

Summary: An ordinance authorizing the issuance of the City of Fallon, Nevada Landfill Enterprise Revenue Bond, Series 2023 and providing other matters related thereto.

BILL NO. 795
ORDINANCE NO. 777

AN ORDINANCE DESIGNATED BY THE SHORT TITLE “2023 LANDFILL ENTERPRISE REVENUE BOND ORDINANCE”; PROVIDING FOR THE ISSUANCE BY CITY OF FALLON, NEVADA OF ITS LANDFILL ENTERPRISE REVENUE BOND, SERIES 2023; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BOND, THE USE OF ITS PROCEEDS AND PROVIDING FOR THE SALE THEREOF; SECURING ITS PAYMENT BY A PLEDGE OF REVENUES DERIVED FROM THE LANDFILL ENTERPRISE OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD THE ISSUANCE OF THE BOND; AND PROVIDING FOR ADOPTION AS IF AN EMERGENCY EXISTS.

WHEREAS, the City of Fallon in the State of Nevada (the “City” and the “State,” respectively) is a political subdivision of the State duly organized and consolidated as a city under the provisions of chapter 266 of the Nevada Revised Statutes (“NRS”) and the general laws of the State;

WHEREAS, the City now owns and operates a landfill enterprise (the “Landfill Enterprise”);

WHEREAS, the City has no outstanding obligations which have a lien on the Net Revenues (as defined below) of the Landfill Enterprise;

WHEREAS, pursuant to NRS Sections 268.672 to 268.740 (the “City Bond Law”) and NRS Chapter 350 and all laws amendatory thereof, which includes the Local Government Securities Law, being NRS 350.500 through 350.720, and all laws amendatory thereof (the “Bond Act”), the City Council of the City (the “Council”) is authorized to acquire, improve, equip, operate and maintain, within the City, a refuse project as defined in NRS 268.712 (the “Project”);

WHEREAS, pursuant to the City Bond Law, the Council, on behalf of the City, is authorized and empowered to issue the City’s landfill enterprise revenue bonds to defray the cost of the Project, in the manner and on the conditions provided in the City Bond Law and the Bond Act;

WHEREAS, the City intends to hereby authorize the issuance of the City of Fallon, Nevada Landfill Enterprise Revenue Bond, Series 2023 (the “Bond”) in a principal amount specified in the Certificate of the City Treasurer (as defined below), but not to exceed \$4,100,000;

WHEREAS, the Council has previously authorized and hereby does authorize the City Treasurer to solicit bids for the Bond and accept a binding bid for the Bond from the best bidder therefor (the “Purchaser”);

WHEREAS, after receipt of bids from the Purchaser for the sale of the Bond, the City Clerk/Treasurer of the City is hereby authorized to accept a binding offer from the Purchaser for the Bond, the Bond to bear interest at the variable or fixed rate or rates per annum provided in the Bond purchase proposal submitted by the Purchaser (the “Bond Purchase Proposal”), such rates not to exceed 3% over the Index of Revenue Bonds most recently published in *The Bond Buyer* prior to the time bids were accepted for the Bond (calculated on the basis of a 360-day year of twelve 30-day months), at a price equal to the principal amount thereof plus a premium or less a discount not to exceed 9 percent of the principal amount of the Bond, all as specified by the City Treasurer in a certificate dated on or before the date of delivery of the Bond (the “Certificate of the City Treasurer”); and

WHEREAS, the Council hereby elects to have the provisions of Chapter 348 of NRS (the “Supplemental Bond Act”) apply to the Bond;

WHEREAS, the Council is therefore authorized by the City Bond Law and the Bond Act, without any further preliminaries:

- A. To commence the Project;
- B. To issue and sell the Bond in the maximum principal amount of \$4,100,000;

and

- C. To exercise the incidental powers provided in the City Bond Law and the Bond Act in connection with the powers authorized therein;

WHEREAS, the Council has determined and does hereby declare that each of the limitations and other conditions to the issuance of the Bond in the Bond Act, and in any other relevant act of the State or the Federal Government, has been met; and pursuant to Section 350.708 of the Bond Act, this determination of the Council that the limitations in the Bond Act have been met shall be conclusive in the absence of fraud or arbitrary or gross abuse of discretion; and

WHEREAS, the Council has determined and does hereby declare:

- A. This Ordinance pertains to the sale, issuance and payment of the Bond;
- B. Such declaration shall be conclusive in the absence of fraud or gross abuse of discretion in accordance with the provisions of Subsection 2 of NRS 350.579; and

- C. This Ordinance may accordingly be adopted as if an emergency now exists by an affirmative vote of all of the voting members of the Council (excluding from any such computation any vacancy on the Council and any member thereof who may vote only to break a tie vote), and this Ordinance may become effective at any time when an emergency ordinance of the City may go into effect.

NOW, THEREFORE, THE CITY COUNCIL OF CITY OF FALLON DOES ORDAIN:

SECTION 1. Short Title. This Ordinance shall be known and may be cited as the “2023 Landfill Enterprise Revenue Bond Ordinance.”

SECTION 2. Definitions. The terms in this section and in the preambles hereof defined for all purposes of this Ordinance and of any instrument amendatory hereof or supplemental hereto, and of any other instrument or any other document relating hereto, except where the context by clear implication otherwise requires, shall have the meanings in this section and in said preambles specified:

“Banking Institution” means a state or national bank or trust company which is a member of the Federal Deposit Insurance Corporation.

“Bond Requirements” means the principal of, the interest on and any prior redemption premiums due in connection with the Bond, Parity Securities, as appropriate, as such principal, interest and premiums become due at maturity or on a Redemption Date, or otherwise.

“Bond Year” means the 12 month period commencing on May 2 of a calendar year and ending on May 1 of the following calendar year.

“Certificate of the City Clerk/Treasurer” means the certificate executed by the City Clerk/Treasurer of the City on or before the date of closing on the Bond.

“Cost of the Project” means all or any part designated by the Council for the cost of the Project, or interest therein, which cost, at the option of the Council, except as limited by law, may include all or any part of the incidental costs relating to the Project, including, without limitation:

- (a) Preliminary expenses advanced by the City from money available for use therefor, or advanced by the Federal Government, or from any other source, with the approval of the Council;
- (b) The costs in the making of surveys, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;
- (c) The costs of premiums on builders’ risk insurance and performance bonds, or a reasonably allocable share thereof;
- (d) The costs of appraising, printing, estimates, advice, services of engineers, architects, accountant, financial consultants, attorneys at law, clerical help or other agents or employees;
- (e) The costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the Project, the filing or recondition of instruments, the taking of options, the issuance of the Bond and any other securities relating to the Project, and bank fees and expenses;
- (f) The costs of contingencies;
- (g) The costs of amending any ordinance or other instrument authorizing the issuance of or otherwise appertaining to outstanding bonds or other securities of the City;

(h) The costs of funding any medium-term obligations, construction loans and other temporary loans not exceeding ten years appertaining to the Project and of the incidental expenses incurred in connection with such loans;

(i) The costs of any properties, rights, easements or other interests in properties, or any licenses, privileges, agreements and franchises;

(j) All other expenses necessary or desirable and appertaining to the Project, as estimated or otherwise ascertained by the Council including rebates to the United States under Section 148 of the Tax Code.

“Landfill Enterprise” means the Landfill Enterprise of the City, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City through purchase, construction or otherwise, and used in connection with such Enterprise of the City, and in any way pertaining thereto, whether or not located within or without or both within and without the boundaries of the City, including, without limitation, machinery, apparatus, structures, buildings and related or appurtenant furniture, fixtures and other equipment, as such Enterprise is from time to time extended, bettered or otherwise improved, or any combination thereof.

“Federal Government” means the United States, or any agency, instrumentality or corporation thereof.

“Federal Securities” means bills, certificates of indebtedness, notes, bonds or similar securities which are direct obligations of, or the principal and interest of which securities are unconditionally guaranteed by, the United States.

“Fiscal Year” means the 12 months commencing on July 1 of any calendar year and ending on June 30 of the next succeeding calendar year; but if the Nevada Legislature changes the statutory fiscal year relating to the City, the Fiscal Year shall conform to such modified statutory fiscal year from the time of each such notification, if any.

“Gross Revenues” means all income and revenues derived directly or indirectly by the City from the operation and use and otherwise pertaining to the Landfill Enterprise or any part thereof.

“Net Revenues” means the Gross Revenues remaining after the deduction of Operation and Maintenance Expenses.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the Landfill Enterprise, including, without limitation:

(a) engineering, auditing, reporting, legal and other overhead expenses relating to the administration, operation and maintenance of the Landfill Enterprise;

(b) fidelity bond and property and liability insurance premiums pertaining to the Landfill Enterprise or a reasonably allocable share of a premium of any blanket bond or policy pertaining to the Landfill Enterprise;

(c) payments to pension, retirement, health and hospitalization funds, and other insurance and to any self-insurance fund as insurance premiums not in excess of such premiums which would otherwise be required for such insurance;

(d) any general taxes, assessments, excise taxes, or other charges which may be lawfully imposed upon the City, the Landfill Enterprise, revenues therefrom or the City's income from or operations of any properties under its control and pertaining to the Landfill Enterprise, or any privilege in connection with the Landfill Enterprise or its operations; provided that for purposes of this subparagraph (d), taxes, assessments, excise taxes, or other charges shall not include payments in lieu of taxes or other similar payments to the City general fund or other City fund;

(e) the reasonable charges of any Paying Agent or Registrar and any depository bank pertaining to the Bond or any other securities payable from Gross Revenues or otherwise pertaining to the Landfill Enterprise;

(f) contractual services, professional services, salaries, other administrative expenses and costs of materials, supplies, repairs and labor pertaining to the Landfill Enterprise or to the issuance of the Bond, or any other securities relating to the Landfill Enterprise, including, without limitation, the expenses and compensation of any receiver or other fiduciary under the Bond Act;

(g) the costs incurred by the Council in the collection and any refunds of all or any part of Gross Revenues;

(h) any costs of utility services furnished to the Landfill Enterprise;

(i) any lawful refunds of any Gross Revenues; and

(j) all other administrative, general and commercial expenses pertaining to the Landfill Enterprise;

but excluding:

(i) any general fund or other City fund transfers from the Revenue Fund;

(ii) any allowance for depreciation;

(iii) any costs of extensions, enlargements, betterments and other improvements, or any combination thereof;

(iv) any reserves for major capital replacements, other than normal repairs;

(v) any reserves for operation, maintenance or repair of the Landfill Enterprise;

(vi) any allowance for the redemption of the Bond or other security or the payment of any interest thereon or any prior redemption premium due in connection therewith;

(vii) any liabilities incurred in the acquisition or improvement of any properties comprising any project or any existing facilities, or any combination thereof, pertaining to the Landfill Enterprise, or otherwise; and

(viii) any liabilities imposed on the City for any grounds of legal liability not based on contract, including, without limitation, negligence in the operation of the Landfill Enterprise.

“Outstanding” when used with reference to the Bond or any other designated securities payable from Net Revenues and as of any particular date means all of the Bond or other securities in any manner theretofore and thereupon being executed and delivered:

(a) Except the Bond or other security canceled by the City, the Paying Agent or otherwise on the City’s behalf, at or before such date;

(b) Except the Bond or other security for the payment or the redemption of which moneys at least equal to its Bond Requirements as defined herein to the date of maturity or to any Redemption Date shall have theretofore been deposited with a trust bank in escrow or in trust for that purpose, as provided in Section 46 hereof; and

(c) Except the Bond or other security in lieu of or in substitution for which another Bond or other security shall have been executed and delivered.

“Parity Securities” means securities of the City pertaining to the Landfill Enterprise and payable from and secured by a lien on the Net Revenues on a parity with the Bond which are hereafter issued to the extent issued in accordance with the terms, conditions and limitations hereof.

“Paying Agent” means the City Clerk/Treasurer or any successor thereto or any successor paying agent for the Bond appointed by the Council.

“Person” means a corporation, firm, other body corporate (including, without limitation, the Federal Government, the State or any other body corporate and politic other than the City), partnership, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“Purchaser” has the meaning ascribed to such term in the recitals hereof.

“Redemption Date” means a date fixed for the redemption prior to the respective maturities of the Bond or other designated securities payable from any Net Revenues in any notice of prior redemption or otherwise fixed and designated by the City.

“Redemption Price” means, when used with respect to the Bond or other designated security payable from any Net Revenues, the principal amount thereof plus accrued interest thereon to the Redemption Date plus the applicable premium, if any, payable upon the redemption thereof prior to the stated maturity date of the Bond or such other security on a Redemption Date in the manner contemplated in accordance with the security’s terms.

“Project” has the meaning ascribed to such term in the recitals.

“Registrar” means the City Clerk/Treasurer or any successor thereto or any successor registrar for the Bond appointed by the Council.

“Subordinate Securities” means securities of the City pertaining to the Landfill Enterprise and payable from and secured by a lien on the Net Revenues subordinate and junior to the pledge thereof to the Bond, to the extent issued in accordance with the terms, conditions and limitations hereof

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

“Trust Bank” means a “Banking Institution”, as defined herein, which bank is authorized to exercise and is exercising trust powers, and also means any branch of the Federal Reserve Bank.

Other capitalized terms used herein shall have the meanings given to such terms in the text hereof, except where the context by clear implication otherwise requires.

SECTION 3. Sale of the Bond. The sale of the Bond to the Purchaser on the terms provided herein and in accordance with the Certificate of the City Clerk/Treasurer is hereby approved.

SECTION 4. Ratification. All action taken previously by the Council and the officers of the City directed toward the Project and toward the sale and issuance of the Bond is ratified, approved and confirmed.

SECTION 5. Estimated Life of Facilities. The Council, on behalf of the City, has determined and does hereby declare:

A. The estimated life or estimated period of usefulness of the facilities and/or equipment to be financed with the Bond is not less than 20 years from the date of issuance of the Bonds; and

B. The Bond shall mature at such time or times not exceeding such estimated life or estimated period of usefulness.

SECTION 6. Necessity of Project and Bond. The Council hereby determines that it is necessary and in the best interests of the City, its officers, and the inhabitants of the City that the City effect the Project and defray wholly or in part the cost thereof by the issuance of the Bond therefor, and it is hereby so determined and declared.

SECTION 7. Authorization of Project. The Council hereby authorizes the Project.

SECTION 8. Ordinance to Constitute Contract. In consideration of the purchase and the acceptance of the Bond by those who shall own the same from time to time, the provisions hereof shall be deemed to be and shall constitute a contract between the City and the owners from time to time of the Bond.

SECTION 9. Bonds Equally Secured. The covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the owners of any and all of the Outstanding Bond, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Bond over any other thereof, except as otherwise expressly provided in or pursuant to this Ordinance.

SECTION 10. Limitations upon Security. The payment of the Bond is not secured by an encumbrance, mortgage or other pledge of property of the City, except for the Net Revenues and any other moneys pledged for the payment of the Bond. No property of the City, subject to such exception, shall be liable to be forfeited or taken in payment of the Bond.

SECTION 11. No Recourse Against Officers and Agents. No recourse shall be had for the payment of the Bond Requirements of the Bond or for any claim based thereon or otherwise upon this Ordinance or any other instrument relating thereto, against any individual member of the Council or any officer or other agent of the Council or City, past, present or future, either directly or indirectly through the Council or the City, or otherwise, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any penalty or otherwise, all such liability, if any, being by the acceptance of the Bond and as a part of the consideration of its issuance specially waived and released.

SECTION 12. Authorization of Bond. For the purpose of providing funds to pay the cost of the Project, the City shall issue the “City of Fallon, Nevada Landfill Enterprise Revenue Bond, Series 2023” in the aggregate principal amount to be specified in the Certificate of the City Clerk/Treasurer, such principal amount not to exceed the aggregate principal amount of \$4,100,000.

SECTION 13. Bond Details.

A. The Bond shall be issued in fully registered form, i.e., registered as to both principal and interest, in compliance with Section 149 of the Tax Code, and the regulations of the Secretary of the Treasury thereunder. The Bond shall be dated initially as of the date of delivery thereof to the State, and shall be issued as a single bond in the principal amount set forth in the Certificate of the City Clerk/Treasurer. The Bond shall bear interest (calculated on the basis of a 360 day year of twelve 30 day months) from its date until its maturity date (or, if redeemed prior to maturity as provided below, its redemption date) at the rate or rates per annum set forth in the Certificate of the Clerk/Treasurer on the unpaid principal thereof until the principal thereof is paid in full and as otherwise provided in the form of the Bond set forth in Section 21 herein. Interest payments shall be payable semiannually on May 1 and November 1 of each year commencing on the date provided in the Certificate of the City Clerk/Treasurer. Principal payments shall be payable annually on November 1, on the dates set forth in the Certificate of the City Clerk/Treasurer.

B. The installments of principal and interest on the Bond shall be paid by electronic funds transfer to the Purchaser, and otherwise by check or warrant made to the order of the registered owner of the Bond and mailed to the address of the registered owner shown on the registration records kept by the City Clerk/Treasurer acting in the capacity as the Registrar of the Bond, as of the close of business on the day immediately prior to such payment date, or if such date is not a business day, on or before the next succeeding business day. The Paying Agent may make payments of interest on the Bond by such alternative means as may be mutually agreed to between the owner of the Bond and the Paying Agent. All such payments shall be made in lawful money of the United State of America without deduction for any service charges of the Paying Agent or Registrar.

SECTION 14. Prepayment Option. Installments of principal on the Bond shall be subject to optional redemption by the City prior to maturity on the dates, at the prices, and in the manner provided in the Certificate of the Clerk/Treasurer. If all or a portion of the principal of the bond is so called for prior redemption, no payment of the principal of or interest on the Bond due on or after the date fixed for redemption shall be made unless the Bond is presented to the Paying Agent and notation of the installments of principal redeemed is made on the Bond.

SECTION 15. Negotiability. Subject to the registration provisions herein provided, the Bond shall be fully negotiable within the meaning of and for the purpose of the Uniform Commercial Code - Investment Securities and each owner shall possess all rights enjoyed by holders of negotiable instruments under the Uniform Commercial Code - Investment Securities.

SECTION 16. Registration, Transfer and Exchange of Bonds. The Bond shall be subject to the following provisions relating to their registration, transfer and exchange:

A. Records for the registration of the Bond shall be kept by the Registrar. The person in whose name the Bond shall be registered, on the registration records kept by the Registrar, shall be deemed and regarded as the absolute owner thereof for the purpose of payment and for all other purposes; and payment of or on account of either principal or interest on the Bond shall be made only to or upon the written order of the owner thereof or his or her legal representative. All such payments shall be valid and effectual to discharge the liability upon the Bond to the extent of the sum or sums so paid.

B. If the Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it or the City may reasonability require, and upon payment of all expenses in connection therewith, authenticate and deliver a replacement Bond. If such lost, stolen, destroyed or mutilated Bond shall have matured or shall have been called for prepayment, the Registrar may direct that the Bond be paid by the Paying Agent in lieu of replacement.

C. The Registrar shall maintain at his office a registration record for the Bond showing the name and address of the registered owner and amounts and dates of any principal prepayments on the Bond.

SECTION 17. Execution and Authentication.

A. Prior to the execution of the Bond by facsimile signature and pursuant to Section 350.638, Bond Act, to the act known as the Uniform Facsimile Signatures of Public Officials Act, cited as Chapter 351, NRS, and to the Supplemental Bond Act, the Mayor of the City (the “Mayor”) and the City Clerk/Treasurer shall file with the Secretary of State of Nevada his or her manual signature certified by him or her under oath.

B. The Bond shall be signed and executed in the name of and on behalf of the City with the manual or facsimile signature of the Mayor, shall be signed and executed with the manual or facsimile signature of the City Clerk/Treasurer, and shall bear a manual impression or a facsimile of an impression of the official seal of the City attested with the manual or facsimile signature of the City Clerk/Treasurer.

C. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication thereon, substantially in the form hereinafter provided, has been duly manually executed by the Registrar. The Registrar’s certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized officer or employee of the Registrar, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bond issued hereunder. By authenticating any of the Bond initially delivered pursuant to this Ordinance, the Registrar shall be deemed to have assented to all of the provisions of this Ordinance.

D. The Mayor and the City Clerk/Treasurer are hereby authorized and directed to prepare and execute the Bond as provided herein.

SECTION 18. Use of Predecessor’s Signature. The Bond bearing the signatures of the officers in office at the time of their execution shall be valid and binding obligations of the City, notwithstanding that before the 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 and the City Clerk/Treasurer, at the time of the execution of a signature certificate relating to the Bond, may each 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 Bond.

SECTION 19. Incontestable Recital. Pursuant to NRS 350.628, the Bond shall contain a recital that they are issued pursuant to the Bond Act, which recital shall be conclusive evidence of the validity of the Bond and the regularity of their issuance.

SECTION 20. State Tax Exemption. Pursuant to NRS 350.710, the Bond, its transfer and the income therefrom shall forever be and remain free and exempt from taxation by the State or any subdivision thereof except the tax on estates imposed pursuant to the provisions of Chapter 375A of NRS and the tax on generation-skipping transfers imposed pursuant to the provisions of Chapter 375B of NRS.

SECTION 21. Form of Bond. The Bond shall be in substantially the following form, said form to be completed with necessary or appropriate variations, insertions, omissions, or endorsements consistent with the provisions of this Ordinance:

(Form of Bond)

THIS BOND IS SUBJECT TO TRANSFER RESTRICTIONS
TRANSFER OF THIS BOND OTHER THAN BY REGISTRATION IS NOT EFFECTIVE

UNITED STATES OF AMERICA
CITY OF FALLON, NEVADA
LANDFILL ENTERPRISE REVENUE BOND,
SERIES 2023

No. _____

\$ _____

Interest Rate
_____ %

Dated As of
_____, 2023

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The City of Fallon (the "City"), in the State of Nevada (the "State"), for value received hereby promises, solely out of funds available for the purpose as hereinafter set forth, to pay to the registered owner hereof specified above or registered assigns the principal amount specified above or such lesser amount as shall be advanced to the City. The Bond shall bear interest on the principal amount hereof from the date of delivery of the Bond at the rate of interest per annum specified above (calculated on the basis of a 360-day year of twelve 30-day months and subject to adjustment as provided herein) payable on each May 1 and November 1 commencing _____ 1, 202_. The principal of the Bond shall be payable annually on the following dates in the following amounts:

Date
(November 1)

Principal Amount

Date
(November 1)

Principal Amount

The City Treasurer in Fallon, Nevada is acting as paying agent for the Bond (the “Paying Agent”) and as the City’s Registrar for the Bond (the “Registrar”). Installments of principal and interest on this Bond will be made by check mailed by the Paying Agent on each payment date (or, if such date is not a business day, on the next succeeding business day) to the person in whose name this Bond is registered (the “registered owner”) in the registration records of the City maintained by the Registrar, at the address appearing thereon as of the close of business on the day next preceding such payment date. Alternative means of payment of interest may be used if mutually agreed to by the registered owner and the Paying Agent, as provided in the “2023 Landfill Enterprise Revenue Bond Ordinance,” adopted and approved by the City Council of the City on November ____, 2023 authorizing the issuance of this Bond (the “Ordinance”). All such payments shall be made in lawful money of the United States of America without deduction for any service charges of the Paying Agent or the Registrar.

Capitalized terms used in this Bond, which are not otherwise defined herein shall have the meanings ascribed to such terms in the Ordinance.

This Bond is a duly authorized bond of the City issued in the principal amount of \$_____,000 (the “Bond”) issued to defray, in part, the cost of the Project under the authority of and in full compliance with the constitution and laws of the State.

This Bond is issued pursuant to Nevada Revised Statutes (“NRS”) §§ 350.500 through 350.720, and all laws amendatory thereof, designated in § 350.500 thereof as the Local Government Securities Law (the “Bond Act”); pursuant to NRS § 268.672 through 268.780, inclusive; and pursuant to NRS Chapter 348. Pursuant to § 350.628 of the Bond Act, this recital is conclusive evidence of the validity of the Bond and the regularity of its issuance. Pursuant to § 350.710 of the Bond Act, the Bond, its transfer, and the income therefrom shall forever be and remain free and exempt from taxation by the State or any subdivision thereof, except for the tax on estates imposed pursuant to the provisions of Chapter 375A of NRS and the tax on generation skipping transfers imposed pursuant to the provisions of Chapter 375B of NRS.

This Bond is subject to optional redemption prior to maturity as provided in the Ordinance and the Certificate of the Clerk/Treasurer.

It is hereby certified and recited that all of the requirements of law have been fully complied with by the proper officers of the City in the issuance of this Bond; and that the total indebtedness of the City, including that of this Bond, does not exceed any limit of indebtedness prescribed by the Constitution or by the laws of the State.

Payment of the principal of and interest on this Bond is secured solely by a pledge of the Net Revenues derived by the City from the operation and use of, or otherwise pertaining to, the Landfill Enterprise of the City of which the Project is a part.

This Bond is equally and ratably secured by such pledge of the Net Revenues, and such pledge constitutes an irrevocable lien thereon (but not necessarily an exclusive lien), which is on parity with the lien thereon securing the City's other Parity Securities. Additional securities may be issued and made payable from the Net Revenues and having a lien thereon subordinate to or on a parity with such pledge, in each case subject to the conditions of and in accordance with the Ordinance. The City is prohibited from issuing additional securities payable from the Net Revenues with a lien thereon which is senior to the lien securing the Bond and the other outstanding Parity Bonds.

Reference is made to the Ordinance and to the Bond Act for an additional description of the nature and extent of the security for this Bond, the accounts, funds, or revenues pledged, the nature and extent and manner of enforcement of the pledge, the rights and remedies of the registered owner of this Bond with respect thereto, the terms and conditions upon which this Bond is issued, and a statement of rights, duties, immunities, and obligations of the City, and other rights and remedies of the owner of this Bond.

To the extent and in the respects permitted by the Ordinance, the provisions of the Ordinance may be amended or otherwise modified by action of the City taken in the manner and subject to the conditions and exceptions prescribed in the Ordinance. The pledge of Net Revenues under the Ordinance may be discharged at or prior to the respective maturities of the installments of principal or prior redemption of the Bond upon the making of provision for the payment thereof on the terms and conditions set forth in the Ordinance.

This Bond shall not be entitled to any benefits under the Ordinance, or be valid or obligatory for any purpose until the registration panel hereon shall have been manually signed on behalf of the Registrar.

In the event it is determined that the interest income on this Bond is includable in the gross income of the owner thereof for federal income tax purposes, the interest rate of this Bond, commencing with the date interest becomes includable in the gross income of the owner thereof for federal income tax purposes and continuing thereafter until the Bond is paid in full, will be increased to an interest rate equal to the interest rate per annum specified above multiplied by 1.54.

Principal and interest of this Bond not paid when due shall bear interest at the rate per annum specified above, plus 3.00%

The City has designated the Bond as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

No recourse shall be had for the payment of the Bond Requirements of this Bond or for any claim based thereon or otherwise in respect to the Ordinance or any other instrument pertaining thereto, against any individual member of the Council, or any officer or other agent of the City, past, present or future, either directly or indirectly through the Council or the City, or otherwise, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any penalty or otherwise, all such liability, if any, being by the acceptance of this Bond and as a part of the consideration of its issuance specially waived and released.

IN WITNESS WHEREOF, the City of Fallon, Nevada, has caused this Bond to be executed in its name by the manual signature of its Mayor, to be countersigned by the manual signature of its City Treasurer, and attested by the manual signature of its City Clerk and has caused the seal of the City to be reproduced hereon, all as of the __ day of November, 2023, i.e., the date of delivery of this Bond.

DRAFT

CITY OF FALLON, NEVADA

Mayor
City of Fallon, Nevada

Countersigned:

City Treasurer
City of Fallon, Nevada

(SEAL)

Attest:

City Clerk
City of Fallon, Nevada

(End of Form of Bond)

(Form of Registration Panel)

**MANDATORY REGISTRATION FOR PAYMENT
AS TO PRINCIPAL AND INTEREST**

The within single bond is registered in the office of the Treasurer of City of Fallon, Nevada, as Registrar in the name of the last owner listed below, and the principal amount of the Bond and interest thereon shall be payable only to such owner, all in accordance with the within- mentioned Ordinance.

<u>Date of Registration</u>	<u>Name of Owner</u>	<u>Address of Owner</u>	<u>Signature of Registrar</u>
_____, 2023	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(End of Form of Registration Panel Appended to Bond)

(Form of Principal Prepayment Panel on Bond)

PREPAYMENT PANEL

The following installments of principal (or portions thereof) of this Bond have been prepaid by City of Fallon, Nevada, in accordance with the terms of the within-mentioned Ordinance.

<u>Date of Prepayment</u>	<u>Due Date of Installments (or portions thereof)</u>	<u>Principal Amount Prepaid</u>	<u>Signature of Paying Agent</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

DRAFT

(End of Form of Principal Prepayment Panel on Bond)

(Form of Assignment for Bond)

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Bond and hereby irrevocably constitutes and appoints attorney, to transfer the same on the records kept for registration of the within Bond, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

Name of Transferee:

Address of Transferee:

Social Security or other tax
identification number of
Transferee:

NOTE: The 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 for Bond)

SECTION 22. Delivery of the Bond; Use of Bond Proceeds. Pursuant to NRS 350.688, when the Bond has been duly executed, the Treasurer shall deliver it to the Purchaser. The Registrar shall register the Bond in the name of the Purchaser in the registration records of the City and make notation of such registration on the back of the Bond.

The Bond proceeds shall be deposited into a special account hereby created and designated as the “City of Fallon, Nevada Landfill Enterprise Revenue Bond, Series 2023, Acquisition Account” (the “Acquisition Account”), to be held by the City. Moneys in the Acquisition Account shall be used solely to defray wholly or in part the Cost of the Project including, without limitation, as provided in § 350.516, Bond Act, all costs of issuing the Bond which the Council hereby determines are necessary and desirable and appertain to the Project. After the Project is complete and after all expenses have been paid or adequate provision therefor is made, pursuant to § 350.650 of the Bond Act, any unexpended balance of Bond proceeds (or, unless otherwise required by law, any other moneys) remaining in the Acquisition Account shall be deposited into the Bond Fund to be used to pay the principal of and interest on the Bond.

SECTION 23. Use of Investment Gain. Pursuant to NRS 350.658, and except as may otherwise be required herein, any gain from any investment and any reinvestment of any proceeds of the Bond shall be deposited promptly upon the receipt of such gain at any time or from time to time into the Bond Fund hereinafter created, for the payment of the principal of or interest on the Bond or any combination thereof.

SECTION 24. Tax Covenant. The City covenants for the benefit of the owner or owners of the Bond that it will not take any action or omit to take any action with respect to the Bond, the proceeds thereof, any other funds of the City or any facilities financed or refinanced with the proceeds of the Bond if such action or omission (i) would cause the interest on the Bond to lose its exclusion from gross income for federal income tax purposes under § 103 of the Tax Code or (ii) would cause interest on the Bond to lose its exclusion from alternative minimum taxable income as defined in § 55(b)(2) of the Tax Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under § 56 of the Tax Code in calculating corporate alternative minimum taxable income. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bond until the date on which all obligations of the City in fulfilling the above covenant under the Tax Code have been met.

SECTION 25. Bank Qualified Status. The Clerk/Treasurer is hereby authorized to determine whether the Bond is a qualified tax exempt obligation pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended to the date of delivery of the Bond, and to deem the Bond as a qualified tax exempt obligation if accurate. Such determination shall be based on whether the Clerk/Treasurer determines that the reasonability anticipated amount of qualified tax exempt obligations which will be issued by the City and all of its subordinate entities during calendar year 2023 will not exceed \$10,000,000.

SECTION 26. Payment of Bonds. The City covenants and agrees with each and every owner that the City will make the principal and interest payments on the Bond at the place, on the dates and in the manner specified according to the true intent and meaning thereof.

SECTION 27. Purchaser Not Responsible. The validity of the Bond shall not be dependent on nor be affected by the validity or regularity of any proceedings relating to the Project, or any part thereof, or to the completion of the Project. Neither the Purchaser nor any subsequent owner of the Bond shall in any manner be responsible for the application by the City or by any of its officers, agents and employees of the moneys derived from the sale of the Bond or of any other moneys herein designated.

SECTION 28. Pledge of Net Revenues. Subject only to the provisions of this Ordinance permitting the application thereof for or to the purposes and on the terms and conditions set forth herein, there are hereby additionally pledged to secure the payment of principal of and interest on the Bond in accordance with the provisions of this Ordinance, all of the Net Revenues. This pledge shall be valid and binding from and after the date of the delivery to the Purchaser of the Bond. The Net Revenues, as received by the City shall immediately be subject to the lien of this pledge without any physical delivery thereof, any filing or further act; and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City (except as herein otherwise provided) irrespective of whether such parties have notice thereof. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any and all other obligations and liabilities of the City payable from the Net Revenues, except for any Outstanding Parity Securities as herein provided. The lien of this pledge for the Bond and any Parity Securities shall be equitably and ratably secured by the pledge of Net Revenues hereunder, and the Bond and any Parity Securities are not entitled to any priority one over the other in the application of Net Revenues.

SECTION 29. Revenue Fund. So long as the Bond shall be Outstanding, the entire Gross Revenues, upon their receipt from time to time by the City, shall be set aside and credited immediately to a separate account heretofore created in the treasury of the City, reestablished hereby, and designated as the “City of Fallon Landfill Enterprise Enterprise Fund” (the “Revenue Fund”). So long as any of the Bond shall be Outstanding, the Revenue Fund shall be administered and the moneys on deposit therein shall be applied in the order of priority specified in Sections 30 through 34.

SECTION 30. Operation and Maintenance Account. First, from time to time there shall be transferred and credited to a separate account created in the treasury of the City and designated as the “City of Fallon Landfill Enterprise Operation and Maintenance Account” (the “Operation and Maintenance Account”), moneys sufficient to pay Operation and Maintenance Expenses, as budgeted and approved in accordance with law, as such expenses become due and payable, and thereupon they shall be promptly paid. Any surplus remaining in the Operation and Maintenance Account at the end of the Fiscal Year of the City and not needed for Operation and Maintenance Expenses shall be transferred to the Revenue Fund.

SECTION 31. Parity Bond Fund. Second, from any moneys thereafter remaining in the Revenue Fund and concurrent with transfers to the Bond Fund and any required reserve funds or accounts created with respect to the Bond and any Parity Securities, there shall be transferred and credited to the Bond Fund monthly, commencing on the first day of the month immediately succeeding the delivery date of the Bond, an amount in substantially equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, to pay the next maturing installments of principal and interest on the Outstanding Bond or

Parity Securities, as the case may be. The money credited to the Bond Fund shall be used to pay the Bond Requirements of the Bond as such Bond Requirements become due.

SECTION 32. Rebate Account. Third, after the aforementioned deposits, and from the Net Revenues there shall be transferred and credited to a special and separate account hereby created and designated as the “City of Fallon, Landfill Enterprise Revenue Bond, Series 2023, Rebate Account” (the “Rebate Account”) and to any other fund or account established for payment of amounts due the United States under Section 148(f) of the Tax Code in connection with the Parity Securities in such amounts as are required to be deposited therein to meet the City’s obligations under the covenant contained in Section 24 hereof, in accordance with Section 148(f) of the Tax Code. Such deposits shall be made at such times as are required by Section 148(f) of the Tax Code and such covenant and amounts in the Rebate Account shall be used for the purpose of making the payments to the United States required by such covenant and Section 148(f) of the Tax Code. Any amounts in the Rebate Account in excess of those required to be on deposit therein may be withdrawn therefrom and deposited into the Revenue Fund.

SECTION 33. Payment of Subordinate Securities. Fourth, any moneys thereafter remaining in the Revenue Fund may be used by the City for the payment of the principal of and interest on with respect to, Subordinate Securities; and may be used to create reasonable reserves for such securities.

SECTION 34. Surplus Revenues. Fifth, any moneys thereafter remaining in the Revenue Fund may be used by the City at the end of any Fiscal Year of the City, or whenever there shall have been credited all amounts required to be deposited in the respective foregoing separate accounts for all of that Fiscal Year, for any lawful purposes of the City, as the Council may from time to time determine, including, without limitation, for the creation of operation and maintenance reserves and capital reserves, the payment of capital costs and major maintenance costs of the Landfill Enterprise, to pay any other obligations pertaining to the Landfill Enterprise or otherwise.

SECTION 35. Termination of Deposits. No payment need be made into the Bond Fund if the amounts in that fund total a sum at least equal to the entire amount of the Outstanding Bond as to all Bond Requirements to their respective maturities both accrued and not accrued, in which case moneys in such fund in an amount, except for any interest or other gain to accrue from any investment of moneys in Federal Securities from the time of any such investment to the time or respective times the proceeds of any such investment or deposit shall be needed for such payment, at least equal to such Bond Requirements, shall be used, together with any such gain from such investments, solely to pay such Bond Requirements as the same become due.

SECTION 36. Equal Security. The Bond and any Parity Securities from time to time outstanding shall be equally and ratably secured by the pledge of Net Revenues hereunder and shall not be entitled to any priority one over the other in the application of the Net Revenues regardless of the time or times of the issuance of the Bond and any Parity Securities.

SECTION 37. Defraying Delinquencies. If at any time the City shall for any reason fail to pay into the Bond Fund or the Rebate Account the full amount above stipulated from the Net Revenues, then an amount shall be paid first into the Bond Fund and second into the Rebate Account at such time equal to the difference between that paid from the Net Revenues and the full amount so stipulated. If the Bond or other Parity Securities are outstanding, and if the proceedings authorizing

issuance of those securities require the replacement of moneys in a bond fund, reserve fund or rebate account therefor, then the moneys replaced in such funds shall be replaced on a pro rata basis related to the principal amount of the then Outstanding Bond and the then Outstanding Parity Securities, as moneys become available therefor, first into all of such bond and reserve funds and second into all such rebate accounts.

SECTION 38. Conditions to Issuance of Additional Parity Securities.

A. Nothing herein permits the issuance by the City of bonds or other obligations secured by a lien on the Net Revenues which is superior to the lien thereon securing the Bond.

B. Nothing herein, except as expressly hereinafter provided, shall prevent the issuance by the City of Parity Securities payable from Net Revenues and constituting a lien thereon on a parity with the lien thereon of the Bond, provided, however, that the following are express conditions to the authorization and issuance of any such Parity Securities:

1. At the time of adoption of the instrument authorizing the issuance of the Parity Securities, the City shall not be in default in the payment of principal of or interest on the Bond.

2. The Net Revenues (subject to adjustments as hereinafter provided) projected by the City Clerk/Treasurer or an independent accountant or consulting engineer to be derived in the Fiscal Year following the issuance of such Parity Securities, will be not less than an amount equal to 150% of the principal and interest requirements (to be paid during that Fiscal Year) of the Outstanding Bond, the Outstanding Parity Securities and the Parity Securities proposed to be issued (excluding any reserves therefor), and 125% of the principal and interest requirements (to be paid during that Fiscal Year) of all obligations payable from the Net Revenues.

C. In any determination of whether or not Parity Securities may be issued in accordance with the applicable foregoing earnings test, consideration shall be given to any probable estimated increase or reduction in Operation and Maintenance Expenses that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the Parity Securities.

D. In any determination of whether or not Parity Securities may be issued in accordance with the applicable foregoing earnings test, the respective annual principal (or Redemption Price) and interest requirements shall be reduced to the extent such requirements are scheduled to be paid with moneys held in trust or in escrow for that purpose by any Trust Bank within or without the State, including the known minimum yield from any investment in Federal Securities.

E. A written certificate or written opinion by the City Clerk/Treasurer or an independent accountant or consulting engineer that the applicable foregoing earnings test is met shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver Parity Securities.

F. In connection with the authorization of any such Parity Securities, the Council may on behalf of the City adopt any additional covenants or agreements with the holders of such Parity Securities; provided, however, that no such covenant or agreement may be in conflict

with the covenants and agreements of the City herein and no such covenant or agreement may be materially adverse to the interests of the holders of the Bond. Any finding of the Council to the effect that the foregoing requirements are met shall, if made in good faith, conclusively establish that the foregoing requirements have been met for purposes of this Ordinance.

SECTION 39. Subordinate Securities Payable From Net Revenues. Nothing herein, except as expressly hereinafter provided, shall prevent the City from issuing additional securities payable from Net Revenues and constituting a lien thereon subordinate to the lien thereon of the Bond and any Outstanding Parity Securities.

SECTION 40. Issuance of Refunding Bonds. At any time after the Bond, or any part thereof, is issued and remain Outstanding, if the Council shall find it desirable to refund the Outstanding Bond or other Outstanding securities payable from and constituting a lien upon the Net Revenues, the Bond or such other securities, or any part thereof, may be refunded only if the Bond or other securities at the time or times of their required surrender for their payment shall then mature or shall be then callable for prior redemption for the purpose of refunding them at the Issuer's option upon proper call, unless the holder or holders of all such Outstanding securities consent to such surrender and payment, regardless of whether the priority of the lien for the payment of any refunding securities on Net Revenues is changed.

SECTION 41. Operation of the Landfill Enterprise. The City shall at all times operate the Landfill Enterprise properly and in a sound and economical manner and shall maintain, preserve and keep the Landfill Enterprise properly, or cause the same so to be maintained, preserved and kept, in good repair, working order and condition. The City also shall from time to time make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Landfill Enterprise may be properly and advantageously conducted in conformity with standards customarily followed by municipalities operating Landfill Enterprises of like size and character.

Except for the use of the Landfill Enterprise or services pertaining thereto in the normal course of business, neither all nor a substantial part of the Landfill Enterprise shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of until all of the Bond has been paid in full, or unless provision has been made therefor as hereinafter provided.

SECTION 42. Payment of Taxes, Etc. The City shall pay or cause to be paid all taxes, assessments and other municipal or governmental charges, if any, lawfully levied or assessed upon or in respect of the Landfill Enterprise or any part thereof, or upon any portion of the Net Revenues, when the same shall become due. The City shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to the Landfill Enterprise or any part thereof, except for any period during which the validity of the same is being contested in good faith by proper legal proceedings. The City shall not create or suffer to be created any lien or charge on the Landfill Enterprise or any part thereof, or upon the Net Revenues, except the pledge and lien created by this Ordinance for the payment of the Bond and any Outstanding Parity Securities or Subordinate Securities issued in accordance herewith, and except as herein otherwise permitted. The City shall pay or cause to be discharged or shall make adequate provision to satisfy and to discharge within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Landfill Enterprise or any part thereof, or upon the Net Revenues. Nothing herein contained requires

the City to pay or cause to be discharged or to make provision for any such tax, assessment, lien, charge or demand before the time when payment thereon shall be due, or so long as the validity thereof shall be contested in good faith by appropriate legal proceedings.

SECTION 43. No Competing Facilities. The City shall neither construct nor permit to be constructed other facilities or structures to be operated by the City separate from the Landfill Enterprise and competing for Net Revenues otherwise available for the payment of the Bond or any other securities payable from Net Revenues; provided, however, that nothing herein contained shall impair the police powers of the City or otherwise cause the City to violate any applicable law.

SECTION 44. Rate Covenant. The City shall charge against users or against purchasers of services or commodities pertaining to the Landfill Enterprise such fees, rates and other charges as shall be sufficient to produce Gross Revenues annually which, together with any other funds available therefor, will be in each Fiscal Year of the City at least equal to the sum of:

A. an amount equal to the annual Operation and Maintenance Expenses for such Fiscal Year;

B. an amount equal to 150% of the debt service due in such Fiscal Year on the then Outstanding Bond and any Outstanding Parity Securities, and 125% of all debt service payable from the Net Revenues; and

C. any other amounts payable from the Net Revenues and pertaining to the Landfill Enterprise, including, without limitation, debt service on any Subordinate Securities and any other securities pertaining to the Landfill Enterprise, operation and maintenance reserves, capital reserves and prior deficiencies pertaining to any account relating to Gross Revenues.

The foregoing rate covenant is subject to compliance by the City with any legislation of the United States of America, the State or other governmental body, or any regulation or other action taken by the United States, the State or any agency or political subdivision of the State pursuant to such legislation, in the exercise of the police power thereof for the public welfare, which legislation, regulation or action limits or otherwise inhibits the amounts of fees, rates and other charges subject to collection by the City for the use of or otherwise pertaining to, and all services rendered by, the Landfill Enterprise.

Subject to the foregoing, the City shall cause all fees, rates and other charges pertaining to the Landfill Enterprise to be collected as soon as reasonable and shall provide methods of collection and penalties to the end that the Gross Revenues shall be adequate to meet the requirements hereof.

SECTION 45. Accounts and Records. So long as any portion of the Bond remains Outstanding, proper records of record and account shall 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 Landfill Enterprise and to all moneys pertaining thereto, including, without limitation, the Gross Revenues.

SECTION 46. Defeasance. When all Bond Requirements of the Bond have been duly paid, the pledge and lien and all obligations hereunder as to that Bond shall thereby be discharged and the Bond shall no longer be deemed to be outstanding within the meaning of this Ordinance. There

shall be deemed to be due payment of any Outstanding Bond when the City has placed in escrow or in trust with a trust bank located within or without the State, an amount sufficient (including the known minimum yield available for such purpose from Federal Securities in which such amount wholly or in part may be initially invested) to meet all Bond Requirements of the Bond as the same become due to the final maturity of the Bond. The Federal Securities shall become due before the respective times on which the proceeds thereof shall be needed in accordance with a schedule established and agreed upon between the City and the bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure availability as so needed to meet the schedule. For the purpose of this Section, the term "Federal Securities" shall include only Federal Securities as defined in NRS 350.522 which are not callable for redemption prior to their maturities except at the option of the holder thereof. When such defeasance is accomplished, the Paying Agent shall mail written notice of the defeasance to the registered owner of the Bond at the address last shown on the registration records for the Bond maintained by the Registrar.

SECTION 47. Bondowner's Remedies. Each owner of the Bond shall be entitled to all of the privileges, rights and remedies provided herein, in the City Act, the Bond Act, the Supplemental Bond Act and this Ordinance, and as otherwise provided or permitted at law or in equity or by other statute, but subject to the provisions herein concerning the Net Revenues and the proceeds of the Bond. The Bond is expressly not subject to acceleration upon an event of default.

SECTION 48. Right to Enforce Payment. Nothing in this article affects or impairs the right of any owner of the Bond issued hereunder to enforce the payment of the Bond Requirements of the Bond or the obligation of the City to pay the Bond Requirements of each Bond to the owner thereof at the time and the place expressed in the Bond.

SECTION 49. Events of Default. Each of the following events is hereby declared an "Event of Default":

A. Nonpayment of Principal. Payment of the principal of the Bond, shall not be made when the same shall become due and payable, either at maturity or otherwise;

B. Nonpayment of Interest. Payment of any installment of interest shall not be made when the same becomes due and payable;

C. Incapable to Perform. The City shall for any reason be rendered incapable of fulfilling its obligations hereunder;

D. Nonperformance of Duties. The City shall have failed to carry out and, to perform (or in good faith to begin the performance of) all acts and things lawfully required to be carried out or to be performed by it under any contract relating to the Net Revenues, or otherwise, including, without limitation, this Ordinance, and such failure shall continue for sixty (60) days after receipt of notice from the owners of ten percent (10%) in principal amount of the Bond then Outstanding.

E. Appointment of Receiver. An order or decree shall be entered by a court of competent jurisdiction with the consent or acquiescence of the City appointing a receiver or receivers for the Net Revenues and any other moneys subject to the lien to secure the payment of

the Bond, or if an order or decree having been entered without the consent or acquiescence of the City, shall not be vacated or discharged or stayed on appeal within sixty (60) days after entry; and

F. Default of Any Provision. The City shall make default in the due and punctual performance of any other of the representations, covenants, conditions, agreements and other provisions contained in the Bond or in this Ordinance on its part to be performed, and if such default shall continue for sixty (60) days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the owners of ten percent (10%) in principal amount of the Bond then Outstanding.

SECTION 50. Remedies for Default. Upon the happening and continuance of any of the Events of Default described in the preceding section, then and in every case the owner or owners of not less than a majority in principal amount of the Bond then Outstanding, including, without limitation, a trustee or trustees therefor, may proceed against the City and its agents, officers and employees to protect and to enforce the rights of any owner of Bond under this Ordinance by mandamus or by 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 of execution of any power herein granted for the enforcement of any proper, legal or equitable remedy as the owner or owners may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any owner of the Bond, or to require the City 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 owners of the Bond and any Parity Securities then Outstanding.

SECTION 51. Receiver's Rights and Privileges. Any receiver appointed in any proceedings to protect the rights of such owners hereunder, the consent of any such appointment being hereby expressly granted by the City, may collect, receive and apply all Net Revenues arising after the appointment of such receiver in the same manner as the City itself might do.

SECTION 52. Rights and Privileges Cumulative. The failure of any owner of any outstanding Bond to proceed in any manner herein provided shall not relieve the City, its Governing Body, or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such owner is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any of them shall not be deemed a waiver of any other right or privilege thereof.

SECTION 53. Prejudicial Action Unnecessary. Nothing in this article requires the City to proceed as provided herein if the Council determines in good faith and without any abuse of its discretion that if the City so proceeds it is more likely than not to incur a net loss rather than a net gain or such action is otherwise likely to affect materially and prejudicially the owners of the outstanding Bond and of any Outstanding securities on a parity with the Bond.

SECTION 54. Replacement of Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign, or if the Council shall reasonably determine that it is in the best interests of the City to approve a successor Registrar or Paying Agent, upon notice mailed to the owner of the Bond at his or her address last shown on the registration records, the Council may appoint a successor Registrar or Paying Agent, or both. No resignation or dismissal

of the Registrar or Paying Agent may take effect until a successor is appointed. It shall not be required that the same institution or person serve as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution or person serve as both Registrar and Paying Agent.

Any corporation or association into which the Registrar or Paying Agent may be converted or merged, or with which they may be consolidated, or to which they may sell or transfer their corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer, to which they are a party, shall be and become the successor Registrar or Paying Agent under this Resolution, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything in this Resolution to the contrary notwithstanding.

SECTION 55. Amendments. This Ordinance may be amended or supplemented by instruments adopted by the City, without receipt by the City of any additional consideration, but with the written consent of the owners of at least a majority in aggregate principal amount of the Bond authorized by this Ordinance and Outstanding at the time of the adoption of the amendatory or supplemental instrument, excluding bonds which may then be held or owned for the account of the City, but including such refunding securities as may be issued for the purpose of refunding any of the Bond if the refunding securities are not owned by the City. No such instrument shall permit:

- A. A change in the maturity or in the terms of redemption of the principal or any installment thereof of the Outstanding Bond or any installment of interest thereon;
- B. A reduction in the principal amount of the Bond, the rate of interest thereon, without the consent of the owner of the Bond;
- C. A reduction of the principal amount or percentages or otherwise affecting the description of the portion of the Bond of which the consent of the owners thereof is required for any modification or amendment;
- D. The establishment of priorities as between the Bond issued and Outstanding under the provisions of this Ordinance; or
- E. The modification of, or other action which materially and prejudicially affecting the rights or privileges of the owners of less than all of the Bond then Outstanding.

Whenever the City proposes to amend or modify this Ordinance under the provisions of this Section, it shall cause notice of the proposed amendment to be given not later than 30 days prior to the date of the proposed enactment of the amendment by mailing to the owners thereof. The notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory instrument is on file in the office of the City Clerk/Treasurer for public inspection.

Whenever at any time within one year from the date of the mailing of such notice there shall be filed in the office of the City Clerk/Treasurer an instrument or instruments executed by the owners of a majority of the Bond which instrument or instruments shall refer to the proposed amendatory instrument described in the notice and shall specifically consent to and approve the adoption of the

instrument, thereupon, but not otherwise, the City may adopt the amendatory instrument and the instrument shall become effective.

The Bond authenticated and delivered after the effective date of any action taken as in this Article provided may bear a notation by endorsement or otherwise in form approved by the City as to the action.

SECTION 56. Delegated Powers. The officers of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limitation:

- A. The printing of the Bond;
- B. The execution of such certificates as may be reasonably required by the Purchaser relating to the signing of the Bond, the tenure and identity of the officials of the City, the exclusion of interest on the Bond from gross income for federal income tax purposes to the extent provided herein, the delivery of the Bond and the receipt of the Bond purchase price, if it is in accordance with fact, the absence of litigation, pending or threatened, affecting the validity of the Bond, and the completeness and accuracy of any information provided the Purchaser in connection with the Bond as of the date of delivery of the Bond;
- C. The execution of the Certificate of the City Clerk/Treasurer; and
- D. The sale and issuance of the Bond pursuant to the provisions of this Ordinance.

SECTION 57. Ordinance Irrepealable. After any of the Bond is issued, this Ordinance shall constitute an irrevocable contract between the City and the owner or owners of the Bond; and this Ordinance shall be and shall remain irrepealable until the Bond, as to all Bond Requirements, shall be fully paid, canceled and discharged as herein provided.

SECTION 58. Repealer. All ordinances, resolutions, bylaws and orders, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part hereof, heretofore repealed.

SECTION 59. Publication and Effective Date. The Council has expressed in the preambles to this Ordinance that it pertains to the sale, issuance, or payment of the Bond, and that this instrument may accordingly be adopted as if an emergency now exists. This Ordinance shall become effective after its publication by its title only, together with a statement that typewritten copies of this Ordinance are available for inspection by interested parties at the office of the City Clerk/Treasurer, such publication to be made in a newspaper or newspapers published in Churchill County and which is of general circulation in the City and such publication to be in substantially the following form:

(Form of Publication of Adoption of Ordinance)

BILL NO. ____

ORDINANCE NO. ____

AN ORDINANCE DESIGNATED BY THE SHORT TITLE “2023 LANDFILL ENTERPRISE REVENUE BOND ORDINANCE”; PROVIDING FOR THE ISSUANCE BY CITY OF FALLON, NEVADA OF ITS LANDFILL ENTERPRISE REVENUE BOND, SERIES 2023; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BOND, THE USE OF ITS PROCEEDS AND PROVIDING FOR THE SALE THEREOF; SECURING ITS PAYMENT BY A PLEDGE OF REVENUES DERIVED FROM THE LANDFILL ENTERPRISE OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD THE ISSUANCE OF THE BOND; AND PROVIDING FOR ADOPTION AS IF AN EMERGENCY EXISTS.

PUBLIC NOTICE IS HEREBY GIVEN that the above entitled Ordinance was proposed by Councilman _____ at the regular meeting of the City of Fallon City Council held on November __, 2023, and was passed and adopted at the regular meeting of the City of Fallon City Council held on November __, 2023, by the following vote of the City Council:

Those Voting Aye:

Those Voting Nay:

Those Absent:

This Ordinance shall be in full force and effect from and after the __ day of _____, 2023.

IN WITNESS WHEREOF, the City Council of the City of Fallon, Nevada has caused this Ordinance to be published by title only.

DATED this November ____, 2023.

Mayor

Attest:

City Clerk/Treasurer

(End of Form of Publication)

DRAFT

SECTION 60. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

(SEAL)

Mayor

Attest:

City Clerk
City of Fallon, Nevada

This Ordinance shall be force and effect from and after the ____ day of _____, 2023.

STATE OF NEVADA)
) ss.
COUNTY OF CHURCHILL)

I, Sean Richardson, the duly chosen, qualified and acting City Clerk/Treasurer of City of Fallon, Nevada (the “City”) do hereby certify:

1. The foregoing pages are a true, perfect and a complete copy of an ordinance and adopted by the Council at a lawful meeting of the Council held on November ____, 2023, as recorded in the official record book of the proceedings of the City kept in my office.

2. The members of the Council voted on the introduction of the ordinance on November ____, 2023 as follows:

Those Voting Aye:

Those Voting Nay:

Those Absent:

3. The members of the Council voted on the final passage of the ordinance as set forth following the ordinance.

4. All members of the Council were given due and proper notice of the meeting held on November ____, 2023.

5. Public notice of such meeting was given and such meeting was held and conducted in full compliance with the provisions of NRS 241.020.

6. Prior to 9:00 a.m. at least 3 working days before such meeting, such notice was mailed to each person, if any, who has requested notices of meetings of the Council in compliance with NRS 241.020(3)(b) by United States Mail, or if feasible and agreed to by the requestor, by electronic mail.

7. A copy of the notice so given of the meeting of the Council held on November ____, 2023 is attached to this certificate as Exhibit A.

8. A copy of the affidavit of publication of the Ordinance by title after its adoption is attached to this certificate as Exhibit B.

IN WITNESS WHEREOF, I have hereunto set my hand this November ____, 2023.

(SEAL)

Sean Richardson, City Clerk/Treasurer

DRAFT

EXHIBIT A

(Attach Copy of Notice of Meeting of November ____, 2023)

DRAFT

EXHIBIT B

(Attach Affidavit of Publication of Notice of Adoption of an Ordinance)

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