds until the date on which all obligations of the Town in fulfilling the above covenant under the Tax Code have been met.

X. Qualified Tax-Exempt Obligations. The Series 2015B Bonds are designated as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Tax Code. The Town has no “subordinate entities” with authority to issue tax-exempt obligations within the meaning of that section of the Tax Code. In that connection, the Town covenants that the Town in or during the calendar year in which the Series 2015B Bonds are issued (i) will not designate as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Tax Code, tax-exempt obligations, including the Series 2015B Bonds, in an aggregate principal amount in excess of ten million dollars and (ii) will not issue tax-exempt obligations within the meaning of Section 265(b)(4) of the Tax Code, including the Series 2015B Bonds and any qualified 501(c)(3) bonds as defined in Section 145 of the Tax Code (but excluding obligations, other than qualified 501(c)(3) bonds, that are private activity bonds as defined in Section 141 of the Tax Code), in an aggregate principal amount exceeding ten million dollars.

Section 27. Defeasance. When all principal, any applicable prior redemption premium (if any) and interest due on the Bonds have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment as to any Bond when the Town has placed in escrow and in trust with a commercial bank or trust company located within or without the State and exercising trust powers, a cash amount sufficient (including the known minimum yield from Federal Securities in which all or a portion of such amount may initially be invested) to meet all requirements of principal, interest and any applicable prior redemption premium (if any) as the same become due to its maturity date or prior redemption date as to which the Town shall have exercised or obligated itself to exercise its option to call such Bond. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Town and such bank or trust company at the time of the creation of the escrow or the Federal Securities shall be subject to the redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. Federal Securities within the meaning of this Section 27 shall include only direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America and which are not callable prior to maturity by the issuer of such obligations.

Section 28. Provisions Relating to Municipal Bond Insurance Policy. The Bond Insurer’s provisions relating to the Municipal Bond Insurance Policy are set forth in this Section 28. The requirements and procedures set forth in this Section 28 shall control and supersede any conflicting or inconsistent provision in this Ordinance. Any and all financial obligations of the Town described in this Section 28 are limited to available Net Revenues.

A. Notice and Other Information to be given to BAM. The Town will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Undertaking and (ii) to the holders of the Bonds or the Paying Agent under the Security Documents. The notice address of BAM is: Build America Mutual Assurance Company, 1 World Financial Center, 27th Floor, 200 Liberty Street, New York, NY 10281, Attention: Surveillance, Re: Policy No. _____, Telephone: (212) 235-2500, Telecopier:

(212) 235-1542, [Email: notices@buildamerica.com](mailto:notices@buildamerica.com). In each case in which notice or other communication refers to an event of default or a claim on the Municipal Bond Insurance Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at claims@buildamerica.com or at Telecopier: (212) 235-5214 and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

B. Defeasance. The investments in the defeasance escrow relating to the Bonds shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise maybe authorized under State law and approved by BAM.

At least (three) 3 Business Days prior to any defeasance with respect to the Bonds, the Town shall deliver to BAM draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Bonds, and a verification report (a "Verification Report") prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion and Verification Report shall be addressed to BAM and shall be in form and substance satisfactory to BAM. In addition, the escrow agreement shall provide that:

(1) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Bonds is excludable) from gross income of the holders of the Bonds of the interest on the Bonds for federal income tax purposes and the prior written consent of BAM, which consent will not be unreasonably withheld.

(2) The Town will not exercise any prior optional redemption of Bonds secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to BAM a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.

(3) The Town shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of BAM.

C. Paying Agent.

(1) BAM shall receive prior written notice of any name change of the paying agent (the "Paying Agent") for the Bonds or the resignation or removal of the Paying Agent. Any Paying Agent must be (A) a national banking association that is supervised by the Office of the Comptroller of the Currency and has at least \$250 million of assets, (B) a state-

chartered commercial bank that is a member of the Federal Reserve System and has at least \$1 billion of assets, or (C) otherwise approved by BAM in writing.

(2) No removal, resignation or termination of the Paying Agent shall take effect until a successor, acceptable to BAM, shall be qualified and appointed.

D. Amendments, Supplements and Consents. BAM's prior written consent is required for all amendments and supplements to the Security Documents, with the exceptions noted below. The Town shall send copies of any such amendments or supplements to BAM and the rating agencies which have assigned a rating to the Bonds.

(1) *Consent of BAM.* Any amendments or supplements to the Security Documents shall require the prior written consent of BAM with the exception of amendments or supplements:

a. To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto; or

b. To grant or confer upon the holders of the Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the holders of the Bonds; or

c. To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Security Documents other conditions, limitations and restrictions thereafter to be observed; or

d. To add to the covenants and agreements of the Town in the Security Documents other covenants and agreements thereafter to be observed by the Town or to surrender any right or power therein reserved to or conferred upon the Town.

(2) *Consent of BAM in Addition to Bondholder Consent.* Any amendment, supplement, modification to, or waiver of, any of the Security Documents that requires the consent of holders of the Bonds or adversely affects the rights or interests of BAM shall be subject to the prior written consent of BAM.

(3) *Consent of BAM in the Event of Insolvency.* Any reorganization or liquidation plan with respect to the Town must be acceptable to BAM. In the event of any reorganization or liquidation of the Town, BAM shall have the right to vote on behalf of all holders of the Bonds absent a continuing failure by BAM to make a payment under the Policy.

(4) *Consent of BAM upon Default.* Anything in the Security Documents to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Bonds or Paying Agent for the benefit of the holders of the Bonds under any Security Document. No default or event of default may be waived without BAM's written consent.

(5) *BAM as Owner.* Upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole owner of the Bonds for all purposes under the Security Documents, including, without limitations, for purposes of exercising remedies and approving amendments.

(6) *Consent of BAM for acceleration.* BAM's prior written consent is required as a condition precedent to and in all instances of acceleration.

(7) *Grace Period for Payment Defaults.* No grace period shall be permitted for payment defaults on the Bonds. No grace period for a covenant default shall exceed 30 days without the prior written consent of BAM.

(8) *Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraphs 4(a)-(e) above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Policy, to the extent of such payment BAM shall be treated like any other holder of the Bonds for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) BAM has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).

E. Loan/Lease/Financing Agreement.

(1) The security for the Bonds shall include a pledge and assignment of any agreement with any underlying obligor that is a source of payment for the Bonds (a "Financing Agreement") and a default under any Financing Agreement shall constitute an Event of Default under the Security Documents. In accordance with the foregoing, any such Financing Agreement is hereby pledged and assigned to the Paying Agent for the benefit of the holders of the Bonds.

(2) Any payments by the Town under the Financing Agreement that will be applied to the payment of debt service on the Bonds shall be made directly to the Trustee at least fifteen (15) days prior to each debt service payment date for the Bonds.

F. BAM as Third Party Beneficiary. BAM is recognized as and shall be deemed to be a third party beneficiary of the Security Documents and may enforce the provisions of the Security Documents as if it were a party thereto.

G. Payment Procedure under the Policy. In the event that principal and/or interest due on the Bonds shall be paid by BAM pursuant to the Policy, the Bonds shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Town, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Town to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners including, without limitation, any rights that such owners may have in respect of securities law violations arising from the offer and sale of the Bonds.

In the event that on the second (2nd) business day prior to any payment date on the Bonds, the Paying Agent has not received sufficient moneys to pay all principal of and interest on the Bonds due on such payment date, the Paying Agent shall immediately notify BAM or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent shall so notify BAM or its designee.

In addition, if the Paying Agent has notice that any holder of the Bonds has been required to disgorge payments of principal of or interest on the Bonds pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent shall notify BAM or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of BAM.

The Paying Agent shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Bonds as follows:

(1) If there is a deficiency in amounts required to pay interest and/or principal on the Bonds, the Paying Agent shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holders of the Bonds in any legal proceeding related to the payment and assignment to BAM of the claims for interest on the Bonds, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment from BAM with respect to the claims for interest so assigned, and (iii) disburse the same to such respective holders; and

(2) If there is a deficiency in amounts required to pay principal of the Bonds, the Paying Agent shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holder of the Bonds in any legal proceeding related to the payment of such principal and an assignment to BAM of the Bonds surrendered to BAM, (ii) receive as designee of the respective holders (and not as Paying Agent) in

accordance with the tenor of the Policy payment therefore from BAM, and (iii) disburse the same to such holders.

The Paying Agent shall designate any portion of payment of principal on Bonds paid by BAM, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Bonds registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to BAM, registered in the name directed by BAM, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent's failure to so designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the Town on any Bond or the subrogation or assignment rights of BAM.

Payments with respect to claims for interest on and principal of Bonds disbursed by the Paying Agent from proceeds of the Policy shall not be considered to discharge the obligation of the Town with respect to such Bonds, and BAM shall become the owner of such unpaid Bonds and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise.

Irrespective of whether any such assignment is executed and delivered, the Town and the Paying Agent agree for the benefit of BAM that:

a. They recognize that to the extent BAM makes payments directly or indirectly (*e.g.*, by paying through the Paying Agent), on account of principal of or interest on the Bonds, BAM will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Town, with interest thereon, as provided and solely from the sources stated in the Security Documents and the Bonds; and

b. They will accordingly pay to BAM the amount of such principal and interest, with interest thereon as provided in the transaction documents and the Bonds, but only from the sources and in the manner provided therein for the payment of principal of and interest on the Bonds to holders, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.

H. Additional Payments. The Town agrees unconditionally that it will pay or reimburse BAM on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that BAM may pay or incur, including, but not limited to, fees and expenses of BAM's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents ("Administrative Costs"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of BAM spent in connection with the actions described in the preceding sentence. The Town agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to BAM until the date BAM is paid in full.

Notwithstanding anything herein to the contrary, the Town agrees to pay to BAM (i) a sum equal to the total of all amounts paid by BAM under the Policy ("BAM Policy Payment"); and (ii) interest on such BAM Policy Payments from the date paid by BAM until payment thereof in full by the Town, payable to BAM at the Late Payment Rate per annum (collectively, "BAM Reimbursement Amounts") compounded semi-annually. The Town hereby covenants and agrees that the BAM Reimbursement Amounts are payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Bonds on a parity with debt service due on the Bonds.

I. Reserve Fund and Acquisition Fund.

(1) The prior written consent of BAM shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Reserve Fund, if any. Amounts on deposit in the Reserve Fund shall be applied solely to the payment of debt service, due on the Bonds.

(2) Unless BAM otherwise directs, upon the occurrence and continuance of an Event of Default or an event which with notice or lapse of time would constitute an Event of Default, amounts on deposit in the Acquisition Fund shall not be disbursed, but shall instead be applied to the payment of debt service or redemption price of the Bonds.

J. Exercise of Rights by BAM. The rights granted to BAM under the Security Documents to request, consent to or direct any action are rights granted to BAM in consideration of its issuance of the Policy. Any exercise by BAM of such rights is merely an exercise of BAM's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the holders of the Bonds and such action does not evidence any position of BAM, affirmative or negative, as to whether the consent of the holders of the Bonds or any other person is required in addition to the consent of BAM.

BAM shall be entitled to pay principal or interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Town (as such terms are defined in the Policy) and any amounts due on the Bonds as a result of acceleration of the maturity thereof in accordance with the Security Documents, whether or not BAM has received a claim upon the Policy.

K. So long as the Bonds are outstanding or any amounts are due and payable to BAM, the Town shall not sell, lease, transfer, encumber or otherwise dispose of the System or any material portion thereof, except upon obtaining the prior written consent of BAM.

L. No contract shall be entered into or any action taken by which the rights of BAM or security for or source of payment of the Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of BAM.

M. If an event of default occurs under any agreement pursuant to which any Obligation of the Town has been incurred or issued and that permits the holder of such Obligation or trustee to accelerate the Obligation or otherwise exercise rights or remedies that are

adverse to the interest of the holders of the Bonds or BAM, as BAM may determine in its sole discretion, then an event of default shall be deemed to have occurred under this Ordinance and the related Security Documents for which BAM shall be entitled to exercise all available remedies under the Security Documents, at law and in equity. For purposes of the foregoing "Obligation" shall mean any bonds, loans, certificates, installment or lease payments or similar obligations that are payable and/or secured on a parity or subordinate basis to the Bonds.

Section 29. Provisions Relating to Municipal Bond Debt Service Reserve Policy. The Bond Insurer's provisions relating to the Reserve Fund Insurance Policy are set forth in this Section 29. The requirements and procedures set forth in this Section 29 shall control and supersede any conflicting or inconsistent provision in this Ordinance. Any and all financial obligations of the Town described in this Section 29 are limited to available Net Revenues.

A. The Town shall repay any draws under the Municipal Bond Debt Service Reserve Insurance Policy and pay all related reasonable expenses incurred by BAM. Interest shall accrue and be payable on such draws and expenses from the date of payment by BAM at the Late Payment Rate. "Late Payment Rate" means the lesser of (A) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such changes are announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds, and (B) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate publicly, Prime Rate shall be the publicly announced prime or base lending rate of such bank, banking association or trust company bank as BAM in its sole and absolute discretion shall specify.

Repayment of draws and payment of expenses and accrued interest thereon at the Late Payment Rate (collectively, the "Policy Costs") shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12 of the aggregate of Policy Costs related to such draw.

Amounts in respect of Policy Costs paid to BAM shall be credited first to interest due, then to the expenses due and then to principal due. As and to the extent that payments are made to BAM on account of principal due, the coverage under the Reserve Fund Insurance Policy will be increased by a like amount, subject to the terms of the Reserve Fund Insurance Policy.

All cash and investments in the Reserve Fund established for the Bonds shall be transferred to the Bond Fund for payment of the debt service on the Bonds before any drawing may be made on the Reserve Fund Insurance Policy or any other Reserve Fund Credit Instrument in lieu of cash.

Payment of any Policy Cost shall be made prior to replenishment of any cash amounts. Draws on all Reserve Fund Credit Instruments (including the Reserve Fund Insurance Policy) on which there is available coverage shall be made on a pro-rata basis (calculated by

reference to the coverage then available thereunder) after applying all available cash and investments in the Reserve Fund. Payment of Policy Costs and reimbursement of amounts with respect to other Reserve Fund Credit Instruments shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Reserve Fund. For the avoidance of doubt, “available coverage” means the coverage then available for disbursement pursuant to the terms of the applicable alternative credit instrument without regard to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.

B. Draws under the Reserve Fund Insurance Policy may only be used to make payments on Bonds insured by BAM.

C. If the Town shall fail to pay any Policy Costs in accordance with the requirements of paragraph (A) above, BAM shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under this Ordinance other than (i) acceleration of the maturity of the Bonds, or (ii) remedies which would adversely affect owners of the Bonds.

D. This Ordinance shall not be discharged until all Policy Costs owing to BAM shall have been paid in full. The Town's obligation to pay such amount shall expressly survive payment in full of the Bonds.

E. The Town shall ascertain the necessity for a claim upon the Reserve Fund Insurance Policy in accordance with the provisions of paragraph (A) hereof and provide notice to BAM at least three business days prior to each date upon which interest or principal is due on the Bonds.

F. The Reserve Fund Insurance Policy shall expire on the earlier of the date the Bonds are no longer outstanding and the final maturity date of the Bonds.

Section 30. Delegated Powers. The officers of the Town are hereby 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 printing and reprinting of the Bonds, the original and (if necessary) subsequent delivery to the Registrar of a number (as determined by the responsible officer) of fully or partially executed Bonds to be held by the Registrar for use as herein provided, the acquisition of a Reserve Fund Insurance Policy, the execution by the Mayor and Town Clerk or their designees, of the Bond Purchase Agreement, the Continuing Disclosure Undertaking, the Insurance Agreement and the final Official Statement in substantially the forms presented at the meeting at which this ordinance is adopted subject to such changes, corrections and additions as they may determine and such other certificates as may reasonably be required by the Underwriter.

Section 31. Events of Default. Each of the following events is hereby declared an “event of default”:

A. Nonpayment of Principal. If payment of the principal and optional redemption premium, if applicable, of any of the Bonds shall not be made when the same

become due and payable, either at maturity, or by proceedings for optional redemption, or otherwise; or

B. Nonpayment of Interest. If payment of any installment of interest shall not be made when the same becomes due and payable or within 30 days thereafter; or

C. Incapable to Perform. If the Town shall for any reason be rendered incapable of fulfilling its obligations hereunder; or

D. Default of Any Other Provision. If the Town shall default in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in this Ordinance on its part to be performed other than with respect to payment of principal, any prior redemption premium or interest on the Bonds and other than with respect to continuing disclosure, and if such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Town by the registered owners of at least 25% in principal amount of the Bonds then outstanding.

Section 32. Remedies of Defaults. Upon the happening and continuance of any of the events of default as provided in Section 31 of this Ordinance, then and in every case the registered owner or owners of not less than 25% in principal amount of the Bonds then outstanding, including but not limited to a trustee or trustees therefor, may proceed against the Town, its Council, and its agents, officers and employees to protect and enforce the rights of any registered owner of Bonds under this Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for specific performance of any covenant or agreement contained herein or in an award or execution of any power herein granted for the enforcement of any power, legal or equitable remedy as such registered owner or owners may deem most effectual to protect and enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any registered owner, or to require the Council of the Town to act as if it were the trustee of an expressed 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 registered owners of the Bonds then outstanding. The failure of any such registered owner so to proceed shall not relieve the Town or any of its officers, agents or employees of any liability for failure to perform any duty. Each right or privilege of any registered owner (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 registered owner shall not be deemed a waiver of any other right or privilege thereof.

Section 33. Duties Upon Default. Upon the happening of any of the events of default as provided in Section 31 hereof, the Town, in addition, will do and perform all proper acts on behalf of and for the registered owners of the Bonds to protect and preserve the security created for the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived from the Net Revenues of the System, so long as any of the Bonds herein authorized, either as to principal or interest, are outstanding and unpaid, shall be paid into the Bond Fund and used for the purposes therein provided. In the event the Town fails or refuses to proceed as in this Section provided, the registered owner or registered owners of not less than 25% in principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the registered owners as provided in this Ordinance.

Section 34. Amendment. This Ordinance may be amended or supplemented by ordinance adopted by the Council in accordance with the laws of the State, as follows:

A. Without Consent of the Registered Owners. The Town, without the consent of or notice to the registered owners of the Bonds, may adopt an ordinance supplemental hereto (which supplemental ordinance shall thereafter form a part hereof) for any one or more or all of the following purposes:

(1) To add to the covenants and agreements in this Ordinance contained other covenants and agreements thereafter to be observed for the protection or benefit of the registered owners of the Bonds; or

(2) To cure any ambiguity, to cure, correct or supplement any defect or inconsistent provision contained in this Ordinance, or to make any provision with respect to matters arising under this Ordinance or for any other purpose if such provisions are necessary or desirable and do not adversely affect the interests of the owners of the Bonds; or

(3) To subject to this Ordinance additional revenues, properties or collateral; or

(4) In connection with the issuance of Parity Obligations or refunding bonds pursuant to the terms of this Ordinance.

B. With Consent of the Registered Owners. The Town, without receipt by the Town of any additional consideration but with the written consent of the registered owners of 75% of the Bonds outstanding at the time of the adoption of such amendatory or supplemental ordinance also may amend this Ordinance in any other manner not permitted by Subsection A of this Section 34; provided, however, that no such ordinance shall have the effect of permitting:

(1) An extension of the maturity of any Bond authorized by this Ordinance; or

(2) A reduction in the principal amount of any Bond, the rate of interest thereon; or

(3) The creation of a lien upon or pledge of Net Revenues ranking prior to the lien or pledge created by this ordinance; or

(4) A reduction of the principal amount of Bonds required for consent to such amendatory or supplemental ordinance; or

(5) The establishment of priorities as between Bonds issued and outstanding under the provisions of this Ordinance.

Section 35. Continuing Disclosure. For the benefit of the owners of the Bonds (including beneficial owners), the Town will enter into and comply with all of the provisions of the Continuing Disclosure Undertaking; provided, however, that the Continuing Disclosure Undertaking may be amended from time to time in accordance with its terms and without action

by the Council, the Town approval of any such amendment to be evidenced by the signature of the Mayor or, in the absence of the Mayor, the Mayor's designee. Notwithstanding any other provisions of this Ordinance, failure of the Town to comply with the Continuing Disclosure Undertaking shall not be considered an "event of default" under Section 31 hereof, and holders and beneficial owners of Bonds shall be entitled to exercise only such rights with respect thereto as are provided in the Continuing Disclosure Undertaking.

Section 36. Enforcement Any registered owner of any Bond or Bonds, may, either by law or in equity, by suit, action, mandamus or other appropriate proceedings in any court of competent jurisdiction enforce the payment of and interest on any Bond on or after the date on which such payment is due, and may by suit, action, mandamus or other appropriate proceeding or proceedings enforce and compel the performance of such payment in accordance with the provisions of this Ordinance.

Section 37. Severability. If any section, paragraph, clause or provision of this Ordinance shall 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 Ordinance.

Section 38. Repealer Clause. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

Section 39. Ordinance Irrepealable. After any of the Bonds herein authorized are issued, this Ordinance shall be and remain irrepealable until the Bonds and interest thereon shall be fully paid, canceled and discharged as therein provided, or there has been defeasance as provided in Section 27 hereof.

Section 40. Recording, Authentication and Effective Date of Ordinance. This Ordinance shall be recorded in the ordinance book of the Town kept for that purpose, and be authenticated by the signature of the Mayor, as presiding officer of the Town, and by signature of the Town Clerk. This Ordinance shall be effective five (5) days after its title and general summary thereof (as set forth in Section 41 hereof) has been published in the *Silver City Daily Press*, a newspaper published in and maintaining an office in, and having local and general circulation in the Town.

Section 41. General Summary for Publication. Pursuant to Section 3-17-5 NMSA 1978, as amended, the title and a general summary of the subject matter contained in this ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

TOWN OF SILVER CITY, NEW MEXICO

NOTICE OF ADOPTION OF ORDINANCE NO. 1240

NOTICE IS HEREBY GIVEN of the title and of a general summary of the subject matter contained in Ordinance No. 1240 (the "Ordinance"), duly adopted and approved by the Town

Council of the Town of Silver City on September 1, 2015. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the Town Clerk in the office of the Town Clerk, Town Hall, 101 West Broadway Street, Silver City, New Mexico.

The title of the Ordinance is:

ORDINANCE NO. 1240

CONCERNING THE MUNICIPAL JOINT UTILITY SYSTEM OF THE TOWN OF SILVER TOWN, NEW MEXICO; PROVIDING FOR THE ISSUANCE OF THE TOWN'S (I) JOINT UTILITY SYSTEM IMPROVEMENT REVENUE BONDS (QUALIFIED ENERGY CONSERVATION BONDS – DIRECT PAYMENT), TAXABLE SERIES 2015A IN THE AGGREGATE PRINCIPAL AMOUNT OF \$3,910,000, TO (a) ACQUIRE, INSTALL, RETROFIT AND REPLACE WATER METERS FOR THE TOWN'S JOINT UTILITY SYSTEM UNDER THE TOWN'S GREEN COMMUNITY PROGRAM, AND (B) PAY COSTS OF ISSUANCE OF THE SERIES 2015A BONDS, AND (II) JOINT UTILITY SYSTEM REFUNDING REVENUE BONDS, TAX-EXEMPT SERIES 2015B IN THE AGGREGATE PRINCIPAL AMOUNT OF \$905,000 TO (a) REFUND, REDEEM AND PAY THE TOWN'S OUTSTANDING LOAN AGREEMENT, AS AMENDED, WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT AND (b) PAY COSTS OF ISSUANCE OF THE SERIES 2015B BONDS; PROVIDING THAT THE SERIES 2015 BONDS SHALL BE PAYABLE OUT OF THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH JOINT UTILITY SYSTEM AND THAT THE SERIES 2015A BONDS SHALL ALSO BE PAYABLE FROM THE FEDERAL SUBSIDY PAYMENTS FROM THE UNITED STATE TREASURY; PROVIDING FOR THE DISPOSITION OF THE REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH JOINT UTILITY SYSTEM; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE SERIES 2015 BONDS, THE METHOD OF PAYING SUCH AND THE SECURITY THEREFOR; APPROVING ACQUISITION OF A MUNICIPAL BOND INSURANCE POLICY AND DEBT SERVICE RESERVE FUND POLICY; PRESCRIBING OTHER DETAILS CONCERNING THE JOINT UTILITY REVENUES AND THE JOINT UTILITY SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND WITH FUTURE FINANCING THEREFOR; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

A summary of the subject matter of this Ordinance is contained in its title. This notice constitutes compliance with Section 6-14-6 NMSA 1978.

(End of Form of Notice of Adoption of Ordinance)

PASSED, ADOPTED, SIGNED AND APPROVED THIS 1ST DAY OF SEPTEMBER,
2015.

TOWN OF SILVER CITY, NEW MEXICO

/s/

Michael S. Morones, Mayor

(SEAL)

Attest:

/s/

Ann L. Mackie, Town Clerk

Councilor Ray then moved that the ordinance as filed with the Town Clerk at this meeting be passed and adopted. Councilor Cano seconded the motion.

The question being upon the passage and adoption of the ordinance, the motion was voted upon with the following result:

Those Voting Yea:	Councilor Cynthia Ann Bettison Councilor Lynda D. Aiman-Smith Councilor Jose A. Ray, Jr. Councilor Guadalupe Cano
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Those Voting Nay:	None
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Those Absent:	None
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The Mayor thereupon declared that at least three-fourths of all the members of that Council having voted in favor thereof, the motion was carried and the ordinance duly passed and adopted.

After consideration of matters not relating to the Bonds, the meeting on motion duly made, seconded and unanimously carried, was adjourned.

TOWN OF SILVER CITY, NEW MEXICO

/s/

Michael S. Morones, Mayor

(SEAL)

Attest:

/s/

Ann L. Mackie, Town Clerk