

Thereupon the following proceedings, among others, were had and taken:

PUBLIC HEARINGS

CONSIDERATION OF BILL NO. 2009-51

ADOPTION OF ORDINANCE NO. 2009-47

Issuance of Water Utility System Revenue Bonds, Series 2009

Mr. David N. Millican, Finance Director and Treasurer, presented Bill No. 2009-51

CITY OF SANTA FE, NEW MEXICO
ORDINANCE NO. 2009-47

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$59,970,000 FOR THE PURPOSE OF PROVIDING FUNDS FOR (I) THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF THE BUCKMAN DIRECT DIVERSION PROJECT AND THE WATER UTILITY SYSTEM, (II) FUNDING A DEBT SERVICE RESERVE FUND FOR THE BONDS, AND (III) PAYING THE COSTS OF ISSUANCE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE WATER UTILITY SYSTEM AND CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE TERMS, FORM AND DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE UNDERTAKING IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS.

WHEREAS: Unless otherwise defined in Article I or elsewhere in this ordinance (the "Ordinance") or unless the context requires otherwise, capitalized terms in the following preambles have the same meanings assigned to such terms in Section 1.01 of Ordinance No. 2006-47 adopted by the Council on August 9, 2006 (the "Master Ordinance"); and

WHEREAS: The Master Ordinance provides for the adoption of subsequent ordinances to authorize the issuance and sale of one or more series of System Bonds as well as the approval of specific terms and documents relating to the issuance and sale of System Bonds; and

WHEREAS: This Ordinance is adopted pursuant to the Master Ordinance in order to authorize the issuance and the sale of the Series 2009 Bonds; and

WHEREAS: The Series 2009 Bonds will be used to finance in whole or in part certain of the costs incurred by the City in connection with the issuance of the Series 2009 Bonds and the improvement of the City's Water Utility System; and

WHEREAS, the City has determined to issue certain of the Series 2009 Bonds as tax-exempt bonds pursuant to Section 103 of the Code; and

WHEREAS, the City has determined to issue certain of the Series 2009 Bonds as taxable direct payment interest subsidy Build America Bonds pursuant to Section 54AA and Section 6431 of the Code; and

WHEREAS: It is in the best interests of the City to authorize and issue the Series 2009 Bonds with the terms and conditions as set forth in this Ordinance and the Bond Purchase Agreement; and

WHEREAS: the Underwriters have offered to purchase the Series 2009A Bonds (Tax-Exempt) at an aggregate purchase price of \$18,970,557.20 (representing the par amount of the Series 2009A Bonds, a net re-offering premium of \$986,916.05, and less an underwriting discount of \$96,358.85) and the Series 2009B Bonds (Taxable Direct Payment Build America Bonds) at an aggregate purchase price of \$41,650,858.37 (representing the par amount of the Series 2009B Bonds less an underwriting discount of \$239,141.63), resulting in an aggregate purchase price for the Series 2009 Bonds of \$60,621,415.57, and have presented a final Bond Purchase Agreement to the Council setting out the terms with respect to the purchase and sale of the Bonds for approval by the Council; and

WHEREAS: The forms of the Continuing Disclosure Undertaking to be delivered at the time of delivery of the Bonds (the "Continuing Disclosure Undertaking"), the Preliminary Official Statement and the form of the final Official Statement of the City with respect to the offering and sale of the Bonds have been presented to the Council for approval; and

WHEREAS: All required authorizations, consents and approvals of each government body, agency or authority in connection with the authorization, execution and delivery of the Bonds which are to have been obtained prior to the date on which this Ordinance is adopted or which will be required to be obtained prior to the date of issuance of the Bonds, have or will have been obtained by such dates.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

**ARTICLE I
DEFINITIONS**

As used in this Ordinance, the following terms have the meanings specified, unless the context clearly requires otherwise. Other capitalized terms used in this Ordinance which are not defined in this Article or in this Ordinance have the same meanings assigned to such terms in the Master Ordinance, unless the context clearly requires otherwise.

"Bond Legislation" means the Master Ordinance and this Ordinance.

“Bond Purchase Agreement” means the Bond Purchase Agreement to be entered into among the City and the Purchasers pursuant to which the Purchasers will agree to purchase and the City will agree to sell the Series 2009 Bonds on the terms and conditions set forth herein.

“Closing Date” means the date on which the City receives the purchase price for the Series 2009 Bonds from the Purchasers against delivery of the Series 2009 Bonds in accordance with the Bond Purchase Agreement.

“Continuing Disclosure Undertaking” means the Continuing Disclosure Undertaking with respect to the Series 2009 Bonds to be executed on the day of issuance and delivery of the Series 2009 Bonds to the Purchasers.

“Costs of Issuance” means all costs relating to issuance of the Series 2009 Bonds, including, without limitation, costs of advertising and publication, costs of preparing the Bonds, fees, expenses and applicable gross receipts taxes of bond counsel, disclosure counsel and the financial advisor, costs of printing the Preliminary Official Statement and the Official Statement, rating fees and other reasonable and necessary fees and costs related to the issuance of the Series 2009 Bonds.

“Direct Payment Build America Bonds” means the taxable interest subsidy bonds issuable by the City under Sections 54AA and 6431 of the Code and a “qualified bond” under Section 54AA(g)(2) of the Code.

“Direct Payments” means the interest subsidy payments relating to the Series 2009B Bonds received by the City from the Internal Revenue Service pursuant to Section 6431 of the Code.

“DTC” means The Depository Trust Company, New York, New York, its successors and assigns.

“DTC Participants” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities and to facilitate the clearance and settlement of securities among DTC Participants.

“Interest Payment Date” means each June 1 and December 1, starting with June 1, 2010.

“Maturity Date” means with respect to any Series 2009 Bond, the date on which the principal amount is due in accordance with its terms.

“Net Effective Interest Rate” means the interest rate based on the actual price paid to the City for the Series 2009 Bonds, calculated to maturity according to standard tables of bond values, as provided by NMSA Section 6-14-2(A).

“*Official Statement*” means the final disclosure document relating to the issuance and sale of the Series 2009 Bonds.

“*Payment Date*” means any date, including a date of prior redemption, if applicable, on which Series 2009 Bonds are due and payable.

“*Person*” means any natural person, corporation, partnership, joint stock company, joint venture, association, company, trust, bank, trust company, land trust, business trust or any other organization or entity, whether or not legal entities, and governments and agencies and political subdivisions thereof.

“*Preliminary Official Statement*” means the initial disclosure document dated November 2, 2009, as supplemented, relating to the issuance and sale of the Series 2009 Bonds.

“*Project*” means acquiring, constructing and improving the Buckman Direct Diversion Project and the City’s Water Utility System.

“*Purchasers*” means RBC Capital Markets, as the senior manager, together with other underwriters participating in the underwriting group.

“*Record Date*” means the fifteenth day of the calendar month next preceding an Interest Payment Date.

“*Series 2006 Bonds*” means the City of Santa Fe, New Mexico, Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2006D.”

“*Series 2009A Bonds*” means the “City of Santa Fe, New Mexico Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009A (Tax-Exempt).”

“*Series 2009B Bonds*” means the “City of Santa Fe, New Mexico Water Utility System/Capital Outlay Gross Receipts Tax Revenue Bonds, Series 2009B (Taxable Direct Payment Build America Bonds).”

“*Series 2009 Bonds*” or “*Bonds*” means the Series 2009A Bonds and the Series 2009B Bonds.”

“*Series 2009A Acquisition Account*” means the Acquisition Account for the Series 2009A Bonds created and maintained under Section 5.03 herein.

“*Series 2009B Acquisition Account*” means the Acquisition Account for the Series 2009B Bonds created and maintained under Section 5.03 herein.

“*Series 2009A Debt Service Account*” means the Debt Service Account for the Series 2009A Bonds created and maintained under Section 5.03 herein.

“Series 2009B Debt Service Account” means the Debt Service Account for the Series 2009B Bonds created and maintained under Section 5.03 herein.

“Series 2009 Paying Agent” means the Wells Fargo Bank, N.A., as a Paying Agent and, as applicable, as “Registrar”, with respect to the Series 2009 Bonds.

“Series 2009 Reserve Account” means the Reserve Account for the Series 2009 Bonds created and maintained under Section 5.03 herein.

“Series 2009 Reserve Requirement” means the Reserve Requirement for the Series 2009 Bonds, to be equal to \$5,275,230.00.

“System Bonds Funds and Accounts” means all funds and accounts created by the Master Ordinance and ordinances authorizing the issuance of System Bonds.

ARTICLE II RATIFICATION

All actions heretofore taken, not inconsistent with the provisions of this Ordinance, by the Council and the officers of the City directed toward issuance of the Series 2009 Bonds for the purpose of financing the Project be, and the same hereby are, ratified, approved and confirmed, including without limiting the generality of the foregoing, the adoption of the Master Ordinance, the distribution of a Preliminary Official Statement and Official Statement, and the sale of the Series 2009 Bonds to the Purchasers.

ARTICLE III FINDINGS, ELECTIONS AND INSTRUCTIONS

The Council declares that it has considered all relevant information and data and makes the following findings, elections and instructions:

(a) The issuance of the Series 2009 Bonds under the home rule powers of the City granted by the City Charter, the Master Ordinance, this Ordinance, and NMSA Sections 3-31-1 to 3-31-12, for the purpose of providing funds to finance the costs of the Project, is necessary and in the interest of the public health, safety, and welfare of the residents of the City.

(b) The Series 2009 Bonds may be authorized by an affirmative vote of a three-fourths majority of all the members of the Council.

(c) The Series 2009 Bonds are not general obligations of the City, but are special limited obligations payable only from the sources provided in the Master Ordinance and this Ordinance, and the Owners may not look to any other municipal fund for payment of the Series 2009 Bond Obligations.

(d) The City will finance the costs of the Project, in whole or in part, with the proceeds of the Series 2009 Bonds.

(e) Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (enacted on February 17, 2009) added Section 54AA to the Code, authorizing state and local governments to issue Build America Bonds. Section 54AA(g) of the Code authorizes the issuance of Direct Payment Build America Bonds that meet the definition of “qualified bonds” to receive a direct payment under Section 6431 of the Code in the amount of 35% of the interest payable on such bonds.

(f) The City hereby irrevocably elects to designate the Series 2009B Bonds as Direct Payment Build America Bonds under Section 54AA of the Code and specifically as “qualified bonds” within the meaning of Section 54AA(g) of the Code. Further, the City hereby irrevocably elects to receive the direct interest subsidy payment (i.e. the Direct Payment) from the Internal Revenue Service (the “IRS”) with respect to each interest payment as provided by Section 6431 of the Code, equal to 35% of the interest payable on the Series 2009B Bonds on each Interest Payment Date.

(g) The City hereby authorizes and directs the Series 2009 Paying Agent and officers and employees of the City to take all necessary actions to effectively carry out the duties required to apply for and accept Direct Payments from the IRS on behalf of the City under Sections 54AA and 6431 of the Code or such other tax provisions of substantially similar nature which may be hereafter authorized, including, but not limited to, preparing and filing IRS Form 8038-CP, receiving the Direct Payment on the City’s behalf, and using such Direct Payment to pay the next interest payment then required to be made on the Series 2009B Bonds. The Series 2009 Paying Agent and officers and employees of the City shall file the 8038-CP at least 45 days (but not more than 90 days) before the relevant Interest Payment Date (unless otherwise directed by a change in regulations).

(h) The Net Effective Interest Rate on the Series 2009A Bonds is 3.978% and the Net Effective Interest Rate on the Series 2009B Bonds is 4.075%, each of which is less than the statutory maximum of 12%.

ARTICLE IV AUTHORIZATION OF THE PROJECT; USE OF BOND PROCEEDS

Section 4.01 *General: Authorization of the Project.* The Project is hereby authorized and approved. The Project will be financed, in whole or in part, out of proceeds derived from the sale of the Bonds.

Section 4.02 *Pledge of Pledged Revenues.* In accordance with Section 22 of the Master Ordinance, the City hereby designates and confirms that the Pledged Revenues

are pledged for the payment of the Bonds and such other obligations of the City as may be expressly provided herein and in the Master Ordinance.

**ARTICLE V
DETAILS OF BONDS**

Section 5.01 *Details of Series 2009A Bonds.* The Series 2009A Bonds shall be issued in the aggregate principal amount of \$18,080,000, shall be dated the Closing Date, shall be issued as Current Interest Bonds and shall bear interest from their date until maturity at the rates hereinafter designated payable on June 1, 2010 and semiannually thereafter on December 1 and June 1 in each year, and shall mature on June 1 in each of the years hereinafter designated, as follows:

<u>Amounts Maturing</u>	<u>Interest Rate (Per Annum)</u>	<u>Year Maturing</u>
\$150,000	2.000%	2010
695,000	2.000%	2011
710,000	2.000%	2012
725,000	2.250%	2013
740,000	2.500%	2014
760,000	3.000%	2015
780,000	3.000%	2016
805,000	3.250%	2017
830,000	3.500%	2018
860,000	4.000%	2019
895,000	4.000%	2020
930,000	5.000%	2021
975,000	5.000%	2022
1,025,000	5.000%	2023
1,075,000	5.000%	2024
1,130,000	5.000%	2025
2,435,000	5.000%	2026
2,560,000	5.000%	2027

provided, however, that the individual Series 2009A Bonds shall bear interest from the most recent interest payment date to which interest has been fully paid or duly provided for in full or, if no interest has been paid, from their date.

Section 5.02 *Details of Series 2009B Bonds.* The Series 2009B Bonds shall be issued in the aggregate principal amount of \$41,890,000, shall be dated the Closing Date, shall be issued as Current Interest Bonds and shall bear interest from their date until maturity at the rates hereinafter designated payable on June 1, 2010 and semiannually thereafter on December 1 and June 1 in each year, and shall mature on June 1 in each of the years hereinafter designated, as follows:

<u>Amounts</u> <u>Maturing</u>	<u>Interest Rate</u> <u>(Per Annum)</u>	<u>Year</u> <u>Maturing</u>
\$4,975,000*	6.000%	2029
36,915,000*	6.200%	2039

*Term Bonds, subject to mandatory sinking fund redemption

provided, however, that the individual Series 2009B Bonds shall bear interest from the most recent interest payment date to which interest has been fully paid or duly provided for in full or, if no interest has been paid, from their date.

Section 5.03 *Creation of Accounts; Deposits.* On the date of delivery of the Series 2009 Bonds, the net proceeds from the sale of the Series 2009 Bonds shall be deposited or used as follows:

(a) \$-0- shall be deposited in the Debt Service Account for the Series 2009A Bonds, which is hereby created as an account within the Debt Service Fund.

(b) \$18,970,557.20 of the proceeds of the Series 2009A Bonds shall be deposited in the Series 2009A Acquisition Account and used to pay costs of the Project and cost of issuance.

(c) \$-0- shall be deposited in the Debt Service Account for the Series 2009B Bonds, which is hereby created as an account within the Debt Service Fund.

(d) \$5,275,230.00 of proceeds of the Series 2009B Bonds shall be deposited in the Series 2009 Reserve Account created herein

(e) \$36,375,628.37 of the proceeds of the Series 2009B Bonds shall be deposited in the Series 2009B Acquisition Account and used to pay costs of the Project and costs of issuance.

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

Section 5.04 *Book Entry.*

(a) The Series 2009 Bonds shall be initially issued in book-entry form as one separate bond certificate for each Maturity Date, in each instance equal to the aggregate principal amount of the Series 2009 Bonds due on the applicable Maturity Date. On the Closing Date, each such bond certificate shall be registered in the name of Cede & Co., as nominee of DTC ("Cede").

(b) Without limiting the provisions of (c) below, for such time as any Series 2009 Bond is registered in the name of Cede, the City and the Series 2009 Paying

Agent shall treat, and be entitled to treat, Cede as the sole and exclusive Owner of the Series 2009 Bonds for all purposes.

(c) With respect to Series 2009 Bonds in the name of Cede, neither the City nor the Series 2009 Paying Agent shall have any responsibility or obligation to any DTC Participant or any Person on behalf of whom such a DTC Participant holds an interest in the Series 2009 Bonds. In particular and without limitation of the immediately preceding sentence, neither the City nor the Series 2009 Paying Agent shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede or any DTC Participant with respect to the ownership of Series 2009 Bonds; (ii) the delivery to any DTC Participant or any other Person, other than an Owner, of any notice with respect to the Series 2009 Bonds, including without limitation any notice of redemption; or (iii) the payment to any DTC Participant or any other Person, other than any Owner, of any amount with respect to the Series 2009 Bonds.

(d) DTC shall be entitled to request the substitution of a different nominee for Cede, and any substitution shall be accomplished by a transfer complying with the provisions of Section 6.07 of the Master Ordinance. In such event, all references herein to Cede shall mean and include such new nominees.

(e) In the event that (i) the City determines that DTC is incapable of satisfactorily discharging the responsibilities of a securities depository with respect to the Series 2009 Bonds; (ii) the City otherwise determines that it is in the best interest of the beneficial owners of the Series 2009 Bonds that the Series 2009 Bonds should no longer be maintained under the book entry system of DTC; or (iii) DTC ceases to perform the services of a securities depository with respect to the Series 2009 Bonds, then the City shall either (A) with notice thereof to DTC, appoint a successor securities depository qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, and direct DTC to submit any Series 2009 Bonds registered in the name of Cede to the Series 2009 Paying Agent for transfer to or at the direction of the successor securities depository, or (B) notify DTC that it will cause definitive bond certificates for the Series 2009 Bonds to be available through DTC, registered in the names and manner as specified by DTC and applicable DTC Participants.

ARTICLE VI REDEMPTION OF BONDS

Section 7.01 *Optional Redemption.* The Series 2009 Bonds maturing on and after June 1, 2020, shall be subject to redemption prior to maturity at the City's option in one or more units of principal of \$5,000 on and after June 1 2019, in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the Series 2009 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 so redeemed plus accrued interest to the redemption date. Notice of redemption shall be given by the Registrar by sending a copy of such notice by first-class, postage prepaid mail not less than 30 days prior to the redemption date to the Owners of

the Series 2009 Bonds, or portion thereof, to be redeemed at the address shown on the fifth day prior to the mailing of notice on the registration books kept by the Registrar. The Registrar shall not be required to give notice of any prior redemption unless the Registrar has received written instructions from the City in regard thereto at least 60 days prior to such redemption date (unless waived by the Registrar).

Section 7.02 *Extraordinary Optional Redemption of the Series 2009B Bonds.* If section 54AA, section 1400U-1, section 1400U-2 or section 6431 of the Code, is modified, amended or interpreted in a manner so as to reduce or eliminate the City's entitlement to the Direct Payments from the Department of the Treasury, the City may (but is not obligated to) redeem the 2009B Bonds of any or all maturities in whole or in part, at its option, at a redemption price equal to the greater of: (1) the principal amount of the 2009B Bonds to be redeemed; or (2) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the 2009B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2009B Bonds are to be redeemed, discounted to the date on which the 2009B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate, plus 100 basis points, plus, in each case, accrued and unpaid interest on the 2009B Bonds to be redeemed from the most recent interest payment date to the redemption date.

As used in this section, "Treasury Rate" means, with respect to any redemption date for a particular 2009B Bond, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) (the "Statistical Release") that has become publicly available at least two business days prior to the redemption date (excluding inflation indexed securities) (or, if the Statistical Release is no longer published, any publicly available source or similar market data)) most nearly equal to the period from the redemption date to the maturity date of the 2009B Bond to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

Section 7.03 *Mandatory Sinking Fund.* The Series 2009B Bonds maturing on June 1, 2029 and June 1, 2039 are also subject to mandatory sinking fund redemption on June 1 in each of the years and principal amounts stated below at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of Series 2009B Bonds so specified, the City shall cause to be deposited in the Series 2009B Debt Service Account a sum which is sufficient to redeem (after credit as provided below) the following principal amounts of such Series 2009B Bonds plus accrued interest to the sinking fund redemption date:

The 2009B Bonds maturing on June 1, 2029, will be subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount

thereof plus accrued interest to the redemption date on June 1, in the years and in the principal amounts stated below:

<u>Year</u>	<u>Amount</u>
2028	\$2,440,000
2029*	2,535,000

*Maturity Date

The Series 2009B Bonds maturing on June 1, 2039, will be subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date on June 1, in the years and in the principal amounts stated below:

<u>Year</u>	<u>Amount</u>
2030	\$2,630,000
2031	2,740,000
2032	2,850,000
2033	2,965,000
2034	3,080,000
2035	3,205,000
2036	3,335,000
2037	3,470,000
2038	3,610,000
2039*	9,030,000

*Maturity Date

(1) Not more than seventy days nor less than forty days prior to each sinking fund redemption date, the Registrar shall proceed to select for redemption (by lot in such manner as the Registrar may determine) from all outstanding Series 2009B Bonds of the applicable maturity subject to sinking fund redemption, a principal amount of Series 2009B Bonds equal to the aggregate principal amount of Series 2009B Bonds redeemable with the required sinking fund payment, shall call such Series 2009B Bonds or portions thereof (\$5,000 or any integral multiple thereof) for such redemption on such sinking fund redemption date, and shall give notice of such call.

(2) At the option of the City to be exercised by delivery of a written certificate to the Registrar on or before the seventieth day next preceding a sinking fund redemption date for Series 2009B Bonds maturing on June 1, 2029 or June 1, 2039, it may (i) deliver to the Registrar for cancellation Series 2009B Bonds maturing on June 1, 2029 or June 1, 2039, as applicable, in an aggregate principal amount desired by the City or (ii) specify a principal amount of Bonds, maturing on June 1, 2029 or June 1, 2039 as being subject to mandatory sinking fund redemption, which prior to such date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Registrar at the request of the City and not theretofore applied as a credit

against any sinking fund redemption obligation for any Series 2009B Bonds maturing on the same date. Each Series 2009B Bond so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the City on such sinking fund redemption date for the Series 2009B Bonds and any excess over such amount shall be credited against the next succeeding sinking fund obligation, if any, for the Series 2009B Bonds of such maturity in chronological order. In the event the City shall avail itself of the provisions of clause (i) of the first sentence of this paragraph, the certificate required by the first sentence of this paragraph shall be accompanied by the Series 2009B Bonds or portions thereof to be canceled.

**ARTICLE VII
FORM OF THE BONDS**

The Series 2009 Bonds, Registrar's Certificate of Authentication, and the Form of Assignment shall be in substantially the following forms, with such changes therein as are not inconsistent with this Bond Ordinance:

(Form of Series 2009 Bond)

UNITED STATES OF AMERICA
STATE OF NEW MEXICO
COUNTY OF SANTA FE

No. _____ \$ _____

CITY OF SANTA FE
WATER UTILITY SYSTEM/CAPITAL OUTLAY
GROSS RECEIPTS TAX REVENUE BOND
[SERIES 2009A (TAX-EXEMPT)]
[SERIES 2009B (TAXABLE DIRECT PAYMENT BUILD AMERICA BONDS)]

INTEREST RATE	MATURITY DATE	SERIES DATE	CUSIP
% per annum	_____, ____	_____, 2009	

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The City of Santa Fe (herein "City"), in the County of Santa Fe and State of New Mexico, for value received, hereby promises to pay upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, to the registered owner named above, or registered assigns, on the Maturity Date specified above (unless this bond, if subject to prior redemption, shall have been called for prior redemption in which case on such redemption date), upon the presentation and surrender

hereof at the office of Wells Fargo Bank, N.A., Denver, Colorado, or its successor (herein the "Paying Agent"), the Principal Amount stated above, in lawful money of the United States of America, and to pay to the registered owner hereof as of the Regular Record Date (being the fifteenth day of the calendar month [whether or not a business day] next preceding each regularly scheduled interest payment date as defined in Ordinance No. 2009-___, adopted November 10, 2009, which authorizes this bond, and which, together with Ordinance No. 2006-47 adopted on August 9, 2006, as amended, is referred to herein as the "Bond Legislation"), by check or draft mailed to such registered owner, on or before each interest payment date as hereinafter provided (or, if such interest payment date is not a business day, on or before the next succeeding business day), at his address as it last appears on the Regular Record Date on the registration books kept for that purpose by Wells Fargo Bank, N.A., Denver, Colorado, as registrar (i.e., transfer agent) for the bonds, or its successor (herein the "Registrar") or by such other arrangement as may be agreed to by the Paying Agent and the registered owner hereof, interest on said sum in lawful money of the United States of America from the Series Date specified above or the most recent interest payment date to which interest has been fully paid or duly provided for in full (as more fully provided in the Bond Legislation) until maturity at the per annum Interest Rate specified above, payable on June 1, 2010 and semiannually thereafter on December 1 and June 1 in each year. Any such interest not so timely paid or duly provided for shall cease to be payable to the registered owner as of the Regular Record Date and shall be payable to the registered owner as of a special record date, as further provided in the Bond Legislation. If upon presentation and surrender to the Paying Agent at or after maturity or on a designated prior redemption date on which the City may have exercised its right to prior redeem this bond pursuant to the Bond Legislation, payment of this bond is not made as herein provided, interest hereon shall continue at the rate herein designated until the principal hereof is paid in full. If the Bonds are issued in book-entry only form, an authorized officer of the City and the applicable securities depository ("Depository") may make other arrangements for the payments on the Bonds.

The bonds of the series of which this bond is a part maturing on and after June 1, 2020, 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, 2019 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 notice by first-class, postage prepaid mail 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 Legislation.

The bonds of the series of which this is one are fully registered (i.e., registered as to payment of both principal and interest), and are issuable in the denomination of \$5,000 or any denomination which is an integral multiple of \$5,000 (provided that no bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual bond will be issued for more than one maturity). Upon surrender of any of

such bonds at the Registrar with a written instrument satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney, such bond may, at the option of the registered owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such bonds of the same maturity of other authorized denominations, subject to such terms and conditions as set forth in the Bond Legislation.

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

This bond is one of a series of bonds designated "City of Santa Fe Water Utility System/Capital Outlay Gross Receipt Tax Revenue Bonds, Series 2009A (Tax-Exempt) [Series 2009B (Taxable Direct Payment Build America Bonds)," of like tenor and date, except as to interest rate, number and maturity, authorized for the purpose of acquiring, constructing and improving the Buckman Direct Diversion Project and the City's Water Utility System as set forth in the Bond Legislation.

This bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of New Mexico.

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 be held to be a general obligation of the City, and is payable and collectible solely out of the Pledged Revenues (as defined in the Bond Legislation) pursuant to the pledge made by and as defined in the Bond Legislation, which revenues are so pledged; and the holder of this bond may not look to any general or other fund for the payment of the principal and interest on this obligation, except the special funds pledged therefor. For a description of the funds, the nature and extent of the security afforded thereby for the payment of the principal of and interest on the bonds, and other details concerning the bonds, reference is made to the Bond Legislation. The bonds of the series of which this bond is one are equally and ratably secured by a lien on the Pledged Revenues; the bonds of the series of which this bond is one constitute an irrevocable and first lien, but not necessarily an exclusively first lien, upon the Pledged Revenues. Bonds and other obligations, in addition to the series of which this bond is one, may be issued and made payable from the Pledged Revenues having a lien thereon inferior and junior to the lien or, subject to designated conditions, having a lien thereon on a parity with the lien of the bonds of the series of which this bond is one, in accordance with the provisions of the Bond Legislation.

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

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

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

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

IN WITNESS WHEREOF, the City of Santa Fe has caused this bond to be signed, subscribed, and executed and attested with the facsimile signatures of its Mayor and its City Clerk, respectively; has caused the facsimile of its corporate seal to be affixed on this bond, all as of the Series Date.

(Facsimile Signature)
MAYOR

(FACSIMILE SEAL)

Attest: (Facsimile Signature)
CITY CLERK

(Form of Registrar's Certificate of Authentication)

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

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

City of Santa Fe, New Mexico
Wells Fargo Bank, N.A., Denver Colorado,
as Registrar

By: _____
Authorized officer

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

(Form of Assignment)

ASSIGNMENT

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

Signature Guaranteed:

Name and Address of Transferee

Dated: _____

Social Security Number or other
Tax Identification Number

(End of Form of Assignment)

(End of Form of Series 2009 Bond)

**ARTICLE VIII
PAYING AGENT AND REGISTRAR**

Wells Fargo Bank, N.A., Denver, Colorado is appointed as Fiscal Agent for the Bonds in the capacities of Paying Agent and Registrar for the Series 2009 Bonds.

**ARTICLE IX
SALE OF THE BONDS**

The Series 2009 Bonds are hereby sold to the Purchasers in accordance with the Bond Purchase Agreement at the total purchase price set forth in the preambles of this Ordinance.

**ARTICLE X
APPROVAL AND USE OF DOCUMENTS**

The form, terms and provisions of the Bond Purchase Agreement, the Continuing Disclosure Undertaking, the Preliminary Official Statement and the Official Statement, in the form presented at this meeting, are in all respects approved, authorized and confirmed. The use and distribution of the Preliminary Official Statement and the Official Statement in connection with the sale of the Series 2009 Bonds to the public are hereby ratified, authorized, approved and acknowledged.

**ARTICLE XI
MASTER ORDINANCE**

Section 11.01 *Parameters*. It is found and determined that the terms established for the Series 2009 Bonds in this Ordinance are within the parameters and guidelines of the Master Ordinance, as supplemented and amended.

Section 11.02 *Governing Instruments*. The Series 2009 Bonds are governed by the Master Ordinance as supplemented and amended by this Ordinance which is adopted as an ordinance of the City.

Section 11.03 *Credit for Direct Payments*. To avoid potential issues under the Code prohibiting federal guarantees of tax-exempt bonds, such as the Series 2006D Bonds and the Series 2009A Bonds, the Direct Payments shall be used to pay debt service on the Series 2009B Bonds and shall not become part of Pledged Revenues (as defined in the Master Ordinance) but may be taken into account by the City as a credit when calculating revenues for purposes of satisfying the additional bonds test set forth in Section 24.02 of the Master Ordinance and the rate covenant set forth in Section 26.03 of the Master Ordinance.

**ARTICLE XII
SEVERABILITY**

Section 12.01 *Severability*. If any Section, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 12.02 *Headings*. The headings used in this Ordinance are for convenience only, and shall not be construed as modifying the text.

**ARTICLE XIII
ORDINANCE IRREPEALABLE**

This Ordinance shall be and remain irrevocable until the principal of and interest on the Series 2009 Bonds are fully paid and the Bonds are canceled or there has been defeasance of the Series 2009 Bonds as provided in the Bond Legislation.

**ARTICLE XIV
REPEALER CLAUSE**

All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with the Master Ordinance as supplemented and amended by this Ordinance are repealed to the extent of such inconsistency. This repealer shall not be construed to revive any bylaw, order or resolution, or part thereof, previously repealed.

**ARTICLE XV
DELEGATED POWERS**

The officers of the City are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance and the Bond Purchase Agreement, including, without limiting the generality of the foregoing, the execution of the Continuing Disclosure Undertaking and the Bond Purchase Agreement, the printing of the Series 2009 Bonds, if applicable, the preparation, execution and delivery to the Purchasers of a Preliminary Official Statement and Official Statement, and the execution of such other certificates and other documents as may be reasonably required by the Purchasers, bond counsel or disclosure counsel including, but not necessarily limited to, the absence and existence of factors affecting the exemption of interest on the Series 2009A Bonds from federal income taxation and the designation of the Series 2009B Bonds as Direct Payment Build American Bonds, as applicable.

**ARTICLE XVI
CONTINUING DISCLOSURE OBLIGATION OF CITY**

Any Authorized Officer of the City is authorized to sign such documents with respect to the City's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

**ARTICLE XVII
EFFECTIVE DATE AND
GENERAL SUMMARY FOR PUBLICATION**

Upon due adoption of this Ordinance, it shall be recorded and preserved by the City Clerk, authenticated by the signature of the Mayor and City Clerk, and the seal of

the City impressed hereon, and the title and a general summary of the subject matter contained in this Ordinance (set out below) shall be published in a newspaper which maintains an office and is of general circulation in the City. This Ordinance shall be in full force and effect 10 days after adoption.

Pursuant to Section 3-17-5, NMSA 1978, as amended, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Santa Fe, New Mexico

Notice of Adoption of Ordinance No. 2009-47

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 2009-47, duly adopted and approved by the Governing Body of the City of Santa Fe, New Mexico on November 10, 2009 (the "Ordinance"). Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico, 87505.

The title of this Ordinance is:

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO WATER UTILITY SYSTEM/CAPITAL OUTLAY GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$59,970,000 FOR THE PURPOSE OF PROVIDING FUNDS FOR (I) THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF THE BUCKMAN DIRECT DIVERSION PROJECT AND THE WATER UTILITY SYSTEM, (II) FUNDING A DEBT SERVICE RESERVE FUND FOR THE BONDS, AND (III) PAYING THE COSTS OF ISSUANCE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE WATER UTILITY SYSTEM AND CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE TERMS, FORM AND DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE UNDERTAKING IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS.

A general summary of the subject matter of the Ordinance is contained in the title.

A COMPLETE COPY OF THE ORDINANCE IS ON FILE IN THE OFFICE OF THE CITY CLERK, CITY HALL, 200 LINCOLN AVENUE, SANTA FE, NEW MEXICO, AND IS AVAILABLE FOR INSPECTION AND/OR PURCHASE DURING REGULAR OFFICE HOURS. THE NOTICE ALSO CONSTITUTES COMPLIANCE WITH SECTIONS 6-14-4 THROUGH 6-14-7, NMSA 1978.

WITNESS my hand and the Seal of the City of Santa Fe, New Mexico as of November 10, 2009.

City Clerk

(S E A L)

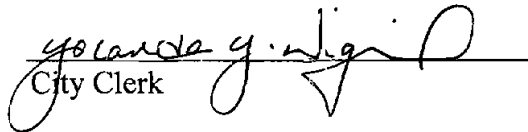
(End of Summary of Ordinance for Publication)

PASSED, APPROVED AND ADOPTED THIS 10TH DAY OF NOVEMBER,
2009.



Mayor

ATTEST:



City Clerk

After discussion, Councilor Chavez moved for approval, with Councilor Romero seconding the motion. Bill No. 2009-51 passed upon the following roll call vote:

Those voting AYE: Councilor Miguel M. Chavez
 Councilor Rosemary Romero
 Councilor Patti J. Bushee
 Councilor Chris Calvert
 Councilor Matthew E. Ortiz
 Councilor Ronald S. Trujillo

Those voting NAY: None

Those not present: Councilor Rebecca Wurzbarger
 Councilor Carmichael Dominguez

The presiding officer thereupon declared that at least a three-fourths majority of all the members of the Council having voted in favor of adoption of Bill No. 2009-51 the motion was carried and Ordinance No. 2009-47 was duly passed and adopted.

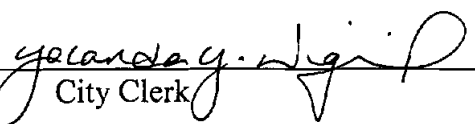
After consideration by the Council of other business the meeting was duly adjourned.

CITY OF SANTA FE

(SEAL)

By 
Mayor

ATTEST:

By 
City Clerk

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Santa Fe, New Mexico this 19th day of November, 2009.

CITY OF SANTA FE

(SEAL)

By Yolanda y. Lopez
City Clerk

EXHIBIT A

Affidavit of Publication of Notice of Meeting and Intent to Adopt Ordinance

EXHIBIT B

Affidavit of Publication of Notice of Adoption of Ordinance