



**3007; Council
Bill 23-001**

City Council Action and Executive Summary

Type of Action:

☐ Resolution

☒ Ordinance

☐ TIDD Resolution

District:	<input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input checked="" type="checkbox"/> 6 <input type="checkbox"/> N/A		
1st Reading:	July 18, 2022	Adopted:	August 15, 2022
Drafter:	Erika Jaquez	Department:	Financial Services
Program:	Treasury	Line of Business:	Revenue Management

Title: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS CRUCES, NEW MEXICO SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2022 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 FOR THE ACQUISITION OF FIRE ENGINES, AERIAL FIRE TRUCKS, AND FIRE EQUIPMENT FOR THE CITY FIRE DEPARTMENT; DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE FOR THE SALE OF THE BONDS TO THE PURCHASER.

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

Authorize issuance of debt.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City Charter authorizes City Council to borrow funds. The New Mexico Finance Authority (NMFA) has instituted a program for financing public projects and equipment. As part of the program, City Council is required by NMFA to authorize the submission of the application. The proposed action will allow the Fire Department to finance the acquisition of two fire engines and two aerial fire trucks. The two fire engines and two aerial fire trucks are to replace two fire engines and two aerial fire trucks that have been in service for 15 years or more and have exceeded industry standards for time of service and maintenance costs.

A proposed resolution approved at the July 18, 2022 City Council meeting authorized City staff to submit an application for financial assistance from NMFA for the acquisition of two fire engines and two aerial fire trucks.

Approval of this Ordinance authorizes the execution and delivery of a loan agreement between the City and NMFA. The City would borrow up to \$5,000,000 to finance the acquisition of two fire engines, two aerial fire trucks, and pay the related debt issuance costs (Series 2022). The revenue pledged to finance the acquisition of two fire engines and two aerial fire trucks would come from a subordinate lien on the City's state shared gross receipts tax distribution.

Due to timing of the bond approval scheduling by NMFA, at the first reading of this proposed Ordinance, only a sample ordinance (preliminary) and bond purchase agreement will be attached as Attachments as needed. After the first reading, the final ordinance is attached. After NMFA prices the loan, Bond Counsel prepares the final documents incorporating the final terms upon receipt of the debt service schedule verified by the City's Municipal Advisor. Clean and redlined copies of the final bond ordinance

is then provided in the agenda packets for the meeting at which final adoption is scheduled. The final documents and associated attachments are listed below.

SUPPORT INFORMATION:

[EXHIBIT "A" Bond Purchase Agreement SSGRT](#)

[EXHIBIT "B" Intercept Agreement SSGRT Sub Lien Series 2022 draft](#)

[Attachment "A" Ordinance in redlined - legislative 2022](#)

PLAN(S):

Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

☐ Yes

☐ No

☒ N/A

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☐ No

☒ N/A

Does this action align with Elevate Las Cruces?

☐ Yes

☒ No

☐ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Ordinance and will allow the City to accept the loan from NMFA and proceed with the acquisition of two fire engines and two aerial fire trucks.
2. Vote "No"; this will not approve the Ordinance and will not allow the City to accept the loan from NMFA and use this funding mechanism to finance two fire engines and two aerial fire trucks.
3. Vote to "Amend"; this could delay the execution and delivery of the loan from NMFA and the acquisition of two fire engines and two aerial fire trucks.
4. Vote to "Table"; this could delay the financing opportunity and increase the projected cost of two fire engines and two aerial fire trucks.

REFERENCE INFORMATION:

1. Resolution 23-010
2. Exhibit "A" Bond Purchase Agreement SSGRT 2022
3. Exhibit "B" Intercept Agreement SSGRT 2022 draft
4. Attachment "A" Ordinance in redlined - legislative 2022

ORDINANCE 3007; COUNCIL BILL 23-001

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS CRUCES, NEW MEXICO SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2022 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 FOR THE ACQUISITION OF FIRE ENGINES, AERIAL FIRE TRUCKS, AND FIRE EQUIPMENT FOR THE CITY FIRE DEPARTMENT; DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE FOR THE SALE OF THE BONDS TO THE PURCHASER.

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

The City Council is informed that:

WHEREAS, the City is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico and is operating as a home rule City pursuant to Article X, Section 6 of the Constitution of the State and the Charter of the City; and

WHEREAS, pursuant to Section 7-1-6.4 NMSA 1978, the City now receives monthly from the Revenue Division of the New Mexico Taxation and Revenue Department from the statewide gross receipts tax imposed on any person engaging in business in New Mexico, a distribution of the gross receipts tax which is to be in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the product of the quotient of 1.225% divided by the tax rate imposed by Section 7-9-4 NMSA 1978, times the net receipts (i.e. the total gross receipts tax less any refunds disbursed in that month) for the month attributable to the gross receipts tax from business locations within the City and other places designated in Section 7-1-6.4 NMSA 1978 (such distributions to the City as further defined herein the ("Pledged Revenues"); and

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

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

WHEREAS, except for the 2011A Bonds, the 2014 Bonds, the 2015 Bonds, the 2016 Subordinate Lien Bonds, 2017 Bonds, the 2017 NMFA Loan, the 2019 Subordinate Lien Bonds, the 2020 Refunding Bonds, the 2020A Bonds, and the 2020B Subordinate Lien Bonds, the Pledged State Shared Gross Receipts Tax Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding; and

WHEREAS, the City Council has determined and hereby determines that it is in the best interests of the City and its residents that the Series 2022 Bonds be issued with a subordinate lien, but not an exclusive subordinate lien, on the Pledged State Shared Gross Receipts Tax Revenues subordinate to the lien thereon of outstanding Parity Bonds and on parity with the lien thereon of the outstanding Subordinate Obligations; and

WHEREAS, the proposed forms of this Bond Ordinance, the Bond Purchase Agreement and Intercept Agreement have been on deposit with the City Clerk and presented to the City Council; and

WHEREAS, the City Council expects to sell the Series 2022 Bonds in a private placement to the New Mexico Finance Authority (the "Purchaser"), as determined pursuant to the Pricing Certificate supplementing this Bond Ordinance, and to delegate authority to the City Manager or City Financial Services Director to

execute and deliver the Pricing Certificate to the Purchaser, as authorized by Section 6-14-10.2 NMSA 1978, provided that the final terms of the Bonds set forth in the Pricing Certificate be within the parameters set forth in this Ordinance; and

WHEREAS, the specific principal amounts, interest rates, maturity dates, prices and other final terms and other features of the Bonds, including, without limitation, provisions concerning a Bond Insurance Policy and a Reserve Fund Insurance Policy (if any) will be established in the Pricing Certificate; and

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

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

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

“Act” means the general laws of the State, including Sections 3-31-1 to 3-31-12 NMSA 1978, as amended, the home rule powers of the City under the Charter and Article X, Section 6 of the Constitution of the State, and enactments of the City Council relating to the Pledged Revenues and the issuance of the Bonds, including this Bond Ordinance.

“Bond Insurance Policy” means the financial guaranty insurance policy, if any, issued by the Insurer insuring the payment when due of the principal of and interest on the Bonds as provided therein.

“Bond Ordinance” means this City Ordinance No. 3007 adopted on August 15, 2022, as supplemented by the Pricing Certificate.

“Bond Purchase Agreement” means the agreement between the City and the Purchaser providing for the sale of the Bonds by the City and the purchase of the Bonds by the Purchaser pursuant to the terms set forth therein and in the Pricing Certificate.

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

“Bonds” or “Series 2022 Bonds” or “2022 Bonds” means the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022 authorized by this Bond Ordinance, as supplemented by the Pricing Certificate.

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

“Charter” means the home rule charter of the City submitted to Las Cruces City Commission on January 7, 1985, and approved by the voters of the City on March 5, 1985, as amended and supplemented.

“City” means the City of Las Cruces, in the County of Doña Ana and State of New Mexico.

“City Council” means the City Council of the City or any future successor governing body of the City.

“Code” means the Internal Revenue Code of 1986, as amended, including, when appropriate, the statutory predecessor of the Code, and all applicable regulations whether proposed, temporary or final, including

regulations issued and proposed pursuant to the statutory predecessor of the Code, and, in addition, all official rulings and judicial determinations applicable to the Bonds, and under the statutory predecessor of the Code and any successor provisions to those sections or regulations.

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

“Depository” means The Depository Trust Company, New York, New York, or such other securities depository as may be designated by an officer of the City.

“Event of Default” means any of the events stated in Section 25 of this Bond Ordinance.

“Expenses” means the reasonable and necessary fees, costs and expenses incurred by the City with respect to the issuance of the Bonds, including, to the extent applicable, the fees, compensation, costs and expenses paid or to be paid to the Paying Agent and Registrar, the Insurer and legal fees, financial advisor fees, expenses and applicable gross receipts taxes, costs of printing and distributing the Preliminary Official Statement and the Official Statement, rating fees and accounting fees and expenses.

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

“Fitch” means Fitch Ratings, Inc., its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

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

“Hold Harmless Distribution” means any distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, as that distribution relates to the gross receipts tax revenues received pursuant to Section 7-1-6.4 NMSA 1978, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93 NMSA 1978.

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

“Insured Bank” means a bank or savings and loan association insured by an agency of the United States.

“Intercept Agreement” means the Intercept Agreement, if any, dated the Closing Date between the City and the New Mexico Finance Authority providing for the direct payment, if required, by the New Mexico Department of Taxation and Revenue to the New Mexico Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest and any other amounts due on the Bonds, and any amendments or supplements to the Intercept Agreement.

“Interest Payment Date” means each June 1 and December 1, commencing December 1, 2022 (or such other date specified in the Pricing Certificate).

“Moody's” means Moody's Investor Service, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

“Notice of Sale” means, if the Bonds are sold in a competitive sale, the official notice of sale of the Bonds.

“Official Statement” means the final disclosure document relating to the issuance and sale of the Bonds, if any.

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

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

B.those otherwise deemed to be paid in accordance with Section 28 or Section 31 of this Bond Ordinance;

C.those in lieu of or in exchange or substitution for which other Bonds shall have been delivered, unless proof satisfactory to the City and the Paying Agent is presented that any Bond for which a new Bond was issued or exchanged is held by a bona fide holder or in due course.

“Parity Bonds” or “Parity Obligations” means the 2011A Bonds, the 2014 Bonds, the 2015 Bonds, the 2017 Bonds, the 2017 NMFA Loan, the 2020 Refunding Bonds, the 2020A Bonds, and any other bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a first lien upon the Pledged Revenues.

“Parity Subordinate Obligations” means the 2016 Subordinate Bonds, the 2019 Subordinate Bonds, the 2020B Bonds, the Series 2022 Bonds, and any other bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a lien upon the Pledged Revenues subordinate and junior to the lien thereon of the Parity Bonds and on parity with the Parity Subordinate Obligations, as provided in Section 20 of this Bond Ordinance.

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

“Permitted Investments” means, but only to the extent permitted by applicable laws of the State or ordinances of the City, the following:

A.Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

B.Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1.U.S. Export-Import Bank (Eximbank)

Direct obligations or fully guaranteed certificates of beneficial ownership.

2.Farmers Home Administration (FmHA)

Certificates of beneficial ownership

3.Federal Financing Bank

- 4. Federal Housing Administration Debentures (FHA)
- 5. General Services Administration Participation certificates
- 6. Government National Mortgage Association (GNMA or "Ginnie Mae")
 - GNMA - guaranteed mortgage-backed bonds
 - GNMA - guaranteed pass-through obligations
- 7. U.S. Maritime Administration Guaranteed Title XI financing
- 8. U.S. Department of Housing and Urban Development (HUD) Project Notes
- Local Authority Bonds
- New Communities Debentures - U.S. government guaranteed debentures
- U.S. Public Housing Notes and Bonds - U.S. government guaranteed public housing notes and bonds

C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

- 1. Federal Home Loan Bank System
 - Senior debt obligations
- 2. Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac")
 - Participation Certificates
 - Senior debt obligations
- 3. Federal National Mortgage Association (FNMA or "Fannie Mae")
 - Mortgage-backed securities and senior debt obligations
- 4. Student Loan Marketing Association (SLMA or "Sallie Mae")
 - Senior debt obligations
- 5. Resolution Funding Corp. (REFCORP) obligations
- 6. Farm Credit System
 - Consolidated system wide bonds and notes

D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AA-Am-G; AAA-m; or AA-m and if rated by Moody's rated Aaa, Aa1 or Aa2.

E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

F. Certificates of deposit, savings accounts, deposits accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF.

G. Investment Agreements, including GIC's, Forward Purchase Agreements and Reserve Fund Put Agreements.

H. Commercial paper rated, at the time of purchase, "Prime - 1" by Moody's and "A-1" or better by S&P.

I. Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.

J. Federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of "Prime - 1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P.

K. Repurchase Agreements for 30 days or less must follow the following criteria.

Repurchase agreements provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the City in exchange for the securities at a specified date.

1. Repos must be between the City and a dealer bank or securities firm
 - a. Primary dealers on the Federal Reserve reporting dealer list which are rated A or better by S&P and Moody's, or
 - b. Banks rated "A" or above by S&P and Moody's.
2. The written repo contract must include the following:
 - a. Securities which are acceptable for transfer are:
 - (1) Direct U.S. governments, or
 - (2) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA & FHLMC)
 - b. The term of the repo may be up to 30 days
 - c. The collateral must be delivered to the City, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).
 - d. Valuation of Collateral
 - (1) The securities must be valued weekly, marked-to-market at current market price plus accrued interest.
 - (a) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.
3. Legal opinion which must be delivered to the City:
 - a. Repo meets guidelines under state law for legal investment of public funds.

L. The State Treasurer's short-term investment fund created pursuant to Section 6-10-10.1, NMSA 1978, and operated, maintained and invested by the State Treasurer.

"Pledged Revenue Fund" means the State Shared Gross Receipts Tax Revenue Fund, continued in Section 16 of this Bond Ordinance.

"Pledged State Shared Gross Receipts Tax Revenues" or "Pledged Revenues" means the revenues from the State gross receipts tax derived pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted to the City monthly by the New Mexico Department of Taxation and Revenue pursuant to Section 7-1-6 and 7-1-6.4 NMSA 1978, and which remittances currently equal one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported for the City for the month for which such remittances is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the City under applicable law, such additional amounts shall be included as revenues pledged pursuant to this Bond Ordinance; and provided further that the amount of revenues pledged pursuant to this Bond Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the City by the State as set forth above, or (ii) the maximum amount at any time provided hereafter to be remitted to the City under applicable law, and includes the Hold Harmless Distribution to the extent the City receives any Hold Harmless Distribution; and provided further, the City intends

that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Bond Ordinance (the term "Pledged State Shared Gross Receipts Tax Revenues" does not include any local option gross receipts tax income received by the City).

"Preliminary Official Statement" means the initial disclosure document relating to the issuance and sale of the Bonds, if any.

"Pricing Certificate" means one or more certificates executed by the City Manager or City Finance Director, dated on or before the date of delivery of the Bonds, setting forth the following final terms of the Bonds: (i) the interest and principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii) the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the redemption and tender provisions; (vii) the creation of any capitalized interest fund, including the size and funding of such fund(s); (viii) the amount of underwriting discount, if any; (ix) the amount of the Reserve Requirement, if any, and whether such Reserve Fund shall be funded with proceeds of the Bonds or through the deposit of a Reserve Fund Insurance Policy; and (x) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Bonds, all subject to the parameters and conditions contained in this Ordinance.

"Purchaser" means the New Mexico Finance Authority or such other purchaser as set forth in the Pricing Certificate.

"Rating Category" means a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

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

"Reserve Fund Insurance Policy" means any insurance policy, surety bond or letter of credit deposited in or credited to the Reserve Fund, if any, as provided in the Pricing Certificate in lieu of or in partial substitution for cash or allowable investments on deposit in the Reserve Fund.

"S&P" means Standard & Poor's, a division of The McGraw-Hill Companies, Inc., its successors and their assigns, and, if such entity is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"State" means the State of New Mexico.

"2011A Bonds" means the "City of Las Cruces, New Mexico State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2011A" issued in the original aggregate principal amount of \$9,640,000 and authorized by City Ordinance No. 2618 adopted by the City Council on June 8, 2011.

"2014 Bonds" means the City of Las Cruces, New Mexico State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2014 issued in an original aggregate principal amount of \$10,000,000 and authorized by City Ordinance No. 2718 adopted by the City Council on June 24, 2014.

"2015 Bonds" means the City of Las Cruces, New Mexico State Shared Gross Receipts Tax Refunding Revenue Bonds, Series 2015 issued in an original aggregate principal amount of \$19,195,000 and authorized by City Ordinance No. 2739 adopted by the City Council on December 1, 2014 and Resolution No. 15-140 adopted by the City Council on February 3, 2015.

"2016 Subordinate Bonds" means the "City of Las Cruces, New Mexico Taxable Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2016" authorized in the original aggregate principal amount of \$8,585,000 and authorized by City Ordinance No. 2774 adopted by the City Council on February 16, 2016 and Resolution No. 16-18 adopted by the City Council on March 9, 2016.

“2017 Bonds” means the “City of Las Cruces, New Mexico State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2017” issued in an original aggregate principal amount of \$10,570,000 and authorized by City Ordinance No. 2808 adopted by the City Council on May 1, 2017 and Resolution No. 17-187 adopted by the City Council on May 10, 2017.

“2017 NMFA Loan” means the loan agreement between the City and the New Mexico Finance Authority executed on February 24, 2017 in the original aggregate principal amount of \$3,203,527 and authorized by City Ordinance No. 2801 adopted by the City Council on January 17, 2017.

“2019 Subordinate Bonds” means the “City of Las Cruces, New Mexico Taxable Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2019 authorized in the original aggregate principal amount of \$8,870,000 and authorized by City Council Ordinance No. 2894 adopted on August 5, 2019.

“2020 Refunding Bonds” means the “City of Las Cruces, New Mexico State Shared Gross Receipts Tax Refunding Revenue Bonds, Series 2020” authorized in the original aggregate principal amount of \$15,435,000 and authorized by City Council Ordinance No. 2912 adopted on February 18, 2020.

“2020A Bonds” means the “City of Las Cruces, New Mexico State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2020A” authorized in the original aggregate principal amount of \$7,190,000 and authorized by City Council Ordinance No. 2925 adopted on May 18, 2020.

“2020B Bonds” means the “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2020B” authorized in the original aggregate principal amount of \$6,750,000 and authorized by City Council Ordinance No. 2925 adopted on May 18, 2020.

“2022 Acquisition Fund” means the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Improvement Project Acquisition Fund” established by Section 16 of the Bond Ordinance.

“2022 Debt Service Fund” means the “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Debt Service Fund” established in Section 16 of this Bond Ordinance.

“2022 Improvement Project” means (1) the acquisition of fire engines, aerial fire trucks, and fire equipment for the City Fire Department and (2) paying Expenses related to the issuance of the Series 2022 Bonds.

“2022 Minimum Reserve” means an amount equal to the least of (i) ten percent of the principal amount of the outstanding Series 2022 Bonds, (ii) the maximum annual debt service on the outstanding Series 2022 Bonds, or (iii) 125% of the average annual debt service on the outstanding Series 2022 Bonds. The Minimum Reserve shall be recalculated every year on or about June 1.

“2022 Reserve Fund” means the “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Reserve Fund” established by Section 16 of this Bond Ordinance.

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

Section 3.Authorization of the 2022 Improvement Project. The 2022 Improvement Project and the method of financing the 2022 Improvement Project are hereby authorized and ordered at a total cost estimated not to exceed the amount of the Bond proceeds allocated to the Project as set forth in the Pricing Certificate and

any investment earnings thereon, excluding any such cost defrayed or to be defrayed by any source other than Bond proceeds.

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

A. The 2022 Improvement Project is needed to meet the needs of the City and its inhabitants.

B. Moneys available for the 2022 Improvement Project from all sources other than the issuance of Revenue Bonds are not sufficient to defray the cost of the 2022 Improvement Project.

C. The Pledged Revenues may lawfully be pledged to secure the payment and redemption of the Bonds.

D. It is economically feasible to defray, in part, the cost of the 2022 Improvement Project by the issuance of the Bonds.

E. The issuance of the Bonds pursuant to the Act, to provide funds to finance the costs of the 2022 Improvement Project is necessary and in the interest of the public health, safety and welfare of the residents of the City.

F. The City is current in the accumulation of all amounts which are required to have been accumulated in the debt service funds and the reserve funds, if any, for the outstanding Parity Bonds and the Parity Subordinate Obligations.

Section 5. Bonds – Authorization, Parameters and Detail.

A. Authorization. This Bond Ordinance has been adopted by the affirmative vote of at least three-fourths of all of the members of the City Council. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the citizens of the City, it is hereby declared necessary that the City, pursuant to the Act, issue one series of its negotiable, fully registered, revenue bonds to be designated the “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022” in an aggregate principal amount not to exceed \$5,000,000, and the issuance, sale and delivery of the Bonds is hereby authorized.

B. Parameters Authorized; Details of Bonds. There is hereby authorized and created a series of bonds designated as the City of Las Cruces, New Mexico, Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022. The Series 2022 Bonds shall be issued subject to the following parameters:

(i) The Series 2022 Bonds shall be issued in an aggregate principal amount not to exceed \$5,000,000 for the 2022 Improvement Project.

(ii) The net effective interest rate on the Series 2022 Bonds shall not exceed 12% per annum.

(iii) The final maturity of the Series 2022 Bonds shall not be later than June 1, 2034.

(iv) The Series 2022 Bonds shall be sold with a maximum underwriting or purchaser's discount not to exceed 1.00%.

(iv) The Series 2022 Bonds shall be payable solely from, and shall constitute a subordinate lien upon the Pledged Revenues, subordinate to the lien thereon of the Parity Obligations and on a parity with the outstanding Parity Subordinate Obligations.

(v) The Series 2022 Bonds shall be sold to the Purchaser pursuant to private placement with the Purchaser.

(vi) The maximum sale price of the Series 2022 Bonds shall be not more than \$5,000,000, exclusive of premium payable in connection with the issuance of the Bonds.

(vii) The Series 2022 Bonds shall be in substantially the form set forth in this Ordinance.

C. The City Manager or City Financial Services Director, is hereby authorized pursuant to this Ordinance to approve the final terms of the Bonds as permitted by Section 6-14-10.2 NMSA 1978, and to execute and deliver the Pricing Certificate and the Bond Purchase Agreement. The forms of the Bond Purchase Agreement and Intercept Agreement submitted with the adoption of this Ordinance are hereby approved with such changes as are approved by the Delegate consistent with the parameters outlined in this Ordinance.

D. The Bonds shall be negotiable instruments but shall be issued only as fully registered bonds, in such numbers and denominations as may be requested by the Purchaser, but exchangeable for other fully registered Bonds of any denominations which are multiples of \$5,000. The Bonds shall be numbered separately and consecutively, shall be dated the date of their delivery to the Purchaser, shall mature on June 1 of each year and shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date, payable semi-annually on June 1 and December 1 in each year commencing on December 1, 2022 (or such other date as specified in the Pricing Certificate) until their respective maturities. The Bonds shall bear the rates of interest, maturities and provisions for redemption prior to maturity as shall be established in the Pricing Certificate.

Section 6. Redemption of Bonds.

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

B. Conditional Redemption. If money or Defeasance Obligations (as defined in Section 31) sufficient to pay the optional redemption price of the Bonds to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to paragraph A of this Section, such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the optional redemption price is on deposit

with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Bonds to be redeemed shall be selected in the manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice or optional redemption was given, that such money was not received and the information required by paragraph A of this Section. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been optionally redeemed.

Section 7.Filing of Manual Signatures. Prior to the execution of any Bond pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended, the Mayor or Mayor Pro Tem and City Clerk shall each file with the New Mexico Secretary of State his or her manual signature certified by him or her under oath; provided that filing shall not be necessary for any officer where any previous filing may have legal application to the Bonds.

Section 8.Execution and Authentication of Bonds.

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

B.Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been fully executed if manually signed and inscribed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 9.Negotiability. The Bonds shall be fully negotiable and shall have all the qualities of negotiable paper and the Bondholders shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code. Except as set forth herein, the Bonds outstanding shall in all respects be equally and ratably secured, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds.

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

to bear interest at the rate or rates designated in, and applicable to, such Bond from time to time. If any Bond is not presented for payment at maturity or redemption when funds available therefor have been deposited with the Paying Agent, it shall cease bearing interest on and from the date of maturity or redemption.

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

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

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

C. Owner of the Bonds. The person in whose name any Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either the principal of or interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative as stated herein, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

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

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

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

G. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the City shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the City may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having 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 serve as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

H.Book Entry. The Bonds may be issued or registered, in whole or in part, in book-entry form from time to time with no physical distribution of bond certificates made to the public, with a Depository acting as securities depository for the Bonds. A single certificate for each maturity date of the Bonds issued in book-entry form will be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in authorized denominations, with transfer of ownership effected on the books of the Depository and its participants ("Participants"). As a condition to delivery of the Bonds in book-entry form, the Purchaser will, immediately after acceptance of delivery thereof, deposit, or cause to be deposited, the Bond certificates with the Depository, registered in the name of the Depository or its nominee. Principal, premium, if any, and interest will be paid to the Depository or its nominee as the registered owner of the Bonds. The transfer of principal, premium, if any, and interest payments to Participants will be the responsibility of the Depository; the transfer of principal, premium, if any, and interest payments to the beneficial owners of the Bonds (the "Beneficial Owners") will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the "Indirect Participants"). The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.

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

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

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

Section 12.Special Limited Obligations. All of the Bonds and all payments of principal, premium, if any, and interest thereon whether at maturity or on a redemption date, together with any interest accruing thereon, shall be special limited obligations of the City and shall be payable and collectible solely from the Pledged Revenues, which revenues are so pledged and are payable as set forth in Section 17 of this Bond Ordinance. The owner or owners of the Bonds may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor. The Bonds shall not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or held to be general obligations of the City, and each of the Bonds shall recite that it is payable and collectible solely out of the Pledged Revenues, pledged as set forth in this Bond Ordinance, and that the holders thereof may not look to any general or other municipal fund for the payment of the principal of and interest on the Bonds. Nothing herein shall prevent the City from applying other funds of the City legally available therefor to the payment of the Bonds, in its sole discretion.

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

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF NEW MEXICO COUNTY OF DOÑA ANA

CITY OF LAS CRUCES, NEW MEXICO

SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX

IMPROVEMENT REVENUE BONDS,

SERIES 2022

Bond No. _____ \$ _____

INTEREST RATE MATURITY DATE DATE OF BOND CUSIP

% per annum June 1, _____, 2022 _____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

The City of Las Cruces (the "City"), in the County of Doña Ana and State of New Mexico, a municipal corporation duly organized and existing under the Constitution and laws of the State of New Mexico, for value received, hereby promises to pay, solely from the special funds available for the purpose as hereinafter set forth, to the registered owner named above or registered assigns, on the Maturity Date specified above, upon presentation and surrender hereof at the principal office of the City Treasurer, Las Cruces, New Mexico, as paying agent, or any successor paying agent (the "Paying Agent"), the Principal Amount stated above, in lawful money of the United States of America, and to pay from such sources interest on the unpaid principal amount at the Interest Rate on December 1, 2022 and on June 1 and December 1 of each year (each an "Interest Payment Date") thereafter to its maturity, or until redeemed if called for redemption prior to maturity. This bond will bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from its date. Interest on this bond is payable by check mailed to the registered owner hereof (or by such other arrangement as may be mutually agreed to by the Paying Agent and the registered owner) as shown on the registration books for this issue maintained by the City Treasurer, Las Cruces, New Mexico, as registrar, or any successor registrar (the "Registrar") at the address appearing therein at the close of business on the fifteenth day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the owner hereof as of the Record Date but shall be payable to the owner hereof at the close of business on a special record date to be fixed by the Paying Agent for the payment of interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to owners of Bonds (defined below) as then shown on the Registrar's registration books not less than ten (10) days prior to the special record date. If, upon presentation at maturity or redemption, payment of this bond is not made as herein provided, interest hereon shall continue at the Interest Rate until the principal hereof is paid in full. The principal, premium, if any, and interest on this bond are payable in lawful money of the United States of America, without deduction for the services of the Paying Agent or the Registrar.

This bond is one of a duly authorized series of fully registered bonds of the City in the aggregate principal amount of \$ _____ issued in denominations of \$5,000 or integral multiples thereof, designated as the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022 (the "Series 2022 Bonds") issued under and pursuant to City Ordinance No. _____, as supplemented by a Pricing Certificate dated _____, 2022 (as supplemented, the "Bond Ordinance").

The Series 2022 Bonds maturing on and after June 1, _____, are subject to prior redemption at the City's option in one or more units of principal of \$5,000 on and after June 1, _____ in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the Series 2022 Bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair), for the principal amount of each \$5,000 unit of principal so redeemed plus accrued interest to the redemption date.

Redemption shall be made upon prior notice mailed to each registered owner of each Series 2022 Bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

Notice of redemption of this bond will be given by providing at least thirty (30) days prior written notice in the manner required by the depository for the Bonds or by first-class postage prepaid mail to the owner hereof at the address shown on the registration books as of the fifth day prior to the mailing of notice as provided in the Bond Ordinance. Notices of redemption will specify the number or numbers and maturity date of the Series 2022 Bonds to be redeemed (if less than all are to be redeemed), the date fixed for redemption, the amount of such Bond to be redeemed (if less than the full amount of any Bond is to be redeemed), and shall further state that on such redemption date there will become and be due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount thereof plus accrued interest to the redemption date and that from and after such date, the redemption amount having been deposited and notice having been given, interest will cease to accrue. Upon any partial prior redemption of this bond, the registered owner, in its discretion, may request the Registrar to authenticate a new bond or to make an appropriate notation on this bond indicating the date and amount of prepayment, except in the case of final maturity, in which case this bond must be presented to the Paying Agent prior to payment.

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

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

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

This Bond does not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the City, and is payable and collectible solely out of the revenues derived from the revenues from the Pledged Revenues (as such term is defined in the Bond Ordinance) and the bondholders may not look to any other general or other municipal fund for the payment of the interest and principal of this bond. The lien of the Series 2022 Bonds on the Pledged Revenues is an irrevocable and subordinate lien, but not necessarily an exclusive subordinate lien, on the Pledged Revenues. Upon satisfaction of the conditions set forth in the Bond Ordinance, additional bonds may be issued and made payable from the Pledged Revenues having a lien thereon either on parity with or senior to the lien on the Pledged Revenues of the Series 2022 Bonds. Amounts and securities held in the 2022 Debt Service Fund and 2022 Reserve Fund (if any), as such terms are defined in the Bond Ordinance, have been exclusively pledged for payment of the principal of, premium, if any, and interest on the 2022 Bonds.

The Series 2022 Bonds are issued to provide funds to defray in part the costs of (1) the acquisition of fire engines, aerial fire trucks, and fire equipment for the City Fire Department and (2) the payment of Expenses related to the issuance of the Series 2022 Bonds.

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

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

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

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

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

CITY OF LAS CRUCES, NEW MEXICO

By _____

Mayor

By _____

City Clerk

(SEAL)

(Form of Registrar's Certificate of Authentication)

Certificate of Authentication

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

Date of Authentication:

City Treasurer of the City of Las Cruces,

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 transfer 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.

Social Security or Tax Identification No. of Assignee _____

Dated: _____

Signature Guarantee:

NOTE: The assignor's signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

(End of Form of Assignment)

(End of Form of Bond)

Section 14.Period of 2022 Improvement Project's Usefulness. It is hereby determined and recited that the period of usefulness of the 2022 Improvement Project financed with the proceeds of the Series 2022 Bonds will not expire prior to the final maturity date of the Series 2022 Bonds.

Section 15.Use of Bond Proceeds and Other Funds; Completion of 2022 Improvement Project. Except as herein otherwise specifically provided, the proceeds derived from the sale of the Bonds, shall be used and paid solely for the valid costs of the 2022 Improvement Project.

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

B.Acquisition Fund. Proceeds derived from the sale of the Series 2022 Bonds in an amount to be specified in the Pricing Certificate shall be deposited promptly upon the receipt thereof in the 2022 Acquisition Fund to be held by the trustee for the Purchaser. Until the completion of the 2022 Improvement Project, the

money in the 2022 Acquisition Fund shall be used and paid out solely for the purpose of the 2022 Improvement Project in compliance with applicable law.

C.Reserve Fund. No deposit of proceeds of the Bonds, Pledged State Shared Gross Receipts Tax Revenues or other City moneys into the 2022 Reserve Fund shall be required on the date of issuance of the Bonds or at any time thereafter, except in the circumstances and on the conditions described in paragraph B of Section 17 of this Bond Ordinance.

D.2022 Improvement Project Completion. As soon as practicable after completion of the 2022 Improvement Project, and in any event not more than 60 days after completion of the 2022 Improvement Project, any proceeds remaining unspent (other than any amount retained by the City for any 2022 Improvement Project costs not then due and payable) shall be transferred and deposited in the 2022 Debt Service Fund and used by the City to pay principal and interest on the Series 2022 Bonds as same become due.

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

F.Bond Insurance Policy and/or Reserve Fund Insurance Policy. A Bond Insurance Policy and/or Reserve Fund Insurance Policy may be obtained in connection with the issuance of each of the Series 2022 Bonds, as may be provided in the Pricing Certificate. The covenants of the City and other provisions required by the issuer of the Bond Insurance Policy and/or Reserve Fund Insurance Policy or otherwise necessary or advisable in connection with the Bond Insurance Policy and/or Reserve Fund Insurance Policy shall be included in the Pricing Certificate.

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

A.2022 Acquisition Fund. The "City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Improvement Project Acquisition Fund" to be maintained by the City or by the trustee for the Purchaser.

B.Pledged Revenue Fund. The "City of Las Cruces, New Mexico State Shared Gross Receipts Tax Revenue Fund" (the "State Shared Gross Receipts Tax Revenue Fund") to be maintained by the City, into which the City shall deposit the Pledged State Shared Gross Receipts Tax Revenues.

C.2022 Debt Service Fund. The "City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Debt Service Fund" (the "2022 Debt Service Fund") to be maintained by the City or by the trustee for the Purchaser.

D.2022 Reserve Fund. The "City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Reserve Fund" (the "2022 Reserve Fund") to be maintained by the City or by the trustee for the Purchaser.

Section 17.Deposit of Pledged Revenues and Flow of Funds. So long as any of the outstanding obligations payable from the Pledged Revenues shall remain outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Pledged Revenues.

A.Payment of Parity Obligations. As a first lien on amounts on deposit in the Pledged Revenue Fund, the City shall pay the of principal of, interest on and debt service reserve fund deposits relating to outstanding Parity Obligations payable from the Pledged Revenues as required by the ordinances authorizing the issuance of the Parity Obligations. If funds on deposit in the Pledged Revenue Funds are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to outstanding Parity Obligations, then the available funds in the Pledged Revenue Fund will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity

Obligations, for the payment of principal of and interest on all series of outstanding Parity Obligations and, second, to the extent of remaining available funds in the Pledged Revenue Fund on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Obligations, for the required debt service reserve fund deposits for all series of outstanding Parity Obligations.

B. Payment of Parity Subordinate Obligations. Subsequent to the payments required by the outstanding Parity Obligations, any balance remaining in the Pledged Revenue Fund, after making the payments hereinabove provided, shall be used by the City for the payment of interest on and the principal of the Series 2022 Bonds and all other Outstanding Parity Subordinate Obligations or other obligations, if any, having a lien on any of the Pledged Revenues subordinate to the lien thereon of the Parity Obligations hereafter authorized, issued and payable from the Pledged Revenues, as the same become due. So long as any of the Series 2022 Bonds shall remain outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Pledged Revenues on a parity with the payments required by the outstanding Parity Subordinate Obligations:

(i)2022 Debt Service Fund Payments. The following amounts shall be withdrawn from the State Shared Gross Receipts Tax Revenue Fund (and on parity with other outstanding Parity Subordinate Obligations), and shall be concurrently credited to the 2022 Debt Service Fund (unless the City determines that such amounts shall be withdrawn from such funds in some other order):

(aa)Monthly, commencing on the first day of the month immediately succeeding the delivery of the Series 2022 Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Series 2022 Bonds, and monthly thereafter, commencing on each Interest Payment Date, one-sixth (1/6) of the amount necessary to pay the next maturing installment of interest on the Series 2022 Bonds then outstanding.

(bb)Monthly, commencing on the first day of the month immediately succeeding the delivery of the Series 2022 Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of principal of the outstanding Series 2022 Bonds and monthly thereafter, commencing on each principal payment date, one-twelfth (1/12) of the amount necessary to pay the next maturing installment of principal on the Series 2022 Bonds then outstanding.

(ii)Credit. In making the deposits required to be made into the 2022 Debt Service Fund, if there are any amounts then on deposit in the 2022 Debt Service Fund available for the purpose for which such deposit is to be made, the amount of the deposit to be made pursuant to paragraph (aa) above shall be reduced by the amount available in such fund for such purpose.

(iii)Transfer of Money out of 2022 Debt Service Fund. Each payment of principal and interest becoming due on the Series 2022 Bonds shall be transferred from the 2022 Debt Service Fund to the Paying Agent on or before two Business Days prior to the due date of such payment.

(iv)2022 Reserve Fund and Reserve Fund Insurance Policy. No deposit shall be required in the 2022 Reserve Fund upon the issuance of the 2022 Bonds or any time thereafter except in the event that the City's credit rating for its outstanding Parity State Shared Gross Receipts Tax Revenue Bonds is downgraded to a rating that is below the rating of A/A2 by any of the nationally recognized securities rating agencies identified in this Ordinance. If such downgrade below A/A2 occurs, the City shall promptly notify the Purchaser and shall follow the procedure outlined in either subsection (a) or subsection (b) of this paragraph.

(a) The City shall begin making substantially equal monthly deposits in the 2022 Reserve Fund from the first legally available Pledged State Shared Gross Receipts Tax Revenues so that after 24 months an amount equal to the 2022 Minimum Reserve will be held in the 2022 Reserve Fund.

(b) Alternatively, the City shall deposit in the 2022 Reserve Fund one or more Reserve Fund Insurance Policies approved by the Purchaser which are equal to the 2022 Minimum Reserve. The Reserve Fund Insurance Policies shall continue to be in force until the earlier of (a) the final maturity date of the Series 2022

Bonds (unless such date is extended by agreement of the provider of the policy or surety bond) or (b) the date on which there are sufficient funds on deposit in the Series 2022 Debt Service Fund to pay the principal of and interest due on the Series 2022 Bonds.

After funding the 2022 Reserve Fund in an amount equal to the 2022 Minimum Reserve, no additional payments need be made into the 2022 Reserve Fund so long as the moneys therein shall equal not less than the 2022 Minimum Reserve. The moneys (if any) in the 2022 Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in subparagraph B(v) of this Section 17, only to prevent deficiencies in the payment of the principal of and interest on the Series 2022 Bonds resulting from failure to deposit into the 2022 Debt Service Fund sufficient funds to pay the principal and interest as the same accrue.

(v)Defraying Delinquencies in the 2022 Debt Service Fund and 2022 Reserve Fund. If, on any Interest Payment Date, the amount on deposit in the 2022 Debt Service Fund is insufficient to pay principal of and interest on the 2022 Bonds then due, then an amount shall be paid into the 2022 Debt Service Fund on such date from the 2022 Reserve Fund (if moneys are then on deposit in the 2022 Reserve Fund) equal to the amount of the insufficiency. The money deposited in the 2022 Debt Service Fund from the 2022 Reserve Fund, if any, shall be replaced in the Reserve Fund in 24 substantially equal monthly deposits commencing on the first day of the first month immediately succeeding the draw on the 2022 Reserve Fund. Such accumulation shall be made from the Pledged Revenues second to the payments required by subparagraph I(i)(aa)(1) and (2) of this Section 17. If, in any month, the City shall, for any reason, fail to pay into the 2022 Reserve Fund the full amount required, the difference between the amount paid and the amount so stipulated shall be paid therein from the first Pledged Revenues thereafter received and not required to be otherwise applied. The moneys in the 2022 Reserve Fund shall be used solely and only for the purpose of paying any deficiencies in the payment of the principal of and the interest on the 2022 Bonds; provided, however, that any moneys at any time in excess of the 2022 Minimum Reserve in the 2022 Reserve Fund may be withdrawn therefrom and applied to any other lawful purpose. Cash accumulated in the 2022 Reserve Fund shall not be invested in a manner which could cause the 2022 Bonds to become arbitrage bonds within the meaning of the Code. Any investments held in the 2022 Reserve Fund shall be valued annually, on or about June 1, at their current fair market value and, if the amount then on deposit in the 2022 Reserve Fund exceeds the 2022 Minimum Reserve, all amounts in excess of the 2022 Minimum Reserve shall be transferred to the 2022 Debt Service Fund and used to pay principal of and interest on the 2022 Bonds.

(vi)Payment of Parity Subordinate Obligations. Concurrently with and on the same priority as the payment of the Pledged Revenues required by subparagraphs B(i), (iv) and (v) of this Section, any amounts on deposit in the Pledged Revenue Fund shall be used by the City for the payment of principal of, interest on and debt service reserve fund deposits relating to outstanding Parity Subordinate Obligations payable from the Pledged Revenues, as the same become due. If funds on deposit in the Pledged Revenue Funds are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the 2022 Bonds and any other outstanding Parity Subordinate Obligations, then the available funds in the Pledged Revenue Fund will be used, first (after payment of the Parity Obligations), on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Subordinate Obligations, for the payment of principal of and interest on all series of outstanding Parity Subordinate Obligations and, second, to the extent of remaining available funds in the Pledged Revenue Fund on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Subordinate Obligations, for the required debt service reserve fund deposits for all series of outstanding Parity Subordinate Obligations.

(vii)Termination Upon Deposits to Maturity. No payment shall be made into the 2022 Debt Service Fund or the 2022 Reserve Fund (if required to be funded) if the amounts in such funds total a sum at least equal to the entire aggregate amount due as to principal, premium, if any, and interest, on the Series 2022 Bonds to their respective maturities or applicable redemption dates, in which case moneys in the 2022 Debt Service Fund and the 2022 Reserve Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in the 2022 Debt Service Fund and the 2022 Reserve Fund may be used as provided below.

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

Section 18. General Administration of Funds. The funds designated in Section 16 shall be administered and invested as follows:

A. Places and Times of Deposits. The funds shall be separately maintained as a trust fund or funds for the purposes established and shall be invested by the City in Permitted Investments or deposited in one or more bank accounts in an Insured Bank or Banks. Each fund or account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the designated purpose. Payments shall be made into the proper fund or account on the first day of the month except when the first day shall not be a Business Day, then payment shall be made on the next succeeding Business Day. No later than two Business Days prior to each Interest Payment Date, moneys sufficient to pay interest and principal then due on the Bonds shall be transferred to the Paying Agent. Nothing in this Bond Ordinance shall prevent the City from establishing one or more bank accounts in an Insured Bank or Banks for all the funds required by this Bond Ordinance or shall prevent the combination of such funds and accounts with any other bank account or accounts or investments for other funds and accounts of the City.

B. Investment of Moneys. Moneys in the 2022 Reserve Fund shall be invested in accordance with paragraph C of this Section 18, and moneys in any other fund or account not immediately needed may be invested in any investment permitted by the laws of the State or by the Charter. The obligations so purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund or account, and any loss resulting from such investment shall be charged to such fund or account. The City Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

C. Reserve Fund. Moneys, if any, in the 2022 Reserve Fund may be invested only in Permitted Investments with an average aggregate weighted term to maturity not greater than five years. The City shall annually on or about June 1 of each year, commencing on the first June 1 succeeding funding of the 2022 Reserve Fund, value the 2022 Reserve Fund on the basis of the current fair market value of deposits and investments credited to each of the 2022 Reserve Fund. If, upon any valuation, the value of the 2022 Reserve Fund exceeds the 2022 Minimum Reserve, the excess amount shall be withdrawn and deposited into the 2022 Debt Service Fund; if the value is less than the applicable requirement, the City shall replenish such amounts from the first Pledged Revenues thereafter received not required to be otherwise applied or other monies legally available therefor.

At such time as the Series 2022 Bonds are paid in full or are deemed to be paid in full, the amount on deposit in the 2022 Reserve Fund may be used to pay the final installments of principal and interest on the Series 2022 Bonds and otherwise may be withdrawn and transferred to the City to be used for any lawful purpose, provided that, if such amounts are used for a purpose other than payment of the Series 2022 Bonds, there shall be delivered an opinion of nationally recognized bond counsel that the purpose for which such funds are to be used is a lawful purpose for which such proceeds may be used under the laws of the State of New Mexico and that such use shall not result in the inclusion of interest on any Series 2022 Bonds in gross income of the recipient thereof for federal income tax purposes.

If moneys have been withdrawn from the 2022 Reserve Fund and deposited into the 2022 Debt Service Fund to prevent a default on the Series 2022 Bonds, then the City will pay, from Pledged Revenues or other monies legally available therefor, the full amount so withdrawn or so much as shall be required to restore the 2022 Reserve Fund to the 2022 Minimum Reserve. Such repayment shall be made as required by Section 17 of this Bond Ordinance.

Section 19.Lien on Pledged Revenues. The Pledged Revenues and the amounts and securities on deposit in 2022 Debt Service Fund and the 2022 Reserve Fund, if any, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the City grants a security interest therein for, the payment of the principal of, premium, if any, and interest on the Series 2022 Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this Bond Ordinance. The Series 2022 Bonds constitute an irrevocable and subordinate lien, but not an exclusive subordinate lien on the Pledged Revenues, subordinate to the lien thereon of the outstanding Parity Obligations and additional Parity Obligations, if any, hereafter authorized to be issued and payable from Pledged Revenues, and on parity with the lien thereon of the outstanding Parity Subordinate Obligations and additional Parity Subordinate Obligations, if any, hereafter authorized to be issued and payable from the Pledged Revenues.

Section 20.Additional Obligations Payable from Pledged Revenues.

A.Parity Obligations. This Bond Ordinance shall not prevent the issuance of additional Parity Bonds payable from and constituting a lien upon the Pledged Revenues on parity with the lien of the Parity Obligations in accordance with the ordinances authorizing the issuance of the outstanding Parity Obligations.

B.Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the City from issuing bonds or other obligations payable from Pledged Revenues pledged by this Bond Ordinance and having a lien on any of the Pledged Revenues subordinate to the lien of the Series 2022 Bonds.

C.Superior Obligations Prohibited. The City shall not issue any obligation having a lien on any of the Pledged Revenues pledged by this Bond Ordinance which is prior and superior to the Parity Obligations.

Section 21.Additional Parity Subordinate Obligations Payable from Pledged Revenues.

A.Parity Subordinate Obligation Test. This Bond Ordinance shall not prevent the issuance of additional Parity Subordinate Obligations payable from and constituting a subordinate lien upon the Pledged Revenues on parity with the lien of the Series 2022 Bonds. Before any additional Parity Subordinate Obligations are actually issued, it must be determined that:

(1)The City is then current in the accumulation of all amounts which are then required to be on deposit in 2022 Debt Service Fund and 2022 Reserve Fund, in accordance with Section 17 of this Bond Ordinance; and

(2)The Pledged State Shared Gross Receipts Tax Revenues (not including any Hold Harmless Distribution) received by the City in the Fiscal Year immediately preceding the date of issuance of the proposed additional Parity Subordinate Lien Bonds shall have been sufficient to pay an amount representing at least 150% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on (1) the outstanding Parity Obligations, (2) outstanding Parity Subordinate Obligations, and (3) the Parity Subordinate Obligations proposed to be issued.

For purposes of the test set forth in clause (2) above, if on the date of issuance of the additional Parity Subordinate Obligations, (a) any amount of the reserve fund requirement for the additional Parity Subordinate Obligations is immediately deposited in or credited to the reserve fund for the additional Parity Subordinate Obligations or, (b) any amount of the reserve fund requirement for any issue of outstanding Parity Subordinate Obligations is then on deposit in or credited to the reserve fund for any issue of outstanding Parity Subordinate Obligations, then the amounts on deposit in or credited to the respective reserve funds shall be deducted from the principal and interest coming due in the final Fiscal Year for the additional Parity Subordinate Obligations or any issue of outstanding Parity Subordinate Obligations for which such reserve fund was created.

B.Certification or Opinion Regarding Pledged Revenues. A written certificate or opinion by an Independent Accountant or the City Treasurer or City Financial Services Director, that the Pledged Revenues (not including any Hold Harmless Distribution) are sufficient to pay the required amounts under the test in paragraph A of this Section, shall conclusively determine the right of the City to issue additional Parity

Subordinate Obligations. The Independent Accountant, City Treasurer or City Financial Services Director may utilize the results of any annual audit to the extent it covers the applicable period.

C.Super Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the City from issuing bonds or other obligations payable from Pledged Revenues pledged by this Bond Ordinance and having a lien on any of the Pledged Revenues subordinate to the lien of the Series 2022 Bonds.

Section 22.Refunding Bonds. The provisions of Section 20 and Section 21 of this Bond Ordinance are subject to the following exceptions:

A.Privilege of Issuing Refunding Obligations. If at any time the City shall find it desirable to refund any outstanding Parity Obligations, or any part thereof, such obligations may be refunded, but only in accordance with the ordinances authorizing the issuance of such Parity Obligations.

B.Limitation Upon Issuance of Parity Subordinate Refunding Obligations. No refunding obligations shall be issued with a lien on the Pledged Revenues on parity with the lien of the Series 2022 Bonds, unless:

(1)The lien on the Pledged Revenues of the outstanding obligations so refunded is on parity with the lien on the Pledged Revenues of the Series 2022 Bonds; or

(2)The refunding obligations are issued in compliance Section 21 of this Bond Ordinance.

C.Refunding Part of an Issue. The refunding bonds or other refunding obligations 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 holder or holders of such refunding bonds or other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the owner or owners of the same issue refunded thereby. If only a part of any issue or issues is refunded, then there may be no refunding without the consent of the holders of the unrefunded portion of such obligations, unless:

(1)The refunding obligations do not increase the aggregate principal and interest requirements for any Fiscal Year commencing prior to the last maturity date of such unrefunded obligations; or

(2)The lien of the refunding obligations is subordinate to the lien of any obligations not refunded; or

(3)The refunding bonds or other refunding obligations are issued in compliance with Section 20 (in the case of Parity Refunding Obligations) or Section 21 (in the case of Parity Subordinate Refunding Obligations) of this Bond Ordinance.

D.Limitation Upon Issuance of Any Refunding Obligations. Any refunding obligations payable from Pledged Revenues shall be issued with such details as the City Council may provide, subject to the inclusion of any such rights and privileges designated in paragraph B of this Section but without impairing any contractual obligation imposed by any proceedings authorizing any unrefunded portion of any issue or issues, including the Series 2022 Bonds.

Section 23.Equality of Parity Subordinate Obligations. The Parity Subordinate Obligations from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of their issuance or the date incurred, it being the intention of the City Council that, except as set forth herein, there shall be no priority among Parity Subordinate Obligations regardless of whether they are actually issued and delivered or incurred at different times.

Section 24.Protective Covenants. The City hereby covenants and agrees with each and every holder of the Bonds issued hereunder:

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

B. Payment of Bonds Herein Authorized. The City will promptly pay the principal of and the interest on every Series 2022 Bond at the place, on the date and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

C. City's Existence. The City will maintain its corporate identity and existence so long as any of the Bonds remain outstanding, unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any owner of the Bonds.

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

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

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

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

H. Impairment of Contract. The City agrees that any law, ordinance or resolution of the City that in any manner affects the Pledged Revenues or the Bonds shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor or unless the required consents of the holders of the then outstanding Bonds are obtained pursuant to Section 30 of this Bond Ordinance.

I. Debt Service Fund and Reserve Fund. The 2022 Debt Service Fund and the 2022 Reserve Fund shall be used solely and only, and those funds are hereby pledged, for the purposes set forth in this Bond Ordinance.

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

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

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

The City covenants that it (a) will take or cause to be taken such actions which may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and (b) will not take or permit to be taken any actions which would adversely affect that exclusion, and that it or

persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments, yield reduction payments or payments of alternative amounts in lieu of rebate to the federal government, if required, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Mayor, Mayor Pro Tem and other appropriate officers are hereby authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, if any, as may be required or appropriate to assure such exclusion of that interest.

In furtherance of the covenants set forth above, the City hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund (the "Rebate Fund"). Money and investments in the Rebate Fund shall not be used for the payment of the Bonds, and amounts credited to the Rebate Fund shall be free and clear under any pledge under this Bond Ordinance. Money in the Rebate Fund shall be invested in a manner provided in Section 18 for investment of money, and all amounts on deposit in the Rebate Fund shall be held by the City, or a designated trustee, in trust, to the extent required to pay rebatable arbitrage to the United States of America. The City shall unconditionally be entitled to accept and rely upon the recommendation, advice, calculation and opinion of an accounting firm or other person or firm with knowledge of or experience in advising with respect to the provisions of the Code relating to rebatable arbitrage. The City shall remit all rebate installments and the final rebate payment to the United States of America as required by the provisions of the Code. Any moneys remaining in the Rebate Fund after redemption and payment of all the Bonds and payment and satisfaction of any rebatable arbitrage shall be withdrawn and remitted to the City.

Section 25. Preliminary Official Statement and Continuing Disclosure Undertaking.

A. Preliminary Official Statement. If required by the Purchaser, the preparation of the Preliminary Official Statement is hereby requested and approved for use distribution and use in connection with the sale of the Bonds; provided, that the foregoing shall not be applicable in the event that the Bonds are purchased pursuant to a private placement for which the Preliminary Official Statement is not required.

B. Continuing Disclosure Undertaking. If required by the Purchaser, the officers of the City are authorized to sign such documents and to take such actions in the future with respect to the City's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended; provided, that the foregoing shall not be applicable in the event that the Bonds are purchased pursuant to a private placement for which the Continuing Disclosure Undertaking is not required. Notwithstanding any other provisions of this Bond Ordinance, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an "event of default" under Section 26 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 27. Events of Default. Each of the following events is hereby declared an "event of default":

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

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

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

D. Default of any Provision. Default by the City in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in this Bond Ordinance on its part to be performed (other than a default set forth in subparagraphs A and B of this Section), and the continuance of such

default for thirty (30) days after written notice specifying such default and requiring the same to be remedied has been given to the City by the holders of twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding.

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

Section 27.Remedies Upon Default. Upon the happening and continuance of any of the events of default as provided in Section 26 of this Bond Ordinance, then and in every case, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the City, the City Council and its agents, officers and employees, but only in their official capacities, to protect and enforce the rights of any holder of Bonds under this Bond Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award relating to the execution of any power herein granted for the enforcement of any legal or equitable remedy as such holder or holders may deem most effectual to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of any Bondholder, or to require the City Council to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all holders of the Bonds then outstanding. The failure of any Bondholder so to proceed shall not relieve the City or any of its officers, agents or employees of any responsibility for failure to perform, in their official capacities, any duty. Each right or privilege of such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege.

Section 28.Duties Upon Default. Upon the happening of any of the events of default provided in Section 26 of this Bond Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the owners of the Bonds to protect and preserve the security created for the payment of the Bonds and to insure the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived therefrom, so long as any of the Bonds, either as to principal or interest, are outstanding and unpaid, shall be applied as set forth in Section 17 of this Bond Ordinance. In the event the City fails or refuses to proceed as provided in this Section, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the owners of the Bonds as hereinabove provided.

Section 29.Bonds Not Presented When Due. If any Bonds shall not be duly presented for payment when due at maturity or on the redemption date thereof, and if moneys sufficient to pay such Bonds are on deposit with the Paying Agent for the benefit of the owners of such Bonds, all liability of the City to such owners for the payments of such Bonds shall be completely discharged, such Bonds shall not be deemed to be outstanding and it shall be the duty of the Paying Agent to segregate and to hold such moneys in trust, without liability for interest thereon, for the benefit of the owners of such Bonds as may be provided in any agreement hereafter entered into between the Paying Agent and an officer of the City.

Section 30.Delegated Powers; Authority to Make Budget Adjustments. The officers of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Bond Ordinance, including, without limiting the generality of the foregoing, the publication of the title and general summary of the Bond Ordinance set out in Section 36 (with such changes, additions and deletions as they may determine), the printing of the Bonds, the preparation, printing, execution and distribution of the Preliminary Official Statement and final Official Statement, and the execution of the Continuing Disclosure Undertaking and of such documents or certificates as may be required by the Purchaser or bond counsel. The officers of the City are hereby authorized and directed to take all action necessary to make the budget adjustments needed to reflect the Bond proceeds.

Section 31.Amendment of Bond Ordinance. This Bond Ordinance may be amended without the consent of the holder of any Bond to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained herein. Prior to the date of the initial delivery of the Bonds to the Purchaser, the provisions of this Bond Ordinance may be amended with the written consent of the Purchaser, with respect to any changes which are not inconsistent with the substantive provisions of this Bond Ordinance. In addition, this Bond Ordinance may be amended without receipt by the City of any additional consideration, but with the written consent of the holders of seventy-five percent (75%) of the Bonds then outstanding (not including Bonds which may be held for the account of the City); but no ordinance adopted without the written consent of the holders of all outstanding Bonds shall have the effect of permitting:

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

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

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

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

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

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

Section 32.Defeasance. When all principal and interest in connection with the Bonds hereby authorized have been duly paid, the pledge and lien on the Pledged Revenues for the payment of the Bonds shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this Bond Ordinance. Payment shall be deemed made with respect to any Bond or Bonds when the City has placed in escrow with a commercial bank exercising trust powers, an amount sufficient (including the known minimum yield from Defeasance Obligations, as defined below) to meet all requirements of principal and interest as the same become due to their final maturities or upon designated redemption dates. Any Defeasance Obligations shall become due when needed in accordance with a schedule agreed upon between the City and such bank at the time of the creation of the escrow. Defeasance Obligations within the meaning of this Section shall include only (1) cash, (2) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – “SLGs”), and (3) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

Section 33.Bond Ordinance Irrepealable. After any of the Bonds are issued, this Bond Ordinance shall be and remain irrepealable until the Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided, or there has been defeasance of the Bonds as herein provided.

Section 34.Severability Clause. If any Section, paragraph, clause or provision of this Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 35.Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 36.Effective Date. Upon due adoption of this Bond Ordinance, it shall be recorded in the book of ordinances of the City kept for that purpose, authenticated by the signatures of the Mayor or Mayor Pro Tem and City Clerk, and the title and general summary of the subject matter contained in this Bond Ordinance (set out in Section 37 below) shall be published in a newspaper which maintains an office and is of general circulation in the City and this Bond Ordinance shall be in full force and effect in accordance with law.

Section 37. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Las Cruces, New Mexico

Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in an ordinance duly adopted and approved by the City Council of the City of Las Cruces, New Mexico, on August 15, 2022, relating to the authorization and issuance of the City's Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, Las Cruces City Hall, 700 North Main Street Las Cruces, New Mexico.

The title of the Ordinance is:

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS CRUCES, NEW MEXICO SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2022 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 FOR THE ACQUISITION OF FIRE ENGINES, AERIAL FIRE TRUCKS, AND FIRE EQUIPMENT FOR THE CITY FIRE DEPARTMENT; DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE FOR THE SALE OF THE BONDS TO THE PURCHASER.

A general summary of the Ordinance is:

The Ordinance authorizes the issuance and sale of the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, in an aggregate principal amount not to exceed \$5,000,000 for (1) the acquisition of fire engines, aerial fire trucks, and fire equipment for the City Fire Department and (2) paying Expenses related to the issuance of the Series 2022 Bonds; provides that the Bonds will be payable and collectible from the revenues derived from the 1.225% pledged state shared gross receipts tax distributed to the City; provides that the maturity dates, interest rates, redemption provisions and other details of each series of the Bonds will be as established in the Pricing Certificate, and delegate authority to the City Manager or Financial Services Director to execute and deliver the Pricing Certificate; provides a form of the Bonds; approves preparation, execution and delivery of certain documents relating to the Bonds; makes covenants for the benefit of owners of the Bonds; ratifies action previously taken in connection with the Bonds; and repeals all action in conflict with the Ordinance.

This notice constitutes compliance with § 6-14-6 N.M.S.A. 1978.

(End of Form of Summary for Publication)

DONE AND APPROVED this 15 day of August 2022

APPROVED

Mayor

ATTEST:

City Clerk

Moved by: Becki Graham

Seconded by: Tessa Abeyta

AYES Kasandra Gandara, Ken Miyagishima, Yvonne Flores, Johana Bencomo, Becki Graham,
Becky Corran, Tessa Abeyta

NAYS

Draft 6/22/2022

\$ _____

SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX IMPROVEMENT REVENUE
BONDS

SERIES 2022

BOND PURCHASE AGREEMENT

August __, 2022

City of Las Cruces, New Mexico

Las Cruces, New Mexico

The New Mexico Finance Authority (the "Purchaser") enters into this Bond Purchase Agreement ("Agreement") with the City of Las Cruces, New Mexico (the "City") to purchase the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022 in the aggregate principal amount of \$_____ (the "Series 2022 Bonds" or the "Bonds"). The Bonds are issued pursuant to the charter of the City, NMSA 1978, Sections 3-31-1 through 3-31-12, Section 6-14-10.2 and Section 6-21-9, as amended (collectively referred to hereafter as, the "Act"), and Ordinance No. ____ of the City Council of the City (the "City Council") adopted on August 15, 2022, as supplemented by the Sale Certificate executed on _____, 2022 (collectively, the "Ordinance") authorizing the sale of the Series 2022 Bonds at a purchase price of \$_____ (the "Series 2022 Purchase Price" or the "Purchase Price"). Capitalized terms in this Agreement (including Exhibits) shall have the same definitions as set forth in the Ordinance, unless the term is defined herein or the context used clearly requires otherwise.

1. Purchase, Sale and Delivery of the Bonds.

A. On the basis of the representations, warranties, covenants and agreements contained in this Agreement, the Ordinance and the Bonds, and subject to the terms and conditions set forth herein and therein, the City agrees to sell to the Purchaser, and the Purchaser agrees to purchase from the City, the Bonds for the Purchase Price as set forth in the form of Delivery, Deposit and Cross-Receipt Certificate attached as Exhibit A to this Agreement. The Bonds shall be in the principal amounts, mature on the dates, bear interest at the rates and have the terms set forth the Ordinance.

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

C. The parties hereto understand and agree that the Closing Date will occur on or about _____, 2022 or such other mutually agreeable date.

D. The net proceeds from the issuance of the Series 2022 Bonds will be used for (1) the acquisition of fire engines, aerial fire trucks, and fire equipment for the City Fire Department and (2)

PPRF-____

paying Expenses related to the issuance of the Series 2022 Bonds (the “2022 Improvement Project” or the “Project”).

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

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

A. The City is a political subdivision of the State, duly organized and validly existing under the laws of the State;

B. In connection with the issuance of the Bonds, the City has complied in all respects with the Constitution of the State and the laws of the State, including the Act;

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

D. The Ordinance and this Agreement constitute legal, valid and binding agreements of the City, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors’ rights. The Bonds, when issued, delivered and paid for, in accordance with the Ordinance and this Agreement, will constitute legal, valid and binding obligations of the City entitled to the benefits of the Ordinance and will be enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors’ rights; and upon the issuance, authentication and delivery of the Bonds as aforesaid, the Ordinance will provide the legally valid and binding pledge of the revenues it purports to create as set forth in the Ordinance. The “Pledged Revenues” consist of the revenues from the State gross receipts tax derived pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted to the City monthly by the New Mexico Department of Taxation and Revenue pursuant to Section 7-1-6 and 7-1-6.4 NMSA 1978, and which remittances currently

equal one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported for the City for the month for which such remittances is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the City under applicable law, such additional amounts shall be included as revenues pledged pursuant to the Ordinance; and provided further that the amount of revenues pledged pursuant to the Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the City by the State as set forth above, or (ii) the maximum amount at any time provided hereafter to be remitted to the City under applicable law; and provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Bond Ordinance (the term “Pledged State Shared Gross Receipts Tax Revenues” does not include any local option gross receipts tax income received by the City).

E. The proceeds of the Bonds will be deposited in certain funds and accounts created pursuant to the Ordinance and shall be used by the City only (i) for payment of costs of the Improvement Project, (ii) to pay debt service on the Bonds and (iii) for payment of the City’s costs of issuance of the Bonds. The distribution and use of the Bond proceeds will be in compliance with the provisions of the Ordinance;

F. The proceeds of the Bonds will be expended within three (3) years of the Closing Date, unless a longer term is approved by Bond Counsel in writing. Upon completion of the Improvement Project, the City agrees to deliver Certificates of Completion to the Purchaser and the Trustee substantially in the forms attached as Exhibit C to this Agreement stating that, to the best of his or her knowledge, the Improvement Project have been completed and accepted by the City, and all costs have been paid;

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

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

I. Statements contained in any certificate of the City provided to the Purchaser pursuant to this Agreement or in connection with the delivery of the Bonds and delivered to the Purchaser shall be deemed representations and warranties by the City to the Purchaser;

J. The City is not in default, and has not been in default, in the payment of principal of, premium, if any, or interest on, any bonds, notes or other obligations which it has issued, assumed or guaranteed as to payment of principal, premium, or interest;

K. Since July 1, 2022, the City has not incurred any material liabilities, direct or contingent, nor has there been any material adverse change in the financial position of the City affecting the Pledged Revenues, whether or not arising from transactions in the ordinary course of business.

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

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

M. The City agrees that neither this Agreement nor the Bonds will be amended without the prior written consent of the Purchaser, and, if the Bonds have been pledged under the Indenture, without the prior written consent of the Trustee pursuant to the Indenture.

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

A. The Purchaser is authorized to purchase the Bonds.

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

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

D. The Purchaser is purchasing the Bonds for its own account (and not on behalf of another) and has no present intention of reselling the Bonds; however, the Purchaser reserves the right to sell, pledge, transfer, convey, hypothecate, mortgage, or dispose of the Bonds at some future date determined by the Purchaser, but only to persons who have been provided sufficient information with which to make an informed decision to invest in the Bonds and in compliance with the Securities Act of 1933, as amended and as then in effect, the regulations promulgated thereunder and applicable state securities laws and regulations.

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

4. Redemption. The Bonds maturing on and after June 1, __ are subject to optional redemption at the option of the City at any time on and after June 1, __, in whole or in part, with funds derived from any available and lawful source, and the City shall designate the amount that is to be redeemed, and if less than a whole maturity is to be redeemed, the City shall direct the paying agent/registrar of the Bonds to call by lot Bonds, or portions thereof with such maturity, for redemption (provided that apportion of a Bond may be redeemed only in an integral multiple of \$5,000), at the redemption price of par, plus accrued interest to the date fixed for prepayment or redemption.

5. Reasonably Required Reserve Fund. No deposit of proceeds of the Bonds or other City moneys into the 2022 Debt Service Reserve Fund shall be required on the Closing Date or at any time thereafter, except in the event that the City's credit rating for its State Shared Gross Receipts Tax Bonds is downgraded to a rating that is below the rating of A/A2 by any of the nationally recognized securities rating agencies identified in the Ordinance, the City shall promptly notify the Purchaser and shall follow the procedure outlined in subsection (i) or subsection (ii) of this paragraph.

(i) The City shall begin making equal monthly deposits in the 2022 Debt Service Reserve Fund from the first legally available Pledged Revenues so that after 24 months an amount equal to the 2022 Minimum Reserve will be held in the 2022 Debt Service Reserve Fund.

(ii) Alternatively, the City shall deposit with the Trustee one or more Reserve Fund Insurance Policies approved by the Purchaser which are equal to the 2022 Minimum Reserve. The Reserve Fund Insurance Policies shall continue to be in force until the earlier of (a) the final maturity date of the Bonds (unless such date is extended by agreement of the provider of the policy or surety bond) or (b) the date on which there are sufficient funds on deposit in the 2022 Debt Service Fund to pay the principal of and interest due on the Bonds.

The moneys or securities (if any) in the 2022 Debt Service Reserve Fund shall be accumulated and maintained as a continuing reserve to be used only to prevent deficiencies in the payment of the principal of and interest on the Bonds resulting from failure to deposit into the 2022 Debt Service Fund sufficient funds to pay the principal and interest as the same become due. The 2022 Debt Service Reserve Fund is only required to be funded and the Reserve Fund Insurance Policies deposited for so long as the City's credit rating for its State Shared Gross Receipts Tax Bonds is downgraded to a rating that is below the rating of A/A2 by any of the nationally recognized securities rating agencies identified in the Ordinance

6. Limitations Upon Issuance of Additional Bonds. Before any additional Parity Subordinate Obligations are authorized or actually issued (excluding refunding bonds or refunding obligations which refund Parity Subordinate Obligations but including parity refunding bonds and obligations which refund subordinate obligations) it must be determined that the requirements in Section 21 of the Ordinance have been met.

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

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

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

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

D. On the Closing Date, the Purchaser shall receive the following, each in a form satisfactory to the Purchaser:

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

(2) A written opinion of Sutin, Thayer & Browne A Professional Corporation (“Purchaser’s Counsel”) that the Bonds may be pledged by the Purchaser as a loan or as securities pursuant to the Indenture as determined by the Purchaser;

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

(4) A General and No-Litigation Certificate of the City dated the Closing Date of an authorized officer of the City;

(5) An executed Internal Revenue Service Form 8038-G Tax-Exempt Governmental Obligations Return;

(6) Specimen Series 2022 Bond;

(7) An executed Tax Certificate of the City with respect to the Bonds;

(8) A Delivery, Deposit and Cross-Receipt Certificate, in substantially the form attached to this Agreement as Exhibit A or otherwise satisfactory to the Purchaser, providing for the deposit of the Purchase Price as provided in the Ordinance; and

(9) Such additional certificates, opinions or other documents as Bond Counsel, Purchaser, or Purchaser’s Counsel may reasonably require to evidence the satisfaction, as of the Closing Date, of the conditions then to be satisfied in connection with the transactions contemplated by the Ordinance and this Agreement.

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

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

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

If the City is unable to satisfy the conditions to the obligations of the Purchaser contained in this Agreement, or if the obligations of the Purchaser are terminated for any reason permitted by this

Agreement, this Agreement may be terminated and neither the Purchaser nor the City shall have any further obligations under this Agreement. Payment by the Purchaser to the City of the Purchase Price shall be conclusive evidence that all of the conditions set forth in this section have been satisfied or waived by the Purchaser.

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

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

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

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

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

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

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

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

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

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

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

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

11. Parties in Interest. This Agreement is solely for the benefit of the Purchaser and the City and their respective successors and no other person, partnership, association or corporation shall acquire or have any right under or by virtue of this Agreement.

12. Applicable Law; Nonassignability. This Agreement shall be construed in accordance with the laws of the State of New Mexico. This Agreement may not be assigned by the City or the Purchaser.

13. Notices. Any notice or other communication to be given to the Purchaser under this Agreement may be given by mailing or delivering the same in writing to the New Mexico Finance Authority, 207 Shelby Street, Santa Fe, New Mexico 87501, Attention: Chief Executive Officer; and any notice or other communication to be given to the City under this Agreement may be given by delivering the same in writing to the City, 700 North Main Street, Las Cruces, New Mexico, Attention: Treasurer.

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

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

[Remainder of page intentionally left blank]

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

NEW MEXICO FINANCE AUTHORITY

By: _____

Marquita D. Russel, Chief Executive Officer

Accepted and confirmed

as of _____, 2022:

CITY OF LAS CRUCES, NEW MEXICO

By: _____

Ifo Pili, City Manager

*Signature page to Bond Purchase Agreement
City of Las Cruces, New Mexico
Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds
Series 2022*

PPRF-_____

EXHIBIT A

FORM OF DELIVERY, DEPOSIT AND CROSS-RECEIPT CERTIFICATE

\$ _____

SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX IMPROVEMENT REVENUE
BONDS

SERIES 2022

STATE OF NEW MEXICO)	
DOÑA ANA COUNTY) ss:	DELIVERY, DEPOSIT AND
CITY OF LAS CRUCES)	CROSS-RECEIPT CERTIFICATE

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Mayor of the City of Las Cruces, New Mexico (the "City"):

1. On the date of this Certificate, the City executed and delivered, or caused to be delivered, its Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022 in the aggregate principal amount of \$_____ (the "Series 2022 Bonds" or the "Bonds") to the New Mexico Finance Authority (the "Finance Authority"), the purchaser of the Bonds, as authorized by the City's Bond Ordinance adopted on August 15, 2022, as supplemented by Pricing Certificate executed on _____, 2022 (collectively, the "Ordinance") relating to the issuance, sale and delivery of the Bonds. Certain amounts relating to the Bonds, are being deposited as set forth below.

2. Such amounts relating to the Bonds will be placed in the funds and accounts created under the Indenture (as defined in the Bond Purchase Agreement), between the Finance Authority and BOKF, NA, as Trustee, and its successors and assigns, and all supplemental indentures thereto and used as set forth below and in the Ordinance:

Series 2022 Bonds:

Program Account Deposit for Acquisition of Project: \$

Program Account Deposit for Costs of Issuance:

Debt Service Fund Deposit:

TOTAL: \$_____.00

3. Moneys deposited to the Program Account will be made available to the City upon submittal of Requisitions to the Finance Authority in the forms attached to the Bond Purchase Agreement as Exhibit B and will be used as set forth in the Ordinance and the Bond Purchase Agreement.

WITNESS my hand this _____, 2022.

CITY OF LAS CRUCES, NEW MEXICO

By: _____

Ken Miyagishima, Mayor

It is hereby certified by the undersigned, on behalf of the New Mexico Finance Authority, the lawful purchaser of the Bonds, that on this day the Finance Authority received from the City of Las Cruces, New Mexico, its Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, in the aggregate principal amount of \$_____.

NEW MEXICO FINANCE AUTHORITY

By: _____

Marquita D. Russel, Chief Executive Officer

EXHIBIT B

FORM OF REQUISITION

SERIES 2022 BONDS REQUISITION
(PAYMENT OF PURCHASE PRICE)

RE: \$_____ City of Las Cruces, New Mexico, Subordinate Lien State Shared Gross
 Receipts Tax Improvement Revenue Bonds, Series 2022 –New Mexico Finance Authority
 Purchase Transaction

TO: BOKF, NA

 c/o New Mexico Finance Authority

 PPRF@nmfa.net

LOAN NO.: PPRF-

CLOSING DATE: ____, 2022

You are hereby authorized to disburse from the Program Account – City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, with regard to the above-referenced Bond Purchase Transaction, the following:

REQUISITION NUMBER: _____

NAME AND ADDRESS OF PAYEE: _____

AMOUNT OF REQUISITION: \$_____

PURPOSE OF REQUISITION: _____

The requisition of funds is for the purpose stated above and is a proper charge against the Program Account – City of Las Cruces, New Mexico.

All representations contained in the Bond Purchase Agreement and the related closing documents remain true and correct and the City of Las Cruces, New Mexico is not in breach of any of the covenants contained therein.

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

City of Las Cruces, New Mexico

DATED: _____

By: _____

Print Name and Title

EXHIBIT C

CERTIFICATE OF COMPLETION

SERIES 2022 CERTIFICATE OF COMPLETION

RE: \$_____ City of Las Cruces, New Mexico, Subordinate Lien State Shared Gross
 Receipts Tax Improvement Revenue Bonds, Series 2022 – New Mexico Finance Authority
 Purchase Transaction

TO: New Mexico Finance Authority
 207 Shelby Street
 Santa Fe, New Mexico 87501
 Attn: Accounting

Susen Ellis
Vice President, Corporate Trust
BOKF, NA
100 Sun Avenue NE, Suite 500
Albuquerque, New Mexico 87109

LOAN NO.: PPRF-____

CLOSING DATE: _____, 2022

In accordance with Section 2.F of the Bond Purchase Agreement, the undersigned states, to the best of his or her knowledge, that the acquisition of the Improvement Project has been completed and accepted by the City, and all costs have been paid as of the date of this Certificate. Notwithstanding the foregoing, this certification is given without prejudice to any rights against third parties which exist at the date of this Certificate or which may subsequently come into being.

Capitalized terms used herein, are used as defined or used in the Bond Purchase Agreement.

DATED: _____

By: _____

Authorized Officer of City

Title: _____

Print Name and Title

INTERCEPT AGREEMENT

This INTERCEPT AGREEMENT is made and entered into September __, 2022, by and between the NEW MEXICO FINANCE AUTHORITY (the "Finance Authority"), a public body politic and corporate constituting a governmental instrumentality separate and apart from the State of New Mexico (the "State") under the laws of the State and the CITY OF LAS CRUCES, NEW MEXICO, a political subdivision duly organized and existing under the laws of the State (the "City").

W I T N E S S E T H:

WHEREAS, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, authorized the creation of the Finance Authority within the State to assist in financing the cost of public projects of participating qualified entities, including the City, such as the issuance of the \$_____ City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022 (the "Bonds") for the purpose of funding the (i) acquisition of fire engines, aerial fire trucks, and fire equipment for the City Fire Department and (ii) paying Expenses related to the issuance of the Bonds (the "Project"); and

WHEREAS, the City has authorized the Bonds through the adoption by the City Council the City of Ordinance No. 3007 on August 15, 2022 and a Pricing Certificate executed as of August __, 2022 (collectively, the "Ordinance"), and Section 3-31-1 through 3-31-12, NMSA 1978, as amended (the "City Act"); and

WHEREAS, pursuant to Sections 6-21-1 through 6-21-31, NMSA 1978, as amended (the "Act"), the Finance Authority and the City are authorized to enter into agreements to purchase and sell the Bonds and to facilitate the financing of the Project as described in the Bond Purchase Agreement by and between the Finance Authority and the City dated August __, 2022 (the "Bond Purchase Agreement"); and

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

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

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

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

WHEREAS, the City is authorized to direct that its distribution of the “Pledged Revenues” consist of the revenues from the State gross receipts tax derived pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted to the City monthly by the New Mexico Department of Taxation and Revenue pursuant to Section 7-1-6 and 7-1-6.4 NMSA 1978, and which remittances currently equal one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported for the City for the month for which such remittances is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the City under applicable law, such additional amounts shall be included as revenues pledged pursuant to the Ordinance; and provided further that the amount of revenues pledged pursuant to the Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the City by the State as set forth above, or (ii) the maximum amount at any time provided hereafter to be remitted to the City under applicable law; and provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Ordinance.

NOW THEREFORE, the parties hereto agree:

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

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

This Intercept Agreement shall be deemed a written certification, authorization and request by the City to the Distributing State Agency to pay to the Finance Authority, on behalf of the City, sums shown on the Intercept Schedule from distributions of the Pledged Revenues pursuant to Sections 7-1-6.13 and 7-1-6.15, NMSA 1978, as amended, to ensure compliance with the Bond Purchase Agreement and payment of the Bonds. Upon written notice to the Distributing State Agency from the Finance Authority, the amount of the Pledged Revenues to be paid to the Finance Authority shall be increased from the amounts shown on Exhibit “A” to defray any delinquencies in the Finance Authority Debt Service Account or Debt Service Reserve Account, if any, established for the City. Any accumulation of the Pledged Revenues in an amount in excess of the next Bond Payment and the Debt Service Reserve Account requirement shall be redirected by the Finance Authority to the benefit of the City on a timely basis.

To the extent applicable and to the extent that the Pledged Revenues are insufficient to meet the debt service requirements due on the Senior Lien Bonds and other Parity Subordinate Lien Obligations now or hereafter issued or incurred, the amounts intercepted under this Intercept Agreement shall be sufficient to allow partial payment on a pro-rata basis of the debt service due

and owing on the Bonds and other Parity Subordinate Lien Obligations after payment of the Senior Lien Bonds. If the City fails to pay the Bond Payments when due, then prior to the commencement of the interception of the Pledged Revenues, City must inform the Finance Authority of any Senior Lien Obligations and Parity Subordinate Lien Obligations then outstanding and any Senior Lien Obligations or Parity Subordinate Lien Obligations issued during the time that the Distributing State Agency is intercepting the Pledged Revenues to ensure that Pledged Revenues are applied in accordance with the lien status of the outstanding obligations payable from the Pledged Revenues.

Section 2. Term; Amendments. This Intercept Agreement will remain in full force and effect from its effective date as herein provided until such time as the Bonds and this Intercept Agreement have been paid in full. Nothing herein shall be deemed in any way to limit or restrict the City from issuing its own obligations, providing its own program or participating in any other program for the financing of public projects which the City may choose to finance. This Intercept Agreement may be amended only by written instrument signed by the parties hereto.

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

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

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

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

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

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

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

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

NEW MEXICO FINANCE AUTHORITY

By: _____
Marquita D. Russel, Chief Executive Officer

CITY OF LAS CRUCES, NEW MEXICO

By: _____
Ken Miyagishima, Mayor

(SEAL)

Attest:

By: _____
Christine Rivera, City Clerk

Acknowledged:

By: _____
State Taxation and Revenue Department

Date: _____

EXHIBIT "A"

INTERCEPT SCHEDULE
CITY OF LAS CRUCES, NEW MEXICO\
PPRF-5235

Month	Pledged Revenues	Amount
Monthly, beginning _____ through _____	The distribution of all of the revenues from the State gross receipts tax derived pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted to the City monthly by the New Mexico Department of Taxation and Revenue pursuant to Section 7-1-6 and 7-1-6.4 NMSA 1978, and which remittances currently equal one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported for the City for the month for which such remittances is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the City under applicable law, such additional amounts shall be included as revenues pledged pursuant to the Ordinance; and provided further that the amount of revenues pledged pursuant to the Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the City by the State as set forth above, or (ii) the maximum amount at any time provided hereafter to be remitted to the City under applicable law; and provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Ordinance.	\$0.00**

** In the event the City fails to pay the Bond Payments, the Finance Authority shall prepare and deliver to the City and the State Taxation and Revenue Department a replacement of this Exhibit A. The replacement Exhibit A will be effective immediately upon delivery to the State Taxation and Revenue Department and the City consents in advance to the replacement Exhibit A. The State Taxation and Revenue Department shall thereafter distribute the Pledged Revenues as set forth in the replacement Exhibit A and the Pledged Revenues shall be applied to payment of the Bonds as provided in the Ordinance and this Intercept Agreement.

COUNCIL BILL NO. ~~_____~~ 23-001ORDINANCE NO. ~~_____~~ 3007

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS CRUCES, NEW MEXICO SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2022 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 FOR THE ACQUISITION OF FIRE ENGINES, AERIAL FIRE TRUCKS, AND FIRE EQUIPMENT FOR THE CITY FIRE DEPARTMENT; DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE FOR THE SALE OF THE BONDS TO THE PURCHASER.

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

The City Council is informed that:

WHEREAS, the City is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico and is operating as a home rule City pursuant to Article X, Section 6 of the Constitution of the State and the Charter of the City; and

WHEREAS, pursuant to Section 7-1-6.4 NMSA 1978, the City now receives monthly from the Revenue Division of the New Mexico Taxation and Revenue Department from the statewide gross receipts tax imposed on any person engaging in business in New Mexico, a distribution of the gross receipts tax which is to be in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the product of the quotient of 1.225% divided by the tax rate imposed by Section 7-9-4 NMSA 1978, times the net receipts (i.e. the total gross

receipts tax less any refunds disbursed in that month) for the month attributable to the gross receipts tax from business locations within the City and other places designated in Section 7-1-6.4 NMSA 1978 (such distributions to the City as further defined herein the (“Pledged Revenues”); and

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

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

WHEREAS, except for the 2011A Bonds, the 2014 Bonds, the 2015 Bonds, the 2016 Subordinate Lien Bonds, 2017 Bonds, the 2017 NMFA Loan, the 2019 Subordinate Lien Bonds, the 2020 Refunding Bonds, the 2020A Bonds, and the 2020B Subordinate Lien Bonds, the Pledged State Shared Gross Receipts Tax Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding; and

WHEREAS, the City Council has determined and hereby determines that it is in the best interests of the City and its residents that the Series 2022 Bonds be issued with a subordinate lien, but not an exclusive subordinate lien, on the Pledged State Shared Gross Receipts Tax Revenues subordinate to the lien thereon of outstanding Parity Bonds and on parity with the lien thereon of the outstanding Subordinate Obligations; and

WHEREAS, the proposed forms of this Bond Ordinance, the Bond Purchase Agreement and Intercept ~~Agreements~~Agreement have been on deposit with the City Clerk and presented to the City Council; and

WHEREAS, the City Council expects to sell the Series 2022 Bonds in a private placement to the New Mexico Finance Authority (the “Purchaser”), as determined pursuant to the Pricing Certificate supplementing this Bond Ordinance, and to delegate authority to the City Manager or City Financial Services Director to execute and deliver the Pricing Certificate to the Purchaser, as authorized by Section 6-14-10.2 NMSA 1978, provided that the final terms of the Bonds set forth in the Pricing Certificate be within the parameters set forth in this Ordinance; and

WHEREAS, the specific principal amounts, interest rates, maturity dates, prices and other final terms and other features of the Bonds, including, without limitation, provisions concerning a Bond Insurance Policy and a Reserve Fund Insurance Policy (if any) will be established in the Pricing Certificate; and

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

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

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

“Act” means the general laws of the State, including Sections 3-31-1 to 3-31-12 NMSA 1978, as amended, the home rule powers of the City under the Charter and Article X, Section 6 of the Constitution of the State, and enactments of the City Council relating to the Pledged Revenues and the issuance of the Bonds, including this Bond Ordinance.

“Bond Insurance Policy” means the financial guaranty insurance policy, if any, issued by the Insurer insuring the payment when due of the principal of and interest on the Bonds as provided therein.

“Bond Ordinance” means this City Ordinance No. ~~_____~~3007 adopted on August 15, 2022, as supplemented by the Pricing Certificate.

“Bond Purchase Agreement” means the agreement between the City and the Purchaser providing for the sale of the Bonds by the City and the purchase of the Bonds by the Purchaser pursuant to the terms set forth therein and in the Pricing Certificate.

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

“Bonds” or “Series 2022 Bonds” or “2022 Bonds” means the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022 authorized by this Bond Ordinance, as supplemented by the Pricing Certificate.

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

“Charter” means the home rule charter of the City submitted to Las Cruces City Commission on January 7, 1985, and approved by the voters of the City on March 5, 1985, as amended and supplemented.

“City” means the City of Las Cruces, in the County of Doña Ana and State of New Mexico.

“City Council” means the City Council of the City or any future successor governing body of the City.

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

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

“Depository” means The Depository Trust Company, New York, New York, or such other securities depository as may be designated by an officer of the City.

“Event of Default” means any of the events stated in Section 25 of this Bond Ordinance.

“Expenses” means the reasonable and necessary fees, costs and expenses incurred by the City with respect to the issuance of the Bonds, including, to the extent applicable, the fees, compensation, costs and expenses paid or to be paid to the Paying Agent and Registrar, the Insurer and legal fees, financial advisor fees, expenses and applicable gross receipts taxes, costs of printing and distributing the Preliminary Official Statement and the Official Statement, rating fees and accounting fees and expenses.

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

“Fitch” means Fitch Ratings, Inc., its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

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

“Hold Harmless Distribution” means any distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, as that distribution relates to the gross receipts tax revenues received pursuant to Section 7-1-6.4 NMSA 1978, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93 NMSA 1978.

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

“Insured Bank” means a bank or savings and loan association insured by an agency of the United States.

“Intercept Agreement” means the Intercept Agreement, if any, dated the Closing Date between the City and the New Mexico Finance Authority providing for the direct payment, if required, by the New Mexico Department of Taxation and Revenue to the New Mexico Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest and any other amounts due on the Bonds, and any amendments or supplements to the Intercept ~~Agreements~~Agreement.

“Interest Payment Date” means each June 1 and December 1, commencing December 1, 2022 (or such other date specified in the Pricing Certificate).

“Moody's” means Moody's Investor Service, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

“Notice of Sale” means, if the Bonds are sold in a competitive sale, the official notice of sale of the Bonds.

“Official Statement” means the final disclosure document relating to the issuance and sale of the Bonds, if any.

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

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

B. those otherwise deemed to be paid in accordance with Section 28 or Section 31 of this Bond Ordinance;

C. those in lieu of or in exchange or substitution for which other Bonds shall have been delivered, unless proof satisfactory to the City and the Paying Agent is presented that any Bond for which a new Bond was issued or exchanged is held by a bona fide holder or in due course.

“Parity Bonds” or “Parity Obligations” means the 2011A Bonds, the 2014 Bonds, the 2015 Bonds, the 2017 Bonds, the 2017 NMFA Loan, the 2020 Refunding Bonds, the 2020A Bonds, and any other bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a first lien upon the Pledged Revenues.

“Parity Subordinate Obligations” means the 2016 Subordinate Bonds, the 2019 Subordinate Bonds, the 2020B Bonds, the Series 2022 Bonds, and any other bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a lien upon the Pledged Revenues subordinate and junior to the lien thereon of the Parity Bonds and on parity with the Parity Subordinate Obligations, as provided in Section 20 of this Bond Ordinance.

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

“Permitted Investments” means, but only to the extent permitted by applicable laws of the State or ordinances of the City, the following:

A. Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and

TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (Eximbank)
Direct obligations or fully guaranteed certificates of beneficial ownership.
2. Farmers Home Administration (FmHA)
Certificates of beneficial ownership
3. Federal Financing Bank
4. Federal Housing Administration Debentures (FHA)
5. General Services Administration
Participation certificates
6. Government National Mortgage Association (GNMA or “Ginnie Mae”)
GNMA - guaranteed mortgage-backed bonds
GNMA - guaranteed pass-through obligations
7. U.S. Maritime Administration
Guaranteed Title XI financing
8. U.S. Department of Housing and Urban Development (HUD)
Project Notes
Local Authority Bonds

New Communities Debentures - U.S. government guaranteed debentures

U.S. Public Housing Notes and Bonds - U.S. government guaranteed public housing notes and bonds

C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System
Senior debt obligations
2. Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac")
Participation Certificates
Senior debt obligations
3. Federal National Mortgage Association (FNMA or "Fannie Mae")
Mortgage-backed securities and senior debt obligations
4. Student Loan Marketing Association (SLMA or "Sallie Mae")
Senior debt obligations
5. Resolution Funding Corp. (REFCORP) obligations
6. Farm Credit System
Consolidated system wide bonds and notes

D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAM-G; AAA-m; or AA-m and if rated by Moody's rated Aaa, Aa1 or Aa2.

E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

F. Certificates of deposit, savings accounts, deposits accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF.

G. Investment Agreements, including GIC's, Forward Purchase Agreements and Reserve Fund Put Agreements.

H. Commercial paper rated, at the time of purchase, "Prime - 1" by Moody's and "A-1" or better by S&P.

I. Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.

J. Federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of "Prime - 1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P.

K. Repurchase Agreements for 30 days or less must follow the following criteria.

Repurchase agreements provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the City in exchange for the securities at a specified date.

1. Repos must be between the City and a dealer bank or securities firm
 - a. Primary dealers on the Federal Reserve reporting dealer list which are rated A or better by S&P and Moody's, or
 - b. Banks rated "A" or above by S&P and Moody's.
2. The written repo contract must include the following:
 - a. Securities which are acceptable for transfer are:
 - (1) Direct U.S. governments, or
 - (2) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA & FHLMC)
 - b. The term of the repo may be up to 30 days
 - c. The collateral must be delivered to the City, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).
 - d. Valuation of Collateral
 - (1) The securities must be valued weekly, marked-to-market at current market price plus accrued interest.

(a) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

3. Legal opinion which must be delivered to the City:

a. Repo meets guidelines under state law for legal investment of public funds.

L. The State Treasurer's short-term investment fund created pursuant to Section 6-10-10.1, NMSA 1978, and operated, maintained and invested by the State Treasurer.

“Pledged Revenue Fund” means the State Shared Gross Receipts Tax Revenue Fund, continued in Section 16 of this Bond Ordinance.

“Pledged State Shared Gross Receipts Tax Revenues” or “Pledged Revenues” means the revenues from the State gross receipts tax derived pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted to the City monthly by the New Mexico Department of Taxation and Revenue pursuant to Section 7-1-6 and 7-1-6.4 NMSA 1978, and which remittances currently equal one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported for the City for the month for

which such remittances is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the City under applicable law, such additional amounts shall be included as revenues pledged pursuant to this Bond Ordinance; and provided further that the amount of revenues pledged pursuant to this Bond Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the City by the State as set forth above, or (ii) the maximum amount at any time provided hereafter to be remitted to the City under applicable law, and includes the Hold Harmless Distribution to the extent the City receives any Hold Harmless Distribution; and provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Bond Ordinance (the term "Pledged State Shared Gross Receipts Tax Revenues" does not include any local option gross receipts tax income received by the City).

"Preliminary Official Statement" means the initial disclosure document relating to the issuance and sale of the Bonds, if any.

"Pricing Certificate" means one or more certificates executed by the City Manager or City Finance Director, dated on or before the date of delivery of the Bonds, setting forth the following final terms of the Bonds: (i) the interest and principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii) the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the redemption and tender provisions; (vii) the creation of any capitalized interest fund, including the size and funding of such fund(s); (viii) the amount of underwriting discount, if any; (ix) the amount of the Reserve Requirement, if any, and whether such Reserve Fund shall be funded with proceeds of the Bonds or through the deposit of a Reserve Fund Insurance Policy; and (x) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Bonds, all subject to the parameters and conditions contained in this Ordinance.

“Purchaser” means the New Mexico Finance Authority or such other purchaser as set forth in the Pricing Certificate.

“Rating Category” means a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

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

“Reserve Fund Insurance Policy” means any insurance policy, surety bond or letter of credit deposited in or credited to the Reserve Fund, if any, as provided in the Pricing Certificate in lieu of or in partial substitution for cash or allowable investments on deposit in the Reserve Fund.

“S&P” means Standard & Poor's, a division of The McGraw-Hill Companies, Inc., its successors and their assigns, and, if such entity is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

“State” means the State of New Mexico.

“2011A Bonds” means the “City of Las Cruces, New Mexico State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2011A” issued in the original aggregate principal amount of \$9,640,000 and authorized by City Ordinance No. 2618 adopted by the City Council on June 8, 2011.

“2014 Bonds” means the City of Las Cruces, New Mexico State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2014 issued in an original aggregate principal

amount of \$10,000,000 and authorized by City Ordinance No. 2718 adopted by the City Council on June 24, 2014.

“2015 Bonds” means the City of Las Cruces, New Mexico State Shared Gross Receipts Tax Refunding Revenue Bonds, Series 2015 issued in an original aggregate principal amount of \$19,195,000 and authorized by City Ordinance No. 2739 adopted by the City Council on December 1, 2014 and Resolution No. 15-140 adopted by the City Council on February 3, 2015.

“2016 Subordinate Bonds” means the “City of Las Cruces, New Mexico Taxable Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2016” authorized in the original aggregate principal amount of \$8,585,000 and authorized by City Ordinance No. 2774 adopted by the City Council on February 16, 2016 and Resolution No. 16-18 adopted by the City Council on March 9, 2016.

“2017 Bonds” means the “City of Las Cruces, New Mexico State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2017” issued in an original aggregate principal amount of \$10,570,000 and authorized by City Ordinance No. 2808 adopted by the City Council on May 1, 2017 and Resolution No. 17-187 adopted by the City Council on May 10, 2017.

“2017 NMFA Loan” means the loan agreement between the City and the New Mexico Finance Authority executed on February 24, 2017 in the original aggregate principal amount of \$3,203,527 and authorized by City Ordinance No. 2801 adopted by the City Council on January 17, 2017.

“2019 Subordinate Bonds” means the “City of Las Cruces, New Mexico Taxable Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2019

authorized in the original aggregate principal amount of \$8,870,000 and authorized by City Council Ordinance No. 2894 adopted on August 5, 2019.

“2020 Refunding Bonds” means the “City of Las Cruces, New Mexico State Shared Gross Receipts Tax Refunding Revenue Bonds, Series 2020” authorized in the original aggregate principal amount of \$15,435,000 and authorized by City Council Ordinance No. 2912 adopted on February 18, 2020.

“2020A Bonds” means the “City of Las Cruces, New Mexico State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2020A” authorized in the original aggregate principal amount of \$7,190,000 and authorized by City Council Ordinance No. 2925 adopted on May 18, 2020.

“2020B Bonds” means the “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2020B” authorized in the original aggregate principal amount of \$6,750,000 and authorized by City Council Ordinance No. 2925 adopted on May 18, 2020.

“2022 Acquisition Fund” means the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Improvement Project Acquisition Fund” established by Section 16 of the Bond Ordinance.

“2022 Debt Service Fund” means the “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Debt Service Fund” established in Section 16 of this Bond Ordinance.

“2022 Improvement Project” means (1) the acquisition of fire engines, aerial fire trucks, and fire equipment for the City Fire Department and (2) paying Expenses related to the issuance of the Series 2022 Bonds.

“2022 Minimum Reserve” means an amount equal to the least of (i) ten percent of the principal amount of the outstanding Series 2022 Bonds, (ii) the maximum annual debt service on the outstanding Series 2022 Bonds, or (iii) 125% of the average annual debt service on the outstanding Series 2022 Bonds. The Minimum Reserve shall be recalculated every year on or about June 1.

“2022 Reserve Fund” means the “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Reserve Fund” established by Section 16 of this Bond Ordinance.

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

Section 3. Authorization of the 2022 Improvement Project. The 2022 Improvement Project and the method of financing the 2022 Improvement Project are hereby authorized and ordered at a total cost estimated not to exceed the amount of the Bond proceeds allocated to the Project as set forth in the Pricing Certificate and any investment earnings thereon, excluding any such cost defrayed or to be defrayed by any source other than Bond proceeds.

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

A. The 2022 Improvement Project is needed to meet the needs of the City and its inhabitants.

B. Moneys available for the 2022 Improvement Project from all sources other than the issuance of Revenue Bonds are not sufficient to defray the cost of the 2022 Improvement Project.

C. The Pledged Revenues may lawfully be pledged to secure the payment and redemption of the Bonds.

D. It is economically feasible to defray, in part, the cost of the 2022 Improvement Project by the issuance of the Bonds.

E. The issuance of the Bonds pursuant to the Act, to provide funds to finance the costs of the 2022 Improvement Project is necessary and in the interest of the public health, safety and welfare of the residents of the City.

F. The City is current in the accumulation of all amounts which are required to have been accumulated in the debt service funds and the reserve funds, if any, for the outstanding Parity Bonds and the Parity Subordinate Obligations.

Section 5. Bonds – Authorization, Parameters and Detail.

A. Authorization. This Bond Ordinance has been adopted by the affirmative vote of at least three-fourths of all of the members of the City Council. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the citizens of the City, it is hereby declared necessary that the City, pursuant to the Act, issue one series of its negotiable, fully registered, revenue bonds to be designated the “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022” in an aggregate principal amount not to exceed \$5,000,000, and the issuance, sale and delivery of the Bonds is hereby authorized.

B. Parameters Authorized; Details of Bonds. There is hereby authorized and created a series of bonds designated as the City of Las Cruces, New Mexico, Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022. The Series 2022 Bonds shall be issued subject to the following parameters:

(i) The Series 2022 Bonds shall be issued in an aggregate principal amount not to exceed \$5,000,000 for the 2022 Improvement Project.

(ii) The net effective interest rate on the Series 2022 Bonds shall not exceed 12% per annum.

(iii) The final maturity of the Series 2022 Bonds shall not be later than June 1, 2034.

(iv) The Series 2022 Bonds shall be sold with a maximum underwriting or purchaser's discount not to exceed 1.00%.

(iv) The Series 2022 Bonds shall be payable solely from, and shall constitute a subordinate lien upon the Pledged Revenues, subordinate to the lien thereon of the Parity Obligations and on a parity with the outstanding Parity Subordinate Obligations.

(v) The Series 2022 Bonds shall be sold to the Purchaser pursuant to private placement with the Purchaser.

(vi) The maximum sale price of the Series 2022 Bonds shall be not more than \$5,000,000, exclusive of premium payable in connection with the issuance of the Bonds.

(vii) The Series 2022 Bonds shall be in substantially the form set forth in this Ordinance.

C. The City Manager or City Financial Services Director, is hereby authorized pursuant to this Ordinance to approve the final terms of the Bonds as permitted by Section 6-14-10.2 NMSA 1978, and to execute and deliver the Pricing Certificate and the Bond Purchase Agreement. The forms of the Bond Purchase Agreement and Intercept Agreement submitted with the adoption of this Ordinance are hereby approved with such changes as are approved by the Delegate consistent with the parameters outlined in this Ordinance.

D. The Bonds shall be negotiable instruments but shall be issued only as fully registered bonds, in such numbers and denominations as may be requested by the Purchaser, but exchangeable for other fully registered Bonds of any denominations which are multiples of \$5,000. The Bonds shall be numbered separately and consecutively, shall be dated the date of their delivery to the Purchaser, shall mature on June 1 of each year and shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date, payable semi-annually on June 1 and December 1 in each year commencing on December 1, 2022 (or such other date as specified in the Pricing Certificate) until their respective maturities. The Bonds shall bear the rates of interest, maturities and provisions for redemption prior to maturity as shall be established in the Pricing Certificate.

Section 6. Redemption of Bonds.

A. Notice of Redemption. In the event that the Bonds are subject to redemption prior to maturity, as may be established in the Pricing Certificate, notice of redemption shall be given by the Registrar by sending a copy of such notice in the manner required by the Depository or by first-class, postage prepaid mail at least thirty (30) days prior to the redemption date to the registered owner of each Bond, or portion thereof, to be redeemed at the address shown as of the close of business of the Registrar on the fifth day prior to the mailing of notice on

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

B. Conditional Redemption. If money or Defeasance Obligations (as defined in Section 31) sufficient to pay the optional redemption price of the Bonds to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to paragraph A of this Section, such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in

the preceding sentence, the notice shall be effective only for those Bonds for which the optional redemption price is on deposit with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Bonds to be redeemed shall be selected in the manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice or optional redemption was given, that such money was not received and the information required by paragraph A of this Section. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been optionally redeemed.

Section 7. Filing of Manual Signatures. Prior to the execution of any Bond pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended, the Mayor or Mayor Pro Tem and City Clerk shall each file with the New Mexico Secretary of State his or her manual signature certified by him or her under oath; provided that filing shall not be necessary for any officer where any previous filing may have legal application to the Bonds.

Section 8. Execution and Authentication of Bonds.

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

execution of the Bonds and the signature certificate, each may adopt as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office if such facsimile signature appears upon any of the Bonds or certificates pertaining to the Bonds.

B. Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been fully executed if manually signed and inscribed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 9. Negotiability. The Bonds shall be fully negotiable and shall have all the qualities of negotiable paper and the Bondholders shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code. Except as set forth herein, the Bonds outstanding shall in all respects be equally and ratably secured, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds.

Section 10. Payment and Presentation of Bonds for Payment. Principal and interest on the Bonds shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. Principal shall be payable in immediately available funds at maturity or redemption thereof upon presentation and surrender of such Bond at the principal office of the Paying Agent or at the designated office of any successor Paying Agent. Upon any partial prior redemption of any Bond, the registered owner, in its discretion, may request the Registrar to authenticate a new Bond or to make a notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. Interest on the Bonds shall be payable by check or draft mailed to the registered owner thereof (or in such other manner as may be agreed upon

by the Paying Agent and the registered owner), as shown on the registration books maintained by the Registrar at the address appearing therein on the 15th day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or provided for shall cease to be payable to the owner thereof (or of one or more predecessor Bonds) as of the Record Date, but shall be payable to the owner thereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to Bond owners not less than ten (10) days prior thereto. If any Bond presented for payment remains unpaid at maturity or redemption, it shall continue to bear interest at the rate or rates designated in, and applicable to, such Bond from time to time. If any Bond is not presented for payment at maturity or redemption when funds available therefor have been deposited with the Paying Agent, it shall cease bearing interest on and from the date of maturity or redemption.

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

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

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

C. Owner of the Bonds. The person in whose name any Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either the principal of or interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative as stated herein, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

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

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

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

G. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the City shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the City may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having 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 serve as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

H. Book Entry. The Bonds may be issued or registered, in whole or in part, in book-entry form from time to time with no physical distribution of bond certificates made to the public, with a Depository acting as securities depository for the Bonds. A single certificate for each maturity date of the Bonds issued in book-entry form will be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in authorized denominations, with transfer of ownership effected on the books of the Depository and its participants ("Participants"). As a condition to delivery of the Bonds in book-entry form, the Purchaser will, immediately after acceptance of delivery thereof, deposit, or cause to be deposited, the Bond certificates with the Depository, registered in the name of the Depository or its nominee. Principal, premium, if any, and interest will be paid to the Depository or its nominee

as the registered owner of the Bonds. The transfer of principal, premium, if any, and interest payments to Participants will be the responsibility of the Depository; the transfer of principal, premium, if any, and interest payments to the beneficial owners of the Bonds (the "Beneficial Owners") will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the "Indirect Participants"). The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.

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

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

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

Bond Ordinance and by the Depository to its Participants or Indirect Participants and notices to the Beneficial Owners of the Bonds in the manner provided in an agreement or letter of the City to the Depository.

Section 12. Special Limited Obligations. All of the Bonds and all payments of principal, premium, if any, and interest thereon whether at maturity or on a redemption date, together with any interest accruing thereon, shall be special limited obligations of the City and shall be payable and collectible solely from the Pledged Revenues, which revenues are so pledged and are payable as set forth in Section 17 of this Bond Ordinance. The owner or owners of the Bonds may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor. The Bonds shall not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or held to be general obligations of the City, and each of the Bonds shall recite that it is payable and collectible solely out of the Pledged Revenues, pledged as set forth in this Bond Ordinance, and that the holders thereof may not look to any general or other municipal fund for the payment of the principal of and interest on the Bonds. Nothing herein shall prevent the City from applying other funds of the City legally available therefor to the payment of the Bonds, in its sole discretion.

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

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF NEW MEXICO

COUNTY OF DOÑA ANA

CITY OF LAS CRUCES, NEW MEXICO

SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX

IMPROVEMENT REVENUE BONDS,

SERIES 2022

Bond No. _____

\$_____

INTEREST RATE

MATURITY DATE

DATE OF BOND

CUSIP

% per annum

June 1, _____

_____, 2022

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

The City of Las Cruces (the "City"), in the County of Doña Ana and State of New Mexico, a municipal corporation duly organized and existing under the Constitution and laws of the State of New Mexico, for value received, hereby promises to pay, solely from the special funds available for the purpose as hereinafter set forth, to the registered owner named above or registered assigns, on the Maturity Date specified above, upon presentation and surrender hereof at the principal office of the City Treasurer, Las Cruces, New Mexico, as paying agent, or any successor paying agent (the "Paying Agent"), the Principal Amount stated above, in lawful money of the United States of America, and to pay from such sources interest on the unpaid principal amount at the Interest Rate on December 1, 2022 and on June 1 and December 1 of each year (each an "Interest Payment Date") thereafter to its maturity, or until redeemed if called for redemption prior to maturity. This bond will bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from its date. Interest on this bond is payable by check mailed to the registered owner hereof (or by such other arrangement as may

be mutually agreed to by the Paying Agent and the registered owner) as shown on the registration books for this issue maintained by the City Treasurer, Las Cruces, New Mexico, as registrar, or any successor registrar (the "Registrar") at the address appearing therein at the close of business on the fifteenth day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the owner hereof as of the Record Date but shall be payable to the owner hereof at the close of business on a special record date to be fixed by the Paying Agent for the payment of interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to owners of Bonds (defined below) as then shown on the Registrar's registration books not less than ten (10) days prior to the special record date. If, upon presentation at maturity or redemption, payment of this bond is not made as herein provided, interest hereon shall continue at the Interest Rate until the principal hereof is paid in full. The principal, premium, if any, and interest on this bond are payable in lawful money of the United States of America, without deduction for the services of the Paying Agent or the Registrar.

This bond is one of a duly authorized series of fully registered bonds of the City in the aggregate principal amount of \$_____ issued in denominations of \$5,000 or integral multiples thereof, designated as the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022 (the "Series 2022 Bonds") issued under and pursuant to City Ordinance No. ____, as supplemented by a Pricing Certificate dated _____, 2022 (as supplemented, the "Bond Ordinance").

The Series 2022 Bonds maturing on and after June 1, ____, are subject to prior redemption at the City's option in one or more units of principal of \$5,000 on and after June 1, ____ in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the Series 2022 Bonds of such maturity is called, such selection by lot to

be made by the Registrar in such manner considered appropriate and fair), for the principal amount of each \$5,000 unit of principal so redeemed plus accrued interest to the redemption date.

Redemption shall be made upon prior notice mailed to each registered owner of each Series 2022 Bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

Notice of redemption of this bond will be given by providing at least thirty (30) days prior written notice in the manner required by the depository for the Bonds or by first-class postage prepaid mail to the owner hereof at the address shown on the registration books as of the fifth day prior to the mailing of notice as provided in the Bond Ordinance. Notices of redemption will specify the number or numbers and maturity date of the Series 2022 Bonds to be redeemed (if less than all are to be redeemed), the date fixed for redemption, the amount of such Bond to be redeemed (if less than the full amount of any Bond is to be redeemed), and shall further state that on such redemption date there will become and be due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount thereof plus accrued interest to the redemption date and that from and after such date, the redemption amount having been deposited and notice having been given, interest will cease to accrue. Upon any partial prior redemption of this bond, the registered owner, in its discretion, may request the Registrar to authenticate a new bond or to make an appropriate notation on this bond indicating the date and amount of prepayment, except in the case of final maturity, in which case this bond must be presented to the Paying Agent prior to payment.

Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer or exchange of a Bond at the principal office of the Registrar, duly endorsed or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver, not more than three (3)

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

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

If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar will, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If such lost,

stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.

This Bond does not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the City, and is payable and collectible solely out of the revenues derived from the revenues from the Pledged Revenues (as such term is defined in the Bond Ordinance) and the bondholders may not look to any other general or other municipal fund for the payment of the interest and principal of this bond. The lien of the Series 2022 Bonds on the Pledged Revenues is an irrevocable and subordinate lien, but not necessarily an exclusive subordinate lien, on the Pledged Revenues. Upon satisfaction of the conditions set forth in the Bond Ordinance, additional bonds may be issued and made payable from the Pledged Revenues having a lien thereon either on parity with or senior to the lien on the Pledged Revenues of the Series 2022 Bonds. Amounts and securities held in the 2022 Debt Service Fund and 2022 Reserve Fund (if any), as such terms are defined in the Bond Ordinance, have been exclusively pledged for payment of the principal of, premium, if any, and interest on the 2022 Bonds.

The Series 2022 Bonds are issued to provide funds to defray in part the costs of (1) the acquisition of fire engines, aerial fire trucks, and fire equipment for the City Fire Department and (2) the payment of Expenses related to the issuance of the Series 2022 Bonds.

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

This Bond is subject to the condition, and every owner hereof by accepting the same agrees with the obligor and every subsequent owner hereof, that the principal of and interest on

this bond shall be paid, and this bond is transferable, free from and without regard to any equities, set-offs or crossclaims between the obligor and the original or any other owner hereof.

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

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

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

CITY OF LAS CRUCES, NEW MEXICO

By _____

Mayor

By _____

City Clerk

(SEAL)

(Form of Registrar's Certificate of Authentication)

Certificate of Authentication

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

Date of Authentication:

City Treasurer of the City of Las Cruces,
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
transfer 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.

Social Security or Tax Identification No. of Assignee _____

Dated: _____

Signature Guarantee:

NOTE: The assignor's signature to this Assignment must correspond with the name as written
on the face of the within bond in every particular, without alteration or enlargement or any change
whatsoever.

(End of Form of Assignment)

(End of Form of Bond)

Section 14. Period of 2022 Improvement Project's Usefulness. It is hereby determined and recited that the period of usefulness of the 2022 Improvement Project financed with the proceeds of the Series 2022 Bonds will not expire prior to the final maturity date of the Series 2022 Bonds.

Section 15. Use of Bond Proceeds and Other Funds; Completion of 2022 Improvement Project. Except as herein otherwise specifically provided, the proceeds derived from the sale of the Bonds, shall be used and paid solely for the valid costs of the 2022 Improvement Project.

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

B. Acquisition Fund. Proceeds derived from the sale of the Series 2022 Bonds in an amount to be specified in the Pricing Certificate shall be deposited promptly upon the receipt thereof in the 2022 Acquisition Fund to be held by the trustee for the Purchaser. Until the completion of the 2022 Improvement Project, the money in the 2022 Acquisition Fund shall be used and paid out solely for the purpose of the 2022 Improvement Project in compliance with applicable law.

C. Reserve Fund. No deposit of proceeds of the Bonds, Pledged State Shared Gross Receipts Tax Revenues or other City moneys into the 2022 Reserve Fund shall be required on the date of issuance of the Bonds or at any time thereafter, except in the circumstances and on the conditions described in paragraph B of Section 17 of this Bond Ordinance.

D. 2022 Improvement Project Completion. As soon as practicable after completion of the 2022 Improvement Project, and in any event not more than 60 days after completion of the 2022 Improvement Project, any proceeds remaining unspent (other than any

amount retained by the City for any 2022 Improvement Project costs not then due and payable) shall be transferred and deposited in the 2022 Debt Service Fund and used by the City to pay principal and interest on the Series 2022 Bonds as same become due.

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

F. Bond Insurance Policy and/or Reserve Fund Insurance Policy. A Bond Insurance Policy and/or Reserve Fund Insurance Policy may be obtained in connection with the issuance of each of the Series 2022 Bonds, as may be provided in the Pricing Certificate. The covenants of the City and other provisions required by the issuer of the Bond Insurance Policy and/or Reserve Fund Insurance Policy or otherwise necessary or advisable in connection with the Bond Insurance Policy and/or Reserve Fund Insurance Policy shall be included in the Pricing Certificate.

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

A. 2022 Acquisition Fund. The “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Improvement Project Acquisition Fund” to be maintained by the City or by the trustee for the Purchaser.

B. Pledged Revenue Fund. The “City of Las Cruces, New Mexico State Shared Gross Receipts Tax Revenue Fund” (the “State Shared Gross Receipts Tax Revenue Fund”) to be maintained by the City, into which the City shall deposit the Pledged State Shared Gross Receipts Tax Revenues.

C. 2022 Debt Service Fund. The “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Debt Service Fund” (the “2022 Debt Service Fund”) to be maintained by the City or by the trustee for the Purchaser.

D. 2022 Reserve Fund. The “City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, Reserve Fund” (the “2022 Reserve Fund”) to be maintained by the City or by the trustee for the Purchaser.

Section 17. Deposit of Pledged Revenues and Flow of Funds. So long as any of the outstanding obligations payable from the Pledged Revenues shall remain outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Pledged Revenues.

A. Payment of Parity Obligations. As a first lien on amounts on deposit in the Pledged Revenue Fund, the City shall pay the of principal of, interest on and debt service reserve fund deposits relating to outstanding Parity Obligations payable from the Pledged Revenues as required by the ordinances authorizing the issuance of the Parity Obligations. If funds on deposit in the Pledged Revenue Funds are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to outstanding Parity Obligations, then the available funds in the Pledged Revenue Fund will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Obligations, for the payment of principal of and interest on all series of outstanding Parity Obligations and, second, to the extent of remaining available funds in the Pledged Revenue Fund on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Obligations, for the required debt service reserve fund deposits for all series of outstanding Parity Obligations.

B. Payment of Parity Subordinate Obligations. Subsequent to the payments required by the outstanding Parity Obligations, any balance remaining in the Pledged Revenue Fund, after making the payments hereinabove provided, shall be used by the City for the payment of interest on and the principal of the Series 2022 Bonds and all other Outstanding Parity Subordinate Obligations or other obligations, if any, having a lien on any of the Pledged Revenues subordinate to the lien thereon of the Parity Obligations hereafter authorized, issued and payable from the Pledged Revenues, as the same become due. So long as any of the Series 2022 Bonds shall remain outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Pledged Revenues on a parity with the payments required by the outstanding Parity Subordinate Obligations:

(i) 2022 Debt Service Fund Payments. The following amounts shall be withdrawn from the State Shared Gross Receipts Tax Revenue Fund (and on parity with other outstanding Parity Subordinate Obligations), and shall be concurrently credited to the 2022 Debt Service Fund (unless the City determines that such amounts shall be withdrawn from such funds in some other order):

(aa) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Series 2022 Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Series 2022 Bonds, and monthly thereafter, commencing on each Interest Payment Date, one-sixth (1/6) of the amount necessary to pay the next maturing installment of interest on the Series 2022 Bonds then outstanding.

(bb) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Series 2022 Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the

next maturing installment of principal of the outstanding Series 2022 Bonds and monthly thereafter, commencing on each principal payment date, one-twelfth (1/12) of the amount necessary to pay the next maturing installment of principal on the Series 2022 Bonds then outstanding.

(ii) Credit. In making the deposits required to be made into the 2022 Debt Service Fund, if there are any amounts then on deposit in the 2022 Debt Service Fund available for the purpose for which such deposit is to be made, the amount of the deposit to be made pursuant to paragraph (aa) above shall be reduced by the amount available in such fund for such purpose.

(iii) Transfer of Money out of 2022 Debt Service Fund. Each payment of principal and interest becoming due on the Series 2022 Bonds shall be transferred from the 2022 Debt Service Fund to the Paying Agent on or before two Business Days prior to the due date of such payment.

(iv) 2022 Reserve Fund and Reserve Fund Insurance Policy. No deposit shall be required in the 2022 Reserve Fund upon the issuance of the 2022 Bonds or any time thereafter except in the event that the City's credit rating for its outstanding Parity State Shared Gross Receipts Tax Revenue Bonds is downgraded to a rating that is below the rating of A/A2 by any of the nationally recognized securities rating agencies identified in this Ordinance. If such downgrade below A/A2 occurs, the City shall promptly notify the Purchaser and shall follow the procedure outlined in either subsection (a) or subsection (b) of this paragraph.

(a) The City shall begin making substantially equal monthly deposits in the 2022 Reserve Fund from the first legally available Pledged State Shared Gross Receipts Tax Revenues so that after 24 months an amount equal to the 2022 Minimum Reserve will be held in the 2022 Reserve Fund.

(b) Alternatively, the City shall deposit in the 2022 Reserve Fund one or more Reserve Fund Insurance Policies approved by the Purchaser which are equal to the 2022 Minimum Reserve. The Reserve Fund Insurance Policies shall continue to be in force until the earlier of (a) the final maturity date of the Series 2022 Bonds (unless such date is extended by agreement of the provider of the policy or surety bond) or (b) the date on which there are sufficient funds on deposit in the Series 2022 Debt Service Fund to pay the principal of and interest due on the Series 2022 Bonds.

After funding the 2022 Reserve Fund in an amount equal to the 2022 Minimum Reserve, no additional payments need be made into the 2022 Reserve Fund so long as the moneys therein shall equal not less than the 2022 Minimum Reserve. The moneys (if any) in the 2022 Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in subparagraph B(v) of this Section 17, only to prevent deficiencies in the payment of the principal of and interest on the Series 2022 Bonds resulting from failure to deposit into the 2022 Debt Service Fund sufficient funds to pay the principal and interest as the same accrue.

(v) Defraying Delinquencies in the 2022 Debt Service Fund and 2022 Reserve Fund. If, on any Interest Payment Date, the amount on deposit in the 2022 Debt Service Fund is insufficient to pay principal of and interest on the 2022 Bonds then due, then an amount shall be paid into the 2022 Debt Service Fund on such date from the 2022 Reserve Fund (if moneys are then on deposit in the 2022 Reserve Fund) equal to the amount of the insufficiency. The money deposited in the 2022 Debt Service Fund from the 2022 Reserve Fund, if any, shall be replaced in the Reserve Fund in 24 substantially equal monthly deposits commencing on the first day of the first month immediately succeeding the draw on the 2022 Reserve Fund. Such accumulation shall be made from the Pledged Revenues second to the payments required by subparagraph I(i)(aa)(1) and (2) of this Section 17. If, in any month, the City shall, for any reason,

fail to pay into the 2022 Reserve Fund the full amount required, the difference between the amount paid and the amount so stipulated shall be paid therein from the first Pledged Revenues thereafter received and not required to be otherwise applied. The moneys in the 2022 Reserve Fund shall be used solely and only for the purpose of paying any deficiencies in the payment of the principal of and the interest on the 2022 Bonds; provided, however, that any moneys at any time in excess of the 2022 Minimum Reserve in the 2022 Reserve Fund may be withdrawn therefrom and applied to any other lawful purpose. Cash accumulated in the 2022 Reserve Fund shall not be invested in a manner which could cause the 2022 Bonds to become arbitrage bonds within the meaning of the Code. Any investments held in the 2022 Reserve Fund shall be valued annually, on or about June 1, at their current fair market value and, if the amount then on deposit in the 2022 Reserve Fund exceeds the 2022 Minimum Reserve, all amounts in excess of the 2022 Minimum Reserve shall be transferred to the 2022 Debt Service Fund and used to pay principal of and interest on the 2022 Bonds.

(vi) Payment of Parity Subordinate Obligations. Concurrently with and on the same priority as the payment of the Pledged Revenues required by subparagraphs B(i), (iv) and (v) of this Section, any amounts on deposit in the Pledged Revenue Fund shall be used by the City for the payment of principal of, interest on and debt service reserve fund deposits relating to outstanding Parity Subordinate Obligations payable from the Pledged Revenues, as the same become due. If funds on deposit in the Pledged Revenue Funds are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the 2022 Bonds and any other outstanding Parity Subordinate Obligations, then the available funds in the Pledged Revenue Fund will be used, first (after payment of the Parity Obligations), on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Subordinate Obligations, for the payment of principal of and interest on all series of outstanding Parity Subordinate Obligations and, second,

to the extent of remaining available funds in the Pledged Revenue Fund on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Subordinate Obligations, for the required debt service reserve fund deposits for all series of outstanding Parity Subordinate Obligations.

(vii) Termination Upon Deposits to Maturity. No payment shall be made into the 2022 Debt Service Fund or the 2022 Reserve Fund (if required to be funded) if the amounts in such funds total a sum at least equal to the entire aggregate amount due as to principal, premium, if any, and interest, on the Series 2022 Bonds to their respective maturities or applicable redemption dates, in which case moneys in the 2022 Debt Service Fund and the 2022 Reserve Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in the 2022 Debt Service Fund and the 2022 Reserve Fund may be used as provided below.

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

Section 18. General Administration of Funds. The funds designated in Section 16 shall be administered and invested as follows:

A. Places and Times of Deposits. The funds shall be separately maintained as a trust fund or funds for the purposes established and shall be invested by the City in Permitted Investments or deposited in one or more bank accounts in an Insured Bank or Banks. Each fund or account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the designated purpose. Payments shall be made into the proper fund or account on the first day of the month except when the first day shall not be a Business Day, then payment shall be made on the next succeeding Business

Day. No later than two Business Days prior to each Interest Payment Date, moneys sufficient to pay interest and principal then due on the Bonds shall be transferred to the Paying Agent. Nothing in this Bond Ordinance shall prevent the City from establishing one or more bank accounts in an Insured Bank or Banks for all the funds required by this Bond Ordinance or shall prevent the combination of such funds and accounts with any other bank account or accounts or investments for other funds and accounts of the City.

B. Investment of Moneys. Moneys in the 2022 Reserve Fund shall be invested in accordance with paragraph C of this Section 18, and moneys in any other fund or account not immediately needed may be invested in any investment permitted by the laws of the State or by the Charter. The obligations so purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund or account, and any loss resulting from such investment shall be charged to such fund or account. The City Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

C. Reserve Fund. Moneys, if any, in the 2022 Reserve Fund may be invested only in Permitted Investments with an average aggregate weighted term to maturity not greater than five years. The City shall annually on or about June 1 of each year, commencing on the first June 1 succeeding funding of the 2022 Reserve Fund, value the 2022 Reserve Fund on the basis of the current fair market value of deposits and investments credited to each of the 2022 Reserve Fund. If, upon any valuation, the value of the 2022 Reserve Fund exceeds the 2022 Minimum Reserve, the excess amount shall be withdrawn and deposited into the 2022 Debt Service Fund; if the value is less than the applicable requirement, the City shall replenish such amounts from

the first Pledged Revenues thereafter received not required to be otherwise applied or other monies legally available therefor.

At such time as the Series 2022 Bonds are paid in full or are deemed to be paid in full, the amount on deposit in the 2022 Reserve Fund may be used to pay the final installments of principal and interest on the Series 2022 Bonds and otherwise may be withdrawn and transferred to the City to be used for any lawful purpose, provided that, if such amounts are used for a purpose other than payment of the Series 2022 Bonds, there shall be delivered an opinion of nationally recognized bond counsel that the purpose for which such funds are to be used is a lawful purpose for which such proceeds may be used under the laws of the State of New Mexico and that such use shall not result in the inclusion of interest on any Series 2022 Bonds in gross income of the recipient thereof for federal income tax purposes.

If moneys have been withdrawn from the 2022 Reserve Fund and deposited into the 2022 Debt Service Fund to prevent a default on the Series 2022 Bonds, then the City will pay, from Pledged Revenues or other monies legally available therefor, the full amount so withdrawn or so much as shall be required to restore the 2022 Reserve Fund to the 2022 Minimum Reserve. Such repayment shall be made as required by Section 17 of this Bond Ordinance.

Section 19. Lien on Pledged Revenues. The Pledged Revenues and the amounts and securities on deposit in 2022 Debt Service Fund and the 2022 Reserve Fund, if any, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the City grants a security interest therein for, the payment of the principal of, premium, if any, and interest on the Series 2022 Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this Bond Ordinance. The Series 2022 Bonds constitute an irrevocable and subordinate lien, but not an exclusive subordinate lien on the Pledged Revenues, subordinate to the lien thereon of

the outstanding Parity Obligations and additional Parity Obligations, if any, hereafter authorized to be issued and payable from Pledged Revenues, and on parity with the lien thereon of the outstanding Parity Subordinate Obligations and additional Parity Subordinate Obligations, if any, hereafter authorized to be issued and payable from the Pledged Revenues.

Section 20. Additional Obligations Payable from Pledged Revenues.

A. Parity Obligations. This Bond Ordinance shall not prevent the issuance of additional Parity Bonds payable from and constituting a lien upon the Pledged Revenues on parity with the lien of the Parity Obligations in accordance with the ordinances authorizing the issuance of the outstanding Parity Obligations.

B. Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the City from issuing bonds or other obligations payable from Pledged Revenues pledged by this Bond Ordinance and having a lien on any of the Pledged Revenues subordinate to the lien of the Series 2022 Bonds.

C. Superior Obligations Prohibited. The City shall not issue any obligation having a lien on any of the Pledged Revenues pledged by this Bond Ordinance which is prior and superior to the Parity Obligations.

Section 21. Additional Parity Subordinate Obligations Payable from Pledged Revenues.

A. Parity Subordinate Obligation Test. This Bond Ordinance shall not prevent the issuance of additional Parity Subordinate Obligations payable from and constituting a subordinate lien upon the Pledged Revenues on parity with the lien of the Series 2022 Bonds. Before any additional Parity Subordinate Obligations are actually issued, it must be determined that:

(1) The City is then current in the accumulation of all amounts which are then required to be on deposit in 2022 Debt Service Fund and 2022 Reserve Fund, in accordance with Section 17 of this Bond Ordinance; and

(2) The Pledged State Shared Gross Receipts Tax Revenues (not including any Hold Harmless Distribution) received by the City in the Fiscal Year immediately preceding the date of issuance of the proposed additional Parity Subordinate Lien Bonds shall have been sufficient to pay an amount representing at least 150% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on (1) the outstanding Parity Obligations, (2) outstanding Parity Subordinate Obligations, and (3) the Parity Subordinate Obligations proposed to be issued.

For purposes of the test set forth in clause (2) above, if on the date of issuance of the additional Parity Subordinate Obligations, (a) any amount of the reserve fund requirement for the additional Parity Subordinate Obligations is immediately deposited in or credited to the reserve fund for the additional Parity Subordinate Obligations or, (b) any amount of the reserve fund requirement for any issue of outstanding Parity Subordinate Obligations is then on deposit in or credited to the reserve fund for any issue of outstanding Parity Subordinate Obligations, then the amounts on deposit in or credited to the respective reserve funds shall be deducted from the principal and interest coming due in the final Fiscal Year for the additional Parity Subordinate Obligations or any issue of outstanding Parity Subordinate Obligations for which such reserve fund was created.

B. Certification or Opinion Regarding Pledged Revenues. A written certificate or opinion by an Independent Accountant or the City Treasurer or City Financial Services Director, that the Pledged Revenues (not including any Hold Harmless Distribution) are sufficient to pay the required amounts under the test in paragraph A of this Section, shall conclusively determine

the right of the City to issue additional Parity Subordinate Obligations. The Independent Accountant, City Treasurer or City Financial Services Director may utilize the results of any annual audit to the extent it covers the applicable period.

C. Super Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the City from issuing bonds or other obligations payable from Pledged Revenues pledged by this Bond Ordinance and having a lien on any of the Pledged Revenues subordinate to the lien of the Series 2022 Bonds.

Section 22. Refunding Bonds. The provisions of Section 20 and Section 21 of this Bond Ordinance are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time the City shall find it desirable to refund any outstanding Parity Obligations, or any part thereof, such obligations may be refunded, but only in accordance with the ordinances authorizing the issuance of such Parity Obligations.

B. Limitation Upon Issuance of Parity Subordinate Refunding Obligations. No refunding obligations shall be issued with a lien on the Pledged Revenues on parity with the lien of the Series 2022 Bonds, unless:

(1) The lien on the Pledged Revenues of the outstanding obligations so refunded is on parity with the lien on the Pledged Revenues of the Series 2022 Bonds; or

(2) The refunding obligations are issued in compliance Section 21 of this Bond Ordinance.

C. Refunding Part of an Issue. The refunding bonds or other refunding obligations 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 holder or holders of such refunding bonds or other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the owner or owners of the same issue refunded thereby. If only a part of any issue or issues is refunded, then there may be no refunding without the consent of the holders of the unrefunded portion of such obligations, unless:

(1) The refunding obligations do not increase the aggregate principal and interest requirements for any Fiscal Year commencing prior to the last maturity date of such unrefunded obligations; or

(2) The lien of the refunding obligations is subordinate to the lien of any obligations not refunded; or

(3) The refunding bonds or other refunding obligations are issued in compliance with Section 20 (in the case of Parity Refunding Obligations) or Section 21 (in the case of Parity Subordinate Refunding Obligations) of this Bond Ordinance.

D. Limitation Upon Issuance of Any Refunding Obligations. Any refunding obligations payable from Pledged Revenues shall be issued with such details as the City Council may provide, subject to the inclusion of any such rights and privileges designated in paragraph B of this Section but without impairing any contractual obligation imposed by any proceedings authorizing any unrefunded portion of any issue or issues, including the Series 2022 Bonds.

Section 23. Equality of Parity Subordinate Obligations. The Parity Subordinate Obligations from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of their issuance or the date incurred, it being the intention of the City Council that, except as set forth herein, there shall

be no priority among Parity Subordinate Obligations regardless of whether they are actually issued and delivered or incurred at different times.

Section 24. Protective Covenants. The City hereby covenants and agrees with each and every holder of the Bonds issued hereunder:

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

B. Payment of Bonds Herein Authorized. The City will promptly pay the principal of and the interest on every Series 2022 Bond at the place, on the date and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

C. City's Existence. The City will maintain its corporate identity and existence so long as any of the Bonds remain outstanding, unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any owner of the Bonds.

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

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

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

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

H. Impairment of Contract. The City agrees that any law, ordinance or resolution of the City that in any manner affects the Pledged Revenues or the Bonds shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor or unless the required consents of the holders of the then outstanding Bonds are obtained pursuant to Section 30 of this Bond Ordinance.

I. Debt Service Fund and Reserve Fund. The 2022 Debt Service Fund and the 2022 Reserve Fund shall be used solely and only, and those funds are hereby pledged, for the purposes set forth in this Bond Ordinance.

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

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

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

The City covenants that it (a) will take or cause to be taken such actions which may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and (b) will not take or permit to be taken any actions which would adversely affect that exclusion, and that it or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments, yield reduction payments or payments of alternative amounts in lieu of rebate to the federal government, if required, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Mayor, Mayor Pro Tem and other appropriate officers are hereby authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, if any, as may be required or appropriate to assure such exclusion of that interest.

In furtherance of the covenants set forth above, the City hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund (the "Rebate Fund"). Money and investments in the Rebate Fund shall not be used

for the payment of the Bonds, and amounts credited to the Rebate Fund shall be free and clear under any pledge under this Bond Ordinance. Money in the Rebate Fund shall be invested in a manner provided in Section 18 for investment of money, and all amounts on deposit in the Rebate Fund shall be held by the City, or a designated trustee, in trust, to the extent required to pay rebatable arbitrage to the United States of America. The City shall unconditionally be entitled to accept and rely upon the recommendation, advice, calculation and opinion of an accounting firm or other person or firm with knowledge of or experience in advising with respect to the provisions of the Code relating to rebatable arbitrage. The City shall remit all rebate installments and the final rebate payment to the United States of America as required by the provisions of the Code. Any moneys remaining in the Rebate Fund after redemption and payment of all the Bonds and payment and satisfaction of any rebatable arbitrage shall be withdrawn and remitted to the City.

Section 25. Preliminary Official Statement and Continuing Disclosure Undertaking.

A. Preliminary Official Statement. If required by the Purchaser, the preparation of the Preliminary Official Statement is hereby requested and approved for use distribution and use in connection with the sale of the Bonds; provided, that the foregoing shall not be applicable in the event that the Bonds are purchased pursuant to a private placement for which the Preliminary Official Statement is not required.

B. Continuing Disclosure Undertaking. If required by the Purchaser, the officers of the City are authorized to sign such documents and to take such actions in the future with respect to the City's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended; provided, that the foregoing shall not be applicable in the event that the Bonds are purchased pursuant to a private placement for which the Continuing Disclosure Undertaking is

not required. Notwithstanding any other provisions of this Bond Ordinance, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an “event of default” under Section 26 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 27. Events of Default. Each of the following events is hereby declared an “event of default”:

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

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

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

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

E. Bankruptcy. The City (i) files a petition or application seeking reorganization or arrangement of debt under Federal Bankruptcy law, or other debtor relief under

the laws of any jurisdiction, or (ii) is the subject of such petition or application which the City does not contest or is not dismissed or discharged within sixty (60) days.

Section 27. Remedies Upon Default. Upon the happening and continuance of any of the events of default as provided in Section 26 of this Bond Ordinance, then and in every case, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the City, the City Council and its agents, officers and employees, but only in their official capacities, to protect and enforce the rights of any holder of Bonds under this Bond Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award relating to the execution of any power herein granted for the enforcement of any legal or equitable remedy as such holder or holders may deem most effectual to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of any Bondholder, or to require the City Council to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all holders of the Bonds then outstanding. The failure of any Bondholder so to proceed shall not relieve the City or any of its officers, agents or employees of any responsibility for failure to perform, in their official capacities, any duty. Each right or privilege of such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege.

Section 28. Duties Upon Default. Upon the happening of any of the events of default provided in Section 26 of this Bond Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the owners of the Bonds to protect and preserve the security created for

the payment of the Bonds and to insure the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived therefrom, so long as any of the Bonds, either as to principal or interest, are outstanding and unpaid, shall be applied as set forth in Section 17 of this Bond Ordinance. In the event the City fails or refuses to proceed as provided in this Section, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the owners of the Bonds as hereinabove provided.

Section 29. Bonds Not Presented When Due. If any Bonds shall not be duly presented for payment when due at maturity or on the redemption date thereof, and if moneys sufficient to pay such Bonds are on deposit with the Paying Agent for the benefit of the owners of such Bonds, all liability of the City to such owners for the payments of such Bonds shall be completely discharged, such Bonds shall not be deemed to be outstanding and it shall be the duty of the Paying Agent to segregate and to hold such moneys in trust, without liability for interest thereon, for the benefit of the owners of such Bonds as may be provided in any agreement hereafter entered into between the Paying Agent and an officer of the City.

Section 30. Delegated Powers; Authority to Make Budget Adjustments. The officers of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Bond Ordinance, including, without limiting the generality of the foregoing, the publication of the title and general summary of the Bond Ordinance set out in Section 36 (with such changes, additions and deletions as they may determine), the printing of the Bonds, the preparation, printing, execution and distribution of the Preliminary Official Statement and final Official Statement, and the execution of the Continuing Disclosure Undertaking and of such documents or certificates as may be required by the Purchaser or bond counsel. The officers of the City are hereby authorized and directed to take all action necessary to make the budget adjustments needed to reflect the Bond proceeds.

Section 31. Amendment of Bond Ordinance. This Bond Ordinance may be amended without the consent of the holder of any Bond to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained herein. Prior to the date of the initial delivery of the Bonds to the Purchaser, the provisions of this Bond Ordinance may be amended with the written consent of the Purchaser, with respect to any changes which are not inconsistent with the substantive provisions of this Bond Ordinance. In addition, this Bond Ordinance may be amended without receipt by the City of any additional consideration, but with the written consent of the holders of seventy-five percent (75%) of the Bonds then outstanding (not including Bonds which may be held for the account of the City); but no ordinance adopted without the written consent of the holders of all outstanding Bonds shall have the effect of permitting:

- A. An extension of the maturity of any Bond; or
- B. A reduction of the principal amount or interest rate of any Bond; or
- C. The creation of a lien upon the Pledged Revenues ranking prior to the lien or pledge created by this Bond Ordinance; or
- D. A reduction of the principal amount of Bonds required for consent to such amendatory ordinance; or
- E. The establishment of priorities as between Bonds issued and outstanding under the provisions of this Bond Ordinance; or
- F. The modification of or otherwise affecting the rights of the holders of less than all the outstanding Bonds.

Section 32. Defeasance. When all principal and interest in connection with the Bonds hereby authorized have been duly paid, the pledge and lien on the Pledged Revenues for the

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

Section 33. Bond Ordinance Irrepealable. After any of the Bonds are issued, this Bond Ordinance shall be and remain irrepealable until the Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided, or there has been defeasance of the Bonds as herein provided.

Section 34. Severability Clause. If any Section, paragraph, clause or provision of this Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 35. Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 36. Effective Date. Upon due adoption of this Bond Ordinance, it shall be recorded in the book of ordinances of the City kept for that purpose, authenticated by the signatures of the Mayor or Mayor Pro Tem and City Clerk, and the title and general summary of the subject matter contained in this Bond Ordinance (set out in Section 37 below) shall be published in a newspaper which maintains an office and is of general circulation in the City and this Bond Ordinance shall be in full force and effect in accordance with law.

Section 37. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Las Cruces, New Mexico

Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in an ordinance duly adopted and approved by the City Council of the City of Las Cruces, New Mexico, on August 15, 2022, relating to the authorization and issuance of the City's Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, Las Cruces City Hall, 700 North Main Street Las Cruces, New Mexico.

The title of the Ordinance is:

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS CRUCES, NEW MEXICO SUBORDINATE LIEN STATE SHARED GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2022 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 FOR THE ACQUISITION OF FIRE ENGINES, AERIAL FIRE TRUCKS, AND FIRE EQUIPMENT FOR THE CITY FIRE DEPARTMENT; DELEGATING

AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE FOR THE SALE OF THE BONDS TO THE PURCHASER.

TO THE PURCHASER.

A general summary of the Ordinance is:

The Ordinance authorizes the issuance and sale of the City of Las Cruces, New Mexico Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2022, in an aggregate principal amount not to exceed \$5,000,000 for (1) the acquisition of fire engines, aerial fire trucks, and fire equipment for the City Fire Department and (2) paying Expenses related to the issuance of the Series 2022 Bonds; provides that the Bonds will be payable and collectible from the revenues derived from the 1.225% pledged state shared gross receipts tax distributed to the City; provides that the maturity dates, interest rates, redemption provisions and other details of each series of the Bonds will be as established in the Pricing Certificate, and delegate authority to the City Manager or Financial Services Director to execute and deliver the Pricing Certificate; provides a form of the Bonds; approves preparation, execution and delivery of certain documents relating to the Bonds; makes covenants for the benefit of owners of the Bonds; ratifies action previously taken in connection with the Bonds; and repeals all action in conflict with the Ordinance.

This notice constitutes compliance with § 6-14-6 N.M.S.A. 1978.

(End of Form of Summary for Publication)

DONE AND APPROVED this 15th day of August, 2022.

APPROVED:

ATTEST:

Ken Miyagishima, Mayor

Christine, Rivera City Clerk

Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima: _____

Councilor Gandara: _____

Councilor Abeyta: _____

Councilor Graham: _____

Councilor Bencomo: _____

Councilor Corran: _____

Councilor Flores: _____

APPROVED AS TO FORM

Jennifer Vega, City Attorney

STATE OF NEW MEXICO)
COUNTY OF DOÑA ANA) ss.
CITY OF LAS CRUCES)

I, Christine Rivera, the duly acting and qualified City Clerk of the City of Las Cruces, New Mexico (the "Governmental Unit"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Council (the "Governing Body"), constituting the governing body of the City had and taken at a duly called regular meeting held at the Municipal Offices, 700 North Main Street, Las Cruces, New Mexico, on August 15, 2022, at the hour of 1:00 p.m., insofar as the same relate to the issuance and delivery of the Bonds, a copy of each of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Such proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at such meeting, as therein shown.

3. Notice of such meeting was given in compliance with the permitted methods of giving notice of regular meetings of the Governing Body as required by the City's open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of August, 2022.

CITY OF LAS CRUCES, NEW MEXICO

Christine Rivera, City Clerk