City of Las Cruces®
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Council Action and Executive Summary

Item # 16 Ordinance/Resolution# 2717

For Meeting of May 19, 2014 (Ordinance First Reading Date)

For Meeting of June 24, 2014 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☐ LEGISLATIVE ☒ ADMINISTRATIVE

TITLE:

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF $8,000,000 CITY OF LAS CRUCES, NEW MEXICO REVENUE BONDS, SERIES 2014A, FOR STREET IMPROVEMENT PROJECTS; AND AUTHORIZING THE ISSUANCE AND SALE OF $1,500,000 CITY OF LAS CRUCES, NEW MEXICO REVENUE BONDS, SERIES 2014B, FOR FLOOD CONTROL INFRASTRUCTURE PROJECTS.

PURPOSE(S) OF ACTION:

Issue debt.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Robert Scaling	**Department/Section:** Finance/Treasury	**Phone:** 541-2035
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The proceeds of the 2014 cycling debt issue for street improvement projects are dedicated to the following: 6th street, Bex, Boston, Montana, Calle del Sol, Camino Coyote, Church and Water Two-Way Conversion, Crescent, Elks, El Prado, Farney, Golf Club/Roadrunner Traffic Signal, Hadley Lavendar, Lees, Melendres, Miranda, Missouri/Triviz/Don Roser Improvements, Overlay, Pavement Replacement, Pettes, Pinon, Roadrunner Parkway, Sonoma Ranch, Willow, and others yet to be named in accordance to the CIP. The cycled Flood Control funds are slated for the El Molino Pond, Land Acquisition-Flood Control, and Pavement Replacement.

SUPPORT INFORMATION:

1. Ordinance.

(Continue on additional sheets as required)

SOURCE OF FUNDING:

Is this action already budgeted?			
	Yes	☐	See fund summary below
	No	☒	If No, then check one below:
Budget adjustment to follow via separate resolution.	*Budget Adjustment Attached*	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?			
	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $_____ for FY__
Budget adjustment to follow via separate resolution.	No	☒	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Ordinance authorizing the issuance of $8,000,000 MGRT, Series 2014A Bonds and $1,500,000 MGRT, Series 2014B Bonds.
2. Vote "No"; this will not approve the Ordinance authorizing the issuance of $8,000,000 MGRT, Series 2014A Bonds and $1,500,000 MGRT, Series 2014B Bonds.
3. Vote to "Amend"; this could delay the issuance of the Bonds.
4. Vote to "Table"; this could delay the issuance of the Bonds with potential adverse effect to the intended projects.

REFERENCE INFORMATION:

N/A

COUNCIL BILL NO. 14-032
ORDINANCE NO. 2717

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF $8,000,000 CITY OF LAS CRUCES, NEW MEXICO REVENUE BONDS, SERIES 2014A, FOR STREET IMPROVEMENT PROJECTS; AND AUTHORIZING THE ISSUANCE AND SALE OF $1,500,000 CITY OF LAS CRUCES, NEW MEXICO REVENUE BONDS, SERIES 2014B, FOR FLOOD CONTROL INFRASTRUCTURE PROJECTS.

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

WHEREAS, the City is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico; and 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, except for the 2010A Street Bonds, the Pledged Street MGRT Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding; and

WHEREAS, except for the 2008 NMFA Flood Control Loan, the 2010B Flood Control Bonds, and the 2011B Flood Control Bonds, the Pledged Flood Control MGRT Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding; and

WHEREAS, the City Council hereby determines that there is a need for the 2014A Street Improvement Project and the 2014B Flood Improvement Project as herein defined, and that the Bonds shall be issued for such projects; 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 2014A Street Bonds be issued with a first lien, but not an exclusive first lien, on the Pledged Street MGRT Revenues on a parity with the lien thereon of presently outstanding and future Parity Street Project Bonds; 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 2014B Flood Control Bonds be issued with a first lien, but not an exclusive first lien, on the Pledged Flood Control MGRT Revenues on a parity with the lien thereon of presently outstanding and future Parity Flood Control Project Bonds; and

WHEREAS, the 2014A Street Improvement Project shall be funded by the 2014A Street Bonds;

WHEREAS, the 2014B Flood Control Improvement Project shall be funded by the 2014B Flood Control Bonds; and

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

WHEREAS, the Purchaser has agreed, pursuant to its bid for the 2014A Street Bonds and the 2014B Flood Control Bonds submitted at 10:00 a.m. on June 24, 2014 to purchase the 2014A Street Bonds at a purchase price of $_____ and the 2014B Flood Control Bonds at a purchase price of $_____; 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 the 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):

"2008 NMFA Flood Control Loan" means the loan agreement between the City and the NMFA authorized by City Ordinance No. 2487 adopted on November 17, 2008 and executed on December 23, 2008 in the original aggregate principal amount of $4,563,829 and currently outstanding in the aggregate principal amount of $_____.

"2010A Street Bonds" means the City of Las Cruces, New Mexico Municipal Gross Receipts Tax Refunding and Improvement Revenue Bonds (Street Projects), Series 2010A originally issued in the aggregate principal amount of $12,255,000, and currently outstanding in the aggregate principal amount of $_____.

"2010B Flood Control Bonds" means the City of Las Cruces, New Mexico Municipal Gross Receipts Tax Refunding Revenue Bonds (Flood Control Projects), Series 2010B originally issued in the aggregate principal amount of $4,390,000, and currently outstanding in the aggregate principal amount of $_____.

"2011B Flood Control Bonds" Loan means the City of Las Cruces, New Mexico Municipal Gross Receipts Tax Revenue Bonds (Flood Control Projects), Series 2011B originally issued in the aggregate principal amount of $1,530,000, and currently outstanding in the aggregate principal amount of $_____.

"2014A Acquisition Fund" means the "City of Las Cruces Municipal Gross Receipts Tax Improvement Revenue Bonds (Street Projects), Series 2014A, Improvement Project Acquisition Fund" established by Section 16 of the Bond Ordinance.

"2014A Minimum Reserve" means an amount equal to the least of (i) ten percent of the principal amount of the outstanding 2014A Street Bonds, (ii) the maximum annual debt service on the outstanding 2014A Street Bonds, or (iii) 125% of the average annual debt service on the outstanding 2014A Street Bonds. The 2014A Minimum Reserve shall be recalculated every year on or about June 1.

"2014A Reserve Fund" means the "City of Las Cruces Municipal Gross Receipts Tax Revenue Bonds (Street Projects), Series 2014A, Reserve Fund" established by Section 16 of the Bond Ordinance.

"2014A Street Bonds" means the City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Street Projects), Series 2014A.

"2014A Street Improvement Project" means the reconstruction, resurfacing, repair and major maintenance of City streets, including related repairs to integral curbs, sidewalks, drainage and utility systems necessitated by the street modifications and Expenses related to the issuance of the 2014A Street Bonds.

"2014B Acquisition Fund" means the "City of Las Cruces Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B Improvement Project Acquisition Fund" established by Section 16 of the Bond Ordinance.

"2014B Debt Service Fund" means the "City of Las Cruces Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B, Debt Service Fund" established in Section 16 of the Bond Ordinance.

"2014B Flood Control Bonds" means the City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B.

"2014B Flood Control Improvement Project" means the acquisition, construction, maintenance and completion of various flood control infrastructure projects, including the payment of Expenses related to the issuance of the 2014B Flood Control Bonds.

"2014B Minimum Reserve" means an amount equal to the least of (i) ten percent of the principal amount of the outstanding 2014B Flood Control Bonds, (ii) the maximum annual debt service on the outstanding 2014B Flood Control Bonds, or (iii) 125% of the average annual debt service on the outstanding 2014B Flood Control Bonds. The 2014B Minimum Reserve shall be recalculated every year on or about June 1.

"2014B Reserve Fund" means the "City of Las Cruces Municipal Gross Receipts Tax Revenue Bonds (Flood Control Projects), Series 2014B, Reserve Fund" established by Section 16 of the Bond Ordinance.

"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 Article X, Section 6 of the Constitution of the State, and enactments of the City Council relating to the issuance of the Bonds, including the Bond Ordinance.

"Bonds" means collectively, the 2014A Street Bonds and the 2014B Flood Control Bonds authorized by this Bond Ordinance.

"Bond Ordinance" means this City Ordinance No. _____.

"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 the 2014A Street Bonds or the 2014B Flood Control Bonds, as applicable, then outstanding.

"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.

"Completion Date" means the date of completion of the construction, acquisition and installation of the 2014A Street Improvement Project and the 2014B Flood Control Improvement Project as certified pursuant to Section 15 of the Bond Ordinance.

"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.

"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 the 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 the fees, compensation, costs and expenses paid or to be paid to the Paying Agent, Registrar 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.

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

"Hold Harmless Flood Control MGRT Distribution" means the distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, as that distribution relates to the fifth one quarter of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 1135, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93 NMSA 1978; provided that the percentage of such distribution decreases annually as provided in Section 7-1-6.46 NMSA 1978 each year beginning on July 1, 2015 until the distribution is eliminated after July 1, 2029.

"Hold Harmless Street MGRT Distribution" means the distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, as that distribution relates to the first one quarter of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 187, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93 NMSA 1978; provided that the percentage of such distribution decreases annually as provided in Section 7-1-6.46 NMSA 1978 each year beginning on July 1, 2015 until the distribution is eliminated after July 1, 2029.

"Independent Accountant" means (A) an accountant employed by the State 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.

"Interest Payment Date" means each June 1 and December 1, commencing December 1, 2014.

"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.

"NMFA" means the New Mexico Finance Authority.

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

"Official Statement" means the final disclosure document to be used by the Purchaser in connection with the sale of the Bonds to the public.

"Outstanding" or "outstanding" when used in reference to bonds means, on any particular date, the aggregate of all Bonds delivered under the 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 the 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; and

D. those Bonds which have been refunded in accordance with the Bond Ordinance or other ordinance of the City authorizing the issuance of the applicable bonds.

"Parity Street Bonds" or "Parity Street Obligations" means the 2010A Street Bonds, the 2014A Street Bonds and any other bonds or other obligations now outstanding or hereafter issued or incurred, payable from and constituting a lien on the Pledged Street MGRT Revenues on a parity with the 2010A Street Bonds and the 2014A Street Bonds.

"Parity Flood Control Bonds" or "Parity Flood Control Obligations" means the 2008 NMFA Flood Control Loan, the 2010B Flood Control Refunding Bonds, the 2011B Flood Control Bonds, and the 2014B Flood Control Bonds and any other bonds or other obligations now outstanding or hereafter issued or incurred, payable from and constituting a lien on the Pledged Flood Control MGRT Revenues on a parity with the 2008 NMFA Flood Control Loan, the 2010B Flood Control Refunding Bonds, the 2011B Flood Control Bonds, and the 2014B Flood Control Bonds.

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

"Permitted Investments" means, but only to the extent permitted by applicable laws of the State 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 Flood Control MGRT Income Fund" means the "City of Las Cruces, New Mexico, Pledged Flood Control Municipal Gross Receipts Tax Income Fund" created in Section 16 of the Bond Ordinance.

"Pledged Flood Control MGRT Revenues" means the revenues derived from (i) the fifth one quarter of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 1135, adopted on March 26, 1990, with an effective date of July 1, 1990, as amended by City Ordinance No. 1760, adopted on July 27, 1999, which tax equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the City for the month in which the tax is distributed to the City and (ii) the associated Hold Harmless Flood Control MGRT Distribution; provided that the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Bond Ordinance (the City is not pledging and the term "Pledged Flood Control MGRT Revenues" does not include the state-shared gross receipts tax or any other local option gross receipts tax income received by the City).

"Pledged Street MGRT Income Fund" means the "City of Las Cruces, New Mexico, Pledged Street Municipal Gross Receipts Tax Income Fund" created in Section 16 of the Bond Ordinance.

"Pledged Street MGRT Revenues" means the revenues derived from (i) the first one quarter of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 187, adopted on October 16, 1978, with an effective date of July 1, 1979, which tax equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the City for the month in which the tax is distributed to the City and (ii) the associated Hold Harmless Street MGRT Distribution; provided that the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Bond Ordinance (the City is not pledging and the term "Pledged Street MGRT Revenues" does not include the state-shared gross receipts tax or any other local option gross receipts tax income received by the City).

"Preliminary Official Statement" means the initial disclosure document dated June __, 2014, relating to the issuance and sale of the Bonds.

"Project" means collectively, the 2014A Street Improvement Project and the 2014B Flood Control Improvement Project.

"Purchaser" means _____ as best bidder for the Bonds.

"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 policy of insurance, surety bond, letter of credit or other financial instrument issued to the City, the proceeds of which shall be used to prevent deficiencies in the payment of the principal of or interest on the Bonds resulting from insufficient amounts being on deposit in the 2014A or 2014B Debt Service Fund to make the payment of principal of and interest on the Bonds as the same become due. Each policy shall be written by a bank, insurance company or any financial institution experienced in insuring or guaranteeing municipal bonds whose policies of insurance, surety bond, letter of credit or other financial instrument would not adversely affect the rating of the Bonds by Moody's and/or S&P to the extent that the Bonds are or are to be so rated and provided that at the time of the issuance of such policy such bank, insurance company or any financial institution shall have received the highest policy claims rating accorded insurers by the A.M. Best Company or any comparable service, if applicable to the provider of the Reserve Fund Insurance Policy, and either of the two highest Rating Categories of Moody's and S&P to the extent that each rating agency provides such a rating and is then rating the Bonds.

"S&P" means Standard & Poor's Ratings Group, 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.

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

Section 3. Authorization of Projects.

A. The 2014A Project and the method of financing the 2014A Project are hereby authorized and ordered at a total cost of $8,000,000 excluding any such cost defrayed or to be defrayed by any source other than 2014A Street Bond proceeds. The City is the owner of the 2014A Street Improvement Project, and the 2014A Street Improvement Project will be used solely by and for the benefit of the City and its residents.

B. The 2014B Flood Control Improvement Project and the method of financing the 2014B Flood Control Improvement Project are hereby authorized and ordered at a total cost of $1,500,000 excluding any such cost defrayed or to be defrayed by any source other than 2014B Flood Control Bond proceeds. The City is the owner of the 2014B Flood Control

Improvement Project, and the 2014B Flood Control Project will be used solely by and for the benefit of the City and its residents.

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

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

B. Moneys available for the Project from all sources other than the issuance of revenue bonds are not sufficient to defray the cost of the Project.

C. The Pledged Municipal Gross Receipts Tax 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 Project by the issuance of the Bonds.

E. The issuance of the Bonds pursuant to the Act, to provide funds for the financing of the 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 for the Parity Street Bonds and the Parity Flood Control Bonds.

G. The bid of _____ received at a public sale of the Bonds held at 10:00 a.m. on June 24, 2014 was the best bid for the Bonds, is hereby accepted by the Council and the Bonds are awarded to the Purchaser.

Section 5. Bonds - Authorization and Detail.

A. Authorization. This Bond Ordinance has been adopted by the affirmative vote of at least three-fourths of all of the members of the City Council. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the citizens of the City, it is hereby declared necessary that the City, pursuant to the Act, issue its negotiable, fully registered, revenue bonds to be designated "City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Street Projects), Series 2014A," in an aggregate principal amount of $8,000,000 and the "City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B," in an aggregate principal amount of $1,500,000, and the issuance, sale and delivery of the Bonds is hereby authorized.

B. Details of Bonds. There are hereby authorized and created a series of bonds designated as the City of Las Cruces, New Mexico, Municipal Gross Receipts Tax

Improvement Revenue Bonds (Street Projects), Series 2014A and a series of bonds designated as the City of Las Cruces, New Mexico, Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B.

The 2014A Street Bonds shall be issued in an aggregate principal amount of $8,000,000 for the 2014A Street Improvement Project, and the 2014B Flood Control Bonds shall be issued in an aggregate principal amount of $1,500,000 for the 2014B Flood Control Improvement Project. The forms, terms, and provisions of the Bonds in the form set forth in Section 13 are hereby approved with only such changes therein as are not inconsistent with this Bond Ordinance.

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 issue, 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, 2014 until their respective maturities. The Bonds shall bear the rates of interest and mature in each of the designated amounts and years as set forth below:

2014A Street Bonds

Amounts Maturing	Interest Rate (Per Annum)	Year Maturing
		2015
		2016
		2017
		2018
		2019
		2020
		2021

2014B Flood Control Bonds

Amounts Maturing	Interest Rate (Per Annum)	Year Maturing
		2015
		2016
		2017
		2018
		2019
		2020
		2021

The net effective interest rates on the 2014A Street Bonds and the 2014B Flood Control Bonds are less than the statutory maximum of twelve percent (12%) per annum.

Section 6. Prior Redemption.

A. Optional Redemption. The 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 bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair), for the principal

amount of each $5,000 unit of principal so redeemed plus accrued interest to the redemption date. Redemption shall be made upon prior notice mailed to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

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

C. Conditional Redemption. If money or Defeasance Obligations (as defined in Section 32) 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 B of this Section, such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the optional redemption price is on deposit with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Bonds to be redeemed shall be selected in the manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice or optional redemption was given, that such money was not received and the information required by paragraph B of this Section. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been optionally redeemed.

Section 7. Filing of Manual Signatures. Prior to the execution of any Bond pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended, the Mayor or Mayor Pro Tem and

City Clerk shall each file with the New Mexico Secretary of State his or her manual signature certified by him or her under oath; provided that filing shall not be necessary for any officer where any previous filing may have legal application to the Bonds.

Section 8. Execution and Authentication of Bonds.

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

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

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

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

or more predecessor Bonds) as of the Record Date, but shall be payable to the owner thereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to Bond owners not less than ten (10) days prior thereto. If any Bond presented for payment remains unpaid at maturity or redemption, it shall continue to bear interest at the rate or rates designated in, and applicable to, such Bond from time to time. If any Bond is not presented for payment at maturity or redemption when funds available therefor have been deposited with the Paying Agent, it shall cease bearing interest on and from the date of maturity or redemption.

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

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

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

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

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

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

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

G. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the City shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the City may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having a shareholders equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than $50,000,000. It shall not be required that the same institution 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 and interest will be paid to the Depository or its nominee as the registered owner of the Bonds. The transfer of principal and interest payments to Participants will be the responsibility of the Depository; the transfer of principal and interest payments to the beneficial owners of the 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 the Bond Ordinance, so long as all of the Bonds are registered in the name of the Depository or its nominee, all payments of principal 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 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, with respect to the 2014A Street Bonds solely from the Pledged Street MGRT Revenues and with respect to the 2014B Flood Control Bonds, solely from the Pledged Flood Control MGRT Revenues, which revenues are so pledged and are payable as set forth in Section 17 of the 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, with respect to the 2014A Street Bonds solely from the Pledged Street MGRT Revenues and with respect to the 2014B Flood Control Bonds, solely from the Pledged Flood Control MGRT Revenues, pledged as set forth in the 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
MUNICIPAL GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS

(STREET PROJECTS)[(FLOOD CONTROL PROJECTS)]
SERIES 2014A[SERIES 2014B]

Bond No. _____ $_____

INTEREST RATE	MATURITY DATE	DATE OF BOND	CUSIP
____% per annum	June 1, _____	_____, 2014	_____

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 Unites States of America, and to pay from such sources interest on the unpaid principal amount at the Interest Rate on December 1, 2014, and on December 1 and June 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 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 City of Las Cruces, New Mexico Municipal Gross Receipts Tax Revenue Improvement Bonds (Street Projects), Series 2014A[City of Las Cruces, New Mexico Municipal Gross Receipts Tax Revenue Improvement Bonds (Flood Control Projects), Series 2014B] (the "Bonds") issued under and pursuant to City Ordinance No. ____ adopted on June 24, 2014 (the "Bond Ordinance").

The 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 bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair), for the principal amount of each $5,000 unit of principal so redeemed plus accrued interest to the redemption date. Redemption shall be made upon prior notice mailed to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

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

Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer or exchange of a Bond at the principal office of the Registrar, duly endorsed or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or owner a new Bond or Bonds in fully registered form of the same aggregate principal amount, maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond of any tax or other similar governmental charge required to be paid with respect to such exchange or transfer. The Registrar shall not be required (i) to transfer or exchange any Bond during the period of fifteen 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 (i) the first[fifth] one quarter percent (1/4%) increment of the City's municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 187[1135], adopted on October 16, 1978[March 26, 1990, as amended by City Ordinance No. 1760, adopted on July 27, 1999], which tax equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one-fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the City for the month in which the tax is distributed to the City and (ii) the distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, as that distribution relates to the first one quarter of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 187, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93 NMSA 1978; provided that the percentage of such distribution decreases annually as provided in Section 7-1-6.46 NMSA 1978 each year beginning on July 1, 2015 until the distribution is eliminated after July 1, 2029 (the "Hold Harmless Street MGRT Distribution") [the distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, as that distribution relates to the fifth one quarter of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the City by City Ordinance No. 1135, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93 NMSA 1978; provided that the percentage of such distribution decreases annually as provided in Section 7-1-6.46 NMSA 1978 each year beginning on July 1, 2015 until the distribution is eliminated after July 1, 2029 (the "Hold Harmless Flood Control MGRT Distribution")] (collectively, the "Pledged Street[Flood Control] MGRT Revenues"). The bondholders may not look to any general or other municipal fund other than that described above for the payment of the interest and principal of this bond. The lien of the Bonds on the Pledged Street[Flood Control] MGRT Revenues is an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Street[Flood Control] MGRT Revenues. Upon satisfaction of the conditions set forth in the Bond Ordinance, additional bonds may be issued and made payable from the Pledged Street[Flood Control] MGRT Revenues having a lien thereon either on a parity with, or subordinate and junior to, the lien on the Pledged Street[Flood Control] MGRT Revenues of the Bonds, but additional bonds may not be issued with a lien thereon superior to the lien thereon of the Bonds. Amounts and securities held in the 2014A[2014B] Debt Service Fund and the 2014A[2014B] Reserve Fund, as

such terms are defined in the Bond Ordinance, have been exclusively pledged for payment of the principal and interest on the Bonds.

The Bonds are issued to provide funds to defray in part the cost of [reconstruction, resurfacing, repair and major maintenance of City streets, including related repairs to integral curbs, sidewalks, drainage and utility systems necessitated by the street modifications;] [acquisition, construction, maintenance, and completion of various flood control infrastructure projects] including the payment of Expenses related to the issuance of the Bonds. The Bonds are equally and ratably secured by the Pledged Street[Flood Control] MGRT Revenues.

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 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

(FACSIMILE 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: _____

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 Improvement Project's Usefulness. It is hereby determined and recited that the period of usefulness of the 2014A Street Improvement Project to be undertaken with the proceeds of the 2014A Street Bonds is not less than ___ years from the date of initial

delivery and issuance of the 2014A Street Bonds. It is hereby determined and recited that the period of usefulness of the 2014B Flood Control Improvement Project to be undertaken with the proceeds of the 2014B Flood Control Bonds is not less than ___ years from the date of initial delivery and issuance of the 2014B Flood Control Bonds.

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

A. Expenses.

(1) An amount of 2014A Street Bond proceeds necessary, together with other legally available funds of the City, shall be used to pay Expenses related to the issuance of the 2014A Street Bonds.

(2) An amount of 2014B Flood Control Bond proceeds necessary, together with other legally available funds of the City, shall be used to pay Expenses related to the issuance of the 2014B Flood Control Bonds.

B. Acquisition Funds. All remaining proceeds derived from the sale of the 2014A Street Bonds shall be deposited promptly upon the receipt thereof in the 2014A Street Project Acquisition Fund. Until the Completion Date, the money in the 2014A Acquisition Fund shall be used and paid out solely for the purpose of the 2014A Street Improvement Project in compliance with applicable law. All remaining proceeds derived from the sale of the 2014B Flood Control Bonds shall be deposited promptly upon the receipt thereof in the 2014B Acquisition Fund. Until the Completion Date, the money in the 2014B Acquisition Fund shall be used and paid out solely for the purpose of the 2014B Flood Control Improvement Project.

C. Reserve Funds. No deposit of proceeds of the Bonds, other City moneys or a Reserve Fund Insurance Policy into the 2014A Reserve Fund or the 2014B 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 subsection (E) of Section 17 of this Bond Ordinance.

D. Improvement Project Completion. The Completion Date for the 2014A Street Bonds shall be evidenced by a certificate signed by the City Manager stating that the 2014A Street Improvement Project has been completed. As soon as practicable, and in any event not more than 60 days from the Completion Date, any balance remaining in the 2014A Acquisition Fund (other than any amount retained by the City for any 2014A Street Improvement Project costs not then due and payable) shall be transferred from the 2014A Acquisition Fund and deposited in the 2014A Debt Service Fund and used by the City to pay principal and interest on the 2014A Street Bonds as the same become due.

The Completion Date for the 2014B Flood Control Bonds shall be evidenced by a certificate signed by the City Manager stating that the 2014B Flood Control Improvement Project has been completed. As soon as practicable, and in any event not more than 60 days

from the Completion Date, any balance remaining in the 2014B Acquisition Fund (other than any amount retained by the City for any 2014B Flood Control Improvement Project costs not then due and payable) shall be transferred from the 2014B Acquisition Fund and deposited in the 2014B Debt Service Fund and used by the City to pay principal and interest on the 2014B Flood Control Bonds as the same become due.

G. 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.

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

A. Acquisition Funds. The "City of Las Cruces Municipal Gross Receipts Tax Revenue Bonds (Street Projects), Series 2014A, Improvement Project Acquisition Fund" to be maintained by the City and the "City of Las Cruces Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B, Improvement Project Acquisition Fund" to be maintained by the City.

B. Income Funds.

(1) The "City of Las Cruces, New Mexico Pledged Street Municipal Gross Receipts Tax Income Fund" to be maintained by the City.

(2) The "City of Las Cruces, New Mexico Pledged Flood Control Municipal Gross Receipts Tax Income Fund" to be maintained by the City.

C. Debt Service Funds.

(1) The "City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Street Projects), Series 2014A, Debt Service Fund" to be maintained by the City.

(1) The "City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B, Debt Service Fund" to be maintained by the City.

D. Reserve Funds.

(1) The "City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Street Projects), Series 2014A, Reserve Fund" to be maintained by the City.

(2) The "City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B, Reserve Fund" to be maintained by the City.

Section 17. Deposit of Pledged Municipal Gross Receipts Tax Revenues and Flow of Funds.

A. 2014A Street Bonds.

(1) Pledged Street MGRT Income Fund. So long as any of the 2014A Street Bonds are outstanding either as to principal or interest, or both, the City shall credit all Pledged Street MGRT Revenues to the Pledged Street MGRT Income Fund. The following payments shall be made from the Pledged Street MGRT Income Fund.

(2) 2014A Debt Service Fund. As a first charge on the Pledged Street MGRT Income Fund, the following amounts shall be withdrawn from the Pledged Street MGRT Income Fund and shall be credited to the 2014A Debt Service Fund:

(a) Monthly, commencing on the first day of the month immediately succeeding the delivery of the 2014A Street 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 2014A Street 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 2014A Street Bonds then outstanding.

(b) Monthly, commencing on the first day of the month immediately succeeding the delivery of the 2014A Street 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 2014A Street 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 2014A Street Bonds then outstanding.

(3) Credit. In making the deposits required to be made into the 2014A Debt Service Fund, if there are any amounts then on deposit in the 2014A 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 2 above shall be reduced by the amount available in such fund for such purpose.

(4) Transfer of Money out of 2014A Debt Service Fund. Each payment of principal and interest becoming due on the 2014A Street Bonds shall be transferred from the 2014A Debt Service Fund to the Paying Agent on or before two Business Days prior to the due date of such payment.

(5) 2014A Reserve Fund. No deposit shall be required in the 2014A Reserve Fund so long as the Pledged Street MGRT Revenues in each Fiscal Year equal or exceed 200% of the maximum annual principal and interest coming due in any subsequent Fiscal

Year on all outstanding Parity Street Bonds. If the Pledged Street MGRT Revenues in any Fiscal Year are insufficient to meet the test set forth in the preceding sentence, the City shall acquire a Reserve Fund Insurance Policy in an amount equal to the 2014A Minimum Reserve or shall begin making substantially equal monthly deposits in the 2014A Reserve Fund from the first legally available Pledged Street MGRT Revenues so that after 24 months an amount equal to the 2014A Minimum Reserve will be held in the 2014A Reserve Fund. After funding the 2014A Reserve Fund in an amount equal to the 2014A Minimum Reserve, no additional payments need be made into the 2014A Reserve Fund so long as the moneys therein shall equal not less than the 2014A Minimum Reserve. The moneys in the 2014A Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in paragraph (6) of this Section 17(A), only to prevent deficiencies in the payment of the principal of and interest on the 2014A Street Bonds resulting from failure to deposit into the 2014A Debt Service Fund sufficient funds to pay the principal and interest as the same accrue.

(6) Defraying Delinquencies in the 2014A Debt Service Fund and 2014A Reserve Fund. If, on any Interest Payment Date, the amount on deposit in the 2014A Debt Service Fund is insufficient to pay principal of and interest on the 2014A Street Bonds then due, then an amount shall be paid into the 2014A Debt Service Fund on such date from the 2014A Reserve Fund (if moneys are then on deposit in the 2014A Reserve Fund) equal to the amount of the insufficiency. The money deposited in the 2014A Debt Service Fund from the 2014A Reserve Fund, if any, shall be replaced in the 2014A Reserve Fund in 24 substantially equal monthly deposits commencing on the first day of the month immediately succeeding the draw on the 2014A Reserve Fund. Such accumulation shall be made from the Pledged Street MGRT Revenues second to the payments required by paragraph 2 of this Section 17(B). If, in any month, the City shall, for any reason, fail to pay into the 2014A 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 Street MGRT Revenues thereafter received and not required to be otherwise applied. The moneys in the 2014A 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 2014A Street Bonds; provided, however, that any moneys at any time in excess of the 2014A Minimum Reserve in the 2014A Reserve Fund may be withdrawn therefrom and applied to any other lawful purpose. Cash accumulated in the 2014A Reserve Fund shall not be invested in a manner which could cause the 2014A Street Bonds to become arbitrage bonds within the meaning of the Code. Any investments held in the 2014A 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 2014A Reserve Fund exceeds the 2014A Minimum Reserve, all amounts in excess of the 2014A Minimum Reserve shall be transferred to the 2014A Debt Service Fund and used to pay principal of and interest on the 2014A Street Bonds.

(7) Payment of Parity Street Obligations. Concurrently with the payment of the Pledged Street MGRT Revenues required by subparagraphs (2), (5) and (6) of this Section 17(A), any amounts on deposit in the Pledged Street MGRT Income Fund shall be used by the City for the payment of principal of, interest on and debt service reserve fund deposits relating to Parity Street Bonds, if any, hereafter authorized to be issued and payable from the Pledged Street MGRT Revenues, as applicable, as the same become due. If funds on deposit in the Pledged Street MGRT Income Fund are not sufficient to pay when due the

required payments of principal of, interest on and debt service reserve fund deposits relating to the 2014A Street Bonds and any other outstanding Parity Street Bonds, then the available funds in the Pledged Street MGRT Income Fund will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Street Bonds, for the payment of principal of and interest on all series of outstanding Parity Street Bonds and, second, to the extent of remaining available funds in the Pledged Street MGRT Income 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 Street Bonds, for the required debt service reserve fund deposits for all series of outstanding Parity Street Bonds.

(8) Termination Upon Deposits to Maturity. No payment shall be made into the 2014A Debt Service Fund or the 2014A Reserve Fund if the amounts (excluding any amount in the 2014A Reserve Fund represented by a Reserve Fund Insurance Policy) in such funds total a sum at least equal to the entire aggregate amount due as to principal and interest, on the 2014A Street Bonds to their respective maturities or applicable redemption dates, in which case moneys in the 2014A Debt Service Fund and the 2014A 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 accrue, and any moneys in excess thereof in the 2014A Debt Service Fund and the 2014A Reserve Fund may be used as provided below.

(9) Payment of Subordinate Lien Obligations. Subsequent to the payments required by paragraphs 2, 5, 6, and 7 of this Section 17(A), any balance remaining in the Pledged Street MGRT Income Fund, after making the payments hereinabove provided shall be used by the City for the payment of interest on and the principal of additional bonds or other obligations hereafter authorized, if any, having a lien on the Pledged Street MGRT Revenues subordinate to the lien thereon of the Parity Street Bonds, issued and payable from the Pledged Street MGRT Revenues, as the same become due. Payments with respect to principal, interest and reserve funds for any such subordinate lien obligations may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional obligations.

(10) Surplus Revenues. After making all the payments hereinabove required to be made by this Section 17(A), the remaining Pledged Street MGRT Revenues, if any, may be applied to any other lawful purpose, as the City may from time to time determine.

B. 2014B Flood Control Bonds.

(1) Pledged Flood Control MGRT Income Fund. So long as any of the 2014B Flood Control Bonds are outstanding either as to principal or interest, or both, the City shall credit all Pledged Flood Control MGRT Revenues to the Pledged Flood Control MGRT Income Fund. The following payments shall be made from the Pledged Flood Control MGRT Income Fund.

(2) 2014B Debt Service Fund. As a first charge on the Pledged Flood Control MGRT Income Fund, the following amounts shall be withdrawn from the Pledged Flood Control MGRT Income Fund and shall be credited to the 2014B Debt Service Fund:

(a) Monthly, commencing on the first day of the month immediately succeeding the delivery of the 2014B Flood Control 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 2014B Flood Control 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 2014B Flood Control Bonds then outstanding.

(b) Monthly, commencing on the first day of the month immediately succeeding the delivery of the 2014B Flood Control 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 2014B Flood Control 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 2014B Flood Control Bonds then outstanding.

(3) Credit. In making the deposits required to be made into the 2014B Debt Service Fund, if there are any amounts then on deposit in the 2014B 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 B above shall be reduced by the amount available in such fund for such purpose.

(4) Transfer of Money out of 2014B Debt Service Fund. Each payment of principal and interest becoming due on the 2014B Flood Control Bonds shall be transferred from the 2014B Debt Service Fund to the Paying Agent on or before two Business Days prior to the due date of such payment.

(5) 2014B Reserve Fund. No deposit shall be required in the 2014B Reserve Fund so long as the Pledged Flood Control MGRT Revenues in each Fiscal Year equal or exceed 200% of the maximum annual principal and interest coming due in any subsequent Fiscal Year on all outstanding Parity Flood Control Bonds. If the Pledged Flood Control MGRT Revenues in any Fiscal Year are insufficient to meet the test set forth in the preceding sentence, the City shall acquire a Reserve Fund Insurance Policy in an amount equal to the 2014B Minimum Reserve or shall begin making substantially equal monthly deposits in the 2014B Reserve Fund from the first legally available Pledged Flood Control MGRT Revenues so that after 24 months an amount equal to the 2014B Minimum Reserve will be held in the 2014B Reserve Fund. After funding the 2014B Reserve Fund in an amount equal to the 2014B Minimum Reserve, no additional payments need be made into the 2014B Reserve Fund so long as the moneys therein shall equal not less than the 2014B Minimum Reserve. The moneys in the 2014B Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in subparagraph (6) of this Section 17(B), only to prevent deficiencies in the payment of the principal of and interest on the 2014B Flood Control Bonds resulting from failure to deposit into the 2014B Debt Service Fund sufficient funds to pay the principal and interest as the same accrue.

(6) Defraying Delinquencies in the 2014B Debt Service Fund and 2014B Reserve Fund. If, on any Interest Payment Date, the amount on deposit in the 2014B

Debt Service Fund is insufficient to pay principal of and interest on the 2014B Flood Control Bonds then due, then an amount shall be paid into the 2014B Debt Service Fund on such date from the 2014B Reserve Fund equal to the amount of the insufficiency. The money deposited in the 2014B Debt Service Fund from the 2014B Reserve Fund, if any, shall be replaced in the 2014B Reserve Fund in 24 substantially equal monthly deposits commencing on the first day of the first month immediately succeeding the draw on the 2014B Reserve Fund. Such accumulation shall be made from the Pledged Flood Control MGRT Revenues second to the payments required by paragraph 2 of this Section 17(B). If, in any month, the City shall, for any reason, fail to pay into the 2014B 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 Flood Control MGRT Revenues thereafter received and not required to be otherwise applied. The moneys in the 2014B 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 2014B Flood Control Bonds; provided, however, that any moneys at any time in excess of the 2014B Reserve Fund Requirement in the 2014B Reserve Fund may be withdrawn therefrom and applied to any other lawful purpose. Cash accumulated in the 2014B Reserve Fund shall not be invested in a manner which could cause the 2014B Flood Control Bonds to become arbitrage bonds within the meaning of the Code. Any investments held in the 2014B 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 2014B Reserve Fund exceeds the 2014B Minimum Reserve, all amounts in excess of the 2014B Minimum Reserve shall be transferred to the 2014B Debt Service Fund and used to pay principal of and interest on the 2014B Flood Control Bonds.

(7) Payment of Parity Flood Control Obligations. Concurrently with the payment of the Pledged Street MGRT Revenues required by subparagraphs (2), (5) and (6) of this Section 17(B), any amounts on deposit in the Pledged Flood Control MGRT Income Fund shall be used by the City for the payment of principal of, interest on and debt service reserve fund deposits relating to Parity Flood Control Bonds, if any, hereafter authorized to be issued and payable from the Pledged Flood Control MGRT Revenues, as applicable, as the same become due. If funds on deposit in the Pledged Flood Control MGRT Income Fund are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the 2014B Flood Control Bonds and any other outstanding Parity Flood Control Bonds, then the available funds in the Pledged Flood Control MGRT Income Fund will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Flood Control Bonds, for the payment of principal of and interest on all series of outstanding Parity Flood Control Bonds and, second, to the extent of remaining available funds in the Pledged Flood Control MGRT Income 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 Flood Control Bonds, for the required debt service reserve fund deposits for all series of outstanding Parity Flood Control Bonds.

(8) Termination Upon Deposits to Maturity. No payment shall be made into the 2014B Debt Service Fund or the 2014B Reserve Fund if the amounts (excluding any amount in the 2014B Reserve Fund represented by a Reserve Fund Insurance Policy) in such funds total a sum at least equal to the entire aggregate amount due as to principal and interest, on the 2014B Flood Control Bonds to their respective maturities or applicable redemption dates, in

which case moneys in the 2014B Debt Service Fund and the 2014B 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 accrue, and any moneys in excess thereof in the 2014B Debt Service Fund and the 2014B Reserve Fund may be used as provided below.

(9) Payment of Subordinate Lien Obligations. Subsequent to the payments required by paragraphs 2, 5, 6, and 7 of this Section 17(B), any balance remaining in the Pledged Flood Control MGRT Income Fund, after making the payments hereinabove provided shall be used by the City for the payment of interest on and the principal of additional bonds or other obligations hereafter authorized, if any, having a lien on the Pledged Flood Control MGRT Revenues subordinate to the lien thereon of the Parity Flood Control Bonds, issued and payable from the Pledged Street MGRT Revenues, as the same become due. Payments with respect to principal, interest and reserve funds for any such subordinate lien obligations may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional obligations.

(10) Surplus Revenues. After making all the payments hereinabove required to be made by this Section 17(B), the remaining Pledged Flood Control MGRT 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 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 2014A Reserve Fund and the 2014B 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 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. 2014A Reserve Fund and 2014B Reserve Fund. Moneys, if any, in the 2014A Reserve Fund or the 2014B Reserve Fund may be invested only in Permitted Investments with an average aggregate weighted term to maturity not greater than five years.

(1) The City shall annually on or about June 1 of each year, commencing on the first June 1 succeeding funding of the 2014A Reserve Fund or the 2014B Reserve Fund, value the 2014A Reserve Fund or the 2014B Reserve Fund on the basis of the current fair market value of deposits and investments credited to the 2014A Reserve Fund or the 2014B Reserve Fund.

(2) For purposes of determining the amount on deposit in the 2014A Reserve Fund and 2014B Reserve Fund, any Reserve Fund Insurance Policy held by, or the benefit of which is available to, the City as security for the 2014A Street Bonds or the 2014B Flood Control Bonds shall be deemed to be a deposit in the face amount of the policy or the stated amount of the credit facility provided that, if the amount available under a Reserve Fund Insurance Policy has been reduced as a result of a payment having been made thereunder or as a result of the termination, cancellation or failure of such Reserve Fund Insurance Policy and not reinstated or another Reserve Fund Insurance Policy provided, then, in valuing the 2014A Reserve Fund or the 2014B Reserve Fund, as applicable, the value of such Reserve Fund Insurance Policy shall be reduced accordingly.

(3) If, upon any valuation, the value of the 2014A Reserve Fund exceeds the 2014A Minimum Reserve, the excess amount shall be withdrawn and deposited into the 2014A Debt Service Fund; if the value is less than the applicable requirement, the City shall replenish such amounts from the first Pledged Street MGRT Revenues thereafter received not required to be otherwise applied or other monies legally available therefor.

(4) If, upon any valuation, the value of the 2014B Reserve Fund exceeds the 2014B Minimum Reserve, the excess amount shall be withdrawn and deposited into the 2014B Debt Service Fund; if the value is less than the applicable requirement, the City shall replenish such amounts from the first Pledged Flood Control MGRT Revenues thereafter received not required to be otherwise applied or other monies legally available therefor.

(5) At such time as the 2014A Street Bonds are paid in full or are deemed to be paid in full, the amount on deposit in the 2014A Reserve Fund may be used to pay the final installments of principal and interest on the 2014A Street Bonds and otherwise may be withdrawn and transferred to the City to be used for any lawful purpose. At such time as the 2014B Flood Control Bonds are paid in full or are deemed to be paid in full, the amount on deposit in the 2014B Reserve Fund may be used to pay the final installments of principal and interest on the 2014B Flood Control Bonds and otherwise may be withdrawn and transferred to the City to be used for any lawful purpose.

(6) If the amounts described in subparagraph (5) above are used for a purpose other than payment of the 2014A Street Bonds or 2014B Flood Control Bonds, as applicable, 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 and that such use shall not result in the inclusion of interest on any Bonds in gross income of the recipient thereof for federal income tax purposes.

(7) If moneys have been withdrawn from the 2014A Reserve Fund or 2014B Reserve Fund or a payment has been made under a Reserve Fund Insurance Policy constituting all or a portion of either the 2014A Reserve Fund or 2014B Reserve Fund, and deposited into the 2014A Debt Service Fund or the 2014B Debt Service Fund to prevent a default on the 2014A Street Bonds or the 2014B Flood Control Bonds, then the City will pay, from Pledged Street MGRT Revenues or the Pledged Flood Control MGRT Revenues, as applicable, or other monies legally available therefor, the full amount so withdrawn, together with interest, if any, required under the terms of a Reserve Fund Insurance Policy, or so much as shall be required to restore the 2014A Reserve Fund or 2014B Reserve Fund, as applicable, to the 2014A Minimum Reserve or the 2014B Minimum Reserve, as applicable, and to pay such interest, if any. Such repayment shall be made as required by Sections 17(A)(6) and 17(B)(6) of this Bond Ordinance.

The City may in part, or in whole, replace amounts in the 2014A Reserve Fund or the 2014B Reserve Fund with a Reserve Fund Insurance Policy.

Section 19. Lien on Pledged Revenues.

A. The Pledged Street MGRT Revenues and the amounts and securities on deposit in the 2014A Debt Service Fund and the 2014A Reserve Fund, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the City grants a security interest therein for, the payment of the principal and interest on the 2014A Street Bonds, subject to the uses thereof permitted by, and the priorities set forth in, the Bond Ordinance. The 2014A Street Bonds constitute an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Street MGRT Revenues on a parity with the lien thereon of the Parity Street Bonds now outstanding or hereafter authorized to be issued and payable from the Pledged Street MGRT Revenues.

B. The Pledged Flood Control MGRT Revenues and the amounts and securities on deposit in the 2014B Debt Service Fund and the 2014B Reserve Fund, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the City grants a security interest therein for, the payment of the principal and interest on the 2014B Flood Control Bonds, subject to the uses thereof permitted by, and the priorities set forth in, the Bond Ordinance. The 2014B Flood Control Bonds constitute an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Flood Control MGRT Revenues on a parity with the lien thereon of the Parity Flood Control Bonds now outstanding or hereafter authorized to be issued and payable from the Pledged Flood Control MGRT Revenues.

Section 20. Additional Bonds Payable from Pledged Revenues.

A. Additional Bonds Payable from Pledged Street MGRT Revenues.

(1) Parity Street Bond Test. This Bond Ordinance shall not prevent the issuance of additional Parity Street Bonds payable from and constituting a lien upon the Pledged Street MGRT Revenues on a parity with the lien of the 2014A Street Bonds. Before any additional Parity Street Bonds are actually issued, it must be determined that:

(a) The City is current in the accumulation of all amounts which are then required to be on deposit in the 2014A Debt Service Fund and the 2014A Reserve Fund (if any accumulation is then required in the 2014A Reserve Fund) in accordance with Section 17 of this Bond Ordinance; and

(b) The Pledged Street MGRT Revenues (not including the Hold Harmless Street MGRT Distribution) received by the City in the Fiscal Year immediately preceding the date of issuance of the proposed additional Parity Street Bonds shall have been sufficient to pay an amount representing at least 200% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on (1) the outstanding 2014A Street Bonds, (2) other outstanding Parity Street Bonds payable from and constituting a lien upon the Pledged Street MGRT Revenues, and (3) the Parity Street Bonds proposed to be issued.

For purposes of the test set forth in clause (b) above, if on the date of issuance of the additional Parity Street Bonds, (a) any amount of the reserve fund requirement for the additional Parity Street Bonds is immediately deposited in or credited to the reserve fund for the additional Parity Street Bonds or, (b) any amount of the reserve fund requirement for any issue of outstanding Parity Street Bonds is then on deposit in or credited to the reserve fund for any issue of outstanding Parity Street Bonds, 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 Street Bonds or any issue of outstanding Parity Street Bonds for which such reserve fund was created.

(2) Certification or Opinion Regarding Revenues. A written certificate or opinion by an Independent Accountant or the City Finance Director or Treasurer, that the Pledged Street MGRT Revenues (not including the Hold Harmless Street MGRT Distribution) are sufficient to pay the required amounts under the test in Paragraph A(1) of this Section 20, shall conclusively determine the right of the City to issue additional Parity Street Bonds. The City Finance Director or Treasurer or an Independent Accountant may utilize the results of any annual audit to the extent it covers the applicable period.

(3) Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the City from issuing bonds or other obligations payable from the Pledged Street MGRT Revenues pledged by this Bond Ordinance and having a lien on the Pledged Street MGRT Revenues subordinate to the lien of the 2014A Street Bonds.

(4) Superior Obligations Prohibited. The City shall not issue any obligation having a lien on the Pledged Street MGRT Revenues pledged by this Bond Ordinance which is prior and superior to the 2014A Street Bonds.

B. Additional Bonds Payable from Pledged Flood Control MGRT Revenues.

(1) Parity Flood Control Bond Test. This Bond Ordinance shall not prevent the issuance of additional Parity Flood Control Bonds payable from and constituting a lien upon the Pledged Flood Control MGRT Revenues on a parity with the lien of the 2014B Flood Control Bonds. Before any additional Parity Flood Control Bonds are actually issued, it must be determined that:

(a) The City is current in the accumulation of all amounts which are then required to be on deposit in the 2014B Debt Service Fund and the 2014B Reserve Fund (if any accumulation is then required in the 2014B Reserve Fund) in accordance with Section 17 of this Bond Ordinance; and

(b) The Pledged Flood Control MGRT Revenues (not including the Hold Harmless Flood Control MGRT Distribution) received by the City in the Fiscal Year immediately preceding the date of issuance of the proposed additional Parity Street Bonds shall have been sufficient to pay an amount representing at least 200% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on (1) the outstanding 2014B Flood Control Bonds, (2) other outstanding Parity Flood Control Bonds payable from and constituting a lien upon the Pledged Flood Control MGRT Revenues, and (3) the Parity Flood Control Bonds proposed to be issued .

For purposes of the test set forth in clause (b) above, if on the date of issuance of the additional Parity Flood Control Bonds, (a) any amount of the reserve fund requirement for the additional Parity Flood Control Bonds is immediately deposited in or credited to the reserve fund for the additional Parity Flood Control Bonds or, (b) any amount of the reserve fund requirement for any issue of outstanding Parity Flood Control Bonds is then on deposit in or credited to the reserve fund for any issue of outstanding Parity Flood Control Bonds, 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 Flood Control Bonds or any issue of outstanding Parity Flood Control Bonds for which such reserve fund was created.

(2) Certification or Opinion Regarding Revenues. A written certificate or opinion by an Independent Accountant or the City Finance Director or Treasurer, that the Pledged Flood Control MGRT Revenues (not including the Hold Harmless Flood Control MGRT Distribution) are sufficient to pay the required amounts under the test in Paragraph B(1) of this Section 20, shall conclusively determine the right of the City to issue additional Parity Flood Control Bonds. The City Finance Director or Treasurer or an Independent Accountant may utilize the results of any annual audit to the extent it covers the applicable period.

(3) Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the City from issuing bonds or other obligations payable from the Pledged Flood Control MGRT Revenues pledged by this Bond Ordinance and having a lien on the Pledged Flood Control MGRT Revenues subordinate to the lien of the 2014B Flood Control Bonds.

(4) Superior Obligations Prohibited. The City shall not issue any obligation having a lien on the Pledged Flood Control MGRT Revenues pledged by this Bond Ordinance which is prior and superior to the 2014B Flood Control Bonds.

Section 21. Refunding Bonds. The provisions of Section 20 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 obligations constituting a lien upon the Pledged Street MGRT Revenues or Pledged Flood Control MGRT Revenues, the 2014A Street Bonds, the 2014B Flood Control Bonds or other obligations, or any part thereof, such obligations may be refunded, but only with the consent of the holders, unless the obligations shall then mature or be callable for redemption, or the plan of refunding calls for payment of the obligations at maturity or at a redemption date, regardless of whether the lien priority is changed by the refunding except that superior obligations are prohibited as provided in Sections 20(A)(4) and 20(B)(4) of this Bond Ordinance and except as provided in Paragraphs B and C of this Section.

B. Limitation Upon Issuance of Parity Refunding Obligations. No refunding obligations shall be issued with (i) a lien on the Pledged Street MGRT Revenues on a parity with the lien of the 2014A Street Bonds, or (ii) a lien on the Pledged Flood Control MGRT Revenues on a parity with the lien on the 2014B Flood Control Bonds unless:

(1) The lien on the Pledged Street MGRT Revenues or Pledged Flood Control MGRT Revenues of the outstanding obligations so refunded is on a parity with the lien on the Pledged Street MGRT Revenues or Pledged Flood Control MGRT Revenues of the 2014A Street Bonds or the 2014B Flood Control Bonds, respectively; or

(2) The refunding obligations are issued in compliance with Sections 20(A) or 20(B) 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 Sections 20(A) or 20(B) of this Bond Ordinance.

D. Limitation Upon Issuance of Any Refunding Obligations. Any refunding obligations payable from the Pledged Street MGRT Revenues or Pledged Flood Control MGRT 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 subsection (C) of this Section but without impairing any contractual obligation imposed by any proceedings authorizing any unrefunded portion of any issue or issues, including the Bonds.

Section 22. Equality of Parity Bonds.

A. The Parity Street Bonds from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Street MGRT 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 Street Bonds regardless of whether they are actually issued and delivered or incurred at different times.

B. The Parity Flood Control Bonds from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Flood Control MGRT 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 Flood Control Bonds regardless of whether they are actually issued and delivered or incurred at different times.

Section 23. Protective Covenants. The City hereby covenants and agrees with each and every holder of the Bonds issued hereunder:

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

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

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

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

E. Records. So long as any of the Bonds remain outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Municipal Gross Receipts Tax 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 the Bond Ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Municipal Gross Receipts Tax Revenues.

H. Impairment of Contract. The City agrees that any law, ordinance or resolution of the City that in any manner affects the Pledged Street MGRT Revenues or Pledged Flood Control MGRT 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 the Bond Ordinance.

I. Debt Service Funds and Reserve Funds. The 2014A Debt Service Fund and the 2014B Debt Service Fund and the 2014A Reserve Fund and the 2014B Reserve Fund shall be used solely and only, and those funds are hereby pledged, for the purposes set forth in the Bond Ordinance.

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

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

L. Tax Covenants. The City covenants that it will restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. The Mayor, Mayor Pro Tem and other officers of the City having responsibility for the issuance of the Bonds shall

give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Bonds.

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

In furtherance of the covenants set forth above, the City hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund (the "Rebate Fund"). Money and investments in the Rebate Fund shall not be used for the payment of the Bonds and amounts credited to the Rebate fund shall be 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 24. Continuing Disclosure Undertaking. 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. Notwithstanding any other provisions of the Bond Ordinance, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an "event of default" under Section 25 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 25. Events of Default. Each of the following events is hereby declared an "event of default":

A. Nonpayment of Principal.

(1) With respect to the 2014A Street Bonds, failure to pay the principal of any of the 2014A Street Bonds when the same becomes due and payable, either at maturity, or by proceedings for redemption, or otherwise.

(2) With respect to the 2014B Flood Control Bonds, failure to pay the principal of any of the 2014B Flood Control Bonds when the same becomes due and payable, either at maturity, or by proceedings for redemption, or otherwise.

B. Nonpayment of Interest.

(1) With respect to the 2014A Street Bonds, failure to pay any installment of interest on the 2014A Street Bonds when the same becomes due and payable.

(2) With respect to the 2014B Flood Control Bonds, failure to pay any installment of interest on the 2014B Flood Control Bonds when the same becomes due and payable.

C. Incapable of Performing.

(1) With respect to the 2014A Street Bonds, if the City shall for any reason be rendered incapable of fulfilling its obligations with respect to the 2014A Street Bonds hereunder.

(2) With respect to the 2014B Flood Control Bonds, if the City shall for any reason be rendered incapable of fulfilling its obligations with respect to the 2014B Flood Control Bonds hereunder.

D. Default of any Provision.

(1) With respect to the 2014A Street Bonds, default by the City in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the 2014A Street Bonds or in the 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 sixty (60) 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 2014A Street Bonds then outstanding.

(2) With respect to the 2014B Flood Control Bonds, default by the City in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the 2014B Flood Control Bonds or in the 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 sixty (60) 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 2014B Flood Control 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 26. Remedies Upon Default. Upon the happening and continuance of any of the events of default as provided in Section 25 of the 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 Series 2014A Street Bonds or the Series 2014B Flood Control Bonds, as applicable, 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 to protect and enforce the rights of the holders of such Bonds under the 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 Series 2014A Street Bonds or the Series 2014B Flood Control Bonds, as applicable, 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 liability for failure to perform 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 27. Duties Upon Default. Upon the happening of any of the events of default provided in Section 26 of the Bond Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the owners of the 2014A Street Bonds or the Series 2014B Flood Control Bonds, as applicable, to protect and preserve the security created for the payment of the 2014A Street Bonds or the Series 2014B Flood Control Bonds, as applicable, and to insure the payment of the principal of and interest on the 2014A Street Bonds or Series 2014B Flood Control Bonds, as applicable, promptly as the same become due. All proceeds derived therefrom, so long as any of the 2014A Street Bonds or Series 2014B Flood Control Bonds, as applicable, either as to principal or interest, are outstanding and unpaid, shall be applied as set forth in Section 17 of the 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 Series 2014A Street Bonds or the Series 2014B Flood Control Bonds, as applicable, then outstanding, after demand in writing, may proceed to protect and enforce the rights of the owners of such Bonds as hereinabove provided.

Section 28. 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 29. Delegated Powers. The officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of the Bond Ordinance, including, without limiting the generality of the foregoing, the publication of the summary of the Bond Ordinance set out in Section 38 (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 the final Official Statement, and the execution thereof, of the Continuing Disclosure Undertaking, and of such documents or certificates as may be required by the Purchaser or bond counsel. The use and distribution of the Preliminary Official Statement and the Official Statement in connection with the sale of the Bonds to the public is hereby authorized, approved and acknowledged.

Section 30. Amendment of Bond Ordinance. The 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 the 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 the Bond Ordinance. In addition, the Bond Ordinance may be amended with respect to the 2014A Street Bonds or the 2014B Flood Control Bonds without receipt by the City of any additional consideration, but with the written consent of the holders of seventy-five percent (75%) of the Series 2014A Street Bonds or the Series 2014B Flood Control Bonds then outstanding, as applicable (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 Series 2014A Street Bonds or the Series 2014B Flood Control Bonds, as applicable, 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 Street MGRT Revenues or the Pledged Flood Control MGRT 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 the Bond Ordinance; or

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

Section 31. Defeasance. When all principal and interest in connection with the Series 2014A Street Bonds or the Series 2014B Flood Control Bonds hereby authorized have been duly paid, the pledge and lien for the payment of the Series 2014A Street Bonds or the Series 2014B Flood Control Bonds shall thereby be discharged and that series of Bonds shall no longer be deemed to be outstanding within the meaning of the 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 32. Bond Ordinance Irrepealable. After any of the Bonds are issued, the 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 33. Severability Clause. If any section, paragraph, clause or provision of the Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of the Bond Ordinance.

Section 34. 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 35. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in the Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of 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 June 24, 2014, relating to the authorization and issuance of the City's Municipal Gross Receipts Tax Improvement Revenue Bonds (Street Projects), Series 2014A and the City's Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects), Series 2014B (collectively, the "Bonds"). 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 $8,000,000 CITY OF LAS CRUCES, NEW MEXICO REVENUE BONDS, SERIES 2014A, FOR STREET IMPROVEMENT PROJECTS; AND AUTHORIZING THE ISSUANCE AND SALE OF $1,500,000 CITY OF LAS CRUCES, NEW MEXICO REVENUE BONDS, SERIES 2014B, FOR FLOOD CONTROL INFRASTRUCTURE PROJECTS.

A general summary of the Ordinance is:

The Ordinance authorizes the issuance and sale of the City of Las Cruces, New Mexico Municipal Gross Receipts Tax Revenue Bonds (Street Projects) in the aggregate principal amount of $8,000,000 for the purpose of reconstructing, resurfacing, repairing and performing major maintenance on city streets, including performing related repairs to integral curbs, sidewalks, drainage and utility systems necessitated by the street modifications; provides that the 2014A Bonds will be payable from the revenues derived from the first one-quarter of one percent (1/4%) increment of municipal gross receipts tax distributed to the City; authorizes the issuance and sale of the City of Las Cruces, New Mexico Municipal Gross Receipts Tax Improvement Revenue Bonds (Flood Control Projects) in the aggregate principal amount of $1,500,000 for the purpose of acquiring, constructing, maintaining and completing various flood control infrastructure projects; provides that the 2014B Bonds will be payable from the revenues derived from the fifth one-quarter of one percent (1/4%) increment of municipal gross receipts tax distributed to the City; establishes the maturity dates, interest rates, redemption provisions and other details of the bonds; approves the execution of certain documents relating to 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 NMSA 1978.

(End of Form of Summary for Publication)

one-quarter of one percent (1/4%) increment of municipal gross receipts tax distributed to the City; establishes the maturity dates, interest rates, redemption provisions and other details of the bonds; approves the execution of certain documents relating to 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 NMSA 1978.

(End of Form of Summary for Publication)

ADOPTED AND APPROVED this 24th day of June, 2014.

APPROVED:

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Levatino: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

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

I, Esther Martinez-Carrillo, 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 special meeting held at the Municipal Offices, 700 North Main Street, Las Cruces, New Mexico, on June 24, 2014, at the hour of 1:00 p.m., insofar as the same relate to the execution and delivery of the proposed Ordinance, a copy 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 special 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 24th day of June, 2014.

CITY OF LAS CRUCES, NEW MEXICO

_____
City Clerk

[SEAL]

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