

# Lower Rio Grande Public Works Authority Election Policy

## 1. Definitions.

As used in the Lower Rio Grande Public Water Works Authority Election Policy:

- A. "Authority" means the Lower Rio Grande Public Water Works Authority, a legal entity created through legislative action under NMSA 1978 §73-26-1 (2009).
- B. "board" means the governing authority
- C. "election" means a regular or special election but does not include a recall election.
- D. "filing officer" means the Authority General Manager
- E. "Authority election official" means the Authority General Manager
- F. "member in good standing" means a person who has complied with Section 2.01 of the Authority Governance Document and whose service has not been deactivated or disconnected for non-payment

## 2. Elections; registration.

- A. A list of eligible voters for each Authority voting district shall be maintained by the Authority General Manager and provided to the Doña Ana County Clerk at least twenty-eight (28) days prior to the election.
- B. In order to register with the Authority as an eligible voter, a person must:
  - (1) Own real property within the Authority's recorded designated service area;
  - (2) Receive services provided by the Authority to that property; and
  - (3) Be a member as defined in the Governance Document of the Authority
- C. The list of eligible voters will be closed thirty (30) days prior to the election and reopened the day after the election.

## 3. Elections; qualifications of candidates.

- A. An election shall be held to elect qualified members to the board of directors. No persons shall become a candidate for the board unless they meet all of the following requirements:
  - (1) He/she owns real property within the Authority's recorded designated service area;
  - (2) He/she receives services provided by the Authority to that property;
  - (3) He/she is a member in good standing of the Authority; and
  - (4) He/she may run for election only for the district in which he/she is an eligible voter.
- B. A regular election shall be held on the first Tuesday in April of each odd-numbered year.
- C. An election held at any time other than the date for the regular election shall be a special election.

D. Except as otherwise provided in this Election Policy, elections shall be called, conducted, and canvassed as provided in the Election Code [NMSA 1978, Sections 1-24-1 through 4 and other relevant provisions of Chapter 1].

#### **4. Regular election; proclamation; publication.**

A. The Authority board by resolution shall issue a public proclamation in Spanish and English calling for a regular election on the date prescribed by this Election Policy. The proclamation shall be filed by the board chair with the Doña Ana county clerk no later than the last Tuesday in January of the odd-numbered year in which the election is to be held.

B. The proclamation shall specify:

- (1) the date when the election will be held;
- (2) the purpose for which the election is held;
- (3) the positions on the board to be filled;
- (4) the date on which declarations of candidacy are to be filed;
- (5) the districts within the Authority for which board positions are to be filled and the location of each polling place;
- (6) the hours each polling place will be open; and
- (7) the date and time of the closing of the registration books by the Authority election official.

C. After filing the proclamation with the county clerk of record and not less than fifty-six days before the date of the election, the county clerk of record shall publish the proclamation for two consecutive weeks in a newspaper of general circulation within the Authority's designated service area.

#### **5. Special election; proclamation; publication.**

A. Whenever a special election is to be called or is required, the board shall by resolution issue a public proclamation in Spanish and English calling the election. The proclamation shall forthwith be filed by the board president with the county clerk of record.

B. The proclamation shall specify:

- (1) the date on which the special election will be held;
- (2) the purpose of the special election;
- (3) the question(s) to be submitted to the voters;
- (4) the location of each polling place;
- (5) the hours each polling place will be open; and
- (6) the date and time of the closing of the registration books by the Authority election official.

C. After filing the proclamation with the county clerk of record and not less than fifty-six days before the date of the election, the county clerk of record shall publish the proclamation weekly for two consecutive weeks in a newspaper of general circulation within the Authority's designated service area.

**6. Districts; polling places.**

- A. The same districts that are used in a regular election shall be used in a special election.
- B. The county clerk shall consolidate Authority districts for an election as provided in the proclamation for that election and shall provide for a polling place(s) within each Authority district or consolidated district.

**7. Declaration of candidacy; filing date; penalty.**

- A. A candidate for a board position that will be filled at a regular election, or his or her designated agent as appointed in writing, shall file a declaration of candidacy with the proper filing officer during the period commencing at 9:00 a.m. on the third Tuesday in February of the odd-numbered year immediately preceding the date of the regular election and ending at 5:00 p.m. on the same day.
- B. A candidate shall file for only one board position during a filing period.
- C. Whoever knowingly makes a false statement in his declaration of candidacy is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of NMSA 1978, Section 31-18-15.

**8. Declaration of candidacy; sworn statement of intent; form.**

In making a declaration of candidacy, the candidate shall submit a sworn statement of intent in substantially the following form:

"DECLARATION OF CANDIDACY - STATEMENT OF INTENT

(Must be filed the 3<sup>rd</sup> Tuesday in February of the odd-numbered year immediately preceding the date of the regular election)

I, \_\_\_\_\_, (candidate's name on list of eligible voters) being first duly sworn, say that I am an eligible voter registered in District No. \_\_\_\_\_ of the Lower Rio Grande Public Water Works Authority, County of Doña Ana, State of New Mexico. I reside at \_\_\_\_\_ and was a qualified member of the Authority on the date of the Authority's board's proclamation calling the election for which I am a candidate.

I desire to become a candidate for the Authority's board of directors for District Number \_\_\_\_\_ at the Authority election to be held on the date set by law;

I will be eligible and legally qualified to hold this office at the beginning of its term;

I swear under oath that I have no record of crime or conviction designated under state or federal law;

I am not related by marriage or in kinship to a standing board member;

I am not a current director, officer, employee, contractor, or elected or appointed official of any public or private utility that provides the same services as the Authority; and

I make the foregoing affidavit under oath, knowing that any false statement contained herein constitutes a felony punishable under the criminal laws of New Mexico.

\_\_\_\_\_  
(Declarant)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(Residence Address)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Notary Public)  
My commission expires:

\_\_\_\_\_".

**9. Withdrawal of candidates.**

A. A candidate seeking to withdraw from a regular election shall withdraw no later than the thirty-fifth day before the date of the election by filing a signed and notarized statement of withdrawal with the proper filing officer.

B. The Authority election official shall not place on the ballot the name of any candidate who timely filed a statement of withdrawal.

C. In withdrawing a declaration of candidacy, the candidate shall submit a sworn statement of intent in substantially the following form:

**DECLARATION OF WITHDRAWAL OF CANDIDACY - STATEMENT OF INTENT**

(Candidate's name will not appear on ballot if filed before 5:00 p.m. on the 35<sup>th</sup> day preceding the date of the election)

I, \_\_\_\_\_, (candidate's name on Declaration of Candidacy) being first duly sworn, say that I am a Declared Candidate in District No. \_\_\_\_\_ of the Lower Rio Grande Public Water Works Authority, county of Doña Ana, State of New Mexico having properly filed a Declaration of Candidacy – Statement of Intent on the required date.

I hereby withdraw my candidacy for election to the Authority's board of directors and request that my name be removed from the ballot.

\_\_\_\_\_  
(Declarant)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Mailing Address)

\_\_\_\_\_  
(Residence Address)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

My commission expires: \_\_\_\_\_

D. In the event that a candidate withdraws his or her candidacy, and there is no candidate remaining on the ballot for Director in the District, the Authority election official shall re-open for ten days the time in which any another eligible voter may file a declaration of candidacy to fill the vacated position.

**10. Ballots.**

**A.** The Authority election official shall determine whether a candidate filing a declaration of candidacy is a qualified eligible voter. If the candidate is deemed qualified and no withdrawal of candidacy has been filed as provided in this Election Policy, the Authority election official shall place the candidate's name on the ballot for the position specified in the declaration of candidacy. A declaration of candidacy shall not be amended after it has been filed with the Authority election official.

**B.** Ballots for the election shall be prepared by the Authority election official and printed by the thirtieth day preceding the election. The cost of printing the ballots shall be paid by the authority. The printed ballot shall contain the name of each person who is a candidate and the position on the board for which the person is a candidate. The ballot shall also contain any questions to be submitted to the voters as certified to the Authority election official by the board.

**C.** Paper ballots shall be printed in a form in substantial compliance with the provisions of and in compliance with the provisions of the federal Voting Rights Act of 1965, as amended.

**D.** An election shall be a nonpartisan election, and the names of all candidates shall be listed on the ballot without party or slate designation. The order in which the names of candidates are listed on the ballot shall be determined by lot. The determination by lot shall be made immediately following the closing time for the filing of declaration of candidacy and all candidates or their agents shall be entitled to be present at such time.

**E.** Voting machines shall be used for the recording of votes cast in an election; provided that paper ballots may be hand counted in lieu of using a voting machine to tabulate ballots for:

(1) Authority districts of less than two hundred potential voters; or

(2) elections in which only one candidate has filed a declaration of candidacy for each position to be filled at the election, there are no questions or bond issues on the ballot.

## **11. Publication of Notice of Election.**

The Authority election official for the Authority shall issue and publish a notice of election proclamation listing the name of each candidate for election to the board by District, the offices to be filled, each question to be submitted to the voters, if any, the names of the voting districts for which offices are to be filled, and the name and location of all polling places. The publication shall be made once each week for two successive weeks, with the last publication being made within seven days but not later than two days before the date of the election. The names of the candidates shall be published in the same order and for the same positions as will appear on the ballot. The publication shall be in a newspaper of general circulation in the county and shall conform to the provisions of the federal Voting Rights Act of 1965, as amended. The cost of the publication shall be paid by the Authority. A copy of the proclamation shall also be posted in a public building and shall be printed in Spanish and English.

## **12. Conduct of elections.**

**A.** Except as otherwise provided in this policy, the Doña Ana county clerk shall administer and conduct the Authority's elections pursuant to the provisions of the Election Code for the conduct of general elections.

**B.** District board members for each polling place shall be appointed by the county clerk from among Authority members who meet the qualifications set forth in NMSA 1978, Section 1-2-7 and who reside within the Authority's designated service area. The number of members on each District board shall be as provided in NMSA 1978, Section 1-2-12(C). Vacancies on election day shall be filled as provided in NMSA 1978, Section 1-2-15.

C. In the event that only one candidate has filed a declaration of candidacy for each position to be filled at the election and there are no questions or bond issues on the ballot, the county clerk shall perform the duties of the district board and no other district board shall be appointed.

D. All costs associated with the elections shall be paid by the Authority.

### **13. Votes required.**

A. The candidate receiving a plurality of the votes cast for a designated position on the board shall be elected to that designated position.

B. All questions submitted to the voters shall be decided by a majority of the voters voting on the question.

### **14. Canvassing board; duties.**

A. The canvassing board for the canvass of the results of an election shall be composed of the Authority's general manager, the county clerk, and the presiding judge of the Doña Ana County Magistrates Court, or his or her appointee.

B. Ballots cast in the election shall be transported by the presiding judge of the district board upon the closing of the polls to the office of the Authority election official. Each ballot box shall have two locks or seals. The key to one lock or a seal on each ballot box and one copy of the signature roster shall at that time be placed in a stamped, addressed envelope provided for that purpose and shall be mailed to the presiding judge of the Doña Ana County Magistrates Court.

C. Within three days after the date of the election, the canvassing board shall meet in the office of the Authority election official and shall:

- (1) canvass the returns in the same manner as county election returns are canvassed;
- (2) determine the total number of persons voting in the election; and
- (3) issue a certificate of canvass of the results of the election and send one copy of the certified results:
  - (a) to the Authority board;
  - (b) to the secretary of state; and
  - (c) to the Authority election official to be filed in his office.

D. The canvassing board shall issue a certificate of election to each candidate whom it determines to be elected.

E. The county clerk of record shall cause the results of the election to be published once in a newspaper of general circulation in the county.

### **15. Election contests.**

Any unsuccessful candidate for election to the board may contest the election of the candidate to whom a certificate of election has been issued. The procedure to be followed in contest cases shall be the same as provided by the Election Code [Chapter 1, Article 14, NMSA 1978].

**16. Records.**

The returns and certificates of the result of the canvass are public documents, subject to inspection during the customary hours and days of business. Signature rosters and tally sheets may be destroyed three years after the election to which they apply. The certificate of results of the canvass of the election shall, thirty days after the election or immediately after any contest has been settled by the court, be placed on file as a permanent record in the state records center. A copy of the certificate of results of the canvass of the election shall be kept on file in the office of the Authority election official for a period of three years.

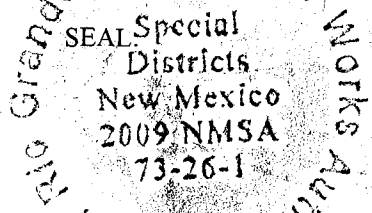
**17. Absentee voting.**

A. A voter may vote in an election by absentee ballot for all candidates and on all questions appearing on the ballot in his or her district as if casting a ballot in person at the polling place on election day.

B. The provisions of the Absent Voter Act [NMSA 1978, Chapter 1, Article 6] apply to absentee voting in Authority elections, provided that absentee ballots may be marked in person during the regular hours and days of business at the office of the County Clerk from 8:00 a.m. on the twenty-fifth day preceding the election until 5:00 p.m. on the Friday immediately prior to the date of the election. Absentee ballots shall be printed at least thirty days prior to the date of the election. Provisions may be made by the board in the proclamation for absentee voting in person from 8:00 a.m. on the twentieth day preceding an election until 5:00 p.m. on the Friday immediately prior to the date of the election.

C. A regular district board may be designated to serve as the absent voter district board. A member of the absent voter district board shall receive the same compensation as a regular district board member. A regular district board member who also serves as a member of the absent voter district board shall be entitled to extra compensation for serving on the absent voter district board.

This policy was duly adopted by the Lower Rio Grande Public Water Works Authority Board of Directors on July 19, 2012 and amended this 16<sup>th</sup> day of January, 2013 by a vote of 5 in favor, 0 opposed and 0 abstaining.



Attest:  
Santos Ruiz  
Santos Ruiz, Secretary

Roberto Nieto  
Roberto Nieto, Board Chair