RESOLUTION NO. 26-16

A RESOLUTION RELATING TO THE PROPOSED INDUSTRIAL REVENUE BONDS ENTITLED CITY OF ROSWELL, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (GALLAGHER SOLAR LLC PROJECT), SERIES 2026, DECLARING THE INTENT OF CITY OF ROSWELL TO ISSUE SUCH INDUSTRIAL REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT UP TO $4,800,000 IN CONNECTION WITH A PROPOSED PROJECT LOCATED WITHIN THE BOUNDARIES OF CITY OF ROSWELL FOR THE PURPOSE OF INDUCING GALLAGHER SOLAR LLC OR ITS SUCCESSORS OR ASSIGNS TO CONSTRUCT AND INSTALL THE PROJECT.

WHEREAS, the New Mexico legislature has passed the "Industrial Revenue Bond Act" (the "Act"), Sections 3-32-1 to 3-32-16 inclusive, NMSA 1978, as amended, which authorizes the City of Roswell, New Mexico (the "City") to issue industrial revenue bonds and to acquire projects as defined in the Act; and

WHEREAS, the City desires to promote industry and trade by inducing manufacturing, industrial and commercial enterprises to locate or expand in the City, to promote the use of the natural resources of the City, and to promote a sound and proper balance in the State of New Mexico between agriculture, commerce and industry, and to promote the public health, safety, security, and the general welfare of the citizens of the City; and

WHEREAS, Gallagher Solar LLC, a Delaware limited liability company (the "Company") has made a proposal to the City whereby the City will acquire equipment, improvements and other tangible personal property located in the City for an electric energy power generation facility under the "Community Solar Act", Sections 62-16B-1 to 62—16B-8 inclusive, NMSA 1978, as amended (the "Community Solar Act") for use by the Company which will constitute an industrial development project (the "Project"); and

WHEREAS, the proposed project site for the Project is within the corporate boundaries of the City of Roswell; and

WHEREAS, the City's issuance of industrial revenue bonds in one or more series for the Project (the "Bonds") to finance the Project will constitute one of the inducements whereby the Company will determine to proceed with the Project; and

WHEREAS, the City Council (the "Council") constitutes the governing body of the City within the meaning of the Act; and

WHEREAS, the Project has been considered by the Council and the Council has concluded that the Project will promote the health, safety, security, and general welfare of the citizens of the City, and the Council desires to indicate its intent to consider proceeding with the issuance of the Bonds for the financing of the Project; and

WHEREAS, concurrently with the issuance of the Bonds and subject to negotiations and approval from the City, the Company will enter into an installment sale, lease or other financing agreement with the City under which the City will acquire the Project, and which will provide for the payment of installments, lease rentals or other payments by the Company from the revenues generated by the Project or other funds of the Company sufficient to pay the debt service on the Bonds, subject to the prior adoption by the Council of an ordinance for the Project approving such agreements and authorizing issuance of the Bonds (the "Bond Ordinance"); and

WHEREAS, the City and the Company understand that the adoption of this Resolution shall not obligate the City to issue the Bonds except in full compliance with the terms of the Bond Ordinance to be considered for adoption by the Council prior to the issuance of the Bonds and with the terms of the related bond documents; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, THE GOVERNING BODY OF THE CITY OF ROSWELL, NEW MEXICO:

Section 1. All actions (not inconsistent with the provisions hereof) heretofore taken by the Council and the officers and employees of the City, related to the proposal, the acquisition of the Project, and the sale and issuance of the Bonds therefor, be and the same hereby are, ratified, approved and confirmed.

Section 2. The Council has been informed as follows.

A. The Project will consist of an 2.7 MW electric energy power generation project developed under the Community Solar Act.

B. The developer and operator of the Project will be the Company or its permitted successors or assignees.

C. The proposed project site of the Project is located within the corporate boundaries of the City.

D. The Company will make all necessary arrangements with the proposed bond purchaser for the purchase of the Bonds issued to finance the Project and the City shall have no responsibility to make such arrangements.

E. The Company has agreed to pay or reimburse the City for all costs of financial advisors, legal counsel, including independent bond counsel of the City directly related to adoption of this Resolution, consideration and adoption of the Bond Ordinance and issuance of the Bonds. The Company has agreed to such payment or reimbursement irrespective of whether the Bonds are issued.

F. The Company shall make payments in lieu of taxes to the City and the school districts located within the City as agreed upon by the Company and the City, which arrangement shall be as set forth in the transaction documents approved by the Bond Ordinance.

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Section 3. In order to promote the health, safety, security and general welfare of the citizens of the City, it is the Council's intent to take all necessary and advisable steps to consider and, if appropriate, to effect the issuance of the Bonds in an aggregate principal amount up to $4,800,000 in one or more series in order to defray part or all of the costs of the Project. The Bonds are to be entitled substantially as follows: "City of Roswell, New Mexico Taxable Industrial Revenue Bonds (Gallagher Solar LLC), Series 2026," provided, however, that the Bond Ordinance may authorize a different title and series designation for the Bonds.

Section 4. The Bonds shall be payable from the revenues of the Project or other moneys payable by the Company with respect thereto, and shall not constitute a debt or indebtedness of the City within the meaning of any provision or limitation of the Constitution or statutes of the State of New Mexico. In addition, if the Bonds are issued, the Company shall indemnify and hold harmless the City, the Council and their respective officers, employees, designated representatives and agents (collectively, the "Indemnified Persons") from and against any liability to the Company or to any third parties that may be asserted against the City with respect to the City's ownership of or leasehold interest in the Project or the issuance of the Bonds. Nothing contained in this Resolution or in any other instrument shall be considered as obligating the City to any pecuniary liability or a charge upon the general credit of the City or against its taxing power, it being understood that no costs are to be borne by the City and that all costs incurred by the City in connection with the Bonds are to be promptly reimbursed by the Company. The City's adoption of this Resolution shall not be deemed a conclusion or expression of approval by the City or any Indemnified Person of the Company or any Project.

Section 5. The Company, as agent for the City, will acquire the Project. For tangible personal property relating to any Project, the City will cooperate with the Company to obtain and allow use of Type 9 Nontaxable Transaction Certificates ("Certificates"), if applicable, that have been properly executed for acquisition of tangible personal property relating to the Project as applicable under the New Mexico Gross Receipts and Compensating Tax Act. The Company shall not use the Certificates other than for such things as may be permitted by law, if any, nor shall the Company use such Certificates after the completion of the Project. Prior to the use of such Certificates by the Company as agent for the City, the City Manager and the Company will agree to certain procedures regarding the use of the Certificates and protection of the City from any unpaid taxes determined to be due to the Taxation and Revenue Department. No costs, expenses or other monetary relief will be recoverable from the City by any vendors of equipment for use in the Project to the Company.

Section 6. The City Councilors and other appropriate City officials and employees are hereby authorized and empowered to take such steps and to do such things as may be necessary to achieve the purposes of this Resolution; provided, however, the issuance of the Bonds and the execution and delivery of any documents to which the City is a party in connection therewith shall be subject to the approval and authorization of the Council pursuant to the Bond Ordinances, adopted following public notice of the Council's intent to adopt such Bond Ordinances at least fourteen days prior to the consideration of the Bond Ordinance by the Council at a public meeting, such public notice to specify the time, date and place of the Council's public hearing on the Bond Ordinances and the meeting at which the Bond Ordinances will be considered. In particular, no provision of this Resolution shall in any way obligate the City or any other person to issue the

Bonds or any other bonds, or to in any way finance any Project; and the City retains full and complete discretion with respect thereto.

Section 7. If Bonds are issued by the City, the documentation evidencing the obligations of the Company shall provide that the Company shall make annual payments in lieu of taxes to the City and the school districts located within the City for the term set forth in that documentation.

Section 8. This Resolution shall not give rise to a pecuniary liability of the City and shall not give rise to a charge against its general credit or taxing powers.

Section 9. The City Clerk is hereby directed to publish in a newspaper of general circulation within the City a title and general summary of the Bond Ordinance, substantially the form attached hereto as Exhibit A at least two weeks prior to the meeting at which the City Council will consider such ordinance. The City Clerk may undertake such publication upon her own initiative, following consultation with the City Manager and receipt by the City of draft Bond Ordinance and any necessary documents related thereto.

Section 10. If any section, paragraph, clause or provision of this Resolution 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 Resolution.

Section 11. All orders and resolutions, or parts thereof, in conflict with this Resolution are hereby repealed; provided, however, this repealer shall not be construed to revive any order, resolution or part thereof, heretofore repealed.

Section 12. This Resolution shall take effect immediately upon its adoption and approval by the Council.

[Signatures Follow on Next Page]

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PASSED, ADOPTED, SIGNED, AND APPROVED this 12th day of March 2026.

_____
Timothy Z. Jennings, Mayor

_____
Date:

(SEAL)

ATTEST:

By: _____
Amalia Martinez, City Clerk

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Exhibit A

FORM OF NOTICE OF INTENT TO ADOPT
INDUSTRIAL REVENUE BOND ORDINANCE FOR PUBLICATION

CITY OF ROSWELL, NEW MEXICO
NOTICE OF INTENT TO ADOPT
INDUSTRIAL REVENUE BOND ORDINANCE

Notice is hereby given that at its regular meeting on _____ __, 2026, commencing at the hour of [6:00 p.m.] the City Council of the City of Roswell, New Mexico will conduct a public hearing to consider a proposed Ordinance, the title of which appears below. The meeting will take place at the regular meeting place of the Council at Roswell City Hall, Large Conference Room 425 N. Richardson Ave. Roswell, New Mexico 88203,. A complete copy of the Ordinance is available for public inspection during normal and regular business hours at the Office of the City Clerk at 425 N. Richardson Ave. Roswell, New Mexico 88203.

The title of the proposed Ordinance is:

CITY OF ROSWELL, NEW MEXICO
BOARD OF CITY COUNCILORS
ORDINANCE NO. _____]

AUTHORIZING THE ISSUANCE AND SALE OF CITY OF ROSWELL, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (GALLAGHER SOLAR LLC PROJECT), IN A MAXIMUM PRINCIPAL AMOUNT OF UP TO $4,800,000 IN ONE OR MORE SERIES TO PROVIDE FUNDS TO FINANCE THE EQUIPPING OF AN INDUSTRIAL REVENUE BOND PROJECT FOR USE BY GALLAGHER SOLAR LLC OR ITS SUCCESSORS OR ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, A LEASE, A BOND PURCHASE AGREEMENT, A SUBLEASE, THE BONDS AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE PROJECT; AUTHORIZING A PAYMENT IN LIEU OF TAXES TO THE CITY BY THE COMPANY BY THE COMPANY; AND MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE BONDS AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

As proposed in the Ordinance: (1) the Bonds will be issued under the authority of the New Mexico City Industrial Revenue Bond Act, Chapter 3, Article 32, NMSA 1978, as amended; (2) the proceeds of the Bonds will finance the acquisition of equipment for an electric energy power generation facility in the City of Roswell, New Mexico (the "Project") for the use by Gallagher Solar LLC, (the “Company”); and (3) the Project will be leased to the Company.

Under the terms of a proposed Lease Agreement (each, a "Lease") between the City and the Company, the Company will be obligated to pay rent for the Project sufficient to pay, when

due, the principal of, interest on and redemption price, if any, of the Bonds and to make certain other payments as provided in each Lease. The Bonds will be issued pursuant to an Indenture (the "Indenture") among the Company, the City, the bond purchaser and a depositary. The Bonds will be sold to a bond purchaser pursuant to the terms of a proposed Bond Purchase Agreement.

THE PRINCIPAL OF, INTEREST ON AND REDEMPTION PRICE OF THE BONDS WILL NEVER CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY PROVISION OR LIMITATION OF THE CONSTITUTION OR STATUTES OF THE STATE OF NEW MEXICO. THE BONDS WILL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE CITY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS.

The Bonds will mature, bear interest, be subject to prior redemption and contain other terms and provisions all in accordance with the Indenture and the Ordinance.

This notice is given pursuant to Section 3-17-3 NMSA 1978.

(To be published once in a newspaper of general circulation in City of Roswell at least two weeks before consideration of Bond Ordinance)

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