



Lower Rio Grande Public Water Works Authority
Sign In Sheet Page 1 of 2

Date: 9/19/15

Time: 9:30

Places: East Mesa Office Event: Regular Board Meeting

Signature	Print Name, Title, Company or Agency Represented	Contact Information	Email Address
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	Jose REVANE LRG WWA	575-233-5742	
James Day	LANCE IVY LRG PWWA	575 614 0182	
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	Kelli Lawson Finance Manager	526 9683	info@lrgwa.org
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LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Draft Minutes — REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, September 19, 2018 at our East Mesa Office, 9774 Butterfield Blvd, Butterfield, NM

Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWVA Office or at www.LRGauthority.org/noticesavisos.html. Call 575-233-5742 or email board@LRGauthority.org for information

- I. **Call to Order, Roll Call to Establish Quorum:** Chairman Mr. Mike McMullen called the meeting to order at 9:33 a.m. and called roll. Mr. Raymundo Sanchez representing District #1 was absent, District #2 is Vacant, Mr. Joe Evaro representing District #3 was present, Mrs. Esperanza Holguin representing District #4, Mr. Henry Magallanez representing District # 5 was present, Mr. Mike McMullen representing District #6 was present, Mr. Furman Smith representing District #7 was present. Staff members present were General Manager Martin Lopez, Projects Manager Karen Nichols, Finance Manager Kathi Jackson, Accounting Assistant John Schroder, Projects Specialist Patricia Charles, Water/Waste Water Operator Lance Ivy and Attorney Josh Smith.
- II. **Pledge of Allegiance:** Mr. McMullen led the pledge of Allegiance.
- III. **Motion to approve Agenda (VIII A. may be postponed):** Mr. Smith made the motion to approve the September 19, 2018 agenda with IX A, postponed. Mrs. Holguin seconded the motion, the motion passed with all in favor.
- IV. **Approval of Minutes – Motion to approve the minutes of the August 15, 2018 Regular Board Meeting:** (NOTE: Two signed originals are needed, one will go to NMED-CPB for the RIP Loan for land purchase) Mr. Smith made the motion to approve the minutes for August 15, 2018. Mrs. Holguin seconded the motion. The motion passed with all in favor.
- V. **Presentations: none**
- VI. **Staff Years of Service Recognition: Lance Ivy – 5 years:** Water/Waste Water Operator Level 2, Lance Ivy was recognized for his service with LRGPWVA. Mr. Lopez presented him with a plaque and thanked him for his service.
- VII. **Public Input: none**
- VIII. **Managers' Reports**
 - A. **General Manager:** Mr. Lopez provided a written report and stood for questions. He authorized Attorney Josh Smith to submit an offer of Judgement for the Vado office land which does not have water rights. He and Ms. Nichols attended the Colonia's Board meeting in Cloudcroft on August 29th. He authorized Ms. Nichols to provide comments on behalf of stakeholders to Colonia's Board Chair, she can send the board members a copy of the letter if anyone would like to look at it. He authorized Ms. Jackson to implement an Automated Phone Payment Credit/Debit card system at no cost to LRGPWVA. Talavera MDWCA has requested a proposal for LRGPWVA to provide customer billing. Mr. Evaro asked how may members they have, Mr. Lopez told him they have about 60 members of which 50 are active.

- B. Projects:** Ms. Nichols provided a written report and stood for questions. She has received many calls regarding the time line for the sewer project. She sent the final paperwork for Project 1 for sewer, but there have been some delays at USDA Rural Development office. Ms. Goolsby, SCCOG has begun work on the application for CDBG for the \$100K planning grant for the water master plan project. The Valle Del Rio Water System Project Phase I is nearly complete. Mr. Mike Lopez said the last booster has been installed and is up and running. Ms. Nichols said there should be a final completion meeting late next week to discuss final draws. There was a little money left and has discussed how to use that with the Engineers.
- C. Operations:** Mr. Mike Lopez provided a written report and stood for questions. He said a 6 in by 6 in hot tap was installed at the Santo de Lima Church in Berino for a fire suppression system. They had not been able to use the church for a long time. Operations performed some inhouse testing on the production meters in Butterfield and found the meter at well #2 is 20% slow, so we will have to order a new ABB mag-meter. The national average for this type of testing is 5%. Mr. Evaro asked what the % is on Service orders verses Work orders, Mr. Mike Lopez said there are usually more Service orders than work orders. Ms. Jackson said many of the service orders are created by office staff in the process of turning on or off services to customers. Mr. Martin Lopez said service orders are customer driven and can be billed to the customer. While work orders are created to repair infrastructure and equipment. Mr. Mike Lopez said usage is still high, last year at this time usage had gone down. Mr. Magallanez asked what the maximum amount of water we have ever distributed. Mr. Martin Lopez said we are down 1/3 right now from the maximum. Mr. Martin Lopez said the maximum used for South Valley was 2,000-acre ft and Organ and Butterfield at 1,000-acre ft.
- D. Finance:** Ms. Jackson provided a written report and stood for questions. We had \$396,00.00 in revenues in August 2018. Expenses were a bit over \$400,000.00 but we are expecting some reimbursements. Mr. Jackson said the voice response payment program is in progress. The audit is almost finished ahead of schedule.

IX. Unfinished Business

- A. Appointment of Director for District 2 – this item may be postponed.** Mr. Lopez did not hear back from the gentlemen that was interested in the vacancy in District 2.

X. New Business

- A. Motion to adopt Resolution FY2019-10 Approving Loan/Grant Agreement – High Valley 4645-CIF:** Ms. Nichols informed the board that this is funding for the 1st phase for the High Valley Water System Improvement Project. It is 10% loan, 10% loan in lieu of match funds, High Valley did not have any matching funds to provide. Ms. Nichols an 80/20 loan is still very good. Mrs. Holguin made the motion to adopt Resolution FY2019-10 approving loan/grant agreement for High Valley 4645 CIF. Mr. Smith seconded the motion. The motion passed with all in favor.
- B. Motion to adopt Resolution FY2019-11 Approving Loan Agreement – Central Operations Facility DW-4213:** Ms. Nichols said this funding is for the Central Office facility. Mr. Magallanez made the motion to adopt Resolution FY2019-11 approving the loan agreement for the Central

Operations office. Mr. Smith seconded the motion. The motion passed with 4 in favor, Mrs. Holguin abstained from voting due to potential conflict because she is employed by Wilson and Company.

- C. Motion to Adopt Resolution FY2019-12 Authorizing Application to WTB for S. Valley Waterline Extension Project:** Mr. Lopez said funding application is to extend the water line to the north west part of Mesquite and north of Brazito. Ms. Nichols said letters of support for this project would be very helpful for this project. Mrs. Holguin made the motion to adopt Resolution FY2019-12 authorizing application to WTB for S Valley Waterline extension project. Mr. Evaro seconded the motion. The motion passed with all in favor.
- D. Motion to Adopt Resolution FY2019-13 Authorizing Signatory Authority for SAP 18-C2244:** Ms. Nichols said this Grand Agreement is for the Jacquez Road Pipeline Project, it is for \$50,000.00. Mrs. Holguin made the motion to adopt Resolution FY2019-13 authorizing signatory authority for SA 18-C2244. Mr. Magallanez seconded the motion. The motion passed with all in favor.
- E. Motion to Adopt Resolution FY2019-14 Authorizing Signatory Authority for SAP 18-C2242:** Ms. Nichols said this Grant Agreement is for the Stern Drive Pipeline Extension Project, it is for \$150,000.00. Mr. Magallanez made the motion to adopt Resolution FY2019-14 authorizing signatory authority for SAP 18-C2242. Mr. Evaro seconded the motion. The motion passed with all in favor.
- F. Motion to approve purchase of an additional truck with proceeds from equipment auction:** Mr. Lopez would like to purchase an additional truck with the money received from the August 17, 2018 auction in which everything was sold for a total of \$30,080.00. Mr. Magallanez asked the price of the truck, Mr. Lopez told him it is about \$29,000.00. Mr. Magallanez made the motion to approve the purchase of the additional truck with the proceeds form the auction. Mrs. Holguin seconded the motion. The motion passed with all in favor.
- G. Motion to Adopt Resolution FY2019-15 adopting LRGPWWA Asset Management Plan:** Mr. Lopez said we have been working on an Asset Management Plan for the past 4- 5 years. This is a living document so it changes as we merge, buy equipment or sell equipment. This plan is required by the State and other Funding Agencies. We have enough data to actually have something we can call completed, it will always have to be updated. We have a bit more work to get done on it before we can ask the board to approve that a third - party accounting firm finalize the plan and provide us with some analysis and recommendations on the data provided in the plan. Ms. Nichols said the reason why it was included in this agenda is because we want to apply to the Water Trust Board for funding and they require a plan be in place. Mrs. Holguin made the motion to adopt Resolution FY2019-15 adopting LRGPWWA Asset Management Plan. Mr. Magallanez seconded the motion. The motion passed with all in favor.
- H. Motion to approve RFP Committee Report for RFP #2019-01 and select the recommended Firm:** Mr. Lopez said this RFP coincide with item C on this agenda. Ms. Nichols the committee report includes the firms that proposed and how they met the requirements. The committee rated and ranked each of the proposals individually and only reported the final scores. The committee

scored and selected Souder, Miller and Associates. Mr. Smith motioned to approve the committees recommended firm, Souder, Miller and Associates. Mr. Magallanez seconded the motion. The motion passed with all in favor.

- I. **Motion to authorize funding application for East Mesa Service Area Water System Improvements Ph. I design:** Mr. Lopez said we will be applying to Colonia's for funding for design for East Mesa Service area water system. Ms. Nichols said last month two applications were authorized, one for High Valley and one for Jacquez Road. This would be the third, we will be coming back to the board with the resolutions to authorize the applications. Mrs. Holguin made the motion to authorize funding application for East Mesa Service Area Water System Improvements Ph.1 Design. Mr. Smith seconded the motion. The motion passed with all in favor.
- J. **Motion to authorize the General Manager to make Capital Outlay Requests:** Mr. Lopez thinks there might be some capital outlay money so he would like to request some of the money to complete the Jacquez Road Project, Decommission the Wetlands in Mesquite, IT equipment (Executon), SCADA and some heavy equipment. Ms. Nichols said she would provide a list of the funding requirements. Mrs. Holguin made the motion to authorize the General Manager to make Capital Outlay requests. Mr. Evaro seconded the motion. The motion passed with all in favor.
- K. **Motion to approve letter to Elephant Butte Irrigation District Board of Directors regarding EBID surface water treatment plant:** Mr. Lopez asked the board for approval of the letter of support to Elephant Butte Irrigation District Board of Directors. Mr. Esslinger, EBID Manager, asked for a letter of support regarding the feasibility of operating and maintaining a surface water treatment plant. We have determined that it is not feasible for LRGPWWA to operate and maintain a surface water treatment plant given the lack of available surface water do to persistent drought conditions. Mrs. Holguin made the motion to approve the letter to Elephant Butte Irrigation District Board of Directors. Mr. Evaro seconded the motion. The motion passed with 4 in favor. Mr. Magallanez abstained from voting due to potential conflict.

- XI. **Motion to convene in closed session pursuant to NMSA 1978 10-15-1 H.8- discussion of the purchase, acquisition or disposal of real property or water rights, and NMSA 1978 10-15-1 H.2 - discussion of limited personnel matters:**
 - A. **Roll Call Vote:** Mr. McMullen called roll District # 1, Mr. Sanchez was absent, District #2 is Vacant, District #3, Mr. Evaro was present, District #4, Mrs. Holguin was present, District #5, Mr. Magallanes was present, District #6, Mr. McMullen was present, District #7, Mr. Smith was present.
 - B. **Motion to reconvene in open session:** at 11:10 a.m. Mr. Smith made the motion to reconvene to open session. Mrs. Holguin seconded the motion. The motion passed with all in favor.
 - C. **Statement by the Chair:**

The matters discussed in the closed meeting were limited only to those specified in the motion for closure: Mr. McMullen made the statement that the matters discussed in the closed session were limited only to those specified in the motion for closure.

D. Actions, if any, related to real property, water rights and/or personnel matters: Mrs. Holguin made the motion to declare that property 1- Lift Station 15 site – Harper Road parcel number 4011142263520 and property 2- Lift Station 16 site – East Organ Road, parcel number 40111421122185 are necessary to LRGPWWA, Mesquite-Brazito Wastewater System Improvements Project 2 and authorizing Attorney to proceed with condemnation of said properties. Mr. Evaro seconded the motion. The motion passed with all in favor. Mr. Magallanez would like to donate Surveying service to LRGPWWA for the Central Office Project and for the 35 acres adjacent to the proposed Central Office location. Mrs. Holguin made the motion to approve the donation of Surveying services from Moy Surveying for the Central Office Project and the 35 acres adjacent to the Central office location. Mr. Evaro seconded the motion. The motion passed will 4 in favor, Mr. Magallanez abstained from voting.

XII. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, October 12, 2018 at the Vado Office.

E. Have any Board Members participated in training? If so, please give us a copy of your certificate: Ms. Charles asked the board if anyone attended any trainings, no one had.

F. Resolution Approving 1st Quarter Budget Report (due Oct31)

G. Infrastructure Finance Conference is October 23-26, 2018

H. Group pictures of Board Members

I. Termination of memberships for delinquent accounts

J. Audit presentation

K. Resolutions approving Colonia's Infrastructure applications

L. Closed session related to real property, water rights and/or personnel matters

M. Proposed amendment to the governance document for approval to be on the ballot in April 2019

N. Board of Directors will have a Work Session on September 27, 2018 at 2:00 pm at the La Mesa Office.

XIII. Motion to Adjourn: Mrs. Holguin made the motion to adjourn the board meeting at 11:17 a.m. Mr. Evaro seconded the motion. The motion passed with all in favor.

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Meeting Notice & Agenda—REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, September 19, 2018 at our East Mesa Office, 9774 Butterfield Blvd, Butterfield, NM

Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office or at

www.LRGauthority.org/noticesavisos.html. Call 575-233-5742 or email board@LRGauthority.org for information

- I. Call to Order, Roll Call to Establish Quorum: District #1 (Mr. Sanchez) __, #2 (Vacant) __, #3 (Mr. Evaro) __, #4 (Mrs. Holguin) __, # 5 (Mr. Magallanez) __, #6 (Mr. McMullen) __, #7 (Mr. Smith) __
- II. Pledge of Allegiance
- III. Motion to approve Agenda (VIII A. may be postponed)
- IV. Approval of Minutes – Motion to approve the minutes of the August 15, 2018 Regular Board Meeting.
NOTE: Two signed originals are needed, one will go to NMED-CPB for the RIP Loan for land purchase
- V. Presentations: none
- VI. Staff Years of Service Recognition: Lance Ivy – 5 years
- VII. Public Input—15 minutes are allotted for this item, 3 minutes per person
- VIII. Managers’ Reports
 - A. General Manager
 - B. Projects
 - C. Operations
 - D. Finance
- IX. Unfinished Business
 - A. Appointment of Director for District 2 – this item may be postponed
- X. New Business
 - A. Motion to adopt Resolution FY2019-10 Approving Loan/Grant Agreement – High Valley 4645-CIF
 - B. Motion to adopt Resolution FY2019-11 Approving Loan Agreement – Central Operations Facility DW-4213
 - C. Motion to Adopt Resolution FY2019-12 Authorizing Application to WTB for S. Valley Waterline Extension Project
 - D. Motion to Adopt Resolution FY2019-13 Authorizing Signatory Authority for SAP 18-C2244
 - E. Motion to Adopt Resolution FY2019-14 Authorizing Signatory Authority for SAP 18-C2242
 - F. Motion to approve purchase of an additional truck with proceeds from equipment auction
 - G. Motion to Adopt Resolution FY2019-15 adopting LRGPWWA Asset Management Plan

- H. Motion to approve RPF Committee Report for RFP #2019-01 and select the recommended Firm
 - I. Motion to authorize funding application for East Mesa Service Area Water System Improvements Ph. I design
 - J. Motion to authorize the General Manager to make Capital Outlay Requests
 - K. Motion to approve letter to Elephant Butte Irrigation District Board of Directors regarding EBID surface water treatment plant
- X. Motion to convene in closed session pursuant to NMSA 1978 10-15-1 H.8- discussion of the purchase, acquisition or disposal of real property or water rights, and NMSA 1978 10-15-1 H.2 - discussion of limited personnel matters
- A. Roll Call Vote: District # 1 (Mr. Sanchez) ____, #2 (Vacant) ____, #3 (Mr. Evaro) ____, #4 (Ms. Holguin) ____, #5 (Mr. Magallanes) ____, #6 (Mr. McMullen) ____, #7 (Mr. Smith) ____
 - B. Motion to reconvene in open session
 - C. Statement by the Chair:

The matters discussed in the closed meeting were limited only to those specified in the motion for closure

- D. Actions, if any, related to real property, water rights and/or personnel matters
- XI. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, October 12, 2018 at the Vado Office.
- A. Have any Board Members participated in training? If so, please give us a copy of your certificate
 - B. Resolution Approving 1st Quarter Budget Report (due Oct31)
 - C. Infrastructure Finance Conference is October 23-26, 2018
 - D. Group pictures of Board Members
 - E. Termination of memberships for delinquent accounts
 - F. Audit presentation
 - G. Resolutions approving Colonia's Infrastructure applications

XII. Motion to Adjourn

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aide or service to attend or participate in the hearing or meeting, please contact the LRGPWVA office at 575-233-5742, PO Box 2646, Anthony NM 88021 OR 215 Bryant St., Mesquite NM at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the LRGPWVA office if a summary or other type of accessible format is needed.

Si usted es una persona con una discapacidad que necesita un lector, amplificador, intérprete de lenguaje de signos o cualquier otra forma de ayudante auxiliar o servicio para asistir o participar en la audiencia o reunión, póngase en contacto con la oficina de LRGPWVA, 575-233-5742, PO Box 2646, Anthony, NM 88021 o 215 Bryant St., Mesquite, NM por lo menos una semana antes de la reunión o tan pronto como sea posible. documentos públicos, incluyendo el orden del día y actas, pueden proporcionarse en diferentes formatos accesibles. Póngase en contacto con la oficina LRGPWVA si es necesario un resumen u otro tipo de formato accesible.

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Minutes — REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, August 15, 2018 at our East Mesa Office, 9774 Butterfield Park Blvd, Butterfield, NM

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- I. **Call to Order, Roll Call to Establish Quorum:** Chairman Mr. Mike McMullen called the meeting to order at 9:30 a.m. and called roll. Mr. Raymundo Sanchez representing District #1 was absent, District #2 is vacant, Mr. Evaro representing District #3 was present, Mrs. Esperanza Holguin representing District #4 was present, Mr. Henry Magallanez representing District # 5 was absent, Mr. Mike McMullen representing District #6 was present, Mr. Furman Smith representing District #7 was present. Staff members present were General Manager Martin Lopez, Projects Manager Karen Nichols, Finance Manager Kathi Jackson, Accounting Assistant John Schroder and Project Specialist Patricia Charles.
- II. **Pledge of Allegiance:** Mr. McMullen led the pledge of Allegiance
- III. **Motion to approve Agenda (VIII A. may be postponed):** Mrs. Holguin made the motion to approve the August 15, 2018 agenda with VIII A, postponed. Mr. Smith seconded the motion, the motion passed with all in favor.
- IV. **Approval of Minutes – Motion to approve the minutes of the July 18, 2018 Regular Board Meeting:** Mrs. Holguin made the motion to approve the minutes for July 18, 2018. Mr. Evaro seconded the motion. The motion passed with all in favor.
- V. **Presentations:** none
- VI. **Public Input:** none
- VII. **Managers' Reports**
 - A. **General Manager:** Mr. Lopez provided a written report and stood for questions. He informed the board that the High Valley MDWCA merger is just about complete. The bank account is closed. He will get together with Ms. Jackson to figure out what to do about the audit, tier reporting or include in LRGPWWA audit. High Valley 2018 Sanitary Survey deficiency has been corrected, now working on deficiencies from 2015 Survey. The auction for the old equipment has been set for Friday, August 17 at 9 a.m. at the Berino Office. Talavera MDWCA signed the one-year O&M Contract. Meter testing results for the customer who attended the board meeting last month are back. There was no error at 15 gpm and 1% slow at 2 gpm. We charged for 1000 gallons but customer received 1010 gallons. Our policy allows for 3% plus or minus.
 - B. **Projects:** Ms. Nichols provided a written report and stood for questions. The application for Valle Del Rio Water System Project Phase II was submitted to DWSRLF yesterday, we have been working on application for months. Applied for slightly over 2 million, we were notified that the project qualifies for 75% grant with zero percent interest on the loan. Closings have been

scheduled for the Central Office Building and High Valley Colonia's Funding resolutions will be a part of our September board meeting. Mr. Smith inquired if the wells had backup power supplies. Ms. Nichols responded that some of the wells had generators. One was acquired with the La Mesa Well Project. Mr. Lopez said we have 2 generators that are mobile and one that is in the process of becoming mobile.

- C. **Operations:** Mr. Mike Lopez was not able to attend the meeting, but he provided a written report. The water usage went from 55 million gallons to 45 million gallons, the weather has contributed to the decrease in usage. Mr. Martin Lopez said that Mr. Mike Lopez has been working on getting the system treated with gas chlorine rather than liquid gas chlorine which is more cost effective. Ms. Jackson said there are two gas chlorine systems on order. Mr. Martin Lopez said that the contractors working on Valle requested an extension from NMED and was approved. The electric company has delayed the work, but should be finished by September 2018. Ms. Nichols said JJ Gutierrez and his crew inspected the tank at Valle and said it was rough but was rehab able the estimate to rehab the tank came in and did not affect the Budget for Phase II.
- D. **Finance:** Ms. Jackson indicated that the high usage of water in May is now coming in. But the Vado main line break was very expensive. But we still have a surplus.

VIII. Unfinished Business

- A. **Appointment of Director for District 2 – this item may be postponed:** Mr. Lopez got a call from a Gentlemen interested in the vacancy in District 2. The Gentlemen did not get the information need to provide at this meeting. Mr. Lopez said he would have more information next month.

IX. New Business

- A. **Motion to authorize GM to approve staff development training and participation and travel to meetings in support of Authority business:** Mr. Lopez said this is a standard yearly request, this is the time of year when applications, trainings and conferences come up. Mrs. Holguin made the motion to authorize General Manager to approve staff development training and participation and travel to meetings. Mr. Evaro seconded the motion. The motion passed with all in favor.
- B. **Motion to authorize funding applications for High Valley Ph. II (design & construction), Jacquez Rd. Waterline Extension (construction), and S. Valley Waterline Extensions (plan, design & construct) – NOTE: These will require authorizing resolutions at a later date:** Mr. Lopez said Colonia's Trust Board and Water Trust Board application cycles are coming up and want to apply. We have secured \$50,000 in funding for the Jacquez Road, Representative Doreen Gallegos would like us to finish the work on Jacquez Road extension line. The issue with eminent domain will be resolved and the project will continue. He said he would like Ms. Nichols and her staff to put together a survey to send to the homeowners in the S. Valley Extension Project area to see if they would like to be part of the Extension Project. There are at least 70 potential connections there. Ms. Nichols said there has been interest in that area in the past. Mr. Lopez would like authorization to submit applications. Mrs. Holguin made the

motion to authorize funding applications for High Valley Phase II, Jacquez Rd Waterline Extension and the S. Valley Waterline Extension. Mr. Smith seconded the motion, the motion passed with all in favor.

- C. Motion to authorize RFP #FY2019-01 for engineering service for S. Valley Waterline Extension Project:** Mr. Lopez indicated that we do not have an amount for this RFP. Ms. Nichols said the RFP has already been issued, we are requesting permission retroactively. Issuing the RFP early was due to timing. IF the board decides not to proceed then the RFP it can be canceled. She also said an Engineering firm needs to be selected so they can give us a project cost estimate for the Water Trust Board application. We are only requesting \$200,000.00 initially for planning (Technical Memo) and preliminary design, at this point. We can then go back next year and request funding for final design and construction. Mrs. Holguin made the motion to authorize RFP FY2019-01 for engineering services for S. Valley Waterline Extension Project retroactive. Mr. Evaro seconded the motion. The motion passed with all in favor.
- D. Motion to adopt Resolution FY2019-05 Authorizing RIP Loan Application:** Mr. Lopez received the appraisal from Van Bullock and submitted it to NMED-CPB. The land is worth what was offered. The RIP program had no remaining funds when we applied, but they expect to receive enough in loan repayments and interagency transfer to cover our loan in time for the closing. The Environmental Dept. requires this Resolution in order to make the final decision on the loan and to get it processed. They also require the signed minutes of this meeting. The minutes will get signed mid-September and about a week later the closing will be schedule. Mr. Smith made the motion to adopt Resolution FY2019-05 authorizing RIP Loan Application. Mrs. Holguin seconded the motion. The motion passed with all in favor.
- E. Motion to adopt Resolution FY2019-06 Establishing Signatory Authority for RIP Loan:** Mr. Lopez indicated that there are times when documents need to be signed right away and turned around fast. This resolution is to authorize General Manager with signatory authority in case the board members are not available to sign documents. Mrs. Holguin made the motion to adopt Resolution FY2019-06 to establish signatory authority to the General Manager for the RIP loan. Mr. Smith seconded the motion. The motion passed with all in favor.
- F. Motion to adopt Resolution FY2019-07 Adopting Budget Adjustments for FY2018:** Ms. Jackson sent in a formal budget adjustment request to the state in order to make everything clear. Two loans were paid off for a total of \$76,000 and additional revenue came in for a total of 332,200. Mrs. Holguin made the motion to adopt Resolution FY2019-07 Adopting Budget Adjustments for FY2018. Mr. Evaro seconded the motion. The motion passed with all in favor.
- G. Motion to adopt Resolution FY2019-08 Adopting Amended FY2018 4th Quarter Budget Report:** Ms. Jackson said because of the budget adjustments to FY2018 budget, the FY2018 4th quarter budget had to also be adjusted and a resolution adopted. Mrs. Holguin made the motion to adopt Resolution FY2019-08 adopting amended FY2018 4th quarter budget report. Mr. Evaro seconded the motion. The motion passed with all in favor.
- H. Motion to adopt Resolution FY2019-09 Adopting Reformatted FY2019 Budget:** Ms. Jackson told the board that the State has implemented changes on the format of the budget. She

would like to adapt the same format as the State. This would make reporting go much smoother. She presented an example of the old format and the new format to show the differences. Mrs. Holguin made the motion to adopt Resolution FY2019-09 adopting reformatted FY2019 Budget. Mr. Smith seconded the motion. The motion passed with all in favor.

- I. **Motion to adopt proposed amendment to Member/Customer Policy regarding data-logging of water meters:** Mr. Lopez said he would like to change the member/customer policy due to the high number of data log requests. There are two data logs that can be requested (1) 6-month history with 24-hour periods (2) 90-day history with hourly periods. We normally get the 6-month history. The requests for data logs increase in the summer months because of the increase in water usage. We would like to request a fee be charged for data log requests after the first initial request. They take up staff time and drain the battery on the meters. Staff will request a data log if they notice zero usage or suspect a leak. These are not charged to the customer. Mrs. Holguin made the motion to adopt proposed amendment to Member/Customer Policy regarding data-logging of water meters. Mr. Evaro seconded the motion. The motion passed with all in favor.

- J. **Motion to adopt proposed amendment to Schedule of Rates & Fees:** Mr. Lopez is proposing a to charge \$50.00 for additional data log requests. The initial request will not be charged if the meter is found to be inaccurate. If the meter is accurate then a fee will be charged. If the meter is found to be inaccurate then it will be replaced at no charge. If the customer wished to replace a meter then we need to charge. We did not include an actual fee because meter costs have increased from \$175.00 to about \$210.00 right now. We indicated that the customer will pay Labor and Materials, because we do not know what the labor costs will be. Some meters are buried deeper than other so the labor costs will differ for every customer. We will give the customer an estimate before any work is done. Mrs. Holguin made the motion to adopt the proposed amendment to Schedule of Rates & Fees. Mr. Evaro seconded the motion, the motion passed with all in favor.

- K. **Motion to authorize procurement of a third-party rate study:** Mr. Lopez said LRG had not had a rate study since 2013. We implemented the rate recommendations from RCAC on January 2014. Mr. Lopez brought the 2016 Public & Wastewater User Charge Survey from NMED report to share with the board members. Page 4 shows LRG's submitted usage, our residential average cost is \$27.95 per 6000 gallons, average is \$34.67. Commercial we are at \$59.22 the state average is \$39.84. On the sewer side our residential rate is at \$22.50, state average is \$25.24. Our commercial rate is at \$30.00 and the state average is \$33.16. The twist to the sewer is that the County adopted an ordinance for their sewer customers, for FY2022 the sewer rate will be \$48.25 for residential customers up to 7000 gallons. Mr. Lopez said the request is not necessarily to raise rates its to see were we are. Mrs. Holguin made the motion to authorize procurement of a third-party rate study. Mr. Evaro seconded the motion, the motion passed with all in favor.

- L. **Authorize end of year function:** Mr. Lopez said it was a bit early to start thinking about the end of year function, but he wanted to have the authorization to start planning. Mrs. Holguin made

the motion to authorize the end of year function. Mr. Evaro seconded the motion, the motion passed with all in favor.

X. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, September 19, 2018 at the East Mesa Office.

- A. Have any Board Members participated in training? If so, please give us a copy of your certificate:**
- B. Resolution Approving Loan Agreement – High Valley 4645-CIF:**
- C. Resolution Approving Loan Agreement – Central Operations Facility DW-4213:**
- D. Resolution Authorizing Application to WTB for S. Valley Waterline Extension Project:**
- E. Termination of memberships for delinquent accounts:**

Mr. Lopez asked if board members had attended any trainings, none had. Mr. Lopez said there would be several resolutions for next board meeting, for loan agreements and for authorization of applications. Ms. Nichols reminded the board members that there will be an Auction on Friday, August 17, 2018. A notice for possible quorum has been sent out just in case the board members want to attend. Mr. Lopez said getting ready for the Auction was a team effort. He wanted to thank Liza Lopez and Patricia Charles for helping put it together. Ms. Nicolas informed the board that UDSA-RD has been processing the application for under \$40,000 dollars, for the purchase of three vehicles. Mrs. Holguin said that grant may increase next year. Mr. Lopez said he notified Mrs. Mora that LRG was not interested in purchasing her property. Mr. McMullen requested a closed session for personnel, on the September 19, 2018 board meeting.

XI. Adjourn: Mrs. Holguin made the motion to adjourn the meeting at 10:38 a.m. Mr. Smith seconded the motion. The motion passed with all in favor.

Minutes approved September 19, 2018

Michael McMullen, Chairman (District 6)

Furman Smith, Vice-Chairman (District 7)

Esperanza Holguin, Secretary (District 4)

ABSENT

Raymundo Sanchez, Director (District 1)

Joe Evaro, Director (District 3)

ABSENT

Henry Magallanez, Director (District 5)

VACANT

Director (District 2)

LRGPWWA
Manager's Report
September 19, 2018

- Authorized Attorney (Josh) to submit an Offer of Judgement for Vado Office Land which does not have water rights
- Karen and I attend the Colonias Board meeting in Cloudcroft on August 29th
- Authorized Karen to provide comments on behalf of stakeholders to Colonias Board pertaining to CITF policies-requested by Colonias Board Chair
- Met with Insurance Broker for Policy Renewal
- Authorized Kathi to implement an Automated Phone Payment (Credit and Debit Cards) system at no cost to the LRGPWWA
- High Valley well and tank sites security fences have been installed
- Talavera MDWCA is requesting a proposal for customer billing
- Kathi, Karen and I participated in a Strategic direction and programs meeting for the NM Finance Authority
- Looking to install GPS on Backhoes for tracking and maintenance purposes similar to GPS on fleet

**LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY
PROJECTS REPORT – 9/19/18**

LRG-11-02.2 – Mesquite-Brazito Sewer Project – Bohannon Huston, Inc. – LOC-Design Stage – NMFA PG/SAP funded Planning, \$30k 2014 SAP, \$540,608 2014 CITF (10% Loan), USDA-RD Loan \$357,000 @ 3.250%, Grant \$1,194,919, Colonia’s Grants of \$6,356,474 & \$119,407 – Attorney has filed an eminent domain action for the final lift station property acquisition. We have submitted final LOC documents to RD for final review) and authorization to bid once with this property noted as an exception on the ROW Certificate.

LRG-17-01 – Mesquite-Brazito Sewer Project 2 – Bohannon Huston, Inc. – Planning Stage – USDA-RD LOC \$15,030,780 – Letter of Conditions was issued by USDA-RD on 3/5/18 for \$6,189,000 loan and \$8,030,000 Colonia’s Grant. RCAC Bridge Loan was approved on 8/17/18 and first Request for Funds has been processed. Design, including easement & property acquisition, is ongoing.

LRG-11-03 – Interconnect & Looping Project – see LRG-18-02 for current portion – Stern Drive Line Ext.

LRG-11-05 – South Valley Water Supply & Treatment Project WTB #252– Bohannon Huston - Design stage - \$750,000 WTB – 10% Loan 10% Match: We met with BHI on 9/13/18 to review the USDA-RD format PER, and it will be submitted to USDA-RD now.

LRG-17-01 – Water Master Plan – WTB #252: CDBG Public Hearing was held 1/9/18. Ms. Goolsby, SCCOG, has begun work on the application for \$100k planning grant for this project.

LRG-17-02 – Central Office Building: DWSRLF funding in the amount of \$3,285,619 was approved by the NMFA board on 2/28/18. Resolution approving loan/grant agreement will be on today’s agenda. Closing is set for 10/26/18, and we will issue NTP to Wilson & Co. for that date.

Forty-Year Water Plan – CE&M – complete – needs update for new mergers after Brazito combine & commingle: pending NM-OSE comments/approval. Currently only includes the initial five systems.

LRG-13-03 – Valle Del Rio Water System Project – RFP/Planning/Design Stage - \$1,197,708 DWSRLF funding - \$898,281 principal forgiveness – 299,427 loan repayment – Souder, Miller & Associates: Pay App. #5 consists of 25% of the mobilization, 25% of well No. 1 completion, 25% of well No. 2 completion and approximately .01% of the new tank completion. The Contractor has completed the construction and disinfection of the new tank and installed the new booster skid. Work during this period also includes the installation of the well meters, pond, yard piping, control panels, generator and other small items throughout the site. Phase II application has been submitted and qualified for funding. PER amendment was completed submitted to NMED-CPB. Comments were received and are being addressed.

LRG-17-03 – Planning Documents for East Mesa Water System Improvements Project – NMFA 3803-PG & 3804-PG – Planning –Revised Draft PER was submitted to NMED-CPB for review, and Mr. Deal has provided comments. Second draft was submitted to us on 8/10/18, and I provided a few corrections to be addressed before resubmission. Work on the EID is progressing.

LRG-18-01 – High Valley Water System Improvements Project – NMFA 4645-CIF18 – Design & Construction – Project funding application was made by High Valley, funding was awarded to LRGPWVA on 4/25/18. Readiness to Proceed items have been submitted and closing schedule has been set.

Resolution to approve grant/loan agreement will be on the September agenda. I will be attending CITF application training on 9/6/18, and a Resolution authorizing an application for Phase II will be on the September or October agenda.

LRG-18-02 – Stern Drive Waterline Extension Project – Design/Build - \$150,000 SAP – Souder, Miller & Associates is drafting an engineering services agreement under our As-Needed procurement. Resolution approving the Grant Agreement & Signatory Authority is on today's agenda.

LRG-18-03 – Jacquez Waterline Extension Project – Design/Build - \$50,000 SAP – Parkhill, Smith & Cooper – PSC is preparing an amendment to the Waterline Extension Project contract for final design update, bidding and construction phase services. Resolution approving the Grant Agreement & Signatory Authority is on today's agenda.

LRG-19-09 – S. Valley Service Area Line Extensions – RFP Committee recommendation for selection is on today's agenda. Resolution to authorize a Water Trust Board application is also on today's agenda. I will be attending a WTB application training in Albuquerque on 9/11/18, and have begun work on the online application.

Other projects:

RIP Loan Application for Land/Water Rights Purchase – We will be providing a set of signed original August Minutes to NMED-CPB following today's meeting. That is the final document to be submitted, and closing on the land is scheduled for next week.

USDA-RD Community Facilities Grant for Vehicles – Application has been submitted, LOC received 8/9/18, LOC documents were submitted 8/10/18, grant agreement and authorization of procurement is still pending from RD. The Chevrolet dealership was purchased by another dealer, and Liza is working with them and NM Procurement Division to confirm that a State Purchasing Agreement is still in effect.

Infrastructure Capital Improvements Plan 2020-2024 - This is final and has been submitted.

Documents Retention & Destruction – Sorting of old association documents for storage or destruction is ongoing, and staff is implementing approved retention/destruction schedules for LRGPWWA documents. Delivery of documents from the East Mesa Office for sorting and storage or shredding is still pending, and we are expecting several boxes of document in from the Finance Manager. No bins have been sent out for shredding in the past month.

Website and Email – Notices and Board Minutes pages are current. Other updates are ongoing.

Mergers – High Valley is substantially complete. Attorney has researched Talavera water rights issue and does not see an impediment to merger. No documents have been received for review. I have updated the Source Water Protection Plan as far as I'm able without technical assistance, have requested assistance thru NMED-DWB, and have a conference call with them scheduled for 9/17/18.

Training – Patty and I attended Colonia's Infrastructure Application Training on 9/6/18, I attended Water Trust Board Application Training on 9/11/18, and we both attended an EPA webinar on Rural and Small Systems Sustainable Utility Management Workshop in a Box on 9/13/18.

Lower Rio Grande Water Users Organization – nothing new to report

EBID Surface Water Plant: - We have provided documentation for their resubmission of NMED permit application. It was resubmitted again to NMED-DWB and was finally approved on 8/31/18. EBID has determined that they will be unable to construct the plant on-site as an in-house project and that they are unable to afford having it done by a contractor. I have drafted a letter which is on today's agenda for approval informing their board that, due to drought and lack of availability of surface water, it is not feasible for the LRGPWWA to do so either.

As Needed Engineering Services - Currently we have three active Task Orders: Two with Vencor for NM DOT permit work on Stern Drive are on hold pending a State Land Office permit, and one with BHI for securing the SLO Permit.

Collection & Lien Procedures - Second set of liens have been, certified letters have been sent out for a third set. 62 certified letters have been sent and 13 liens have been filed to date.

NM Legislature - I will be preparing Capital Outlay requests for the Jacquez Road Project, Mesquite Wetlands Closure, Heavy Equipment Purchase, and for the Information Technology Project (additional Tyler software and radio-read meters and laptops)

LRGPWWA 2019 Election – Angie is working on adding voting district designations to customer accounts in the billing software for Districts 1, 2 & 6. I have drafted a Governance Document amendment for discussion at the next meeting to allow the Board to appoint directors from outside a vacant district if a volunteer cannot be found in that district.

Lower Rio Grande PWWA

Operators Report

September 19, 2018

System Problems and Repairs.

- Backflow inspections are Current. (Mesquite District)
- For the month of July, we were issued 324 work and service orders.
- For the month of August, we were issued 648 work and service orders.
- For the month of August we installed 5 new water service connections.
- We had 4 main line water breaks at Alto De Las Flores for the month of August.
- We had a 4" main line break in Butterfield park.
- We performed a 6" x 6" hot tap for Santo de Lima church for a fire suppression system, finally after 10 years fighting with the County they can use their new church.
- We had to replace the mixer for the thioguard holding tank at lift station #1.
- We finally with the help of the Motorola SCADA people, were able to make the new mag-meter communicate with SCADA at well #4 Arroyo.

- JJ and I found through testing all production meters that the meter at well #2 Easy lane is 20% slow, so I will be ordering a new ABB mag-meter

NMED: All of our Monthly Bac-T-Samples were taken for the month of August and all samples were negative.

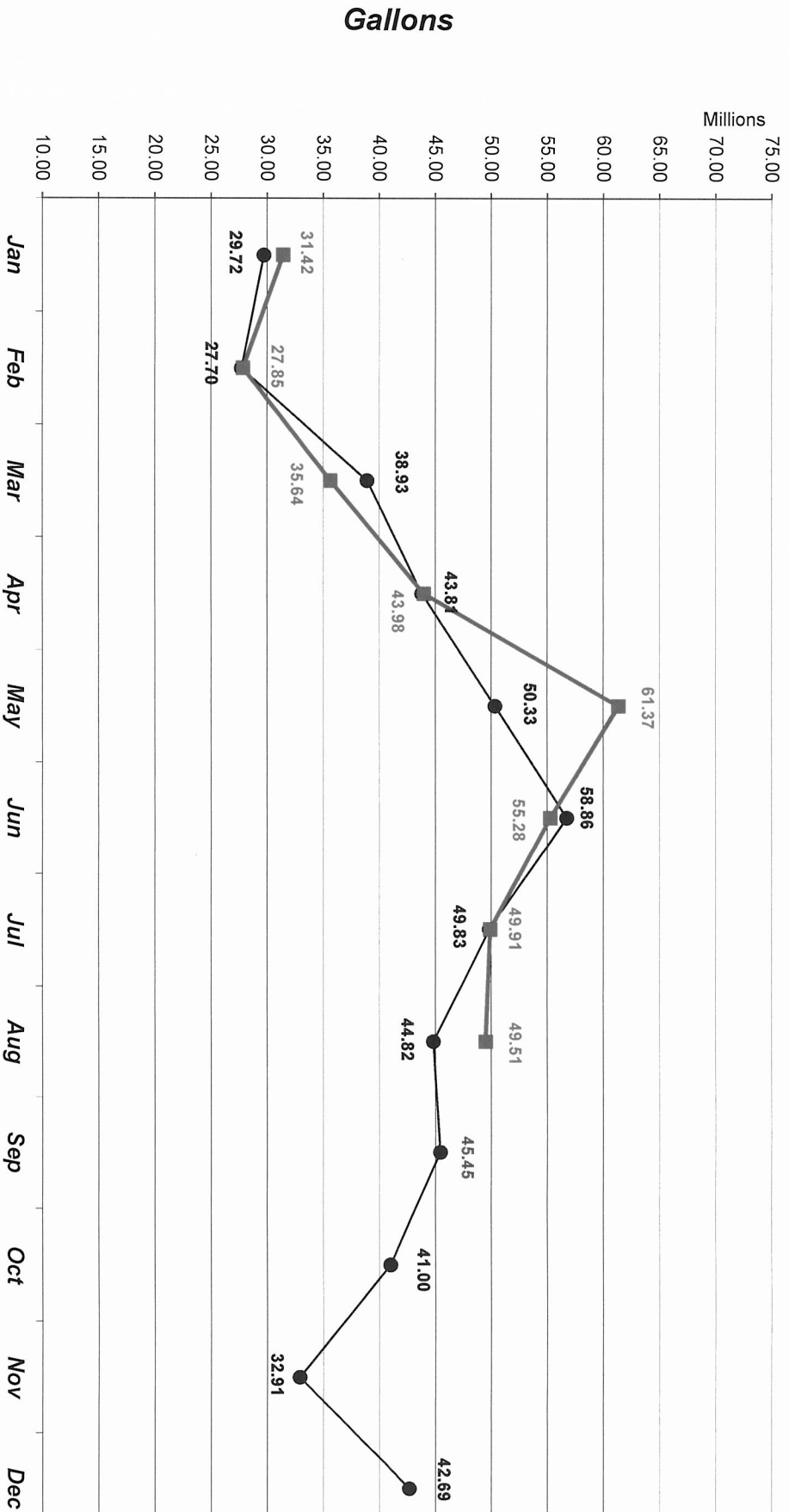
Mesquite district Wetlands: NMED is going to require us to drill 3 monitoring wells as the existing are dry.

Mesquite and Organ Sewer Reports. The Organ Wastewater and the Mesquite wastewater reports were sent out on July 1st.

Chlorine: No problems.

Reports: NMED, State Engineers, and the water conservation reports have been sent.

Lower Rio Grande PWWA Water Production Report



2017 Production
 2018 Production



Lower Rio Grande Public Water Works Author

Income Statement

Group Summary

For Fiscal: FYE 2019 Period Ending: 08/31/2018

AcctNumber	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Revenue				
40000 - Operating Revenue	-	316,534.18	652,460.86	(652,460.86)
40002 - Installation Fees	-	2,999.74	12,745.59	(12,745.59)
40003 - Activation & Connection Fees-Water	-	150.00	300.00	(300.00)
40005 - Backflow Testing	-	525.00	1,150.00	(1,150.00)
40006 - Tampering Fee/Line Breaks	-	751.91	751.91	(751.91)
40007 - Delinquency Fee	-	6,950.00	13,900.00	(13,900.00)
40008 - Penalties-Water	-	9,326.98	19,639.42	(19,639.42)
40009 - Membership Fees	-	871.14	1,671.14	(1,671.14)
40010 - Impact Fees	-	1,508.32	9,599.98	(9,599.98)
40011 - Returned Check Fees	-	105.00	175.00	(175.00)
40012 - Credit Card Fees	-	1,140.00	2,266.00	(2,266.00)
40013 - Miscellaneous Revenue	-	25.00	45.00	(45.00)
40015 - Penalties-Sewer	-	523.62	1,190.50	(1,190.50)
40016 - Meter Test Fee	-	-	-	-
40019 - DAC Trash Coupons	-	60.00	134.00	(134.00)
40020 - Miscellaneous Revenue-Sewer	-	41.29	(1,237.94)	1,237.94
45000 - Tower Rent	-	250.00	500.00	(500.00)
45001 - Billing Adjustments-Water	-	(3,943.82)	(4,315.21)	4,315.21
45005 - Fiscal Agent Fees	-	4,539.35	9,220.44	(9,220.44)
45010 - Interest	-	34.33	65.26	(65.26)
45015 - Copy/Fax	-	25.00	46.75	(46.75)
45020 - Other Income	-	40,237.74	40,483.11	(40,483.11)
45025 - Contract Services	-	3,785.38	10,085.13	(10,085.13)
45030 - Transfers In	-	10,000.00	20,000.00	(20,000.00)
Revenue Total:	-	396,440.16	790,876.94	(790,876.94)
Expense				
60020 - Bank Service Charges	-	1,326.86	2,923.05	(2,923.05)
60025 - Cash Short/Over	-	35.00	35.23	(35.23)
60030 - Dues and Subscriptions	-	19,678.77	20,440.20	(20,440.20)
60050 - Legal Fees	-	-	1,039.44	(1,039.44)
60055 - Legal Notices	-	33.45	33.45	(33.45)
60060 - Licenses & Fees	-	-	3,835.73	(3,835.73)
60065 - Meals	-	29.39	58.78	(58.78)
60080 - Postage	-	89.12	395.82	(395.82)
60090 - Professional Fees-Other	-	379.09	379.09	(379.09)
60100 - Project Development	-	57,243.95	57,234.95	(57,234.95)
60115 - Reconciliation Discrepancies	-	353.99	535.50	(535.50)
60116 - Alto De Las Flores Expenses	-	27.48	27.48	(27.48)
60120 - Retirement Account Fees	-	670.48	670.48	(670.48)
60130 - Training	-	60.00	60.00	(60.00)
60150 - Travel:Lodging Per Diem	-	1,187.25	1,380.91	(1,380.91)
60155 - Travel:Meals Per Diem	-	11.34	407.66	(407.66)
60160 - Travel:Mileage/Parking Per Diem	-	-	10.00	(10.00)
60165 - Travel:Vehicle Rental Per Diem	-	-	46.00	(46.00)
60600 - Debt Service	-	8,126.13	14,254.78	(14,254.78)
60650 - Interest paid to NMFA	-	1,885.17	3,760.12	(3,760.12)
60675 - Interest paid to USDA	-	10,629.36	21,258.72	(21,258.72)
63000 - Regular Pay	-	119,831.79	192,834.40	(192,834.40)

63001 - Overtime		-	4,859.55	8,893.62	(8,893.62)
63006 - Holiday Pay		-	-	4,293.70	(4,293.70)
63007 - Sick Pay		-	3,633.20	6,515.17	(6,515.17)
63008 - Annual Leave Pay		-	3,740.81	8,716.24	(8,716.24)
63070 - Employee Benefits-401K Contrib		-	3,688.17	6,146.89	(6,146.89)
63100 - Insurance-Dental		-	1,031.82	2,063.64	(2,063.64)
63110 - Insurance-Health		-	23,002.11	46,004.22	(46,004.22)
63115 - Salaries: Insurance - Work Comp		-	2,097.00	4,194.00	(4,194.00)
63125 - Insurance: Life & Disability		-	24.81	0.08	(0.08)
63130 - Mileage		-	-	130.23	(130.23)
63160 - Payroll Taxes-Medicare		-	1,914.99	3,208.22	(3,208.22)
63170 - Payroll Taxes-Social Security		-	8,188.08	13,717.74	(13,717.74)
63200 - Vision Insurance		-	321.93	643.86	(643.86)
64100 - Sewer:DAC Waste Water Flow Charge		-	6,050.25	8,884.37	(8,884.37)
64200 - Sewer:Electricity-Sewer		-	1,658.93	1,712.84	(1,712.84)
64300 - Sewer:Lab & Chemicals-Sewer		-	874.65	1,134.60	(1,134.60)
65010 - Automobile Repairs & Maint.		-	5,956.65	11,936.21	(11,936.21)
65230 - Computer Maintenance		-	2,464.90	5,283.31	(5,283.31)
65240 - Equipment Rental		-	610.61	610.61	(610.61)
65250 - Fuel		-	7,044.03	13,349.23	(13,349.23)
65270 - Lab Chemicals-Water		-	119.52	134.52	(134.52)
65280 - Lab Chemicals-Water:Chemicals		-	4,665.79	5,745.40	(5,745.40)
65310 - Maint. & Repairs-Infrastructure		-	1,476.98	5,333.31	(5,333.31)
65320 - Maint. & Repairs-Office		-	150.71	2,896.63	(2,896.63)
65330 - Maintenance & Repairs-Other		-	41,103.64	42,917.69	(42,917.69)
65340 - Materials & Supplies		-	12,304.45	29,601.33	(29,601.33)
65345 - Non Inventory-Consumables		-	3,973.26	5,473.39	(5,473.39)
65350 - Office Supplies		-	929.33	1,881.72	(1,881.72)
65360 - Printing and Copying		-	4,525.10	7,262.79	(7,262.79)
65370 - Tool Furniture		-	3,616.43	7,070.44	(7,070.44)
65390 - Uniforms-Employee		-	936.13	1,879.34	(1,879.34)
65490 - Cell Phone		-	1,562.65	3,132.12	(3,132.12)
65500 - Electricity-Lighting		-	514.98	865.42	(865.42)
65510 - Electricity-Offices		-	1,626.98	3,289.80	(3,289.80)
65520 - Electricity-Wells		-	20,950.08	40,252.14	(40,252.14)
65530 - Garbage Service		-	219.58	439.16	(439.16)
65540 - Natural Gas		-	97.84	218.85	(218.85)
65550 - Security/Alarm		-	-	2,762.54	(2,762.54)
65560 - Telephone		-	1,287.84	2,726.95	(2,726.95)
65570 - Wastewater		-	181.12	357.52	(357.52)
66200 - Insurance-General Liability		-	-	16,083.00	(16,083.00)
66700 - Water Conservation Fee		-	1,497.41	3,191.40	(3,191.40)
00000 - To Reserves		-	-	-	-
Expense Total:		-	400,500.93	652,576.03	(652,576.03)
Total Surplus (Deficit):		-	(4,060.77)	138,300.91	(138,300.91)

RECORD OF PROCEEDINGS RELATING TO THE ADOPTION OF
RESOLUTION NO. FY2019-10 OF THE BOARD OF DIRECTORS
OF THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
DONA ANA COUNTY, NEW MEXICO
September 19, 2018

STATE OF NEW MEXICO)
) ss.
COUNTY OF DONA ANA)

The Board of Directors (the “Governing Body”) of the Lower Rio Grande Public Water Works Authority, New Mexico (the “Governmental Unit”), met in a regular session in full conformity with the law and the rules and regulations of the Governing Body at 521 St. Valentine, La Mesa, New Mexico, being the meeting place of the Governing Body for the meeting held on the 19th day of September, 2018, at the hour of 9:30 a.m Upon roll call, the following members were found to be present:

Present:

Absent:

Also Present:

Thereupon, there was officially filed with the Secretary a copy of a proposed Resolution in final form, as follows:

[Remainder of page intentionally left blank.]

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
DONA ANA COUNTY, NEW MEXICO
RESOLUTION NO. FY2019-10

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A COLONIAS INFRASTRUCTURE PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO COLONIAS INFRASTRUCTURE BOARD (“CIB”) AND THE NEW MEXICO FINANCE AUTHORITY (“FINANCE AUTHORITY,” AND COLLECTIVELY WITH THE CIB, THE “LENDERS/GRANTORS”) AND THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY (THE “BORROWER/GRANTEE”), FOR THE BENEFIT OF VADO, NEW MEXICO, IN THE TOTAL AMOUNT OF \$145,860, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF DESIGNING AND CONSTRUCTING HIGH VALLEY WELL IMPROVEMENTS, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE LOAN AMOUNT OF \$29,172, SOLELY FROM NET SYSTEM REVENUES AND ACCEPTANCE OF A GRANT AMOUNT OF \$116,688; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in this Resolution unless the context requires otherwise.

WHEREAS, the CIB is a public body duly organized and created under and pursuant to the laws of the State of New Mexico (the “State”), particularly the Colonias Infrastructure Act, NMSA 1978, §§ 6-30-1 through 6-30-8, as amended, (the “Colonias Infrastructure Act” or the “Act”); and

WHEREAS, the Finance Authority is a public body politic and corporate, separate and apart from the State, constituting a governmental instrumentality, duly organized and created under and pursuant to the laws of the State, particularly NMSA 1978, §§ 6-21-1, through 6-21-31, as amended, (the “Finance Authority Act”); and

WHEREAS, the Borrower/Grantee is a Political Subdivision of the State, being a legally and regularly created, established, organized and existing public water works authority under the general laws of the State and more specifically, NMSA 1978, § 73-26-1, as amended; and

WHEREAS, the Act creates the Colonias Infrastructure Project Fund (the “Fund”) in the Finance Authority, to be administered by the Finance Authority to originate grants or loans to Qualified Entities for Qualified Projects recommended by the CIB; and

WHEREAS, there exists within the service area of the Borrower/Grantee, Vado, New Mexico, a community that has been designated as a Colonia within the meaning of the Act; and

WHEREAS, the Borrower/Grantee will be receiving the Loan/Grant for the benefit of Vado, New Mexico, and the public they serve; and

WHEREAS, High Valley submitted an application dated January 12, 2018 for the Project, which Application was assigned to the Borrower/Grantee by Resolution No. 2018-6 adopted on April 16, 2018 by the Board of Directors of High Valley; and

WHEREAS, the CIB has determined that the Project is a qualifying Project and that the Borrower/Grantee is a Qualified Entity under the Board Rules; and

WHEREAS, the CIB on April 25, 2018 recommended to the Finance Authority that the Borrower/Grantee receive financial assistance from the Fund in the form of the Loan/Grant, for the benefit of the Colonia and the CIB has recommended that the Finance Authority enter into and administer this Agreement; and

WHEREAS, the Finance Authority approved the Loan/Grant Amount from the Fund to the Borrower/Grantee on May 24, 2018; and

WHEREAS, the Borrower/Grantee has determined that it is in the best interests of the Borrower/Grantee and Vado, New Mexico, that the Borrower/Grantee enter into an Agreement with the Lenders/Grantors to borrow \$29,172 from the Lenders/Grantors and to accept a grant in the amount of \$116,688 from the Lenders/Grantors to finance the costs of designing and constructing High Valley well improvements, this project being more particularly described in the Term Sheet; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts granted and loaned pursuant to the Loan/Grant Agreement, that the Loan/Grant Amount and other moneys available to the Borrower/Grantee, is sufficient to complete the Project, and that it is in the best interest of the Borrower/Grantee, Vado, New Mexico and the constituent public they serve that the Loan/Grant Agreement be executed and delivered and that the funding of the Project take place by executing and delivering the Loan/Grant Agreement; and

WHEREAS, the Governing Body has determined that it may lawfully enter into the Loan/Grant Agreement, accept the Loan/Grant Amount and be bound to the obligations and by the restrictions thereunder; and

WHEREAS, the Loan/Grant Agreement shall not constitute a general obligation of the Borrower/Grantee, the CIB or the Finance Authority or a debt or pledge of the full faith and credit of the Borrower/Grantee, the CIB, the Finance Authority or the State; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the Secretary this Resolution and the form of the Loan/Grant Agreement which is incorporated by reference and considered to be a part hereof; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use of the Loan/Grant Amount for the purposes described, and according to the restrictions set forth, in the Loan/Grant Agreement; (ii) the availability of other moneys necessary and sufficient, together with the Loan/Grant Amount, to complete the Project; and (iii) the authorization, execution and delivery of the Loan/Grant Agreement which are required to have been obtained by the date of this Resolution, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY, DONA ANA COUNTY, NEW MEXICO:

Section 1. Definitions. Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Agreement unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Agreement including the foregoing recitals, unless the context clearly requires otherwise. Capitalized terms not defined herein shall have the meaning given them by the Loan/Grant Agreement.

“Agreement” or “Loan/Grant Agreement” means the Loan/Grant Agreement and any amendments or supplements thereto, including the Exhibits attached thereto.

“Authorized Officers” means, any one or more of the Chairman, the Finance Manager, the General Manager and Secretary of the Borrower/Grantee.

“Borrower/Grantee” means the Lower Rio Grande Public Water Works Authority in Dona Ana County, New Mexico.

“CIB” means the Colonias Infrastructure Board created by the Act.

“Closing Date” means the date of execution of the Loan/Grant Agreement by the Borrower/Grantee, the CIB and the Finance Authority.

“Colonia” or “Colonias” means a Colonia as defined in the Act, and more particularly in NMSA 1978, § 6-30-3(C), as amended, and particularly Vado, New Mexico.

“Colonias Infrastructure Project Fund” or “Fund” means the fund of the same name created pursuant to the Act and held and administered by the Finance Authority.

“Conditions” has the meaning given to that term in the Loan/Grant Agreement.

“Completion Date” means the date of final payment of the cost of the Project.

“Eligible Architectural, Engineering and Construction Management Fees” means the fees and costs associated with the architectural, engineering and construction project management costs for services rendered to the Borrower/Grantee for the transaction of the Project and those directly associated with the Project, in an amount up to twelve percent (12%) of the Loan/Grant Amount.

“Eligible Fees for Other Professional Services” means the fees and costs incurred for other professional services necessary to the completion of the Project including, but not limited to, services provided by accounting and auditing firms, hydrologists and surveyors. Such fees may not exceed five percent (5%) of the Loan/Grant Amount.

“Eligible Fiscal Agent Fees” means fees and costs incurred by a fiscal agent for the administration of Project funds, including the collection and reporting of Project information as required by the Agreement, in an amount not exceeding five percent (5%) of the Loan/Grant Amount. “Eligible Items” has the meaning given to that term in the Loan/Grant Agreement.

“Eligible Items” means eligible Project costs for which loans/grants may be made pursuant to Title 2, Chapter 91, Part 2 NMAC, the Board Rules and applicable Policies, and includes costs of acquiring and constructing the Project, and, without limitation, Eligible Legal Costs and Eligible Fiscal Agent Fees.

“Eligible Legal Costs” means legal fees and costs for services rendered by legal counsel on behalf of the Borrower/Grantee for transaction of the Project and those directly associated with the qualified project, in an amount not exceeding ten percent (10%) of the Loan/Grant Amount, but does not include adjudication services.

“Finance Authority” means the New Mexico Finance Authority.

“Fiscal Year” means the period commencing on July 1 of each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Borrower/Grantee as its fiscal year.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Borrower/Grantee consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the Finance Authority establishing accounting principles applicable to the Borrower/Grantee.

“Governing Body” means the Board of Directors of the Borrower/Grantee, or any future successor governing body of the Borrower/Grantee.

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is equal to 80% of the Amount disbursed, or \$116,688.

“Gross Revenues” has the meaning given to that term in the Loan/Grant Agreement.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Resolution and not solely to the particular section or paragraph of this Resolution in which such word is used.

“High Valley” means High Valley Mutual Domestic Water Consumers Association in La Mesa, New Mexico, which has merged into the Borrower/Grantee.

“Lenders/Grantors” means the CIB and the Finance Authority.

“Loan” or “Loan Amount” means 20% of the amount disbursed to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is equal to \$29,172.

“Loan/Grant” or “Loan/Grant Amount” means the amount provided to the Borrower/Grantee as the Grant Amount and borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project. The value of the Loan/Grant shall not equal more than \$145,860.

“Net System Revenues” means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacements and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water utility system.

“NMAC” means the New Mexico Administrative Code.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented from time to time.

“Operation and Maintenance Expenses” has the meaning given to that term in the Loan/Grant Agreement.

“Pledged Revenues” means the Net System Revenues of the Borrower/Grantee pledged to the payment of the Loan Amount pursuant to this Resolution and the Loan/Grant Agreement and described in the Term Sheet.

“Policies” means the Colonias Infrastructure Project Fund Project Selection and Management Policies, approved by the CIB.

“Political Subdivision of the State” means a municipality, a county, water and sanitation district, an association organized and existing pursuant to the Sanitary Projects Act, NMSA

1978, § 3-29-1 through § 3-29-21, as amended, or any other entity recognized by statute as a political subdivision of the State.

“Project” means the project described in the Term Sheet.

“Project Account” means the book account, if any, established by the Finance Authority in the name of the Borrower/Grantee for purposes of tracking expenditure of the Loan/Grant Amount by the Borrower/Grantee to pay for the costs of the Project, as shown in the Term Sheet, which account shall be kept separate and apart from all other accounts of the Finance Authority.

“Qualified Entity” means a county, municipality, or other entity recognized as a Political Subdivision of the State pursuant to NMSA 1978, § 6-30-3(F), as amended.

“Qualified Project” means a capital outlay project recommended by the CIB to the Finance Authority for financial assistance that is primarily intended to develop Colonias infrastructure. A Qualified Project may include a water system, a wastewater system, solid waste disposal facilities, flood and drainage control, roads or housing infrastructure pursuant to NMSA 1978, § 6-30-3(G), as amended, but does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies.

“Resolution” means this Resolution as it may be supplemented or amended from time to time.

“Rules” means Review and Selection of Colonias Infrastructure Projects, New Mexico Colonias Infrastructure Board, Sections 2.91.2.1 through 2.91.2.18 NMAC.

“State” means the State of New Mexico.

“System” means the water utility system of the Borrower/Grantee, owned and operated by the Borrower/Grantee, and of which the Project, when completed, will form part.

“Term Sheet” means Exhibit “A” attached to the Loan/Grant Agreement.

“Useful Life” means the period during which the Project is expected to be usable for the purpose for which it was acquired and constructed, which is twenty (20) years.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Borrower/Grantee and officers of the Borrower/Grantee directed toward the acquisition and completion of the Project, the pledge of the Pledged Revenues to payment of amounts due under the Loan/Grant Agreement, and the execution and delivery of the Loan/Grant Agreement shall be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Project and the Loan/Grant Agreement. The acquisition and completion of the Project and the method of funding the Project through execution and delivery of the Loan/Grant Agreement and the other documents related to the

transaction are hereby authorized and ordered. The Project is for the benefit and use of the Borrower/Grantee, Vado, New Mexico, and the public they serve.

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

A. The Project is needed to meet the needs of the Borrower/Grantee, Vado, New Mexico, and the public they serve.

B. Moneys available and on hand for the Project from all sources other than the Loan/Grant are not sufficient to defray the cost of acquiring and completing the Project but, together with the Loan/Grant Amount, are sufficient to complete the Project.

C. The Project and the execution and delivery of the Loan/Grant Agreement pursuant to the Act to provide funds for the financing of the Project are necessary, convenient and in furtherance of the governmental purposes of the Borrower/Grantee, and in the interest of the public health, safety, and welfare of the constituent public served by the Borrower/Grantee.

D. The Borrower/Grantee will acquire and complete the Project with the proceeds of the Loan/Grant and other amounts available to the Borrower/Grantee, and except as otherwise expressly provided by the Loan/Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life.

E. The Loan/Grant Amount, and other amounts available to the Borrower/Grantee, will be sufficient to complete the Project.

F. The Lenders/Grantors shall maintain on behalf of the Borrower/Grantee a separate Project Account as a book account only on behalf of the Borrower/Grantee and financial records in accordance with Generally Accepted Accounting Principles during the construction or implementation of the Project.

G. The Borrower/Grantee has title to or easements or rights of way on the real property upon which the Project is being constructed or located.

Section 5. Loan/Grant Agreement—Authorization and Detail.

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of \$116,688 and borrowing the Loan Amount of \$29,172 to be utilized solely for Eligible Items necessary to complete the Project, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of \$116,688 and the Loan shall be in the amount of \$29,172. Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount.

Section 6. Approval of Loan/Grant Agreement. The form of the Loan/Grant Agreement as presented at the meeting of the Governing Body, at which this Resolution was adopted, is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan/Grant Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the Secretary is hereby authorized to attest the Loan/Grant Agreement. The execution of the Loan/Grant Agreement shall be conclusive evidence of such approval.

Section 7. Security. The Loan Amount shall be solely secured by the pledge of the Pledged Revenues herein made and as set forth in the Loan/Grant Agreement.

Section 8. Disposition of Proceeds: Completion of the Project.

A. Project Account. The Borrower/Grantee hereby consents to creation of the Project Account by the Finance Authority and further approves of the deposit or crediting of a portion of the Loan/Grant Amount to pay expenses. Until the Completion Date, the amount of the Loan/Grant credited to the Project Account shall be used and paid out solely for Eligible Items necessary to acquire and complete the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement.

B. Completion of the Project. The Borrower/Grantee shall proceed to complete the Project with all due diligence. Upon the Completion Date, the Borrower/Grantee shall execute a certificate stating that completion of and payment for the Project has been completed. Following the Completion Date or the earlier expiration of the time allowed for disbursement of Loan/Grant funds as provided in the Loan/Grant Agreement, any balance remaining in the Project Account shall be transferred and deposited into the Colonias Infrastructure Project Fund or otherwise distributed as provided in the Loan/Grant Agreement.

C. CIB and Finance Authority Not Responsible. Borrower/Grantee shall apply the funds derived from the Loan/Grant Agreement as provided therein, and in particular Article V of the Loan/Grant Agreement. Neither the CIB nor the Finance Authority shall in any manner be responsible for the application or disposal by the Borrower/Grantee or by its officers of the funds derived from the Loan/Grant Agreement or of any other funds held by or made available to the Borrower/Grantee in connection with the Project. Lenders/Grantors shall not be liable for the refusal or failure of any other agency of the State to transfer any portion of the Loan/Grant Amount in its possession, custody and control to the Finance Authority for disbursement to the Borrower/Grantee, or to honor any request for such transfer or disbursement of the Loan/Grant Amount.

Section 9. Payment of Loan Amount. Pursuant to the Loan/Grant Agreement, the Borrower/Grantee shall pay the Loan Amount directly from the Pledged Revenues to the Finance Authority as provided in the Loan/Grant Agreement in an amount sufficient to pay principal and other amounts due under the Loan/Grant Agreement and to cure any deficiencies in the payment of the Loan Amount or other amounts due under the Loan/Grant Agreement.

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount, the priority of which is consistent with that shown on the Term Sheet.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

Section 12. Amendment of Resolution. This Resolution after its adoption may be amended without receipt by the Borrower/Grantee of any additional consideration, but only with the prior written consent of the CIB and the Finance Authority.

Section 13. Resolution Irrepealable. After the Loan/Grant Agreement has been executed and delivered, this Resolution shall be and remain irrepealable until all obligations due under the Loan/Grant Agreement shall be fully discharged, as herein provided.

Section 14. Severability Clause. 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 15. Repealer Clause. All bylaws, orders, ordinances, resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 16. Effective Date. Upon due adoption of this Resolution, it shall be recorded in the book of the Borrower/Grantee kept for that purpose, authenticated by the signatures of the Chairman and Secretary of the Borrower/Grantee, and this Resolution shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Resolution, this Resolution shall be effective upon adoption of this Resolution by the Governing Body.

Section 17. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Resolution shall be published in substantially the following form:

[Remainder of page intentionally left blank.]

[Form of Notice of Adoption of Resolution for Publication]

Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico
Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. FY2019-10, duly adopted and approved by the Governing Body of the Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico (the "Governmental Unit"), on September 19, 2018. Complete copies of the Resolution are available for public inspection during normal and regular business hours in the office of the Secretary, 325 Holguin Road, Vado, New Mexico 88072.

The title of the Resolution is:

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
DONA ANA COUNTY, NEW MEXICO
RESOLUTION NO. FY2019-10

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A COLONIAS INFRASTRUCTURE PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO COLONIAS INFRASTRUCTURE BOARD ("CIB") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY," AND COLLECTIVELY WITH THE CIB, THE "LENDERS/GRANTORS") AND THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY (THE "BORROWER/GRANTEE"), FOR THE BENEFIT OF VADO, NEW MEXICO, IN THE TOTAL AMOUNT OF \$145,860, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF DESIGNING AND CONSTRUCTING HIGH VALLEY WELL IMPROVEMENTS, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE LOAN AMOUNT OF \$29,172, SOLELY FROM NET SYSTEM REVENUES AND ACCEPTANCE OF A GRANT AMOUNT OF \$116,688; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

A general summary of the subject matter of the Resolution is contained in its title. This notice constitutes compliance with NMSA 1978, § 6-14-6, as amended.

[End of Form of Notice of Adoption for Publication]

PASSED, APPROVED AND ADOPTED THIS 19th DAY OF SEPTEMBER, 2018.

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

ATTEST:

By _____
Esperanza Holguin, Secretary

[Remainder of page intentionally left blank.]

Governing Body Member _____, then moved adoption of the foregoing Resolution, duly seconded by Governing Body Member _____.

The motion to adopt the Resolution, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye:

Those Voting Nay:

Those Absent:

_____ () Members of the Governing Body having voted in favor of the motion, the Chairman declared the motion carried and the Resolution adopted, whereupon the Chairman and Secretary signed the Resolution upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Resolution, the meeting upon motion duly made, seconded and carried, was adjourned.

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

ATTEST:

By _____
Esperanza Holguin, Secretary

[Remainder of page intentionally left blank.]

STATE OF NEW MEXICO)
) ss.
COUNTY OF DONA ANA)

I, Esperanza Holguin, the duly qualified and acting Secretary of the Lower Rio Grande Public Water Works Authority (the “Borrower/Grantee”), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of Directors of the Borrower/Grantee (the “Governing Body”), had and taken at a duly called regular meeting held at 521 St. Valentine, La Mesa, New Mexico, on September 19, 2018, at the hour of 9:30 a.m., insofar as the same relate to the adoption of Resolution No. FY2019-10 and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. The proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1, as amended, including the Borrower/Grantee's open meetings Resolution No. FY2018-18, adopted and approved on May 16, 2018 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of October, 2018.

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

(SEAL)

By _____
Esperanza Holguin, Secretary

EXHIBIT "A"

Notice of Meeting, Meeting Agenda

\$145,860

COLONIAS INFRASTRUCTURE PROJECT FUND
LOAN/GRANT AGREEMENT

Dated

October 26, 2018

By and Among the

COLONIAS INFRASTRUCTURE BOARD
and the
NEW MEXICO FINANCE AUTHORITY,
as Lenders/Grantors,

and the

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
Dona Ana County, New Mexico,
as Borrower/Grantee.

COLONIAS INFRASTRUCTURE PROJECT FUND
LOAN/GRANT AGREEMENT

THIS LOAN/GRANT AGREEMENT (the “Agreement”) dated October 26, 2018, is entered into by and among the COLONIAS INFRASTRUCTURE BOARD (the “CIB”) and the NEW MEXICO FINANCE AUTHORITY (the “Finance Authority”) (collectively, the “Lenders/Grantors”), and the LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY in Dona Ana County, New Mexico, (the “Borrower/Grantee”) for the benefit of the Colonia of Vado, New Mexico (the “Colonia”).

W I T N E S S E T H:

WHEREAS, the CIB is a public body duly organized and created pursuant to the laws of the State of New Mexico (the “State”), particularly the Colonias Infrastructure Act, NMSA 1978, §§ 6-30-1 through 6-30-8, as amended (the “Colonias Infrastructure Act” or the “Act”); and

WHEREAS, the Finance Authority is a public body politic and corporate, separate and apart from the State, constituting a governmental instrumentality, duly organized and created under and pursuant to the laws of the State, particularly NMSA 1978, §§ 6-21-1 through 6-21-31, as amended, (the “Finance Authority Act”); and

WHEREAS, the Act creates the Colonias Infrastructure Project Fund (the “Fund”) in the Finance Authority, to be administered by the Finance Authority to originate grants or loans to Qualified Entities for Qualified Projects recommended by the CIB; and

WHEREAS, the Borrower/Grantee is a Political Subdivision of the State, being a legally and regularly created, established, organized and existing public water works authority under the general laws of the State and more specifically, NMSA 1978, § 73-26-1, as amended; and

WHEREAS, there exists within the service area of the Borrower/Grantee, the Colonia, a community that has been designated as a Colonia within the meaning of the Act; and

WHEREAS, the Borrower/Grantee will be receiving the Loan/Grant for the benefit of the Colonia and the constituent public the Borrower/Grantee serves; and

WHEREAS, pursuant to the Act, Board Rules and the Policies, the CIB and the Finance Authority are authorized to make loans/grants to Qualified Entities from the Fund for Qualified Projects; and

WHEREAS, High Valley submitted an application dated January 12, 2018 for the Project, which Application was assigned to the Borrower/Grantee by Resolution No. 2018-6 adopted on April 16, 2018 by the Board of Directors of High Valley; and

WHEREAS, the CIB has determined that the Project is a qualifying Project and that the Borrower/Grantee is a Qualified Entity under the Board Rules; and

WHEREAS, the CIB on April 25, 2018 recommended to the Finance Authority that the Borrower/Grantee receive financial assistance from the Fund in the form of the Loan/Grant, for the benefit of the Colonia and the CIB has recommended that the Finance Authority enter into and administer this Agreement; and

WHEREAS, the Finance Authority approved the Loan/Grant Amount from the Fund to the Borrower/Grantee on May 24, 2018; and

WHEREAS, pursuant to the Board Rules and the Policies, the Borrower/Grantee will receive at least ten percent (10%) of its funding as a loan, in order to ensure the long-term solvency of the Fund by providing annual streams of revenue available to fund additional Qualified Projects; and

WHEREAS, the Borrower/Grantee is willing to pledge the Pledged Revenues to the payment of the Loan and grant a lien to the Finance Authority on the Pledged Revenues subordinate to all other liens thereon present and future, except that any present and future loans from the Finance Authority to the Borrower/Grantee pursuant to the Act or the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10, as amended, shall be on a parity with this Loan/Grant; and

WHEREAS, the obligation of the Borrower/Grantee under this Agreement shall constitute a special, limited obligation of the Borrower/Grantee, limited to the Pledged Revenues, and shall not constitute a general obligation or other indebtedness of the Borrower/Grantee or a charge upon the general credit or ad valorem taxing power of the Borrower/Grantee, or the State; and

WHEREAS, the execution, performance, and delivery of this Agreement have been authorized, approved, and directed by the Governing Body pursuant to the Resolution; and

WHEREAS, the execution and performance of this Agreement have been authorized, approved, and directed by all necessary and appropriate action of the CIB and the Finance Authority and their respective officers.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the parties hereto agree:

ARTICLE I DEFINITIONS

Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Agreement unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Agreement including the foregoing recitals, unless the context clearly requires otherwise.

“Agreement Term” means the term of this Agreement as provided under Article III of this Agreement.

“Application” means the Colonias Infrastructure Project Fund Application for Funding dated January 12, 2018 of High Valley, which Application was assigned to the Borrower/Grantee by Resolution No. 2018-6 adopted on April 16, 2018 by the Board of Directors of High Valley, and pursuant to which the Borrower/Grantee requested funding for the Project.

“Authorized Officers” means, with respect to the Borrower/Grantee, any one or more of the Chairman, the Finance Manager, the General Manager and the Secretary thereof; with respect to the Finance Authority, the Chairman, Vice-Chairman and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer; and with respect to the CIB, any one or more of the Chairperson or the Vice-Chairperson, Secretary and the Treasurer thereof, and any other officer or employee of the Finance Authority or of the CIB designated in writing by an Authorized Officer thereof.

“Board Rules” means Review and Selection of Colonias Infrastructure Projects, New Mexico Colonias Infrastructure Board, Sections 2.91.2.1 through 2.91.2.18 NMAC.

“Closing Date” means the date of execution of this Agreement by the Borrower/Grantee, the CIB, and the Finance Authority.

“Colonia” or “Colonias” means a Colonia as defined in the Act, and more particularly in NMSA 1978, § 6-30-3(C), as amended, and particularly the Colonia of Vado, New Mexico.

“Conditions” means (1) all readiness to proceed requirements established for the Loan/Grant by the Finance Authority and the CIB; (2) all requirements set forth in the Term Sheet; (3) all requirements outlined in Section 2.1(p) and Section 5.1; (4) a determination that the disbursement applied for does not exceed any limitation upon the amount payable for any Eligible Item pursuant to the Act, the Board Rules, and the Policies; and (5) the plans and specifications for the Project have been approved by all entities required by the CIB or the Finance Authority in their sole discretion to approve such plans and specifications; and

“Department of Finance and Administration” or “DFA” means the department of finance and administration of the State.

“Eligible Architectural, Engineering and Construction Management Fees” means the fees and costs associated with the architectural, engineering and construction project management costs for services rendered to the Borrower/Grantee for the transaction of the Project and those directly associated with the Project, in an amount up to twelve percent (12%) of the Loan/Grant Amount.

“Eligible Fees for Other Professional Services” means the fees and costs incurred for other professional services necessary to the completion of the Project including, but not limited to, services provided by accounting and auditing firms, hydrologists and surveyors. Such fees may not exceed five percent (5%) of the Loan/Grant Amount.

“Eligible Fiscal Agent Fees” means fees and costs incurred by a fiscal agent for the administration of Project funds, including the collection and reporting of Project information as required by this Agreement in an amount not exceeding five percent (5%) of the Loan/Grant Amount.

“Eligible Items” means eligible Project costs for which loans/grants may be made pursuant to Title 2, Chapter 91, Part 2 NMAC, the Board Rules and applicable Policies, and includes costs of acquiring and constructing the Project, and, without limitation, Eligible Legal Costs and Eligible Fiscal Agent Fees.

“Eligible Legal Costs” means legal fees and costs for services rendered by legal counsel on behalf of the Borrower/Grantee for transaction of the Project and those directly associated with the Qualified Project in an amount not exceeding ten percent (10%) of the Loan/Grant Amount, but does not include adjudication services.

“Event of Default” means one or more events of default as defined in Section 9.1 of this Agreement.

“Final Debt Service Schedule” means the schedule of Loan Payments due on this Agreement following the Final Requisition, as determined on the basis of the Loan Amount.

“Final Requisition” means the final requisition of moneys to be submitted by the Borrower/Grantee, which shall be submitted by the Borrower/Grantee on or before the expiration of the Interim Period as provided in Section 4.4 of this Agreement. .

“Fiscal Year” means the period commencing on July 1 of each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Borrower/Grantee as its fiscal year.

“Force Majeure” means acts of God and natural disasters; strikes or labor disputes; war, civil strife or other violence; an order of any kind of the Government of the United States or of the State or civil or military authority or any court of competent jurisdiction; or any other act or condition that was beyond the reasonable control of, without fault or negligence of, or not reasonably foreseeable by the party claiming the Force Majeure event; except for (i) general economic conditions; or (ii) an inability of a party claiming the Force Majeure event to pay any debts when due.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Borrower/Grantee consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the Finance Authority establishing accounting principles applicable to the Borrower/Grantee.

“Governing Body” means the Board of Directors of the Borrower/Grantee, or any future successor governing body of the Borrower/Grantee.

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to this Agreement for the purpose of funding the Project and is 80% of the amount disbursed during the Interim Period or \$116,688.

“Gross Revenues” means all income and revenues directly or indirectly derived by the Borrower/Grantee from the operation and use of the System for any particular Fiscal Year or period to which term is applicable. In the event there is a conflicting description of Gross Revenues in any Ordinance or Resolution of the Borrower/Grantee, the language of such Ordinance or Resolution shall control.

“Hardship Waiver” means a determination by the Finance Authority pursuant to Section 4.1(a)(ii) herein that the annual principal payment by the Borrower/Grantee should be forgiven because such payment would cause undue hardship for the Borrower/Grantee or the public it serves.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Agreement and not solely to the particular section or paragraph of this Loan/Grant Agreement in which such word is used.

“High Valley” means High Valley Mutual Domestic Water Consumers Association in La Mesa, New Mexico, which has merged into the Borrower/Grantee.

“Interest Component” means the portion of each Loan Payment paid as interest on this Agreement, if any, as shown on Exhibit “C” hereto.

“Interim Debt Service Schedule” means the anticipated schedule of Loan Payments due on this Agreement following the Final Requisition, assuming disbursement of the entire Loan Amount within twenty four (24) months of the Closing Date. The Interim Debt Service Schedule is attached hereto as Exhibit “C”.

“Interim Period” means the period no greater than twenty four (24) months, unless a longer period is approved by the Finance Authority as provided in Section 4.4 of this Agreement, beginning on the Closing Date, during which the Finance Authority will disburse moneys to the Borrower/Grantee to pay costs of the Project.

“Lenders/Grantors” means the CIB and the Finance Authority.

“Loan” or “Loan Amount” means 20% of the amount disbursed to the Borrower/Grantee as during the Interim Period for the purpose of funding the Project and is equal to \$29,172.

“Loan/Grant” or “Loan/Grant Amount” means the combined amount distributed to the Borrower/Grantee during the Interim Period partially as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to this Agreement for the purpose of funding the Project and shall not equal more than \$145,860.

“Loan Payments” means, collectively, the Principal Component and interest, if any, to be paid by the Borrower/Grantee as payment of this Agreement as shown on Exhibit “C” hereto.

“Net System Revenues” means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacements and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water utility system.

“NMAC” means the New Mexico Administrative Code.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented from time to time.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System. In the event there is a conflicting description of Operation and Maintenance Expenses in any Ordinance or Resolution of the Borrower/Grantee, the language of such Ordinance or Resolution shall control.

“Parity Obligations” means this Agreement, and any other obligations, now outstanding or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on parity with this Agreement, as shown on the Term Sheet.

“Pledged Revenues” means the Net System Revenues of the Borrower/Grantee pledged to the payment of the Loan Payments pursuant to the Resolution and this Agreement and described in the Term Sheet.

“Policies” means the Colonias Infrastructure Project Fund Project Selection and Management Policies, approved by the CIB.

“Political Subdivision of the State” means a municipality, a county, water and sanitation district, an association organized and existing pursuant to the Sanitary Projects Act, NMSA 1978, § 3-29-1 through § 3-29-21, as amended, or any other entity recognized by statute as a political subdivision of the State.

“Principal Component” means the portion of each Loan Payment paid as principal on this Agreement as shown on Exhibit “C” attached hereto.

“Project” means the project(s) described on the Term Sheet.

“Project Account” means the book account, if any, established by the Finance Authority in the name of the Borrower/Grantee for purposes of tracking expenditure of the Loan/Grant Amount by the Borrower/Grantee to pay for the costs of the Project, which shall be kept separate and apart from all other accounts of the Finance Authority.

“Qualified Entity” means a county, municipality, or other entity recognized as a Political Subdivision of the State pursuant to NMSA 1978, § 6-30-3(F), as amended.

“Qualified Project” means a capital outlay project recommended by the CIB to the Finance Authority for financial assistance that is primarily intended to develop Colonias infrastructure. A Qualified Project may include a water system, a wastewater system, solid waste disposal facilities, flood and drainage control, roads or housing infrastructure pursuant to NMSA 1978, § 6-30-3(G), as amended, but does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies.

“Resolution” means the Borrower/Grantee Resolution No. FY2019-10 adopted by the Governing Body on September 19, 2018 authorizing the acceptance of the Loan/Grant, approving this Agreement and pledging the Pledged Revenues to the payment of the Loan Payments as shown on the Term Sheet.

“Senior Obligations” means any bonds or other obligations of the Borrower/Grantee now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues superior to the lien created by this Agreement, including any such obligations shown on the Term Sheet.

“State” means the State of New Mexico.

“System” means the water utility system of the Borrower/Grantee, owned and operated by the Borrower/Grantee, and of which the Project, when completed, will form part.

“Term Sheet” means Exhibit “A” attached to this Agreement.

“Useful Life” means the period during which the Project is expected to be usable for the purpose for which it was acquired and constructed, which is twenty (20) years.

ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE BORROWER/GRANTEE

Section 2.1 Representations, Covenants and Warranties of the Borrower/Grantee: The Borrower/Grantee represents, covenants and warrants for the benefit of the Finance Authority as follows:

(a) Binding Nature of Covenants; Enforceability. All representations, covenants, stipulations, obligations and agreements of the Borrower/Grantee contained in this Agreement shall be deemed to be the representations, covenants, stipulations, obligations and agreements of the Borrower/Grantee to the full extent authorized or permitted by law, and such representations, covenants, stipulations, obligations and agreements shall be binding upon the Borrower/Grantee and its successors and enforceable in accordance with their terms, and upon any board or body to which any powers or duties affecting such representations, covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

(b) Authorization of Agreement. The Borrower/Grantee is a Qualified Entity as defined in the Act and the Board Rules. Pursuant to the laws of the State and in particular, the laws governing its creation and existence, as amended and supplemented from time to time, the Borrower/Grantee is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The Borrower/Grantee has duly authorized and approved its acceptance of the Loan/Grant and the execution and delivery of this Agreement and the other documents related to the transaction described in this Agreement, and this Agreement and the other documents related to the transaction to which the Borrower/Grantee is a party constitute legal, valid and binding special obligations of the Borrower/Grantee enforceable against the Borrower/Grantee in accordance with their respective terms.

(c) Necessity of Project. The completion and operation of the Project under the terms and Conditions provided in this Agreement are necessary, convenient, and in furtherance of the governmental purposes of the Borrower/Grantee and are in the best interest of the Borrower/Grantee and the Colonia and the constituent public they serve.

(d) Useful Life. The Agreement Term is not greater than the Useful Life of the Project, and in any event shall not exceed thirty (30) years.

(e) Nature and Use of Agreement Proceeds. The Borrower/Grantee acknowledges that the proceeds of the Loan/Grant Amount shall be distributed pro rata as the Loan Amount and Grant Amount. The Borrower/Grantee shall apply the proceeds of the Loan/Grant solely to Eligible Items that will facilitate the completion of the Project, and shall not use the Loan/Grant proceeds for any other purpose. The Loan/Grant Amount and other moneys reasonably expected to be available to the Borrower/Grantee, is sufficient to complete the Project in its entirety.

(f) Lien. The Loan Payments constitute an irrevocable lien on the distribution on the Pledged Revenues, the priority of which is consistent with that shown on the Term Sheet.

(g) Payment of Loan Amount. The Borrower/Grantee shall promptly pay the Loan Payments as provided in this Agreement, except when a Hardship Waiver is obtained pursuant to Section 4.1(a)(ii) of this Agreement. The Loan Payments shall be payable solely from Pledged Revenues and nothing in this Agreement shall be construed as obligating the Borrower/Grantee to make the Loan Payments from any general or other fund of the Borrower/Grantee other than the Pledged Revenues; however, nothing in this Agreement shall be construed as prohibiting the Borrower/Grantee in its sole and absolute discretion, from making such payments from any moneys which may be lawfully used, and which are legally available, for that purpose.

(h) No Breach or Default Caused by Agreement. Neither the execution and delivery of this Agreement and the other documents related to the transaction, nor the fulfillment of or compliance with the terms and Conditions in this Agreement and the other documents related to the transaction, nor the consummation of the transactions contemplated herein and therein, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the Borrower/Grantee is a party or by which the Borrower/Grantee is bound, or any laws, ordinances, governmental rules or regulations or court

or other governmental orders to which the Borrower/Grantee or its properties are subject, or constitutes a default under any of the foregoing.

(i) Irrevocable Enactments. While this Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for payment of this Agreement, including the Resolution, shall be irrevocable until the Project has been fully acquired and completed, and the Loan Amount, including all principal and interest that has been repaid, or provision made for payment thereof, shall not be subject to amendment or modification in any manner which would result in any use of the proceeds of this Agreement in a manner not permitted or contemplated by the terms hereof. The Borrower/Grantee shall not impair the rights of the Finance Authority or of any holders of bonds or other obligations payable from the Pledged Revenues while this Agreement is outstanding.

(j) No Litigation. To the knowledge of the Borrower/Grantee, no litigation or proceeding is pending or threatened against the Borrower/Grantee or any other person affecting the right of the Borrower/Grantee to execute or deliver this Agreement and the other documents related to the transaction or to comply with its obligations under this Agreement and the other documents related to the transaction.

(k) Agency Approval. Neither the execution and delivery of this Agreement and the other documents related to the transaction by the Borrower/Grantee nor compliance by the Borrower/Grantee with the obligations under this Agreement and the other documents related to the transaction, requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(l) No Event of Default. No event has occurred and no condition exists which, with the giving of notice or the passage of time or upon the execution and delivery of this Agreement or the other documents related to the transaction, would constitute an Event of Default on the part of the Borrower/Grantee under this Agreement and the other documents related to the transaction.

(m) Pledged Revenues Not Budgeted. The portion of the Pledged Revenues necessary to pay the Loan Payments, as and when due, is not needed or budgeted to pay current or anticipated Operation and Maintenance Expenses or other expense of the Borrower/Grantee.

(n) Borrower/Grantee's Existence. The Borrower/Grantee will maintain its legal identity and existence so long as this Agreement remains outstanding unless another Political Subdivision of the State, State agency, or other entity by operation of law succeeds to the liabilities, rights and duties of the Borrower/Grantee under this Agreement without adversely affecting to any substantial degree the privileges and rights of the Lenders/Grantors.

(o) Budgeting of Pledged Revenues. The Pledged Revenues will be sufficient to make the Loan Payments, as and when due. The Borrower/Grantee will adequately budget for the Loan Payments and other amounts payable by the Borrower/Grantee under this Agreement.

(p) Use of Project; Continuing Covenant. During the Agreement Term, the Borrower/Grantee will at all times use the Project for the benefit of the Borrower/Grantee and the public it serves. The Borrower/Grantee shall not sell, lease, mortgage, pledge, relocate or otherwise dispose of or transfer the Project or System, or any part of the Project or System so long as this Agreement is outstanding; provided, however, that if the Project is a joint project of the Borrower/Grantee and other qualifying entities (as defined by the Act), the Borrower/Grantee and the other qualifying entities may, with the express written approval of the Finance Authority and not otherwise, enter into an agreement allocating ownership and operational and maintenance responsibilities for the Project during the term of the Agreement. Any such agreement shall provide that the Lenders/Grantors, or either of them, shall have the power to enforce the terms of this Agreement, without qualification, as to each and every qualifying entity (as defined by the Act) other than the Borrower/Grantee, owning or operating any portion of the Project during the term of the Agreement. The Borrower/Grantee will operate and maintain the Project, so that it will function properly over its Useful Life.

(q) Expected Coverage Ratio. The Pledged Revenues are reasonably expected to equal or exceed—from the Fiscal Year in which the Closing Date occurs and, on an ongoing basis during each Fiscal Year of the Agreement Term—one hundred percent (100%) of the maximum annual principal and interest due on all outstanding obligations of the Borrower/Grantee payable from the Pledged Revenues.

(r) Right to Inspect. The Finance Authority shall have the right to inspect at all reasonable times all records, accounts and data relating to the System and to inspect the System and all properties comprising the System, and the Borrower/Grantee shall supply such records, accounts, and data as are requested by the Finance Authority, within thirty (30) days of receipt of such request, written or oral.

(s) Records and Reporting. The Borrower/Grantee shall maintain financial records in accordance with Generally Accepted Accounting Principles throughout the Agreement Term, and in the event that the State Audit Act, NMSA 1978, §§ 12-6-1 through 12-6-14 does not apply, conduct an audit of the Project's financial records if requested by the CIB or the Finance Authority and provide any and all other information and access to the Project as requested by the CIB or the Finance Authority.

(t) Acquisition and Completion. The Borrower/Grantee shall proceed expeditiously to complete the Project and shall commence the Project in a commercially reasonable timeframe following the Closing Date. Further, the Borrower/Grantee hereby agrees that in order to effectuate the purposes of this Agreement and to acquire and complete the Project it shall take such steps as are necessary and appropriate to acquire, complete, operate and maintain the Project lawfully and efficiently in accord with all applicable laws, ordinances, resolutions and regulations relating to the acquisition, operation, maintenance and completion of the Project and use of the Loan/Grant proceeds. The Project shall be designed so as to incorporate the available technologies and operational design for water use efficiency. The plans and specifications shall be approved by all entities required by the CIB or Finance Authority in their sole discretion to approve such plans and specifications prior to the disbursement of any part of the Loan/Grant Amount for construction of the Project, and the Project shall be

constructed and completed substantially in accordance with the approved plans and specifications. No Loan/Grant funds shall be used for items not constituting Eligible Items.

(u) Use of Grant Proceeds for Construction; Other Qualified Entities. The Borrower/Grantee shall operate and maintain the Project in good operating condition and repair at all times during the Useful Life of the Project, so that the Project will function properly over the Useful Life of the Project; provided, that if any portion of the Project will be constructed, installed, located, completed or extended on real property owned by a Qualified Entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee may, prior to any use of the Loan/Grant funds for the Project on such real property, obtain the written agreement of such other Qualified Entity to perform these obligations with respect to such real property (and the portion of the Project to be constructed, installed, located, completed or extended on such real property), which written agreement shall be subject to approval by the Lenders/Grantors and shall include an express statement by such other Qualified Entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

(v) Rate Covenant. The Borrower/Grantee covenants that it will at all times fix, charge and collect such rates and charges as shall be required in order that in each Fiscal Year in which the Loan is outstanding the Gross Revenues shall at least equal the Operation and Maintenance Expenses of the System for the Fiscal Year, plus one hundred percent (100%) of the maximum annual principal and interest payments due on all outstanding obligations payable from the Pledged Revenues.

(w) Audit Requirement. During the Agreement Term the Borrower/Grantee shall comply with the requirements of the State Audit Act, NMSA 1978, §§ 12-6-1 through 12-6-14, as amended, and upon request, provide the Finance Authority with a copy of any review or audit, report of agreed upon procedures, or any other document prepared pursuant to or required by the State Audit Act.

(x) Executive Order 2013-006 Requirements. The Borrower/Grantee has and will meet the requirements of Executive Order 2013-006 prior to the first disbursement of any portion of the Loan/Grant Amount, the Conditions and the readiness to proceed requirements established for the Loan/Grant by the Finance Authority and the CIB; and

(y) Other Liens. Other than as provided in the Term Sheet, there are no liens or encumbrances of any nature, whatsoever, on or against the System or the revenues derived from the operation of the same.

ARTICLE III AGREEMENT TERM

The Agreement Term shall commence on the Closing Date and shall terminate upon the earliest of the following events: (a) submission and acceptance of a completed Form of Certificate of Completion, Exhibit "D", and repayment of the Loan Amount and Interest or (b) the exercise by the Finance Authority to terminate the Agreement pursuant to an Event of Default as outlined in Section IX of this Agreement.

ARTICLE IV
LOAN/GRANT TO THE BORROWER/GRANTEE; INVESTMENT OF MONEYS

Section 4.1 Loan and Grant to the Borrower/Grantee.

(a) Loan to the Borrower/Grantee. The Finance Authority hereby lends to the Borrower/Grantee and the Borrower/Grantee hereby borrows from and agrees to pay to the order of the Finance Authority, an amount equal to the Loan Amount, with the principal amount of the Loan Amount being payable as provided by Article VI and Exhibit "C" of this Agreement. The Loan Amount shall be pre-payable by the Borrower/Grantee at the conclusion of the Interim Period without penalty.

(i) Subordinate Nature of Loan Amount Obligation. The obligation of the Borrower/Grantee to make the Loan Payments shall be subordinate to all other indebtedness secured by the Pledged Revenues existing on the Closing Date and, further, that may in the future be secured by the Pledged Revenues; except, however, that the obligation of the Borrower/Grantee to make the Loan Payments shall be on parity with any other obligation, present or future, of the Borrower/Grantee to repay a loan provided by the Finance Authority pursuant to the Act or the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10, as amended.

(ii) Hardship Waivers of Payment. Each year while any portion of the Loan Amount remains outstanding, if a Borrower/Grantee has encountered an unforeseeable hardship, the Borrower/Grantee may apply in writing on or before April 1st to the Finance Authority for forgiveness of the annual Loan Payment coming due on June 1 of the same year. The Borrower/Grantee shall submit its application to the Finance Authority for a determination by the Finance Authority, in cooperation with DFA, and shall submit sufficient documentation of the existence of the unforeseeable hardship as is reasonably required by the Finance Authority, in cooperation with DFA, to make a determination. The Borrower/Grantee shall promptly respond to additional requests for information from the Finance Authority or DFA. Such application for a Hardship Waiver shall be executed by the Authorized Officers of the Borrower/Grantee. The Finance Authority shall communicate the decision to the Borrower/Grantee in writing. In the event of a determination of unforeseeable hardship, the Loan Payment otherwise due on June 1 of that year shall be forgiven. If no unforeseeable hardship is found to exist, the Loan Payment shall remain outstanding and due and payable in accordance with the terms of this Agreement.

(iii) Constitutional and Statutory Debt Limitations. No provision of this Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the CIB, the Finance Authority, the State or the Borrower/Grantee within the meaning of any constitutional or statutory debt limitation.

(b) Grant to the Borrower/Grantee. The Lenders/Grantors hereby grant to the Borrower/Grantee and the Borrower/Grantee hereby accepts from the Lenders/Grantors an amount equal to the Grant Amount subject to the terms of this Agreement.

(c) Project Account. The Finance Authority may establish and maintain the Project Account as a book account only, on behalf of the Borrower/Grantee, which account shall be kept separate and apart from all other accounts of the Finance Authority.

Section 4.2 Investment of Borrower/Grantee's Accounts. Money on deposit in the Borrower/Grantee's accounts created hereunder and held by the Finance Authority may be invested by the Finance Authority for the credit of the Fund.

Section 4.3 Loan/Grant Amount Does Not Exceed Total Cost. The sum of the Grant Amount and the Loan Amount (and as set forth on the Term Sheet) does not exceed the cost of the Project, which, along with other moneys reasonably expected to be available to the Borrower/Grantee, is sufficient to complete the Project.

Section 4.4 Final Requisition. The Final Requisition shall be submitted by the Borrower/Grantee within the Interim Period. The Interim Period may be extended only as approved in writing by an Authorized Officer of the Finance Authority, based on the Borrower/Grantee's demonstration, to the reasonable satisfaction of the Authorized Officer of the Finance Authority, that unanticipated circumstances resulted in delaying the acquisition and completion of the Project, and submission of the Borrower/Grantee's Final Requisition.

ARTICLE V LOAN/GRANT AMOUNT DISBURSEMENT CONDITIONS

Section 5.1 Conditions Precedent to Disbursement of Loan/Grant Amount. Prior to the payment of any requisition of the Loan/Grant Amount or any portion thereof by the Finance Authority from the Fund, the following conditions shall be satisfied:

(a) The Finance Authority shall have determined that the Borrower/Grantee has met the Conditions established for the Loan/Grant; and

(b) Prior to disbursement of any portion of the Loan/Grant Amount for planning and design, the Borrower/Grantee shall have provided written assurance addressed to the Finance Authority and signed by an attorney (or shall have provided a title insurance policy) that the Borrower/Grantee has proper title to or easements, rights of way, or permits on the real property upon or through which the planning and design phase is to be conducted, or if acquisition and completion of the Project does not require physical or visual access to existing lands or facilities, the Borrower/Grantee shall have provided written assurance addressed to the Finance Authority and signed by an attorney certifying that no title to, easements, rights of way, or permits are necessary to acquire and complete the Project; and

(c) Prior to disbursement of any portion of the Loan/Grant Amount for installation or construction, the plans and specifications for the Project shall have been approved by all entities required by the CIB or the Finance Authority in their sole discretion to approve such plans and specifications and the Borrower/Grantee shall have provided written assurance addressed to the Finance Authority and signed by an attorney (or shall have provided a title insurance policy) that the Borrower/Grantee has proper title to or easements, rights of way, or

permits on the real property upon or through which the Project is to be installed, constructed, located, completed or extended; and

(d) If any portion of the Project will be installed, constructed, located, completed or extended on real property owned by a Qualified Entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee shall have provided written assurance addressed to the Finance Authority and signed by an attorney (or shall have provided a title insurance policy) that such other Qualified Entity has proper title to such real property; and

(e) The Borrower/Grantee shall be in compliance with the provisions of this Agreement; and

(f) No Event of Default has occurred; and

(g) The Borrower/Grantee shall have provided any other information requested by the Finance Authority or CIB in its absolute discretion including documentation sufficient to make a determination whether any requested disbursement is for payment of Eligible Items and is fully consistent with the Act, the Board Rules, and the Policies, as applicable.

Section 5.2 Accounting for Amounts Credited to the Project Account. So long as Section 5.1 has been complied with and all Conditions to the disbursement of the Loan/Grant Amount have been satisfied (including approval of all plans and specifications), upon receipt by the Finance Authority of a requisition substantially in the form of Exhibit "B" attached hereto signed by an Authorized Officer of the Borrower/Grantee, supported by certification by the Borrower/Grantee's project architect, engineer, or such other authorized representative of the Borrower/Grantee that the amount of the disbursement request represents the progress of design, installation, construction, acquisition or other Project-related activities accomplished as of the date of the disbursement request, the Finance Authority shall seek funds sufficient to satisfy the request and, upon receipt of those funds disburse from the Fund, amounts which together are sufficient to pay the requisition in full or that portion approved by the Finance Authority in its sole discretion. The certification provided pursuant to this Section 5.2 in support of the requisition must be acceptable in form and substance to the Finance Authority. The Borrower/Grantee shall provide such records or access to the Project as the Finance Authority, and, at its request, the CIB, in the discretion of each, may request in connection with the approval of the Borrower/Grantee's requisition requests made hereunder.

Section 5.3 Acknowledgment and Non-liability for Funding Interruption. The Borrower/Grantee hereby acknowledges that the Finance Authority may be required to seek or request funds to satisfy the request outlined in Section 5.2 from an agency, instrumentality or other Political Subdivision of the State and that the Lenders/Grantors may have no control or authority over those entities. The Borrower/Grantee hereby agrees to waive on behalf of itself and indemnify and hold the Lenders/Grantors harmless from any and all third party claims, liability or damage that may or could be caused as a result of a delay or denial of funds related to or arising from the procedure described above or any other mechanism necessary or required to request, secure or process funds.

Section 5.4 No Disbursement for Prior Expenditures Except upon Approval. No disbursement shall be made from the Fund, of the Loan/Grant Amount, or any portion thereof, without the approval of the Finance Authority to reimburse any expenditure made prior to the approval date of the award by the Finance Authority Board.

Section 5.5 Completion of Disbursement of Loan/Grant Funds. Upon completion of the Project an Authorized Officer of the Borrower/Grantee shall deliver a certificate to the Finance Authority and the CIB, substantially in the form of Exhibit "E" attached hereto, stating that, to his or her knowledge, that the Project has been completed. No portion of the Loan/Grant Amount shall be disbursed after the expiration of the Interim Period.

Section 5.6 Application of Project Account Subsequent to Disbursement of Loan/Grant Amount; Termination of Pledge. Upon the first to occur of either (a) completion of the disbursement of the Loan/Grant Amount as signified by delivery of the completion certificate contemplated in Section 5.5 hereof; or (b) the earlier expiration of the time allowed for disbursements of Loan/Grant funds as provided in Section 5.5 hereof, the Finance Authority shall transfer the amounts remaining on deposit in the Project Account, if any, to such other fund permitted by law. Upon such entry, the pledge of the Project Account, if any, established in this Agreement shall terminate.

ARTICLE VI LOAN PAYMENTS BY THE BORROWER/GRANTEE

Section 6.1 Loan to the Borrower/Grantee; Payment Obligations Limited to Pledged Revenues; Pledge of Pledged Revenues. The Finance Authority hereby lends to the Borrower/Grantee and the Borrower/Grantee hereby borrows from the Finance Authority an amount not to exceed the Loan Amount. The Borrower/Grantee promises to pay, but solely from the sources pledged herein, the Loan Payments and other amounts owed by the Borrower/Grantee as herein provided. Subject to any outstanding Parity Obligations and Senior Obligations, the Borrower/Grantee does hereby grant a lien on and a security interest in and does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right, title and interest of the Borrower/Grantee in and to (i) the Pledged Revenues to the extent required to pay the Loan Payments, and other amounts owed by the Borrower/Grantee as herein provided, subject to and subordinate to all other pledges of the Pledged Revenues existing on the Closing Date and, further, that may exist in the future (except only that the pledge of the Pledged Revenues herein shall be on a parity with any other pledge of the Pledged Revenues by the Borrower/Grantee to repay any obligations issued by the Lender/Grantor pursuant to the Act or the Water Project Finance Act); (ii) the Loan/Grant Amount including the Project Account; and (iii) all other rights hereinafter granted, for the securing of the Borrower/Grantee's obligations under this Agreement, including payment of the Loan Payments and other amounts owed by the Borrower/Grantee as herein provided, however, that if the Borrower/Grantee, its successors or assigns, shall pay, or cause to be paid, all Loan Payments at the time and in the manner contemplated by this Agreement, and shall pay all other amounts due or to become due under this Agreement in accordance with its terms and provisions then, upon

such final payment, this Agreement and the rights created thereby shall terminate; otherwise, this Agreement shall remain in full force and effect.

The schedule of Loan Payments, assuming the disbursement of the entire Loan/Grant Amount within twenty-four (24) months after the Closing Date, identified as the Interim Debt Service Schedule, is attached to this Agreement as Exhibit "C". Within thirty (30) days after the Final Requisition is made, the Finance Authority shall provide a Final Debt Service Schedule, reflecting the amount of the Loan/Grant Amount actually disbursed to the Governmental Unit pursuant to this Agreement. Such Final Debt Service Schedule shall supersede the schedule attached hereto as Exhibit "C".

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Closing Date. The Borrower/Grantee and the Finance Authority acknowledge and agree that the obligations of the Borrower/Grantee hereunder are limited to the Pledged Revenues; and that this Agreement with respect to the Loan Amount and other amounts owed by the Borrower/Grantee as herein provided, and that the Agreement shall constitute a special, limited obligation of the Borrower/Grantee. No provision of this Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Borrower/Grantee or the State within the meaning of any constitutional or statutory debt limitation. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Borrower/Grantee moneys other than the Pledged Revenues, nor shall any provision of this Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Borrower/Grantee moneys other than the Pledged Revenues. In addition, to the extent not required for the payment of obligations of the Borrower/Grantee hereunder, the Pledged Revenues may be utilized by the Borrower/Grantee for any other purposes permitted by law.

Section 6.2 Deposit of Payments of Loan Amount to Colonias Infrastructure Project Fund. All Loan Payments made by the Borrower/Grantee to the Finance Authority to repay the Loan Amount and interest thereon, if any, shall be deposited into the Colonias Infrastructure Project Fund.

Section 6.3 Manner of Payment. The Loan Amount shall be payable by the Borrower/Grantee to the Finance Authority in annual installments of principal payable on June 1 after expiration of the Interim Period and continuing through the expiration of the last Loan Payment due as outlined in the Final Debt Service Schedule. All payments of the Borrower/Grantee hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 10.1 of this Agreement. The obligation of the Borrower/Grantee to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder. Notwithstanding any dispute between the Borrower/Grantee and the Finance Authority, any vendor or any other person, the Borrower/Grantee shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Borrower/Grantee assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

Section 6.4 Borrower/Grantee May Budget for Payments. The Borrower/Grantee may, in its sole discretion, but without obligation and subject to the Constitution of the State, governing laws, and its budgetary requirements, make available properly budgeted and legally available funds to make the Loan Payments and other amounts owed by the Borrower/Grantee hereunder; provided, however, the Borrower/Grantee has not covenanted and cannot covenant to make such funds available and has not pledged any of such funds for such purpose.

Section 6.5 Lender/Grantor's Release of Lien and Further Assurances. Upon payment in full of the Loan Amount and other amounts owed by the Borrower/Grantee as herein provided in this Agreement and upon written request from the Borrower/Grantee, the Finance Authority agrees to execute a release of lien and to give such further assurances as are reasonably necessary to ensure that the Finance Authority no longer holds or maintains any lien or claim against the Pledged Revenues.

ARTICLE VII ADMINISTRATION

Section 7.1 Borrower/Grantee Reporting to Lenders/Grantors. The Borrower/Grantee shall provide the Lenders/Grantors with a quarterly written report substantially in the form of Exhibit "D" attached hereto, or other report format as designated by the Finance Authority, and signed by an Authorized Officer of the Borrower/Grantee. The first quarterly report shall be due on December 31, 2018, and subsequent reports shall be due on each March 31, June 30, September 30 and December 31 thereafter until the report date next following final distribution of the Loan/Grant funds. The description of the status of the Project in each quarterly report shall include, among other information, (a) a comparison of actual and anticipated requests for distributions of Loan/Grant funds as of the report date with those anticipated as of the Closing Date, (b) a description of actual and anticipated changes in the cost estimates for the Project as of the report date compared with those anticipated as of the Closing Date, and (c) a description of the percentage of completion of the Project.

Section 7.2 Application of Project Account Subsequent to Disbursement of Loan/Grant Funds. Upon the completion of the Project as signified by delivery of the completion certificate required by Section 5.5 hereof, the Finance Authority shall determine, by reference to the Project Account, if any, whether any portion of the authorized Loan/Grant Amount remains unexpended. If any of the Loan/Grant Amount remains unexpended, the funds shall be transferred by the Finance Authority to the appropriate account or fund in accordance with applicable law and the Borrower/Grantee shall have no right to access the funds.

Section 7.3 Further Assurances and Corrective Instruments. The Lenders/Grantors and the Borrower/Grantee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues and carrying out the intention hereof.

Section 7.4 Representatives of Lenders/Grantors or of Borrower/Grantee. Whenever under the provisions hereof the approval of the Lenders/Grantors, collectively or individually, or the Borrower/Grantee is required, or the Borrower/Grantee, or the Lenders/Grantors, collectively

or individually, are required to take some action at the request of any of them, such approval or such request shall be given for the Lenders/Grantors, collectively or individually, or for the Borrower/Grantee, by an Authorized Officer of the Lenders/Grantors, collectively or individually, or the Borrower/Grantee, as the case may be, and any party hereto shall be authorized to act on any such approval or request.

Section 7.5 Selection of Contractors. All contractors providing services or materials in connection with the Project shall be selected in accordance with applicable provisions of the New Mexico Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199, as amended, or, if the Borrower/Grantee is not subject to the New Mexico Procurement Code, shall be selected in accordance with a documented procurement process duly authorized and established pursuant to laws and regulations applicable to the Borrower/Grantee.

Section 7.6 Required Contract Provisions. The Borrower/Grantee shall require the following provisions in any contract or subcontract executed in connection with the Project to which the Borrower/Grantee is a party:

(a) There shall be no discrimination against any employee or applicant for employment because of race, color, creed, sex, religion, sexual preference, ancestry or national origin;

(b) Any contractor or subcontractor providing construction services in connection with the Project shall post a performance and payment bond in accordance with the requirements of NMSA 1978, § 13-4-18, as amended; and

(c) Any contractor or subcontractor providing construction services in connection with the Project shall comply with the prevailing wage laws in accordance with the requirements of NMSA 1978, § 13-4-11, as amended.

Section 7.7 Little Miller Act. To the extent NMSA 1978, § 13-4-1 et seq., (the “Little Miller Act”) is applicable to the Project, the Borrower/Grantee shall comply with the requirements of the “Little Miller Act”. If bonding requirements of the Little Miller Act are not applicable to the Project, the Borrower/Grantee will require that the contractor to whom is given any contract for construction appertaining to the Project supply a performance bond or bonds satisfactory to the Borrower/Grantee. Any sum or sums derived from said performance bond or bonds shall be used within six (6) months after such receipt for the completion of said construction, and if not so used within such period, shall be treated as Gross Revenues.

ARTICLE VIII INSURANCE; NON-LIABILITY OF LENDERS/GRANTORS

Section 8.1 Insurance. The Borrower/Grantee shall carry general liability insurance or participate in the State’s risk-management program and, to the extent allowed by the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 through 41-4-30, as amended, shall and hereby agrees to name the Lenders/Grantors as additional insureds with respect to all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition, completion or implementation of the Project or otherwise during the Agreement Term; provided,

that if any portion of the Project will be constructed, located, completed or extended on real property owned by a Qualifying Entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee may obtain the written agreement of such other Qualifying Entity to perform these insurance/risk-management program requirements for Borrower/Grantee with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by such other Qualifying Entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

Section 8.2 Non-Liability of Lenders/Grantors.

(a) Lenders/Grantors shall not be liable in any manner for the Project, Borrower/Grantee's use of the Loan/Grant, the acquisition, implementation, construction, installation, ownership, operation or maintenance of the Project, or any failure to act properly by the Borrower/Grantee or any other owner or operator of the Project.

(b) Lenders/Grantors shall not be liable for the refusal or failure of any other agency of the State to transfer any portion of the Loan/Grant Amount in its possession, custody and control to the Finance Authority for disbursement to the Borrower/Grantee, or to honor any request for such transfer or disbursement of the Loan/Grant Amount.

(c) To the extent permitted by law, the Borrower/Grantee shall and hereby agrees to indemnify and save the Finance Authority and the CIB harmless against and from all claims, by or on behalf of any person, firm, corporation, or other legal entity, arising from the acquisition or operation of the Project during the Agreement Term, from: (i) any act of negligence or other misconduct of the Borrower/Grantee, or breach of any covenant or warranty by the Borrower/Grantee hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan/Grant Agreement proceeds and interest on the investment thereof. The Borrower/Grantee shall indemnify and save the Finance Authority and the CIB harmless, from and to the extent of the available Pledged Revenues, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or the CIB, shall defend the Finance Authority or the CIB, as applicable, in any such action or proceeding.

ARTICLE IX
EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Events of Default Defined. For purposes of this Article IX, the term Lenders/Grantors shall mean the Finance Authority on behalf of the CIB pursuant to the Board Rules. Any one of the following shall be an "Event of Default" under this Agreement:

(a) Failure by the Borrower/Grantee to pay any amount required to be paid under this Agreement on the date on which it is due and payable; or

(b) Failure by the Borrower/Grantee to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower/Grantee by the Lenders/Grantors, collectively or individually, unless the Lenders/Grantors, collectively or individually shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Lenders/Grantors but cannot be cured within the applicable thirty (30) day period, the Lenders/Grantors, collectively or individually, will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Borrower/Grantee within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of Force Majeure the Borrower/Grantee is unable to carry out the agreements on its part herein contained, the Borrower/Grantee shall not be deemed in default under this paragraph 9.1(b) during the continuance of such inability (but Force Majeure shall not excuse any other Event of Default); or

(c) Any warranty, representation or other statement by or on behalf of the Borrower/Grantee contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement is determined to be false or misleading in any material respect in the sole discretion of the Finance Authority or CIB; or

(d) A petition is filed against the Borrower/Grantee under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests; or

(e) The Borrower/Grantee files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(f) The Borrower/Grantee admits insolvency or bankruptcy or its inability to pay its debt as they become due or is generally not paying its debt as such debt become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Borrower/Grantee for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests.

(g) Default by the Borrower/Grantee in performance or observance of any covenant contained in any other loan agreement, document or instrument of any type whatsoever evidencing or securing obligations of the Borrower/Grantee to the Finance Authority.

Section 9.2 Limitations on Remedies. A judgment requiring payment of money entered against the Borrower/Grantee shall be paid only from available Pledged Revenues unless the Borrower/Grantee in its sole discretion pays the judgment from other available funds.

Section 9.3 Remedies on Default. Whenever any Event of Default has occurred and is continuing, and subject to Section 9.4 hereof, the Lenders/Grantors, collectively or individually, may take whatever of the following actions may appear necessary or desirable to enforce performance of any agreement of the Borrower/Grantee in this Agreement:

- (a) File a mandamus proceeding or other action or proceeding or suit at law or in equity to compel the Borrower/Grantee to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein;
- (b) Terminate this Agreement;
- (c) Cease disbursing any further amounts from the Project Account;
- (d) Demand that the Borrower/Grantee immediately repay the Loan/Grant Amount or any portion thereof if such funds were not utilized in accordance with this Agreement;
- (e) File a suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Lenders/Grantors, collectively or individually; or
- (f) Intervene in judicial proceedings that affect this Agreement or the Pledged Revenues; or
- (g) Cause the Borrower/Grantee to account as if it were the trustee of an express trust for all of the Pledged Revenues; or
- (h) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts then due and thereafter to become due under this Agreement or to enforce any other of their rights hereunder.

The Borrower/Grantee shall be responsible for reimbursing the Lenders/Grantors for any and all fees and costs incurred in enforcing the terms of this Agreement.

Section 9.4 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Lenders/Grantors, collectively or individually, is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Borrower/Grantee or the Lenders/Grantors to exercise any remedy reserved in this Article IX, it shall not be necessary to give any notice, other than such notice as may be required in this Article IX.

Section 9.5 Waivers of Events of Default. The Lenders/Grantors, collectively or individually, may, in the respective discretion of each, waive any Event of Default hereunder and the consequences of any such Event of Default; provided, however, all expenses of the Lenders/Grantors, collectively or individually, in connection with such Event of Default shall have been paid or provided for. Such waiver shall be effective only if made by a written statement of waiver issued by the Finance Authority. In case of any such waiver or rescission, or in case any proceeding taken by the Lenders/Grantors, collectively or individually, on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Lenders/Grantors shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 9.6 No Additional Waiver Implied by One Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Borrower/Grantee shall default under any of the provisions hereof, and the Finance Authority or the CIB shall employ attorneys or incur other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower/Grantee herein contained, the Borrower/Grantee agrees that it shall, on demand therefor, pay to the Finance Authority or the CIB, as applicable, the fees of such attorneys and such other expenses so incurred, to the extent such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Borrower/Grantee under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

ARTICLE X MISCELLANEOUS

Section 10.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows:

If to the Borrower/Grantee, to:

Lower Rio Grande Public Water Works Authority
Attn: General Manager
325 Holguin Road
Vado, New Mexico 88072

If to the CIB or to the Finance Authority, to:

New Mexico Finance Authority
Attn.: Chief Executive Officer

207 Shelby Street
Santa Fe, New Mexico 87501

The Borrower/Grantee or the Lenders/Grantors may, by notice given hereunder, designate any further or different addresses to which subsequent notices; certificates or other communications shall be sent.

Section 10.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Lenders/Grantors and the Borrower/Grantee and their respective successors and assigns, if any.

Section 10.3 Integration. This Agreement and any other agreements, certifications and commitments entered into between the Lenders/Grantors and the Borrower/Grantee on the Effective Date constitute the entire agreement of the parties regarding the Loan/Grant and the funding of the Project through the Loan/Grant as of the Effective Date, and the terms of this Agreement supersede any prior applications, discussions, understandings or agreements between or among the parties in connection with the Loan/Grant, to the extent such prior applications, discussions, understandings or agreements are inconsistent with this Agreement.

Section 10.4 Amendments. This Agreement may be amended only with the written consent of all of the parties to this Agreement. The consent of the Finance Authority for amendments not affecting the terms of payment of the loan component of this Agreement may be given by an Authorized Officer of the Finance Authority. The execution of any such consent by an Authorized Officer of the Finance Authority shall constitute his or her determination that such amendment does not affect the terms of payment of the loan component of this Agreement.

Section 10.5 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Lenders/Grantors, either directly or through the Finance Authority or the CIB, or against any officer, employee, director or member of the Borrower/Grantee, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director or member of the Borrower/Grantee, the CIB or of the Finance Authority is hereby expressly waived and released by the Borrower/Grantee, the CIB and the Finance Authority as a condition of and in consideration for the execution of this Agreement.

Section 10.6 Severability. In the event that any provision of this Agreement, other than the obligation of the Borrower/Grantee to make the Loan Payments, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.7 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.8 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. Pursuant to NMSA 1978, § 6-21-26, as amended, the venue for any proceedings or any other action or procedure against the Finance Authority shall be in Santa Fe County.

Section 10.9 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 10.10 Application of Act and Board Rules. The Lenders/Grantors and the Borrower/Grantee expressly acknowledge that this Agreement is governed by provisions and requirements of the Act and the Board Rules, as amended and supplemented, and all applicable provisions and requirements of the Act and the Board Rules are incorporated into this Agreement by reference.

Section 10.11 CONSENT TO JURISDICTION. THE BORROWER/GRANTEE IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE DOCUMENTS SIGNED IN CONNECTION WITH THIS TRANSACTION WILL BE LITIGATED IN THE FIRST JUDICIAL DISTRICT COURT, SANTA FE COUNTY, NEW MEXICO, PURSUANT TO SECTION 6-21-26, NMSA.

[Remainder of page intentionally left blank.]

[Signature pages follow.]

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the CIB, on behalf of itself, each have executed this Agreement, which was approved by the CIB on April 25, 2018 and by the Finance Authority's Board of Directors on May 24, 2018, in their respective corporate names by their duly Authorized Officers; and the Borrower/Grantee has caused this Agreement to be executed and attested by duly Authorized Officers thereof. All of the above are effective as of the date first above written.

LENDERS/GRANTORS:

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

COLONIAS INFRASTRUCTURE BOARD

By _____
Chairperson or Vice-Chairperson

Prepared for Execution by Officers of the
New Mexico Finance Authority and the
Colonias Infrastructure Board:

SUTIN, THAYER & BROWNE
A PROFESSIONAL CORPORATION

By _____
Suzanne Wood Bruckner

Approved for Execution by Officers of the
New Mexico Finance Authority and the
Colonias Infrastructure Board:

By _____
Daniel C. Opperman,
Finance Authority General Counsel

BORROWER/GRANTEE:

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

ATTEST:

By _____
Esperanza Holguin, Secretary

EXHIBIT "A"

TERM SHEET

\$145,860 COLONIAS INFRASTRUCTURE PROJECT LOAN/GRANT TO THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY, DONA ANA COUNTY, NEW MEXICO

Project Description:	The Project is infrastructure development in accordance with the Act consisting of improvements to a water system, but does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies and is more specifically described as the design and construction of High Valley well improvements and shall include such other related work and revisions necessary to complete the Project.
Grant Amount:	\$116,688
Loan Amount:	\$29,172
Interest Component:	0%
Pledged Revenues:	Net System Revenues, as defined in the Resolution
Currently Outstanding Parity Obligations for Pledged Revenues (Super Subordinate):	NMFA 0223-WTB, Matures in 2032; NMFA 0252-WTB, Matures in 2032; NMFA 2766-CIF, Matures in 2033; NMFA 3156-CIF, Matures in 2034; and NMFA 3161-CIF, Matures in 2033
Currently Outstanding Senior Obligations:	USDA Loan 91-02BP, Matures in 2040; USDA Loan 93-09/93-27, Matures in 2052; USDA Loan 91-14, Matures in 2049; USDA Loan 91-04, Matures in 2052; USDA Loan 92-13, Matures in 2052; USDA Loan 91-15, Matures in 2052; USDA Loan 92-19, Matures in 2052; USDA Loan 91-02LRG, Matures in 2054; and NMFA 2601-PP, Matures in 2041; 1996 NMED RIP loan
Currently Outstanding Subordinate Obligations:	NMFA 2710-DW, Matures in 2034; NMFA 3394-DW, Matures in 2038; and NMFA DW-4213, matures in 2050
Authorizing Legislation:	Borrower/Grantee Resolution No. FY2019-10, adopted September 19, 2018
Closing Date:	October 26, 2018
Project Account Deposit:	\$145,860

Conditions to be satisfied prior to first disbursement of the Loan/Grant Amount:

Delivery to Finance Authority of (i) a copy of the agenda of the meeting of the Governing Body at which the Resolution was adopted and at which this Agreement, the Resolution and all other Loan/Grant documents were authorized by the Governing Body (the “Meeting”), certified as a true and correct copy by the Secretary of the Borrower/Grantee, (ii) a copy of the minutes or record of proceedings of the Meeting, approved and signed by the Chairman and attested to by the Secretary of the Borrower/Grantee, and (iii) a copy of the notice of meeting for the Meeting evidencing compliance with the Borrower/Grantee’s Open Meetings standards in effect on the date of the Meeting.

Other Conditions applicable to the Loan/Grant:

All Conditions defined in the Agreement.

EXHIBIT "B"

FORM OF REQUISITION
(Colonias Infrastructure Project Fund)

RE: \$145,860 Loan/Grant Agreement by and between the Colonias Infrastructure Board and the New Mexico Finance Authority, as Lender/Grantor, and the Lower Rio Grande Public Water Works Authority as Borrower/Grantee (the "Agreement").

Loan/Grant No. CIF-4645

Closing Date: October 26, 2018

TO: NEW MEXICO FINANCE AUTHORITY

You are hereby authorized to disburse from the Project Account - Lower Rio Grande Public Water Works Authority with regard to the above-referenced Agreement, the following:

I. PAYMENT INFORMATION

REQUISITION NO. _____ PAYMENT AMOUNT: \$ _____

PAYEE'S NAME: _____

PAYEE'S ADDRESS: _____

II. REQUISITION INFORMATION

If this Requisition includes multiple Vendors, Eligible Item Categories or Payment Purposes, please itemize below or attach separate page.

Vendor Name _____

Total Amount \$ _____ Invoice No.(s) _____

Purpose of Payment _____

Eligible Item Category _____

Vendor Name _____

Total Amount \$ _____ Invoice No.(s) _____

Purpose of Payment _____

Eligible Item Category _____

Vendor Name _____

Total Amount \$ _____ Invoice No.(s) _____

Purpose of Payment _____

Eligible Item Category _____

III. WIRING INFORMATION:

BANK NAME:	
ROUTING NUMBER:	
ACCOUNT NUMBER:	

IV. VERIFICATION AND AUTHORIZATION

Each obligation, item of cost or expense mentioned herein is for a loan/grant made by the Lender/Grantor pursuant to the Colonias Infrastructure Act to the Borrower/Grantee within the State of New Mexico, is due and payable, has not been the subject of any previous requisition and is a proper charge against the Project Account – Lower Rio Grande Public Water Works Authority. All representations contained in the Agreement, the related closing documents remain true and correct, and the Borrower/Grantee is not in breach of any of the covenants contained therein.

The proceeds of the Loan/Grant are to be used to pay the costs of Eligible Items, as defined in the Agreement. Eligible Items include (1) planning, designing, construction, improving or expanding a qualified project; (2) developing engineering feasibility reports for Qualified Projects; (3) inspecting construction of Qualified Projects; (4) providing professional services; (5) completing environmental assessments or archeological clearances and other surveys for Qualified Projects; (6) acquiring land, water rights, easements or rights of way; (7) eligible legal costs and eligible fiscal agent fees associated with development of Qualified Projects, within limits set by the Colonias Infrastructure Board (“CIB”).

All construction and all installation of equipment with proceeds of the Loan/Grant has or will be used in accordance with plans and/or specifications approved by all entities required by the CIB and the New Mexico Finance Authority in their sole discretion to approve such plans and specifications, has or will be acquired in compliance with applicable procurement laws and regulations and has or will be inspected and approved in accordance with applicable laws and regulations.

Capitalized terms used herein, are used as defined or used in the Loan/Grant Agreement.

DATE: _____

AUTHORIZED OFFICER
(President, Mayor, Mayor Pro-Tem, or Clerk)

Title: _____

EXHIBIT "C"

PAYMENT PROVISIONS OF THE LOAN

The Loan Amount shall be payable by the Borrower/Grantee to the Lenders/Grantors in twenty (20) annual installments of principal pursuant to the attached debt service schedule, beginning June 1, 2021 and ending June 1, 2040. The Loan Amount shall be pre-payable upon expiration of the Interim Period without penalty.

DEBT SERVICE SCHEDULE ATTACHED

EXHIBIT "D"

COLONIAS INFRASTRUCTURE PROJECT FUND STATUS REPORT
PREPARED FOR THE
NEW MEXICO FINANCE AUTHORITY

Fund Recipient Names: Lower Rio Grande Public Water Works Authority Recipient Contact: Phone Number:	CIF Project Number: CIF-4645 CIF Project Name: Vado/High Valley Well Improvements Project Type: Design and Construction
Quarterly Project Report <input type="checkbox"/> Final <input type="checkbox"/> Other <input type="checkbox"/> _____ Report Period: From - ____ / ____ / ____ To - ____ / ____ / ____	
Contract Expiration: _____ Total CIB Award: \$ _____ Current Balance: \$ _____ Loan 20% Grant 80% Local Match % - Included in Loan Expected CIF Award Expenditure Next Quarter: \$ _____ Project Phase: Planning <input type="checkbox"/> Design <input type="checkbox"/> Construction <input type="checkbox"/>	
PROJECT TIME: Original Completion Date: _____ Current Completion Date: _____ Days Remaining for Completion _____ Percent Project is Complete _____% On Schedule? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Briefly Describe Project Progress During This Reporting Period:	
Issues Addressed During This Period (Indicate any current and/or anticipated issues that remain unresolved):	
Goals/Milestones With Timeline or Dates For The Next Reporting Period:	
Name and Title of Authorized Representative: (Print) Date: _____	Authorized Representative Signature:

EXHIBIT "E"

FORM OF CERTIFICATE OF COMPLETION

RE: \$145,860 Agreement by and between the Colonias Infrastructure Board and the Finance Authority, as Lenders/Grantors, and the Lower Rio Grande Public Water Works Authority, as Borrower/Grantee (the "Agreement")

Loan/Grant No. CIF-4645

Closing Date: October 26, 2018

TO: NEW MEXICO FINANCE AUTHORITY

I, _____, the _____ of the
[Name] [Title or position]

Borrower/Grantee, hereby certify as follows:

1. The project described in the Agreement (the "Project"), or the applicable phase of the project if funding was for a phased Project, was completed and placed in service on _____, 20____.

2. The total cost of the Project was \$ _____.

3. Cost of the Project paid from the Loan/Grant Amount was \$ _____.

4. The portion of the Loan/Grant Amount unexpended for the Project is \$ _____.

5. The Project was completed and is and shall be used consistent with and subject to the covenants set forth in the Agreement.

This certificate shall not be deemed to prejudice or affect any rights of or against third parties which exist at the date of this certificate or which may subsequently come into being.

LOWER RIO GRANDE PUBLIC WATER WORKS
AUTHORITY, DONA ANA COUNTY, NEW MEXICO

By: _____
Its: _____

EXHIBIT "F"

DOCUMENTS

1. Open Meeting Act Resolution No. FY2018-18 adopted May 16, 2018
2. Resolution No. FY2019-10, adopted September 19, 2018, Agenda, and the Affidavit of Publication of the Notice of Adoption of Resolution in the *Las Cruces Sun News*
3. Loan/Grant Agreement
4. General and No Litigation Certificate
5. Delivery, Deposit and Cross-Receipt Certificate
6. Right of Way Certificate
7. Borrower's Counsel Opinion
8. Approving Opinion of Sutin, Thayer & Browne A Professional Corporation, Loan/Grant Counsel to the Finance Authority
9. Finance Authority Application and Project Approval (informational only)

\$145,860
LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY
DONA ANA COUNTY, NEW MEXICO
COLONIAS INFRASTRUCTURE PROJECT FUND LOAN/GRANT
No. CIF-4645

STATE OF NEW MEXICO)
COUNTY OF DONA ANA) ss. DELIVERY, DEPOSIT AND
) CROSS-RECEIPT CERTIFICATE

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Chairman and Secretary of the Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico (the ‘‘Borrower/Grantee’’):

1. On the date of this Certificate, the Borrower/Grantee executed and delivered, or caused to be executed and delivered, a Loan/Grant Agreement among the Borrower/Grantee, the Colonias Infrastructure Board and the New Mexico Finance Authority (the ‘‘Finance Authority’’), in the aggregate principal amount of \$145,860 (the ‘‘Loan/Grant Agreement’’), as authorized by Borrower/Grantee Resolution No. FY2019-10 (the ‘‘Resolution’’) adopted on September 19, 2018 relating to the execution and delivery of the Loan/Grant Agreement. The Grant Amount equals \$116,688 and the Loan Amount equals \$29,172, as such terms are defined in the Loan/Grant Agreement.

2. The undersigned acknowledge that the Loan/Grant Amount, as defined in the Loan/Grant Agreement, is available for disbursement to the Borrower/Grantee pursuant to the terms of Section 5.2 of the Loan/Grant Agreement upon transmission of payment requisitions to the Finance Authority in substantially the form attached as Exhibit ‘‘B’’ to the Loan/Grant Agreement, with supporting documentation as provided in the Loan/Grant Agreement, and will be used as set forth in the Resolution and the Loan/Grant Agreement.

WITNESS our hands this 26th day of October, 2018.

LOWER RIO GRANDE PUBLIC WATER WORK
AUTHORITY, DONA ANA COUNTY, NEW
MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

By _____
Esperanza Holguin, Secretary

STATE OF NEW MEXICO)
) ss
COUNTY OF SANTA FE)

It is hereby certified by the undersigned, a duly qualified and acting official of the New Mexico Finance Authority, that, the undersigned has, on the date of this Certificate, received from the Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico the Loan/Grant Agreement for Project No. CIF-4645.

NEW MEXICO FINANCE AUTHORITY

By: _____
Its _____

\$145,860
 LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY
 DONA ANA COUNTY, NEW MEXICO
 COLONIAS INFRASTRUCTURE PROJECT FUND LOAN/GRANT
 No. CIF-4645

STATE OF NEW MEXICO)	
) ss.	<u>GENERAL AND</u>
COUNTY OF DONA ANA)	<u>NO LITIGATION</u>
		<u>CERTIFICATE</u>

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Chairman and Secretary for the Lower Rio Grande Public Water Works Authority (the “Governmental Unit”) in the County of Dona Ana and the State of New Mexico (the “State”):

Capitalized terms used in this Certificate have the same meaning as defined in Resolution No. FY2019-10 adopted by the Governing Body of the Borrower/Grantee on September 19, 2018 (the “Resolution”) unless otherwise defined in this Certificate or the context requires otherwise.

1. The Governmental Unit is a political subdivision of the State and is duly organized and validly existing under the laws of the State, its full name being the “Lower Rio Grande Public Water Works Authority.”

2. There exists within the boundaries of the Borrower/Grantee, Vado, a community that has been designated by the Borrower/Grantee as a Colonia within the meaning of the Colonias Infrastructure Act, and the Borrower/Grantee will be receiving the Loan/Grant for the benefit of Vado and its residents.

3. From at least January 1, 2018 to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers of the Governmental Unit:

Board of Directors:	Mike McMullen, Chairman Raymundo Sanchez Joe Evaro Esperanza Holguin, Secretary Henry Magallanes Furman Smith, Vice Chairman
Finance Manager:	Kathi Jackson
General Manager:	Martin Lopez
Projects Manager:	Karen Nichols

4. Based on the data collected during the 2010 Census, the population of the Governmental Unit is at least 75% English speaking. Notice of adoption of the Resolution was published in English in the *Las Cruces Sun News*, a newspaper qualified to publish legal notices that is of general circulation in the area including the Governmental Unit.

5. Notice of adoption of the Resolution was published in English in the *Las Cruces Sun News*, a newspaper qualified to publish legal notices that is of general circulation in the Census Area where the Governmental Unit is located.

6. There is no reason within our knowledge and belief after due investigation, why the Borrower/Grantee may not enter into the Loan/Grant Agreement with the New Mexico Finance Authority and the Colonias Infrastructure Board, as authorized by the Resolution.

7. No material adverse change has occurred, nor has any development occurred involving a prospective material and adverse change in, or affecting the affairs, business, financial condition, results of operations, prospects, or properties of the Borrower/Grantee since the date of the Resolution.

8. To the best of our knowledge and belief after due investigation, none of the events of default referred to in Article IX of the Loan/Grant Agreement has occurred.

9. There is no threatened action, suit, proceeding, inquiry or investigation against the Borrower/Grantee, at law or in equity, by or before any court, public board or body, nor to our knowledge is there any basis therefor, affecting the existence of the Borrower/Grantee or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the pledge of the Pledged Revenues to pay the principal, interest or administrative fees on the Loan/Grant Agreement, or in any way materially adversely affecting or questioning (a) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain expenses as described therein, (b) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee taken with respect to the Resolution or the Loan/Grant Agreement, (c) the execution and delivery of the Loan/Grant Agreement, or (d) the power of the Borrower/Grantee to carry out the transactions contemplated by the Resolution and the Loan/Grant Agreement.

10. The Borrower/Grantee has complied with all the covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to the date hereof, and the representations and warranties of the Borrower/Grantee contained in the Loan/Grant Agreement and in the Resolution are true and correct as of the date hereof.

11. The Borrower/Grantee is not in default, and has not been in default within the ten (10) years immediately preceding the date of this Certificate, in the payment of principal of, premium, if any, or interest on any bonds, notes or other obligations which it has issued, assumed or guaranteed as to payment of principal, premium, if any, or interest.

12. To our knowledge and belief after due investigation, neither the Chairman, the Secretary, any member of the Governing Body of the Borrower/Grantee, nor any other officer, employee or other agent of the Borrower/Grantee is interested (except in the performance of his

or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.

13. Regular meetings of the Borrower/Grantee's Governing Body and the meeting at which the Resolution was adopted have been held at 521 St. Valentine, La Mesa, New Mexico, one of the principal meeting places of the Governing Body.

14. The Borrower/Grantee's Governing Body has no rules of procedure which would invalidate or make ineffective the Resolution or other action taken by the Borrower/Grantee's Governing Body in connection with the Loan/Grant Agreement. The Open Meetings Act Resolution adopted and approved by the Governing Body on May 16, 2018 establishes notice standards for meetings of the Governing Body. The Open Meetings Act Resolution has not been amended or repealed. All action of the Governing Body with respect to the Resolution and the Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution No. FY2018-18 which resolution was effective on September 19, 2018 and has not been amended, repealed or rescinded.

15. The Borrower/Grantee is in compliance with the requirements of the State Audit Act, NMSA 1978, §§ 12-6-1 through 12-6-14, as amended.

16. The Chairman and Secretary, on the date of the signing of the Loan/Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Borrower/Grantee authorized to execute the Loan/Grant Agreement.

17. This Certificate is for the benefit of the Finance Authority and the Colonias Infrastructure Board.

18. This Certificate may be executed in counterparts.

[Signature page follows.]

WITNESS our signatures and the seal of the Governmental Unit this 26th day of October, 2018.

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

By _____
Esperanza Holguin, Secretary

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RECORD OF PROCEEDINGS RELATING TO THE ADOPTION OF
RESOLUTION NO. FY2019-11 OF THE BOARD OF DIRECTORS
OF THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
DONA ANA COUNTY, NEW MEXICO
September 19, 2018

STATE OF NEW MEXICO)
) ss.
COUNTY OF DONA ANA)

The Board of Directors (the "Governing Body") of the Lower Rio Grande Public Water Works Authority, New Mexico (the "Governmental Unit"), met in a regular session in full conformity with the law and the rules and regulations of the Governing Body at 521 St. Valentine, La Mesa, New Mexico, being the meeting place of the Governing Body for the meeting held on the 19th day of September, 2018, at the hour of 9:30 a.m Upon roll call, the following members were found to be present:

Present:

Absent:

Also Present:

Thereupon, there was officially filed with the Secretary a copy of a proposed Resolution in final form, as follows:

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
DONA ANA COUNTY, NEW MEXICO
RESOLUTION NO. FY2019-11

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT (“LOAN AGREEMENT”) BY AND BETWEEN THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY, DONA ANA COUNTY, NEW MEXICO (THE “GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF NO MORE THAN \$3,285,288, TOGETHER WITH INTEREST, EXPENSES, IN ANY, AND ADMINISTRATIVE FEES THEREON, FOR THE PURPOSE OF FINANCING THE COSTS OF PLANNING, DESIGNING, CONSTRUCTING AND EQUIPPING A CENTRAL OPERATIONS BUILDING; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE WATER SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

Capitalized terms used in the following recitals have the same meaning as defined in Section 1 of this Resolution, unless the context requires otherwise.

WHEREAS, the Governmental Unit is a legally and regularly created, established, organized and existing public water works authority under NMSA 1978, § 73-26-1, as amended, and the general laws of the State; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interest of the Governmental Unit and the public it serves that the Loan Agreement be executed and delivered and that the financing of the construction of the Project take place by executing and delivering the Loan Agreement; and

WHEREAS, the Governing Body has determined that it may lawfully pledge the Pledged Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than as described on the Term Sheet, the Pledged Revenues have not heretofore been pledged to secure the payment of any obligation which is currently outstanding; and

WHEREAS, there have been presented to the Governing Body, and there presently are on file with the Secretary, this Resolution and the form of the Loan Agreement; and

WHEREAS, the Governing Body hereby determines that the Project to be financed by the Loan Agreement is to be used for governmental purposes of the Governmental Unit; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Pledged Revenues to the Finance Authority (or its assigns) for the payment of amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Project, and (iii) the authorization, execution and delivery of the Loan Agreement, which are required to have been obtained by the date of the Resolution have been obtained or are reasonably expected to be obtained prior to the Closing Date.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY, DONA ANA COUNTY, NEW MEXICO:

Section 1. Definitions. Capitalized terms defined in this Section 1 shall, for all purposes, have the meaning herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

“Administrative Fee” or “Administrative Fee Component” means the 0.25% annual fee payable to the Finance Authority as 0.125% of the Loan Agreement Principal Amount then outstanding as a part of each Loan Agreement Payment for the costs of originating and servicing the Loan.

“Aggregate Disbursements” means, at any time after the Closing Date, the sum of all Disbursements.

“Aggregate Repayable Disbursements” means, at any time after the Closing Date, the Aggregate Disbursements.

“Approved Requisition” means a requisition in the form of Exhibit “C” to the Loan Agreement, together with supporting documentation submitted to and approved by the Finance Authority pursuant to Section 4.2 of the Loan Agreement.

“Authorized Officers” means the Chairman, the Finance Manager, the General Manager and Secretary of the Governmental Unit.

“Bonds” means drinking water state revolving loan fund revenue bonds, if any, issued hereafter by the Finance Authority and related to the Loan Agreement and the Loan Agreement Payments.

“Closing Date” means the date of execution, delivery and funding of the Loan Agreement authorized by this Resolution.

“Debt Service Account” means the debt service account established in the name of the Governmental Unit and administered by the Finance Authority to pay the Loan Agreement Payments under the Loan Agreement as the same become due.

“Disbursement” means an amount caused to be paid by the Finance Authority for an Approved Requisition for costs of the Project, including the Expense Fund Component.

“DWSRLF Act” means the general laws of the State, particularly the Drinking Water State Revolving Loan Fund Act, NMSA 1978, §§ 6-21A-1 through 6-21A-9, as amended; NMSA 1978 NMSA 1978, § 73-26-1, as amended; and enactments of the Governing Body relating to the Loan Agreement, including this Resolution.

“Drinking Water State Revolving Loan Fund” means the drinking water state revolving loan fund established by the DWSRLF Act.

“Environmental Protection Agency” means the Environmental Protection Agency of the United States.

“Expense Fund” means the expense fund hereby created to be held and administered by the Finance Authority to pay Expenses.

“Expense Fund Component” means an amount equal to one percent (1%) of each Disbursement for the Project, simultaneously withdrawn and deposited in the Expense Fund to pay Expenses.

“Expenses” means the Finance Authority’s costs of issuance of the Loan Agreement and the Bonds, if any, and periodic and regular fees and expenses incurred by the Finance Authority in administering the Loan Agreement, including legal fees.

“Final Loan Agreement Payment Schedule” means the schedule of Loan Agreement Payments due on the Loan Agreement following the Final Requisition, as determined on the basis of the Aggregate Repayable Disbursements.

“Final Requisition” means the final requisition of moneys to be submitted by the Governmental Unit, which shall be submitted by the Governmental Unit on or before the date provided for in Section 4.1(b) of the Loan Agreement.

“Finance Authority” means the New Mexico Finance Authority, created by the New Mexico Finance Authority Act, NMSA 1978, §§ 6-21-1 through 6-21-31, as amended.

“Fiscal Year” means the period commencing on July 1 of each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

“Governing Body” means the duly organized Board of Directors of the Governmental Unit and any successor governing body of the Governmental Unit.

“Governmental Unit” means the Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico.

“Gross Revenues” means all income and revenues directly or indirectly derived by the Governmental Unit from the operation and use of the System, or any part of the System, for any particular Fiscal Year period to which the term is applicable, and includes, without limitation, all revenues received by the Governmental Unit, or any municipal corporation or agency succeeding to the rights of the Governmental Unit, from the System and from the sale and use of water services or facilities, or any other service, commodity or facility or any combination thereof furnished by the System.

Gross Revenues do not include:

(a) Any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefore or other capital contributions from any source which are restricted as to use;

(b) Gross receipts taxes, other taxes and/or fees collected by the Governmental Unit and remitted to other governmental agencies; and

(c) Condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Resolution and not solely to the particular section or paragraph of this Resolution in which such word is used.

“Interest Component” means the portion of each Loan Agreement Payment paid as interest accruing on the Aggregate Repayable Disbursements then outstanding, calculated from the date of each Disbursement.

“Interest Rate” means the rate of interest on the Loan Agreement as shown on the Term Sheet.

“Loan” means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement, up to the Maximum Principal Amount.

“Loan Agreement” means the loan agreement and any amendments or supplements thereto, including the exhibits attached to the loan agreement.

“Loan Agreement Payment” means, collectively, the Principal Component, the Interest Component, Expenses, and the Administrative Fee Component to be paid by the Governmental Unit as payment on the Aggregate Repayable Disbursements under the Loan Agreement, as shown on Exhibit “B” thereto.

“Loan Agreement Principal Amount” means, as of any date of calculation, the Aggregate Repayable Disbursements (including the Expense Fund Component) then outstanding.

“Maximum Repayable Principal” means the maximum amount of Aggregate Repayable Disbursements repayable by the Governmental Unit pursuant to the Loan Agreement, and is equal to the Maximum Principal Amount. The Maximum Repayable Principal is \$3,285,288.

“Maximum Principal Amount” means \$3,285,288.

“Net Revenues” means the Gross Revenues of the System owned and operated by the Governmental Unit minus Operation and Maintenance Expenses of the System, indirect charges, amounts expended for capital replacements and repairs of the System, required set asides for debt and replacement requirements and any other payments from the gross revenues reasonably required for operation of the System.

“NMSA” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented from time to time.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) Legal and overhead expenses of the Governmental Unit directly related and reasonably allocable to the administration of the System;

(b) Insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen’s compensation insurance, whether or not self-funded;

(c) Premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay debt service requirements on System bonds) for credit facilities;

(d) Any expenses described in this definition other than expenses paid from the proceeds of System bonds;

(e) The costs of audits of the books and accounts of the System;

(f) Amounts required to be deposited in any rebate fund;

(g) Salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) Any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the Governmental Unit's general fund, liabilities incurred by the Governmental Unit as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

“Parity Obligations” means any obligations of the Governmental Unit under the Loan Agreement and any other obligations now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with the Loan Agreement, including any such obligations shown on the Term Sheet.

“Pledged Revenues” means the Net Revenues of the Governmental Unit pledged to payment of the Loan Agreement Payments pursuant to this Resolution and described on the Term Sheet.

“Project” means the project described in the Term Sheet.

“Resolution” means this Resolution No. FY2019-11 adopted by the Governing Body of the Governmental Unit on September 19, 2018, approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet and the Final Loan Agreement Payment Schedule, as supplemented from time to time in accordance with the provisions hereof.

“Senior Obligations” means any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues superior to the lien created by the Loan Agreement, including any such obligations shown on the Term Sheet.

“State” means the State of New Mexico.

“Subordinated Obligations” means any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred with a lien on the Pledged Revenues subordinate to the lien created by the Loan Agreement and subordinate to any other outstanding Parity Obligations having a lien on the Pledged Revenues, including any such obligations shown on the Term Sheet.

“System” means the public utility designated as the Governmental Unit’s water system, and all improvements or additions thereto, including additions and improvements to be acquired or constructed with the proceeds of the Loan Agreement.

“Term Sheet” means Exhibit “A” to the Loan Agreement.

“Unrequisitioned Principal Amount” means the amount, if any, by which the Maximum Principal Amount exceeds the Aggregate Disbursements at the time the Governmental Unit submits the certificate of completion required pursuant to Section 6.3 of the Loan Agreement.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Governing Body and officers of the Governmental Unit directed toward the acquisition and completion of the Project, and the execution and delivery of the Loan Agreement shall be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Project and the Loan Agreement. The acquisition and completion of the Project and the method of financing the Project through execution and delivery of the Loan Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Governmental Unit.

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

A. Moneys available and on hand for the Project from all sources other than the Loan Agreement are not sufficient to defray the cost of acquiring and constructing the Project.

B. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

C. It is economically feasible and prudent to defray, in whole or in part, the costs of the Project by the execution and delivery of the Loan Agreement.

D. The Project and the execution and delivery of the Loan Agreement in the Maximum Principal Amount pursuant to the DWSRLF Act to provide funds for the financing of the Project are necessary or advisable in the interest of the public health, safety, and welfare of the residents and the public served by the Governmental Unit.

E. The Governmental Unit will acquire and construct the Project, in whole or in part, with the net proceeds of the Loan.

F. Other than as described on the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement.

G. The net effective interest rate on the Maximum Principal Amount does not exceed the current market rate, which is the maximum rate permitted by federal law.

Section 5. Loan Agreement - Authorization and Detail.

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Governmental Unit and acquiring and constructing the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the DWSRLF Act, execute and deliver the Loan Agreement evidencing a special limited obligation of the Governmental Unit to pay a principal amount of \$3,285,288 and interest thereon, and the execution and delivery of the Loan Agreement is hereby authorized. The Governmental Unit shall use the proceeds of the Loan (i) to finance the acquisition and completion of the Project and (ii) to pay the Administrative Fee and Expenses of the Loan Agreement and the costs of issuance of the Bonds, if any. The Project will be owned by the Governmental Unit.

B. Detail. The Loan Agreement shall be in substantially the form of the Loan Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Loan shall be in an amount not to exceed the Maximum Principal Amount of \$3,285,288. The Loan Agreement Principal Amount shall be payable in installments of principal due on May 1 of the years designated in the Final Loan Agreement Payment Schedule and bear interest payable on May 1 and November 1 of each of the years designated in the Final Loan Agreement Payment Schedule, at the interest rate designated in the Loan Agreement, including Exhibit "A" thereto, which rate includes the Administrative Fee.

Section 6. Approval of Loan Agreement. The form of the Loan Agreement as presented at the meeting of the Governing Body at which this Resolution was adopted is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the Secretary is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and attest the same. The execution of the Loan Agreement by an Authorized Officer shall be conclusive evidence of such approval.

Section 7. Special Limited Obligation. The Loan Agreement shall be secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues. The Loan Agreement, together with interest thereon and other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues as provided in this Resolution, and the Loan Agreement shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Resolution nor in the Loan Agreement, nor any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues) or as imposing a pecuniary liability or a charge upon the general credit of the

Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Resolution, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

Section 8. Disposition of Proceeds; Completion of Acquisition and Completion of the Project.

A. Debt Service Account; Disbursements. The Governmental Unit hereby consents to creation of the Debt Service Account to be held and maintained by the Finance Authority as provided in the Loan Agreement.

The proceeds derived from the execution and delivery of the Loan Agreement shall be disbursed promptly upon receipt of an Approved Requisition (as defined in the Loan Agreement).

Until the acquisition and completion of the Project or the date of the Final Requisition, the money disbursed pursuant to the Loan Agreement shall be used and paid out solely for the purpose of acquiring and constructing the Project in compliance with applicable law and the provisions of the Loan Agreement.

B. Prompt Completion of the Project. The Governmental Unit will complete the Project with all due diligence.

C. Certification of Completion of the Project. Upon the acquisition and completion of the Project, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that the completion of and payment for the Project has been completed.

D. Finance Authority Not Responsible for Application of Loan Proceeds. The Finance Authority shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.

Section 9. Deposit of Pledged Revenues; Distributions of the Pledged Revenues and Flow of Funds.

A. Deposit of Pledged Revenues. Pledged Revenues shall be paid directly by the Governmental Unit to the Finance Authority in an amount sufficient to pay principal, interest,

Administrative Fees, Expenses and other amounts due under the Loan Agreement, as provided in Section 5.2 of the Loan Agreement.

B. Termination on Deposits to Maturity. No payment shall be made into the Debt Service Account if the amount in the Debt Service Account totals a sum at least equal to the entire aggregate amount of Loan Agreement Payments to become due as to principal, interest on, Administrative Fees and any other amounts due under the Loan Agreement, in which case moneys in such account in an amount at least equal to such principal, interest and Administrative Fee requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided in Section 9.C of this Resolution.

C. Use of Surplus Revenues. After making all the payments required to be made by this Section and any payments required by outstanding Parity Obligations, any moneys remaining in the Debt Service Account shall be transferred to the Governmental Unit on a timely basis and applied to any other lawful purpose, including, but not limited to, the payment of any Parity Obligations or bonds or obligations subordinate and junior to the Loan Agreement, or purposes authorized by the Governmental Unit, the Constitution and laws of the State, as the Governmental Unit may from time to time determine.

Section 10. Lien on Pledged Revenues. Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged, and are hereby pledged, and the Governmental Unit grants a lien on the Pledged Revenues and security interest therein, for the payment of the principal, interest, Administrative Fees, and any other amounts due under the Loan Agreement, subject to the uses thereof permitted by and the priorities set forth in this Resolution. The Loan Agreement constitutes an irrevocable subordinate lien, but not necessarily an exclusive subordinate lien, on the Pledged Revenues as set forth herein and therein, and the Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement without the express prior written approval of the Finance Authority.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution and the Loan Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan Agreement including, but not limited to, the execution and delivery of closing documents and reports in connection with the execution and delivery of the Loan Agreement, and the publication of the summary of this Resolution set out in Section 17 of this Resolution (with such changes, additions and deletions as may be necessary).

Section 12. Amendment of Resolution. Prior to the Closing Date, the provisions of this Resolution may be supplemented or amended by resolution of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this

Resolution. After the Closing Date, this Resolution may be amended without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 13. Resolution Irrepealable. After the Closing Date, this Resolution shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.

Section 14. Severability Clause. 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 15. Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 16. Effective Date. Upon due adoption of this Resolution, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Chairman and Secretary, and the title and general summary of the subject matter contained in this Resolution (set out in Section 17 below) shall be published in a newspaper which is of general circulation in the Governmental Unit, and the Resolution shall be in full force and effect thereafter, in accordance with law.

Section 17. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Resolution shall be published in substantially the following form:

[Remainder of page intentionally left blank.]

[Form of Summary of Resolution for Publication.]

Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico
Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. FY2019-11, duly adopted and approved by the Governing Body of the Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico (the "Governmental Unit"), on September 19, 2018. Complete copies of the Resolution are available for public inspection during normal and regular business hours in the office of the Secretary, 325 Holguin Road, Vado, New Mexico 88072.

The title of the Resolution is:

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
DONA ANA COUNTY, NEW MEXICO
RESOLUTION NO. FY2019-11

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY, DONA ANA COUNTY, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF NO MORE THAN \$3,285,288, TOGETHER WITH INTEREST, EXPENSES, IF ANY, AND ADMINISTRATIVE FEES THEREON, FOR THE PURPOSE OF FINANCING THE COSTS OF PLANNING, DESIGNING, CONSTRUCTING AND EQUIPPING A CENTRAL OPERATIONS BUILDING; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE WATER SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

The title sets forth a general summary of the subject matter contained in the Resolution.

This notice constitutes compliance with NMSA 1978, § 6-14-6.

[End of Form of Summary for Publication.]

Section 18. Execution of Agreements. The Lower Rio Grande Public Water Works Authority through its Governing Body agrees to authorize and execute all such agreements with the New Mexico Finance Authority as are necessary to consummate the Loan contemplated herein and consistent with the terms and conditions of the Loan Agreement and this Resolution.

PASSED, APPROVED AND ADOPTED THIS 19TH DAY OF SEPTEMBER, 2018.

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

ATTEST:

By _____
Esperanza Holguin, Secretary

[Remainder of page intentionally left blank.]

Governing Body Member _____ then moved adoption of the foregoing Resolution duly seconded by Governing Body Member _____.

The motion to adopt said Resolution, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye: _____

Those Voting Nay: _____

Those Absent: _____

_____ (_____) members of the Governing Body having voted in favor of said motion, the Chairman declared said motion carried and said Resolution adopted, whereupon the Chairman and the Secretary signed the Resolution upon the records of the minutes of the Governing Body.

After consideration of other matters not relating to the Resolution, the meeting on motion duly made, seconded and carried, was adjourned.

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

ATTEST:

By _____
Esperanza Holguin, Secretary

[Remainder of page intentionally left blank.]

STATE OF NEW MEXICO)
) ss.
COUNTY OF DONA ANA)

I, Esperanza Holguin, the duly appointed, qualified, and acting Secretary of the Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico (the “Governmental Unit”), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of Directors (the “Governing Body”), constituting the governing body of the Governmental Unit, had and taken at a duly called regular meeting held 521 St. Valentine, La Mesa, New Mexico, on September 19, 2018, at the hour of 9:30 a.m., insofar as the same relate to the adoption of the Resolution and the execution and delivery of the proposed Loan Agreement, copies of which are set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, §§ 10-15-1 through 10-15-4, as amended, including, the Governing Body’s Open Meetings Resolution No. FY2018-18 presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of October, 2018.

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

(SEAL)

By _____
Esperanza Holguin, Secretary

EXHIBIT "A"

Notice and Agenda of Meeting

\$3,285,288 Maximum Principal Amount

DRINKING WATER STATE REVOLVING LOAN FUND
LOAN AGREEMENT

dated

October 26, 2018

by and between the

NEW MEXICO FINANCE AUTHORITY

and the

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
DONA ANA COUNTY, NEW MEXICO

DRINKING WATER STATE REVOLVING LOAN FUND
LOAN AGREEMENT

This LOAN AGREEMENT (the “Loan Agreement”), dated as of October 26, 2018, is entered into by and between the NEW MEXICO FINANCE AUTHORITY (the “Finance Authority”), and the LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY, DONA ANA COUNTY, New Mexico (the “Governmental Unit”), a public water works authority duly organized and existing under the laws of the State of New Mexico (the “State”).

WITNESSETH:

Capitalized terms used in the following recitals of this Loan Agreement and not defined in the first Paragraph above or in these recitals shall have the same meaning as defined in Article I of this Loan Agreement, unless the context requires otherwise.

WHEREAS, the Finance Authority is authorized, pursuant to the Drinking Water State Revolving Loan Fund Act, NMSA 1978, §§ 6-21A-1 through 6-21A-9, as amended (the “DWSRLF Act”) to implement a program to permit qualified local authorities, such as the Governmental Unit, to enter into agreements with the Finance Authority to provide financial assistance in the acquisition, design, construction, improvement, expansion, repair and rehabilitation of drinking water supply facilities as authorized by the Safe Drinking Water Act; and

WHEREAS, the Governing Body of the Governmental Unit has determined that it is in the best interests of the Governmental Unit and the public it serves that the Governmental Unit enter into this Loan Agreement with the Finance Authority and accept a loan from the Finance Authority to finance the costs of the Project, as more fully described on the Term Sheet attached hereto as Exhibit “A”; and

WHEREAS, the Project appears on the Drinking Water Fundable Priority List; and

WHEREAS, the Project has been planned and authorized in conformity with the Intended Use Plan; and

WHEREAS, the New Mexico Environment Department (the “Department”) has determined that the Governmental Unit’s Project plans and specifications comply with the provisions of 42 U.S.C. Section 300j-12 and the requirements of the laws and regulations of the State governing the construction and operation of drinking water systems; and

WHEREAS, a portion of the funds made available under this Loan Agreement pursuant to the DWSRLF Act and the Safe Drinking Water Act are federal funds categorized as CFDA 66.468; and

WHEREAS, pursuant to information provided by the Governmental Unit and environmental review by applicable State and federal agencies, and in accordance with 40 C.F.R. Sections 6.204, 6.300(c)(1), and 6.301(f), and pursuant to the environmental review process of

the State, the Finance Authority has determined that the Project meets the requirements for a Categorical Exclusion as defined in the State Environmental Review Process (SERP) for the Drinking Water State Revolving Loan Fund, the Finance Authority has found and determined that the Project meets all applicable requirements of the State Environmental Review Process (SERP) for the Drinking Water State Revolving Loan Fund; and

WHEREAS, the Finance Authority had found and determined that the Governmental Unit serves a severely disadvantaged community under the Intended Use Plan in that its median annual household income is \$27,373, which is less than 90% of the State median annual household income of \$44,963, and it had an affordability ratio determined as provided in the Intended Use Plan of above 0.015; and

WHEREAS, the New Mexico Environment Department Drinking Water Bureau has determined that the Governmental Unit has sufficient technical, managerial and financial capability to operate the Project for its useful life and ensure compliance with the requirements of the Safe Drinking Water Act.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the Finance Authority and the Governmental Unit agree:

ARTICLE I

DEFINITIONS

Capitalized terms defined in this Article I shall have the meaning specified in this Article I wherever used in this Loan Agreement, including the foregoing recitals, unless the context clearly requires otherwise. Capitalized terms defined in the foregoing recitals, if not defined in this Article I, shall have the same meaning as therein stated when used in this Loan Agreement, unless the context clearly requires otherwise.

“Administrative Fee” or “Administrative Fee Component” means the 0.25% annual fee payable to the Finance Authority as 0.125% of the Loan Agreement Principal Amount then outstanding as a part of each Loan Agreement Payment for the costs of originating and servicing the Loan.

“Aggregate Disbursements” means, at any time after the Closing Date, the sum of all Disbursements.

“Aggregate Program Amount” means, with respect to this Loan Agreement, the sum of \$3,252,762 which amount shall be available for disbursement to the Governmental Unit to pay costs of the Project.

“Aggregate Repayable Disbursements” means, at any time after the Closing Date, the Aggregate Disbursements.

“Approved Requisition” means a requisition in the form of Exhibit “C” to this Loan Agreement, together with the required supporting documentation set out in Exhibit “C” submitted to and approved by the Finance Authority pursuant to Section 4.2 of this Loan Agreement.

“Authorized Officers” means, with respect to the Governmental Unit, the Chairman, the Finance Manager, the General Manager and the Secretary thereof; and with respect to the Finance Authority, any one or more of the Chairperson, Vice-Chairperson, Secretary and Chief Executive Officer of the Finance Authority, and any other officer or employee of the Finance Authority designated in writing by an Authorized Officer of the Finance Authority.

“Bonds” means drinking water state revolving loan fund revenue bonds, if any, issued hereafter by the Finance Authority and specifically related to this Loan Agreement and the Loan Agreement Payments.

“Closing Date” means the date of execution and delivery of this Loan Agreement as shown on the Term Sheet.

“Debt Service Account” means the debt service account established in the name of the Governmental Unit and administered by the Finance Authority to pay the Loan Agreement Payments under this Loan Agreement as the same become due.

“Department” means the New Mexico Environment Department.

“Disbursement” means an amount caused to be paid by the Finance Authority for an Approved Requisition for costs of the Project, including the Expense Fund Component calculated on the basis of the amount of such Approved Requisition.

“Drinking Water Fundable Priority List” means the list of drinking water projects compiled by the Department pursuant to the Memorandum of Understanding and the Intended Use Plan.

“DWSRLF Act” means the general laws of the State, particularly the Drinking Water State Revolving Loan Fund Act, NMSA 1978, §§ 6-21A-1 through 6-21A-9, as amended; NMSA 1978, § 73-26-1, as amended; and enactments of the Governing Body relating to this Loan Agreement including the Resolution.

“Drinking Water State Revolving Loan Fund” means the drinking water state revolving loan fund established by the DWSRLF Act.

“Environmental Protection Agency” means the United States Environmental Protection Agency.

“Event of Default” means one or more events of default as defined in Section 10.1 of this Loan Agreement.

“Expense Fund” means the expense fund hereby created to be held and administered by the Finance Authority to pay Expenses.

“Expense Fund Component” means an amount equal to one percent (1%) of each disbursement for the Project, simultaneously withdrawn and deposited in the Expense Fund to pay Expenses.

“Expenses” means the Finance Authority’s costs of issuance of this Loan Agreement and the Bonds, if any, and periodic and regular fees and expenses incurred by the Finance Authority in administering this Loan Agreement, including legal fees.

“Final Loan Agreement Payment Schedule” means the schedule of Loan Agreement Payments due on this Loan Agreement following the Final Requisition, as determined on the basis of the Aggregate Repayable Disbursements.

“Final Requisition” means the final requisition of moneys to be submitted by the Governmental Unit, which shall be submitted by the Governmental Unit on or before the date provided for in Section 4.1(b) of this Loan Agreement.

“Finance Authority Act” means NMSA 1978, §§ 6-21-1 through 6-21-31, as amended.

“Fiscal Year” means the period commencing on July 1 of each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Governmental Unit consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the Finance Authority establishing accounting principles applicable to the Governmental Unit.

“Governing Body” means the duly organized Board of Directors of the Governmental Unit and any successor governing body of the Governmental Unit.

“Gross Revenues” means all income and revenues directly or indirectly derived by the Governmental Unit from the operation and use of the System, or any part of the System, for any particular Fiscal Year period to which the term is applicable, and includes, without limitation, all revenues received by the Governmental Unit, or any municipal corporation or agency succeeding to the rights of the Governmental Unit, from the System and from the sale and use of water services or facilities, or any other service, commodity or facility or any combination thereof furnished by the System.

Gross Revenues do not include:

(a) Any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefore or other capital contributions from any source which are restricted as to use;

(b) Gross receipts taxes, other taxes and/or fees collected by the Governmental Unit and remitted to other governmental agencies; and

(c) Condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Loan Agreement and not solely to the particular section or paragraph of this Loan Agreement in which such word is used.

“Independent Accountant” means (i) an accountant employed by the State and under the supervision of the State Auditor, or (ii) any certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Governmental Unit who (a) is, in fact, independent and not under the domination of the Governmental Unit, (b) does not have any substantial interest, direct or indirect, with the Governmental Unit, and (c) is not connected with the Governmental Unit as an officer or employee of the Governmental Unit, but who may be regularly retained to make annual or similar audits of the books or records of the Governmental Unit.

“Intended Use Plan” means the current plan prepared by the Finance Authority and the Department and approved by the Environmental Protection Agency pursuant to 42 U.S.C. Section 300j-12(b) which establishes criteria for extending drinking water improvements financial assistance to qualifying public drinking water utility systems.

“Interest Component” means the portion of each Loan Agreement Payment paid as interest accruing on the Aggregate Repayable Disbursements then outstanding, calculated from the date of each disbursement.

“Interest Rate” means the rate of interest on this Loan Agreement as shown on the Term Sheet.

“Interim Period” means the period no greater than twenty-seven (27) months, or a longer period as may be approved by the Finance Authority as provided in Section 4.1(b) of the Agreement, beginning on the Closing Date, during which the Finance Authority will disburse moneys to the Governmental Unit to pay costs of the Project, unless extended pursuant to Section 4.1(b) of this Loan Agreement.

“Interim Loan Agreement Payment Schedule” means the anticipated schedule of Loan Agreement Payments due on this Loan Agreement following the Final Requisition, assuming disbursement of the entire Aggregate Program Amount within twenty-seven (27) months of the Closing Date. The Interim Loan Agreement Payment Schedule is attached hereto as Exhibit “B”.

“Loan” means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to this Loan Agreement, up to the Maximum Principal Amount.

“Loan Agreement” means this loan agreement and any amendments or supplements hereto, including the exhibits attached to this loan agreement.

“Loan Agreement Payment” means, collectively, the Principal Component, the Interest Component, Expenses, and the Administrative Fee Component to be paid by the Governmental Unit as payment on the Aggregate Repayable Disbursements under this Loan Agreement, as shown on Exhibit “B” hereto.

“Loan Agreement Payment Date” means each date a payment is due on this Loan Agreement as shown on the Interim Loan Agreement Payment Schedule, attached hereto as Exhibit “B,” or in the Final Loan Agreement Payment Schedule.

“Loan Agreement Principal Amount” means, as of any date of calculation, the Aggregate Repayable Disbursements then outstanding.

“Loan Agreement Term” means the term of this Loan Agreement as provided under Article III of this Loan Agreement.

“Maximum Repayable Principal” means the maximum amount of Aggregate Repayable Disbursements repayable by the Governmental Unit pursuant to this Loan Agreement, and is equal to the Maximum Principal Amount. The Maximum Repayable Principal is \$3,285,288.

“Maximum Principal Amount” means \$3,285,288.

“Memorandum of Understanding” means the current memorandum of understanding by and between the Finance Authority and the Department pursuant to the DWSRLF Act describing and allocating duties and responsibilities in connection with the Drinking Water State Revolving Loan Fund.

“Net Revenues” means the Gross Revenues of the System owned and operated by the Governmental Unit minus Operation and Maintenance Expenses of the System, indirect charges, amounts expended for capital replacements and repairs of the System, required set asides for debt and replacement requirements and any other payments from the gross revenues reasonably required for operation of the System.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented from time to time.

“Operating Agreement” means the operating agreement entered into between the Finance Authority and the Environmental Protection Agency, Region 6, for the Drinking Water State Revolving Loan Fund program.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) Legal and overhead expenses of the Governmental Unit directly related and reasonably allocable to the administration of the System;

(b) Insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen’s compensation insurance, whether or not self-funded;

(c) Premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay debt service requirements on System bonds) for credit facilities;

(d) Any expenses described in this definition other than expenses paid from the proceeds of System bonds;

(e) The costs of audits of the books and accounts of the System;

(f) Amounts required to be deposited in any rebate fund;

(g) Salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) Any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the Governmental Unit’s general fund, liabilities incurred by the Governmental Unit as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

“Parity Obligations” means any obligations of the Governmental Unit under this Loan Agreement and any other obligations now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with this Loan Agreement, including any such obligations shown on the Term Sheet.

“Permitted Investments” means securities which are at the time legal investments of the Governmental Unit for the money to be invested, as applicable, including but not limited to the following if permitted by law: (i) securities that are issued by the United States government or by its agencies or instrumentalities and that are either direct obligations of the United States, the

federal home loan mortgage association, the federal national mortgage association, the federal farm credit bank, federal home loan banks or the student loan marketing association or that are backed by the full faith and credit of the United States government; (ii) negotiable securities of the State; (iii) money market funds which invest solely in obligations described in clause (i) above which are rated in the highest rating category by Moody's Investors Service, Inc. or S & P Global Ratings; and (iv) the State Treasurer's short-term investment fund created pursuant to NMSA 1978, § 6-10-10.1, as amended, and operated, maintained and invested by the office of the State Treasurer.

"Pledged Revenues" means the Net Revenues of the Governmental Unit pledged to payment of the Loan Agreement Payments by the Resolution and this Loan Agreement and described in the Term Sheet.

"Principal Component" means the portion of each Loan Agreement Payment paid as principal on this Loan Agreement, based upon the Aggregate Repayable Disbursements, as shown on Exhibit "B" attached to this Loan Agreement.

"Project" means the project(s) described on the Term Sheet.

"Resolution" means Resolution No. FY2019-11 adopted by the Governing Body of the Governmental Unit on September 19, 2018, approving this Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet, as supplemented from time to time.

"Safe Drinking Water Act" means 42 U.S.C. §§ 300f et seq.

"Senior Obligations" means any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues superior to the lien created by this Loan Agreement, including any such obligations shown on the Term Sheet.

"Service Area" means the area served by the System, whether situated within or without the limits of the Governmental Unit.

"State Environmental Review Process" or "SERP" means the environmental review process adopted by the Finance Authority, as required by and approved by the Environmental Protection Agency, pursuant to the Operating Agreement.

"Subordinated Obligations" means any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred with a lien on the Pledged Revenues subordinate to the lien created by this Loan Agreement and subordinate to any other outstanding Parity Obligations having a lien on the Pledged Revenues, including any such obligations shown on the Term Sheet.

“System” means the public utility designated as the Governmental Unit’s water system, and all improvements or additions thereto, including additions and improvements to be acquired or constructed with the proceeds of this Loan Agreement.

“Term Sheet” means Exhibit “A” attached to this Loan Agreement.

“Unrequisitioned Principal Amount” means the amount, if any, by which the Maximum Principal Amount exceeds the Aggregate Disbursements at the time the Governmental Unit submits the certificate of completion required pursuant to Section 6.3 of this Loan Agreement.

“Utility Revenue Bonds” means any bonds and other similar indebtedness payable solely or primarily from the Pledged Revenues, including this Loan Agreement, and any Senior Obligations, Parity Obligations and Subordinated Obligations.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1 Representations, Covenants and Warranties of the Governmental Unit.
The Governmental Unit represents, covenants and warrants as follows:

(a) Binding Nature of Covenants. All covenants, stipulations, obligations and agreements of the Governmental Unit contained in this Loan Agreement shall be deemed to be the covenants, stipulations, obligations and agreements of the Governmental Unit to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Governmental Unit and its successors and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Loan Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Governmental Unit by the provisions of this Loan Agreement and the Resolution shall be exercised or performed by the Governmental Unit or by such members, officers, or officials of the Governmental Unit as may be required by law to exercise such powers and to perform such duties.

(b) Authorization of Loan Agreement and Readiness to Proceed. The Governmental Unit is a public water works authority and is duly organized and existing under the statutes and laws of the State, including specifically NMSA 1978, § 73-26-1, as amended. The Governmental Unit is a local authority as defined in the DWSRLF Act. The Governmental Unit is authorized to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder and thereunder. The Governmental Unit has duly authorized and approved the execution and delivery of this Loan Agreement and the other documents related to the transaction. The Governmental Unit has met all readiness to proceed requirements of the Finance Authority and has met and will continue to meet all requirements of law applicable to this Loan Agreement.

(c) Use of Loan Agreement Proceeds. The Governmental Unit shall proceed without delay in applying the Aggregate Program Amount, pursuant to Section 6.1 of this Loan Agreement to the acquisition and completion of the Project and to no other purpose, as follows:

(i) The Governmental Unit shall requisition moneys to pay for the costs of the Project not less frequently than quarterly following the Closing Date;

(ii) The Governmental Unit shall, within two (2) years after the Closing Date, have completed the acquisition of the Project, and shall within twenty-seven (27) months after the Closing Date have requisitioned the Aggregate Program Amount, or such portion thereof as shall be necessary to complete the Project, unless an extension is agreed to pursuant to Section 4.1(b) of this Loan Agreement.

(d) Payment of Loan Agreement Payments. The Governmental Unit meets and will continue to meet the requirements established by the Finance Authority to assure sufficient revenues to operate and maintain the System for its useful life and repay the Loan. The Governmental Unit shall promptly pay Loan Agreement Payments, as specified in the Interim Loan Agreement Payment Schedule or the Final Loan Agreement Payment Schedule, as applicable, according to the true intent and meaning of this Loan Agreement.

(e) Acquisition and Completion of Project; Compliance with Laws. The Project will be acquired and completed so as to comply with all applicable ordinances, resolutions and regulations, if any, and any and all applicable laws relating to the acquisition and completion of the Project and to the use of the Pledged Revenues.

(f) Necessity of Project. The acquisition and completion of the Project under the terms and conditions provided for in this Loan Agreement is necessary, convenient and in furtherance of the governmental purposes of the Governmental Unit and is in the best interests of the Governmental Unit and the public it serves.

(g) Legal, Valid and Binding Obligation. The Governmental Unit has taken all required action necessary to authorize the execution and delivery of this Loan Agreement. This Loan Agreement constitutes a legal, valid and binding special obligation of the Governmental Unit enforceable in accordance with its terms.

(h) Loan Agreement Term. The Loan Agreement Term does not exceed the anticipated useful life of the Project.

(i) Use of Project. During the Loan Agreement Term, the Project will at all times be used for the purpose of benefiting the Governmental Unit and the public it serves.

(j) No Breach or Default Caused by Loan Agreement. Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions in this Loan Agreement, nor the consummation of the transactions contemplated herein, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the Governmental Unit is a party or by which the

Governmental Unit is bound or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Governmental Unit or its properties are subject, or constitutes a default under any of the foregoing.

(k) Irrevocable Enactments. While this Loan Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for the payment of this Loan Agreement shall be irrevocable until this Loan Agreement has been paid in full as to both principal and interest, and shall not be subject to amendment or modification in any manner which would in any way jeopardize the timely payment of Loan Agreement Payments.

(l) Outstanding and Additional Debt. Except for any Senior Obligations, and any Parity Obligations described on the Term Sheet, there are currently no outstanding bonds, notes or other obligations of the Governmental Unit which are payable from and secured by a lien on the Pledged Revenues superior to or on a parity with the lien of this Loan Agreement. No additional indebtedness, bonds or notes of the Governmental Unit, payable on a priority ahead of the indebtedness herein authorized out of Pledged Revenues, shall be created or incurred while this Loan Agreement remains outstanding without the prior written approval of the Finance Authority.

(m) No Litigation. To the knowledge of the Governmental Unit after due investigation, no litigation or proceeding is pending or threatened against the Governmental Unit or any other person affecting the right of the Governmental Unit to execute or deliver this Loan Agreement or to comply with its obligations under this Loan Agreement. Neither the execution and delivery of this Loan Agreement by the Governmental Unit nor compliance by the Governmental Unit with the obligations under this Loan Agreement require the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(n) No Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Loan Agreement, would constitute an Event of Default on the part of the Governmental Unit under this Loan Agreement.

(o) Existing Pledges; Pledged Revenues Not Budgeted. Except as described on the Term Sheet the Pledged Revenues have not been pledged or hypothecated in any manner for any purpose at the time of execution and delivery of this Loan Agreement. The portion of the Pledged Revenues necessary to pay the Loan Agreement Payments, as and when due, is not needed or budgeted to pay current or anticipated operational or other expenses of the Governmental Unit.

(p) Expected Coverage Ratio. The Pledged Revenues from the current Fiscal Year are projected to equal or exceed one hundred twenty percent (120%) and, on an ongoing basis during each year of the Loan Agreement Term are reasonably expected to equal or exceed, one hundred twenty percent (120%) of the maximum annual principal and interest due on all outstanding Parity Obligations of the Governmental Unit

(q) Governmental Unit's Existence. The Governmental Unit will maintain its corporate identity and existence so long as this Loan Agreement is unpaid, unless another political subdivision by operation of law succeeds to the liabilities and rights of the Governmental Unit without adversely affecting to any substantial degree the privileges and rights of the Finance Authority.

(r) Continuing Disclosure. The Governmental Unit covenants that it shall provide continuing disclosure to the Finance Authority, as the Finance Authority may require, that shall include, but not be limited to: Project documents, annual audits, operational data required to update information in any disclosure documents used in connection with assignment or securitizing this Loan Agreement or the Loan Agreement Payments by issuance of Bonds by the Finance Authority, and notification of any event deemed material by the Finance Authority. For the purposes of this Loan Agreement, a material event shall include, without limitation, any violation or alleged violation by a state or federal agency of appropriate jurisdiction, of federal law, regulation, or policy which governs or applies to participants in the Drinking Water State Revolving Loan Fund.

(s) Single Audit Act Requirement. The Governmental Unit acknowledges that the funding provided pursuant to this Loan Agreement is derived in large part from federal grants to the Drinking Water State Revolving Loan Fund program pursuant to the Operating Agreement. During the Loan Agreement Term, the Governmental Unit shall annually, so long as the Governmental Unit expends more or equal to the threshold amount set forth in 2 C.F.R. Section 200.501 during any one Fiscal Year, cause an audit of the books and accounts of its operations in their entirety, or in the alternative an audit of the books and accounts of each of its departments, agencies and other organizational units which expended or otherwise administered the Loan or any other funds derived from the government of the United States, to be completed by an Independent Accountant in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. Section 7501 et seq.), and applicable regulations thereunder. The audit will be available for inspection by the Finance Authority and by the Environmental Protection Agency.

(t) Construction Requirements. The Governmental Unit shall require any contractor hired by it in connection with the construction of the Project to post a performance and payment bond as provided by NMSA 1978, § 13-4-18, as amended.

Section 2.2 Protective Covenants Regarding Operation of the System. The Governmental Unit further represents, covenants and warrants as follows:

(a) Rate Covenant. The Governmental Unit covenants that it will at all times fix, charge and collect such rates and charges as shall be required in order that in each Fiscal Year in which the Loan is outstanding the Gross Revenues shall at least equal the Operation and Maintenance Expenses of the System for the Fiscal Year, plus one hundred twenty percent (120%) of the maximum annual principal and interest payments due on all outstanding Parity Obligations.

(b) Efficient Operation. The Governmental Unit will maintain the System in efficient operating condition and make such improvements, extensions, enlargements, repairs

and betterments to the System as may be necessary or advisable for its economical and efficient operation at all times and to supply reasonable public and private demands for System services within the Service Area of the System.

(c) Records. So long as this Loan Agreement remains outstanding, proper books of record and account will be kept by the Governmental Unit, separate from all other records and accounts, showing complete and correct entries of all transactions relating to the System. However, pursuant to NMSA 1978, § 6-14-10(E), as amended, records with regard to the ownership or pledge of Utility Revenue Bonds are not subject to inspection or copying.

(d) Right to Inspect. The Finance Authority, or its duly authorized agents, shall have the right to inspect at all reasonable times the Project and all records, accounts and data relating to the Project, the Pledged Revenues, and the System.

(e) Audits. Within two hundred seventy (270) days following the close of each Fiscal Year, the Governmental Unit will cause an audit of the books and accounts of the System and its separate systems to be made by an Independent Accountant and the audit to be made available for inspection by the Finance Authority. Each audit of the System shall comply with Generally Accepted Accounting Principles. The audit required by this section may, at the Governmental Unit's discretion, be performed as a part of or in conjunction with the audit required under the Single Audit Act as set forth in Section 2.1(s) of this Loan Agreement.

(f) Billing Procedure. Bills for water services or facilities furnished by or through the System shall be rendered to customers on a regular basis each month following the month in which the service was rendered and shall be due as required by the applicable ordinance of the Governmental Unit. To the extent permitted by law, if a bill is not paid within the period of time required by such ordinance, water services shall be discontinued as required by Governmental Unit regulation or policy, and the rates and charges due shall be collected in a lawful manner, including, but not limited to, the cost of disconnection and reconnection.

(g) Charges and Liens Upon System. The Governmental Unit will pay when due from Gross Revenues or other legally available funds all taxes and assessments or other municipal or governmental charges, lawfully levied or assessed upon the System and will observe and comply with all valid requirements of any municipal or governmental authority relating to the System. The Governmental Unit will not create or permit any lien or charge upon the System or the Gross Revenues or it will make adequate provisions to satisfy and discharge within sixty (60) days after the same accrue, all lawful claims and demands for labor, materials, supplies or other objects, which, if unpaid, might by law become a lien upon the System or the Gross Revenues. However, the Governmental Unit shall not be required to pay or cause to be discharged, or make provision for any tax assessment, lien or charge before the time when payment becomes due or so long as the validity thereof is contested in good faith by appropriate legal proceedings and there is no adverse effect on Finance Authority.

(h) Insurance. Subject, in each case, to the condition that insurance is obtainable at reasonable rates and upon reasonable terms and conditions, in its operation of the System, the Governmental Unit will procure and maintain or cause to be procured and

maintained commercial insurance or provide Qualified Self Insurance with respect to the facilities constituting the System and public liability insurance in the form of commercial insurance or Qualified Self Insurance and, in each case, in such amounts and against such risks as are, in the judgment of the Governing Body, prudent and reasonable taking into account, but not being controlled by, the amounts and types of insurance or self-insured programs provided by entities which operate systems such as the System. "Qualified Self Insurance" means insurance maintained through a program of self insurance or insurance maintained with a fund, company or association in which the Governmental Unit may have a material interest and of which the Governmental Unit may have control, either singly or with others. Each plan of Qualified Self Insurance shall be established in accordance with law, shall provide that reserves be established or insurance acquired in amounts adequate to provide coverage which the Governmental Unit determines to be reasonable to protect against risks assumed under the Qualified Self Insurance plan, including any potential retained liability in the event of the termination of such plan of Qualified Self Insurance. In the event of property loss or damage to the System, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged and thereafter, and any remainder may be used to redeem Utility Revenue Bonds or be treated as Gross Revenues and used in any legally permissible manner.

(i) Competing Utility System. Unless contrary to any provision of, or required by, applicable law, as long as this Loan Agreement is outstanding, the Governmental Unit prior to granting any franchise or license to a competing utility system, or permitting any person, association, firm or corporation to sell similar utility services or facilities to any consumer, public or private, within the Service Area of the System, shall obtain a written report from an independent utility rate consultant stating that in the opinion of the consultant the use charges in effect immediately prior to the approval of the franchise or license by the Governmental Unit are sufficient to meet the requirement of section 2.1(p) (expected coverage ratio) for the first full calendar year after the approval of the franchise or license, based on the new Service Area of the System.

(j) Alienating System. While this Loan Agreement is outstanding, the Governmental Unit shall not transfer, sell or otherwise dispose of the System, except that the Governmental Unit may dispose of inadequate, obsolete or worn out property. For purposes of this Section, any transfer of an asset over which the Governmental Unit retains or regains substantial control shall, for so long as the Governmental Unit has such control, not be deemed a disposition of the System.

(k) Management of the System. If an Event of Default shall occur or if the Pledged Revenues in any Fiscal Year fail to equal principal and interest due on the Senior Obligations and the Parity Obligations, the Governmental Unit shall retain an independent consultant qualified in the management of water and wastewater utility systems to assist in the management of the System so long as such default continues.

(l) Competent Management. The Governmental Unit shall employ experienced and competent personnel to manage the System.

(m) Performing Duties. The Governmental Unit will faithfully and punctually perform all duties with respect to the System required by the Constitution and laws of the State and the regulations or policies and resolutions of the Governmental Unit relating to the System and this Loan Agreement, including, but not limited to, making and collecting reasonable and sufficient rates and charges for services rendered or furnished by the System as required by this Loan Agreement and the proper segregation and application of the Gross Revenues.

(n) Other Liens. Except for any Senior Obligations and Parity Obligations listed in the Term Sheet, there are no liens or encumbrances of any nature whatsoever, on or against the System or the Gross Revenues or Net Revenues on parity with or senior to the lien of this Loan Agreement.

Section 2.3 Representations, Covenants and Warranties of the Finance Authority. The Finance Authority represents, covenants and warrants for the benefit of the Governmental Unit:

(a) Legal Status and Authorization of Loan Agreement. The Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized and created under and pursuant to the laws of the State, particularly the Finance Authority Act. The Finance Authority has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Loan Agreement and has duly authorized the execution and delivery of this Loan Agreement.

(b) No Breach or Default Caused by Loan Agreement. Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement, nor the consummation of the transactions contemplated in this Loan Agreement, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Finance Authority is a party or by which the Finance Authority is bound or constitutes a default under any of the foregoing and will not conflict with or constitute a violation of any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Finance Authority, or its property and which conflict or violation will have a material adverse effect on the Finance Authority or the financing of the Project.

(c) No Litigation. To the knowledge of the Finance Authority, there is no litigation or proceeding pending or threatened against the Finance Authority or any other person affecting the right of the Finance Authority to execute or deliver this Loan Agreement or to comply with its obligations under this Loan Agreement. To the knowledge of the Finance Authority, neither the execution and delivery of this Loan Agreement by the Finance Authority, nor compliance by the Finance Authority with its obligations under this Loan Agreement, requires the approval of any regulatory body, or any other entity, which approval has not been obtained.

(d) Legal, Valid and Binding Obligations. This Loan Agreement constitutes a legal, valid and binding obligation of the Finance Authority enforceable in accordance with its terms.

ARTICLE III

LOAN AGREEMENT TERM

The Loan Agreement Term shall commence on the Closing Date and shall not terminate until the Governmental Unit's obligations under this Loan Agreement have been paid in full or provision for payment of this Loan Agreement has been made pursuant to Article VIII hereof.

ARTICLE IV

LOAN; APPLICATION OF MONEYS

Section 4.1 Application of Loan Agreement Proceeds.

(a) On the Closing Date, the amount shown on the Term Sheet as the Aggregate Program Amount shall be made available for disbursement by the Finance Authority to the Governmental Unit pursuant to Section 6.2 of this Loan Agreement at the request of the Governmental Unit and as needed by the Governmental Unit to implement the Project.

(b) The Final Requisition shall be submitted by the Governmental Unit within twenty seven (27) months following the Closing Date, except only as otherwise approved in writing by an Authorized Officer of the Finance Authority, based on the Governmental Unit's demonstration, to the reasonable satisfaction of the Authorized Officer of the Finance Authority, that unanticipated circumstances beyond the control of the Governmental Unit resulted in delaying the acquisition and completion of the Project, and submission of the Governmental Unit's Final Requisition.

Section 4.2 Disbursements; Approval of Payment Requests. The Governmental Unit shall transmit payment requisitions in the form attached to this Loan Agreement as Exhibit "C" and the supporting documentation required pursuant to Exhibit "C" to the Finance Authority. The Finance Authority or its designee shall review each requisition for compliance with (i) the Project's construction plans and specifications and (ii) all applicable state and federal laws, rules and regulations, and shall approve or disapprove the requisition accordingly. The Finance Authority shall cause Approved Requisitions to be paid from the State Drinking Water Revolving Loan Fund.

Section 4.3 Expense Fund Deposit. The Finance Authority shall determine the amount of the Expense Fund Component at the time of each payment to the Governmental Unit pursuant to Section 6.2 of this Loan Agreement and deposit such amount to the Expense Fund.

ARTICLE V

LOAN TO THE GOVERNMENTAL UNIT; PAYMENTS BY THE GOVERNMENTAL UNIT

Section 5.1 Loan to the Governmental Unit; Payment Obligations Limited to Pledged Revenues; Pledge of Pledged Revenues. The Finance Authority hereby lends to the Governmental Unit and the Governmental Unit hereby borrows from the Finance Authority an amount not to exceed the Maximum Principal Amount. The Governmental Unit promises to pay, but solely from the sources pledged herein, the Loan Agreement Payments as herein provided. Subject to any outstanding Parity Obligations and Senior Obligations, the Governmental Unit does hereby grant a lien on and a security interest in and does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right, title and interest of the Governmental Unit in and to (i) the Pledged Revenues to the extent required to pay the Loan Agreement Payments on a parity with any Parity Obligations and subordinate to any Senior Obligations, (ii) the Debt Service Account, and (iii) all other rights hereinafter granted, for the securing of the Governmental Unit's obligations under this Loan Agreement, including payment of the Loan Agreement Payments, provided, however, that if the Governmental Unit, its successors or assigns, shall pay, or cause to be paid, all Loan Agreement Payments at the time and in the manner contemplated by this Loan Agreement, or shall provide as permitted by Article VIII of this Loan Agreement for the payment thereof, and shall pay all other amounts due or to become due under this Loan Agreement in accordance with its terms and provisions then, upon such final payment, this Loan Agreement and the rights created thereby shall terminate; otherwise, this Loan Agreement shall remain in full force and effect. The Loan Agreement Payments shall, in the aggregate, be sufficient to pay the Aggregate Repayable Disbursements, as set forth in the Final Loan Agreement Payment Schedule.

Within five (5) days after each payment of an Approved Requisition during the Interim Period, the Finance Authority shall recalculate on the basis of the Aggregate Repayable Disbursements to that date the Interest Component and Administrative Fee Component next coming due as set out in Section 5.2(a)(i) of this Loan Agreement and shall provide written notice to the Governmental Unit of the recalculated Interest Component and Administrative Fee Component. Within thirty (30) days after the final disbursement, the Finance Authority shall provide a Final Loan Agreement Payment Schedule. The schedule of Loan Agreement Payments, assuming the disbursal of the entire Aggregate Program Amount within twenty-seven (27) months after the Closing Date, identified as the Interim Loan Agreement Payment Schedule, is attached to this Loan Agreement as Exhibit "B". The Finance Authority shall provide a Final Loan Agreement Payment Schedule following the final disbursement which shall supersede the schedule attached as Exhibit "B".

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Closing Date. The Governmental Unit and the Finance Authority acknowledge and agree that the sources of the Loan Agreement Payments of the Governmental Unit hereunder are limited to the Pledged Revenues, and that the Loan Agreement shall constitute a special, limited obligation of the Governmental Unit. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Governmental Unit or the

State within the meaning of any constitutional or statutory debt limitation. No provision of this Loan Agreement shall be construed to pledge or to create a lien on any class or source of Governmental Unit moneys other than the Pledged Revenues, nor shall any provision of this Loan Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Governmental Unit moneys other than the Pledged Revenues. In addition, to the extent not required for the payment of obligations of the Governmental Unit hereunder, the Pledged Revenues may be utilized by the Governmental Unit for any other purposes permitted by law and the laws of the State.

Section 5.2 Payment Obligations of Governmental Unit. The Debt Service Account shall be established and held by the Finance Authority or its designee on behalf of the Governmental Unit. All Loan Agreement Payments received by the Finance Authority or its designee pursuant to this Loan Agreement shall be accounted for and maintained by the Finance Authority or its designee in the Debt Service Account, which account shall be kept separate and apart from all other accounts of the Finance Authority. The amounts on deposit in the Debt Service Account shall be expended and used by the Finance Authority only in the manner and order of priority specified herein.

(a) As a subordinate charge and lien, but not an exclusive subordinate charge and lien, on the Pledged Revenues (on a parity with the lien on the Pledged Revenues created by any outstanding Parity Obligations and subordinate to any outstanding Senior Obligations), the Governmental Unit shall remit to the Finance Authority and the Finance Authority shall collect and deposit into the Debt Service Account from the Governmental Unit the Pledged Revenues, in the manner specified herein..

(i) Payment of Interest Component and Administrative Fee Component during Interim Period.

(A) During the Interim Period, Interest and Administrative Fees shall accrue on the amount of Aggregate Repayable Disbursements, from the date of each Disbursement.

(B) During the Interim Period the Governmental Unit shall monthly, commencing on the first day of the month next following the first payment by the Finance Authority of an Approved Requisition, pay to the Finance Authority for deposit into the Debt Service Account such amount as is necessary, in monthly installments, to pay the Interest Component and Administrative Fee Component on the Aggregate Repayable Disbursements as of each Loan Agreement Payment Date.

(ii) Loan Agreement Payments Following the Interim Period. After the Interim Period, the Governmental Unit shall pay to the Finance Authority for deposit into the Debt Service Account the following amounts:

(A) Interest and Administrative Fee Components. Monthly, commencing on the first day of the month next following the final disbursement, the Governmental Unit shall pay to the Finance Authority for deposit into the Debt Service Account

an amount in equal monthly installments which is necessary to pay the first maturing Interest Component and Administrative Fee Component coming due on this Loan Agreement and monthly thereafter, commencing on each Loan Agreement Payment Date, one-sixth (1/6) of the amount necessary to pay the next maturing Interest Component and Administrative Fee Component on this Loan Agreement as described in the Final Loan Agreement Payment Schedule.

(B) Principal Payments. Monthly, commencing on the first day of the month next following the final disbursement, the Governmental Unit shall pay to the Finance Authority for deposit into the Debt Service Account an amount in equal monthly installments which is necessary to pay the first maturing Principal Component; and thereafter on the first day of each month thereafter, one-twelfth (1/12) of the amount which is necessary to pay the next maturing Principal Component on this Loan Agreement during the Loan Agreement Term, as described in the Final Loan Agreement Payment Schedule.

(iii) Method of Payment. The Governmental Unit shall transfer each month to the Finance Authority, from Pledged Revenues, the amounts set forth in Subsections (i)(C), (ii)(A) and (ii)(B) of this Section 5.2(a) during the time that this Loan Agreement is outstanding, provided, that in the event of any default in making the Loan Agreement Payments by the Governmental Unit, the Finance Authority shall be entitled to seek payment of the amounts due through any of the remedies provided in Article X of this Loan Agreement.

(b) In the event that the balance of payments held in the Debt Service Account should exceed the amount needed to cover Loan Agreement Payments then due, the Finance Authority shall use the balance of the Pledged Revenues received, at the request of the Governmental Unit (i) to credit against upcoming Loan Agreement Payments, or (ii) to distribute to the Governmental Unit for any other purpose permitted by law.

Section 5.3 Manner of Payment. All payments of the Governmental Unit hereunder shall be paid in lawful money of the United States of America to the Finance Authority or its designee at the address designated in Section 11.1 of this Loan Agreement. The obligation of the Governmental Unit to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Governmental Unit, the Finance Authority or its designee, any vendor or any other person, the Governmental Unit shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Governmental Unit assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

Section 5.4. Additional Parity Obligations Payable from Pledged Revenues. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Parity Obligations payable from Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this Loan Agreement; provided, however, that before any such additional Parity Obligations are actually

issued (excluding refunding bonds or refunding obligations which refund Parity Obligations but including parity refunding bonds and obligations which refund Subordinated Obligations as provided in Section 5.5 hereof), it must be determined that:

(a) The Governmental Unit is then current in all of the accumulations required to be made into the Debt Service Account as provided in this Loan Agreement.

(b) No default shall exist in connection with any of the covenants or requirements of the Resolution or this Loan Agreement.

(c) The Pledged Revenues received by or credited to the Governmental Unit for the Fiscal Year or for any twelve (12) consecutive months out of the twenty-four (24) months preceding the date of issuance of such additional Parity Obligations (the "Historic Test Period") shall have been sufficient to pay an amount representing one hundred twenty percent (120%) of the combined maximum annual principal, interest requirement and the Administrative Fee Component coming due in any subsequent Fiscal Year on the then outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding the accumulation of any reserves therefor).

(d) A written certification or opinion by the Governmental Unit's treasurer or chief financial officer or by an Independent Accountant that the Pledged Revenues for the Historic Test Period are sufficient to pay said amounts, shall be conclusively presumed to be accurate in determining the right of the Governmental Unit to authorize, issue, sell and deliver the Parity Obligations proposed to be issued.

(e) No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional bonds or other obligations payable from the Pledged Revenues constituting a lien upon such Pledged Revenues subordinate and junior to the lien of this Loan Agreement nor to prevent the issuance of bonds or other obligations refunding all or part of this Loan Agreement as permitted by Section 5.5 hereof.

(f) The Governmental Unit shall not issue bonds or other obligations payable from the Pledged Revenues having a lien thereon prior or superior to this Loan Agreement, without the written approval of the Finance Authority.

Section 5.5 Refunding Obligations Payable from Pledged Revenues. The provisions of Section 5.4 hereof are subject to the following exceptions:

(a) If at any time after the Closing Date, while this Loan Agreement, or any part thereof, is outstanding, the Governmental Unit shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged Revenues, this Loan Agreement, such bonds or other obligations, or any part thereof, may be refunded (but the holders of this Loan Agreement or bonds to be refunded may not be compelled to surrender this Loan Agreement or their bonds, unless this Loan Agreement, the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the Governmental Unit's option), regardless of whether the priority of the

lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as provided in subparagraph (f) of Section 5.4 hereof and in subparagraphs (b) and (c) of this Section 5.5.

(b) No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with this Loan Agreement unless:

(i) The outstanding obligations so refunded have a lien on the Pledged Revenues on a parity with the lien thereon of this Loan Agreement and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with subparagraphs (a) through (f) of Section 5.4 of this Loan Agreement.

(c) The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged Revenues with the portion of this Loan Agreement or any bonds or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of this Loan Agreement or the bonds or other obligations of this same issue refunded thereby. If only a part of this Loan Agreement or the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:

(i) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such last maturity date of such unrefunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with subparagraphs (a) through (f) of Section 5.4 hereof; or

(iii) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

(d) Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the Governmental Unit may provide by ordinance or resolution, but without any impairment of any contractual obligations imposed upon the Governmental Unit by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, this Loan Agreement).

Section 5.6 Investment of Governmental Unit Funds. Money on deposit in the Debt Service Account created hereunder may be invested by the Finance Authority or its designee in Permitted Investments at the written direction of the Governmental Unit or, in the absence of such written direction of the Governmental Unit, at the discretion of the Finance Authority. Any

earnings on Permitted Investments shall be held and administered in the Debt Service Account and utilized in the same manner as the other moneys on deposit therein for the benefit of the Governmental Unit.

Section 5.7 Governmental Unit May Budget for Payments. The Governmental Unit may, in its sole discretion, but without obligation and subject to the Constitution of the State, governing laws, and its budgetary requirements, make available properly budgeted and legally available funds to defray any insufficiency of Pledged Revenues to pay Loan Agreement Payments; provided, however, the Governmental Unit has not covenanted and cannot covenant to make such funds available and has not pledged any of such funds for such purpose.

ARTICLE VI

THE PROJECT

Section 6.1 Agreement to Acquire and Complete the Project. The Governmental Unit hereby agrees that in order to effectuate the purposes of this Loan Agreement and to effectuate the acquisition and completion of the Project, it shall make, execute, acknowledge and transmit any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and, in general do all things which may be requisite or proper to acquire and complete the Project.

The Governmental Unit agrees to acquire and complete the Project through the application of moneys to be disbursed by the Finance Authority pursuant to Section 6.2 of this Loan Agreement.

Section 6.2 Disbursements. So long as no Event of Default shall occur and the requirements of Section 4.2 are satisfied, the Finance Authority or its designee shall disburse moneys to pay a requisition upon receipt and approval by the Finance Authority or its designee of a requisition substantially in the form of Exhibit "C" attached hereto signed by an Authorized Officer of the Governmental Unit, with required supporting documentation.

Section 6.3 Completion of the Acquisition of the Project. Upon completion of the acquisition of the Project, which shall occur no later than two (2) years after the Closing Date, unless a later date is approved as provided in Section 4.1(b) of this Agreement, an Authorized Officer of the Governmental Unit shall deliver a certificate to the Finance Authority, substantially in the form of Exhibit "D" attached hereto, stating that, to his or her knowledge, the acquisition of the Project has been completed and the Project has been accepted by the Governmental Unit, and all costs have been paid, except for any reimbursements requested pursuant to requisitions submitted prior to the end of the Interim Period. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 6.4 Unrequisitioned Amounts. In the event that, (1) at the time of the delivery of the certificate of completion required by Section 6.3 hereof, there remains an Unrequisitioned Principal Amount, or (2) the Finance Authority shall not have received a Final Requisition, by

the date that is twenty seven (27) months from the Closing Date, unless an extension is approved pursuant to Section 4.1(b) of this Loan Agreement, then the Governmental Unit shall have no right or title to the Unrequisitioned Principal Amount, nor any right to pledge, encumber or draw upon such Unrequisitioned Principal Amount, and the Finance Authority will not approve, honor, or enforce any requisition upon such Unrequisitioned Principal Amount pursuant to this Loan Agreement.

ARTICLE VII

COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

Section 7.1 Further Assurances and Corrective Instruments. The Finance Authority and the Governmental Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues, or for otherwise carrying out the intention hereof. Authorized Officers are authorized to execute, acknowledge and deliver any such supplements and further instruments.

Section 7.2 Finance Authority and Governmental Unit Representatives. Whenever under the provisions hereof the approval of the Finance Authority or the Governmental Unit is required, or the Governmental Unit or the Finance Authority is required to take some action at the request of the other, such approval or such request shall be given for the Finance Authority or for the Governmental Unit by an Authorized Officer of the Finance Authority or the Governmental Unit, as the case may be, and any party hereto shall be authorized to rely and act on any such approval or request.

Section 7.3 Compliance with Court Orders. During the Loan Agreement Term, the Governmental Unit and the Finance Authority shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the parties hereto, the Project or the Pledged Revenues.

Section 7.4 Compliance with Applicable State and Federal Laws. During the Loan Agreement Term, the Governmental Unit shall comply with all applicable State and federal laws, including, without limitation, the following:

(a) For all contracts, the Governmental Unit shall comply with the New Mexico Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199, as amended, or its local procurement ordinances and regulations, as applicable.

(b) For all construction contracts awarded in excess of \$10,000, the Governmental Unit shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 12, 1967, and as supplemented in Department of Labor regulations (41 C.F.R. chapters 40 and 60). In addition, for all contracts, the Governmental Unit shall comply with all State laws and

regulations and all executive orders of the Governor of the State pertaining to equal employment opportunity.

(c) For all contracts awarded for construction or repair, the Governmental Unit shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. § 874) as supplemented in Department of Labor regulations (29 C.F.R. part 3).

(d) For all construction subcontracts, and subgrants of amounts in excess of \$100,000, the Governmental Unit shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 7606), Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. Part 15). In addition, for all contracts, the Contractor shall comply with all applicable State laws and regulations and with all executive orders of the Governor of the State pertaining to protection of the environment.

(e) For all contracts the Governmental Unit shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with section 362 of the Energy Policy and Conservation Act (42 U.S.C. § 6322).

(f) For all contracts in excess of \$2,000 the Governmental Unit shall comply with applicable standards of the Davis-Bacon Wage Act (40 U.S.C. § 3141 et seq.), as amended and supplemented, relating to wages paid to laborers and mechanics employed by contractors and sub-contractors on a Project funded directly by or assisted in whole or in part by and through the Governmental Unit.

(g) For all contracts, the Governmental Unit shall comply with the requirements of the Environmental Protection Agency’s Program for Utilization of Minority and Women’s Business Enterprises set out in Title 40, Chapter I, Subchapter B, Part 33 of the Code of Federal Regulations.

(h) For all contracts, the Governmental Unit shall comply with the requirements of Executive Order 13502 on Use of Project Agreements for Federal Construction Projects.

(i) For all contracts, the Governmental Unit shall comply with the requirements of Executive Order dated September 25, 2012 on Strengthening Protections Against Trafficking in Persons in Federal Contracts.

(j) For all contracts, the Governmental Unit shall comply with all federal requirements applicable to the Loan (including those imposed by P.L. 113-76, 2014 Consolidated Appropriations Act, Section 436 and related SRF Policy Guidelines) which the Governmental Unit understands includes, among other, requirements that all of the iron and steel products used in the Project are to be produced in the United States (“American Iron and Steel Requirement”) unless (i) the Governmental Unit has requested and obtained a waiver from the Finance Authority pertaining to the Project or (ii) the Finance Authority has otherwise advised

the Governmental Unit in writing that the American Iron and Steel Requirement is not applicable to the Project.

(k) For all contracts, the Governmental Unit shall comply with all record keeping and reporting requirements under the Clean Water Act/Safe Drinking Water Act, including any reports required by a Federal agency or the Finance Authority such as performance indicators of program deliverables, information on costs and project progress. The Governmental Unit understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Clean Water Act/Safe Drinking Water Act and this Agreement may be a default under this Agreement.

(l) For all contracts, the Governmental Unit shall comply with Executive Order 12549 – Debarment and Suspension and all rules, regulations and guidelines issued pursuant to Executive Order 12549, including compliance with the requirement that each prospective participant in transactions related to the Loan execute a written certification that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in transactions related to the Loan.

(m) For all contracts, the Governmental Unit shall comply with the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C.300j-9(e)) in all procurement contracts, and the Governmental Unit and procurement contractors shall include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for the Project shall include in any contract in excess of \$2,000 the contract clauses set out in the EPA publication entitled “Wage Rate Requirements Under the Clean Water Act, Section 513 and the Safe Drinking Water Act Section 1450(e).”

(n) The Governmental Unit shall comply with the requirement of the June 3, 2015 Guidelines for Enhancing Public Awareness of SRF Assistance Agreements issued by the United States Environmental Protection Agency relating to signage, posters, advertisements, website or press releases indicating that financial assistance was received from the EPA for the Project.

The Finance Authority or its designee shall have the right to review all contracts, work orders and other documentation related to the Project that it deems necessary to assure compliance with applicable laws, rules and regulations, and may conduct such review as it deems appropriate prior to disbursing funds for payment of an Approved Requisition.

Section 7.5 Lien Status. The Loan Agreement Payments constitute an irrevocable subordinate lien (but not necessarily an exclusive subordinate lien) upon the Pledged Revenues. The Governmental Unit covenants that the Loan Agreement Payments and any Parity Obligations herein authorized to be issued and from time to time outstanding shall be equitably and ratably secured by a subordinate lien on the Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Pledged Revenues regardless of the time or times of the issuance of such obligations, it being the intention of the Governmental Unit that there shall be no priority between the Loan Agreement Payments and any such Parity

Obligations regardless of the fact that they may be actually issued and delivered at different times.

Section 7.6 Expeditious Completion. The Governmental Unit shall complete the Project with all practical dispatch.

ARTICLE VIII

PREPAYMENT OF LOAN AGREEMENT PAYMENTS

The Governmental Unit is hereby granted the option to prepay the Principal Component of this Loan Agreement in whole or in part on any day without penalty or prepayment premium, beginning one (1) year after the Closing Date. The Governmental Unit may designate the due date or due dates of the Principal Component or portions thereof being prepaid in the event of a partial prepayment. Any such prepayment shall include accrued interest to the redemption date of the corresponding Bonds to be redeemed, if any, and notice of intent to make such prepayment shall be provided to the Finance Authority or its designee by the Governmental Unit no less than forty-five (45) days prior to the prepayment date. The Finance Authority or its designee shall recalculate the Loan Agreement Payments due under this Loan Agreement in the event of a partial prepayment in a manner which is consistent with the manner in which the Bonds, if any, are prepaid.

ARTICLE IX

INDEMNIFICATION

From and to the extent of the Pledged Revenues and to the extent permitted by law, the Governmental Unit shall and hereby agrees to indemnify and save the Finance Authority and its designee, if any, harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition or operation of the Project during the Loan Agreement Term, from: (i) any act of negligence of the Governmental Unit or breach of any covenant or warranty by the Governmental Unit hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan Agreement proceeds and interest on the investment of the Loan Agreement proceeds. The Governmental Unit shall indemnify and save the Finance Authority and its designee, if any, harmless, from and to the extent of the available Pledged Revenues and to the extent permitted by law, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or its designee, shall defend the Finance Authority or its designee, if any, in any such action or proceeding.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined. Any one of the following shall be an Event of Default under this Loan Agreement:

(a) Failure by the Governmental Unit to pay any amount required to be paid under this Loan Agreement on the date on which it is due and payable; or

(b) Failure by the Governmental Unit to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a), for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Governmental Unit by the Finance Authority or its designee, if any, unless the Finance Authority or its designee, as applicable, shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Finance Authority or its designee but cannot be cured within the applicable thirty (30) day period, the Finance Authority or its designee will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Governmental Unit within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Governmental Unit is unable to carry out the agreements on its part herein contained, the Governmental Unit shall not be deemed in default under this paragraph (b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default); or

(c) Any warranty, representation or other statement by or on behalf of the Governmental Unit contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is false or misleading in any material respect; or

(d) A petition is filed against the Governmental Unit under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority shall have the right to intervene in the proceedings to protect the Finance Authority's interests; or

(e) The Governmental Unit files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or,

(f) The Governmental Unit admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Governmental

Unit for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority shall have the right to intervene in the proceedings to protect its interests.

Section 10.2 Remedies on Default. Whenever any Event of Default has occurred and is continuing and subject to Section 10.3 hereof, the Finance Authority may take any or all of the following actions as may appear necessary or desirable to collect the payments then due and to become due or to enforce performance of any agreement of the Governmental Unit in this Loan Agreement:

(a) By mandamus or other action or proceeding or suit at law or in equity to enforce the rights of the Finance Authority under this Loan Agreement against the Governmental Unit, and compel the Governmental Unit to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or

(b) By suit in equity enjoin any acts or things which are unlawful or violate the rights of the Finance Authority; or

(c) Intervene in judicial proceedings that affect this Loan Agreement or the Pledged Revenues; or

(d) Cause the Governmental Unit to account as if it were the trustee of an express trust for all of the Pledged Revenues and Aggregate Disbursements (except the Expense Fund Component); or,

(e) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts then due and thereafter to become due under this Loan Agreement or enforce any other of its rights thereunder.

Section 10.3 Limitations on Remedies. A judgment requiring a payment of money entered against the Governmental Unit may reach only the available Pledged Revenues.

Section 10.4 No Remedy Exclusive. Subject to Section 10.3 of this Loan Agreement, no remedy herein conferred upon or reserved to the Finance Authority is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Finance Authority to exercise any remedy reserved in this Article X, it shall not be necessary to give any notice, other than such notice as may be required in this Article X.

Section 10.5 Waivers of Events of Default. The Finance Authority may in its discretion waive any Event of Default hereunder and the consequences of an Event of Default by written waiver; provided, however, that there shall not be waived (i) any Event of Default in the payment of principal of this Loan Agreement at the date when due as specified in this Loan Agreement, or

(ii) any default in the payment when due of the interest on this Loan Agreement, unless prior to such waiver or rescission, all arrears of interest, with interest at the rate borne by this Loan Agreement on all arrears of payment of principal and all expenses of the Finance Authority, in connection with such Event of Default shall have been paid or provided. Such waiver shall be effective only if made by written statement of waiver issued by the Finance Authority. In case of any such waiver or rescission, or in case any proceeding taken by the Finance Authority on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Finance Authority shall be restored to its former position and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 10.6 No Additional Waiver Implied by One Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses Related to Defaults. In the event that the Governmental Unit should default under any of the provisions hereof and the Finance Authority employs attorneys or incurs other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Governmental Unit contained in this Loan Agreement, the Governmental Unit agrees that it shall on demand therefor pay to the Finance Authority the fees of such attorneys and such other expenses so incurred, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Governmental Unit under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows:

If to the Governmental Unit, then to:

Lower Rio Grande Public Water Works Authority
Attn: General Manager
325 Holguin Road
Vado, New Mexico 88072

If to the Finance Authority, then to:

New Mexico Finance Authority
Attention: Chief Executive Officer
207 Shelby Street
Santa Fe, New Mexico 87501

And if to Finance Authority's designated servicing agent for this Loan Agreement, if any, at the address to be provided by the servicing agent. The Governmental Unit and the Finance Authority may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.2 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Finance Authority, the Governmental Unit and their respective successors and assigns, if any.

Section 11.3 Amendments. This Loan Agreement may be amended only with the written consent of the Finance Authority and the Governmental Unit, except as provided in Section 4.1(b) of this Loan Agreement. The consent of the Finance Authority for amendments not affecting the terms of payment of the loan component of this Loan Agreement may be given by an Authorized Officer of the Finance Authority. The execution of any such consent by an Authorized Officer of the Finance Authority shall constitute his or her determination that such amendment does not affect the terms of payment of the loan component of this Loan Agreement.

Section 11.4 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Finance Authority, either directly or through the Finance Authority or against any officer, employee, director or member of the Governing Body, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director or member of the Governing Body or of the Finance Authority is hereby expressly waived and released by the Governmental Unit and by the Finance Authority as a condition of and in consideration for the execution of this Loan Agreement.

Section 11.5 Severability. In the event that any provision of this Loan Agreement, other than the requirement of the Governmental Unit to pay hereunder, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.6 Execution in Counterparts. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7 Assignment by the Finance Authority. This Loan Agreement (except as to the Administrative Fee and Expense Fund Component) may be assigned and transferred by the

Finance Authority to a trustee, which right to assign and transfer is hereby acknowledged and approved by the Governmental Unit.

Section 11.8 Compliance with Governing Law. It is hereby declared by the Governing Body that it is the intention of the Governmental Unit by the execution of this Loan Agreement to comply in all respects with the provisions of the New Mexico Constitution and statutes as the same govern the pledge of the Pledged Revenues to payment of all amounts payable under this Loan Agreement.

Section 11.9 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.10 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

[Remainder of page intentionally left blank.]

[Signature pages follow.]

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself has executed this Loan Agreement, which was approved by the Finance Authority's Board of Directors on February 28, 2018, in its corporate name by its duly authorized officers; and the Governmental Unit has caused this Loan Agreement to be executed in its corporate name and the seal of the Governmental Unit affixed hereto and attested by duly authorized officers. All of the above are effective as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By _____
John Gasparich, Interim Chief Executive Officer

Prepared for Execution by Officers of the Finance Authority:

SUTIN, THAYER & BROWNE
A PROFESSIONAL CORPORATION
As Loan Counsel to the Finance Authority

By _____
Suzanne Wood Bruckner

Approved for Execution by Officers of the Finance Authority:

By _____
Daniel C. Opperman, General Counsel

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

ATTEST:

By _____
Esperanza Holguin, Secretary

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EXHIBIT "A"

TERM SHEET

LOAN NO. DW-4213
TO THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY,
DONA ANA COUNTY, NEW MEXICO

Governmental Unit: Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico

Project Description: Plan, design, construct and equip a central operations building to house the Governmental Unit's Administration, Finance, Operations and Projects Departments

Pledged Revenues: Net System Revenues

Currently Outstanding Parity Obligations for Pledged Revenues: NMFA 2710-DW, Matures in 2034; and NMFA 3394-DW, Matures in 2038

Currently Outstanding Senior Obligations: USDA Loan 91-02BP, Matures in 2040; USDA Loan 93-09/93-27, Matures in 2052; USDA Loan 91-14, Matures in 2049; USDA Loan 91-04, Matures in 2052; USDA Loan 92-13, Matures in 2052; USDA Loan 91-15, Matures in 2052; USDA Loan 92-19, Matures in 2052; USDA Loan 91-02LRG, Matures in 2054; and NMFA 2601-PP, Matures in 2041

Currently Outstanding Subordinate Obligations: NMFA 0223-WTB, Matures in 2032; NMFA 0252-WTB, Matures in 2032; NMFA 2766-CIF, Matures in 2033; NMFA 3156-CIF, Matures in 2034; NMFA 3161-CIF, Matures in 2033; and NMFA CIF-4645 , Matures in 2040 (closing simultaneously)

Authorizing Legislation: Governmental Unit Resolution No. FY2019-11 adopted September 19, 2018.

Closing Date: October 26, 2018

Interest Rate: 2.0% on \$2,685,288 Market Component (which includes the Administrative Fee)
0.25% on \$600,000 Disadvantaged Component (which includes the Administrative Fee)

Maximum Repayable Program Fund Component:	\$3,285,288	
Aggregate Program Fund Amount:		\$3,252,762
Maximum Repayable Expense Fund Component:	\$32,526	
Maximum Expense Fund Component:		\$ 32,526
Maximum Principal Amount:		\$3,285,288

EXHIBIT "B"

LOAN AGREEMENT PAYMENT SCHEDULE

[SEE ATTACHED]

EXHIBIT "C"

FORM OF REQUISITION

RE: \$3,285,288 Loan Agreement by and between the Finance Authority and the Lower Rio Grande Public Water Works Authority (the "Loan Agreement")

TO: New Mexico Finance Authority
207 Shelby Street
Santa Fe, New Mexico 87501
Attn: Loan Servicing

LOAN NO. DW-4213

CLOSING DATE: October 26, 2018

You are hereby authorized to disburse to the Lower Rio Grande Public Water Works Authority or its payee with regard to the above-referenced Loan Agreement the following:

REQUISITION NUMBER:		<input type="checkbox"/> Interim Request <input type="checkbox"/> Final Request
AMOUNT OF PAYMENT:	\$	

PURPOSE OF PAYMENT:

This is a request of REIMBURSEMENT of incurred and paid project expenses. (Attach proof of payment, e.g. check stubs, and corresponding invoices)

This is a request of DIRECT PAYMENT to vendor or service provider of incurred project expenses. (Attach invoices)

PAYEE INFORMATION

NAME:	
CONTACT NAME:	
ADDRESS:	
PHONE NUMBER:	
FAX NUMBER:	
E-MAIL ADDRESS:	

WIRING INFORMATION

BANK NAME:	
ACCOUNT NUMBER:	
ROUTING NUMBER:	

Please indicate if this Business is considered a

<input type="checkbox"/> SBE (Small Business Entrepreneur)	<input type="checkbox"/> MBE (Minority Business Entrepreneur)	<input type="checkbox"/> WBE (Women owned business Entrepreneur)	<input type="checkbox"/> N/A
--	---	--	------------------------------

(Attach SBE/MBE/WBE Certification)

Each obligation, item of cost or expense mentioned herein is for costs of the Project, is due and payable, has not been the subject of any previous requisition and is a proper charge for requisition and payment.

Each obligation, item of cost or expense mentioned herein is not for costs related to the purchase of land or easement.

All representations contained in the Loan Agreement and the related closing documents remain true and correct and the Lower Rio Grande Public Water Works Authority is not in breach of any of the covenants contained therein.

If this is the final requisition, payment of costs of the Project is complete or, if not complete, the Lower Rio Grande Public Water Works Authority understands its obligation to complete the acquisition of the Project and shall complete the acquisition of the Project from other legally available funds.

Capitalized terms used herein, are used as defined or used in the Loan Agreement.

DATED: _____

By: _____

Authorized Officer

(Print name and title)

EXHIBIT "D"

FORM OF CERTIFICATE OF COMPLETION

RE: \$3,285,288 Loan Agreement by and between the Finance Authority and the Lower Rio Grande Public Water Works Authority (the "Loan Agreement")

Loan No. DW-4213

Closing Date: October 26, 2018

TO: NEW MEXICO FINANCE AUTHORITY

I, _____, the _____ of the
[Name] [Title or position]

Lower Rio Grande Public Water Works Authority, hereby certify as follows:

1. The project described in the Loan Agreement (the "Project") was completed and placed in service on _____, 20__.
2. The total cost of the Project was \$ _____.
3. Cost of the Project paid from the Loan was \$ _____.
4. The portion of the Maximum Principal Amount unexpended for the Project is \$ _____.
5. The Project was completed and is and shall be used consistent with and subject to the covenants set forth in the Loan Agreement.

This certificate shall not be deemed to prejudice or affect any rights of or against third parties which exist at the date of this certificate or which may subsequently come into being.

LOWER RIO GRANDE PUBLIC WATER WORKS
AUTHORITY, DONA ANA COUNTY, NEW MEXICO

By: _____
Its: _____

\$3,285,288
 LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY
 DONA ANA COUNTY, NEW MEXICO
 NEW MEXICO FINANCE AUTHORITY DRINKING WATER LOAN
 NO. DW-4213

STATE OF NEW MEXICO) DELIVERY CERTIFICATE AND
) ss. CROSS-RECEIPT
 COUNTY OF DONA ANA)

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen and qualified Chairman and Secretary of the Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico (the "Governmental Unit"):

1. On the date of this Certificate, the Governmental Unit executed and delivered or caused to be executed and delivered a Drinking Water State Revolving Fund Loan and Subsidy Agreement in the Maximum Principal Amount of \$3,285,288 (the "Loan Agreement") between the Governmental Unit and the New Mexico Finance Authority (the "Finance Authority") to the Finance Authority, the purchaser of the Loan Agreement, as authorized by Governmental Unit Resolution No. FY2019-11, adopted by the Governmental Unit on September 19, 2018 (the "Resolution") relating to the execution and delivery of the Loan Agreement.

2. The undersigned acknowledge that the Aggregate Program Amount, as defined in the Loan Agreement, is available for disbursement to the Governmental Unit pursuant to the terms of Section 4.2 of the Loan Agreement upon transmission of payment requisitions to the Finance Authority in substantially the form attached as Exhibit "C" to the Loan Agreement, with supporting documentation as provided in the Loan Agreement, and will be used as set forth in the Resolution and the Loan Agreement.

WITNESS our hands this 26th day of October, 2018.

LOWER RIO GRANDE PUBLIC WATER
 WORKS AUTHORITY, DONA ANA
 COUNTY, NEW MEXICO

By _____
 Mike McMullen, Chairman

[SEAL]

By _____
 Esperanza Holguin, Secretary

STATE OF NEW MEXICO)
) ss
COUNTY OF SANTA FE)

It is hereby certified by the undersigned, the duly qualified and acting Chief Executive Officer of the Finance Authority, that the Finance Authority has, on the date of this Certificate received from the Lower Rio Grande Public Water Works Authority, Dona Ana County, New Mexico, the Loan Agreement for Project No. DW-4213.

NEW MEXICO FINANCE AUTHORITY

By: _____
John Gasparich, Interim Chief Executive Officer

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\$3,285,288
LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY
DONA ANA COUNTY, NEW MEXICO
NEW MEXICO FINANCE AUTHORITY DRINKING WATER LOAN
NO. DW-4213

STATE OF NEW MEXICO)
) ss. GENERAL AND NO LITIGATION
COUNTY OF DONA ANA) CERTIFICATE

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Chairman and Secretary for the Lower Rio Grande Public Water Works Authority (the “Governmental Unit”) in the County of Dona Ana and the State of New Mexico (the “State”):

Capitalized terms used in this Certificate have the same meaning as defined in Governmental Unit Resolution No. FY2019-11 adopted on September 19, 2018 (the “Resolution”), unless otherwise defined in this Certificate or the context requires otherwise.

1. The Governmental Unit is a political subdivision of the State and is duly organized and validly existing under the laws of the State, its full name being the “Lower Rio Grande Public Water Works Authority.”
2. The Governmental Unit was established in the year 2008.
3. From at least January 1, 2018 to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers of the Governmental Unit:

Board of Directors:	Mike McMullen, Chairman Raymundo Sanchez Joe Evaro Esperanza Holguin, Secretary Henry Magallanes Furman Smith, Vice Chairman
Finance Manager:	Kathi Jackson
General Manager:	Martin Lopez
Projects Manager:	Karen Nichols

4. Based on the data collected during the 2010 Census, the population of the Governmental Unit is at least 75% English speaking. Notice of adoption of the Resolution was published in English in the *Las Cruces Sun News*, a newspaper qualified to publish legal notices that is of general circulation in the area including the Governmental Unit.

5. There is no reason within our knowledge and belief after due investigation, why the Governmental Unit may not enter into the Loan Agreement with the New Mexico Finance Authority (the "Finance Authority"), as authorized by the Resolution.

6. The Governmental Unit has duly authorized the execution, delivery and performance of its obligations under the Loan Agreement. The Loan Agreement has been duly authorized, executed and delivered by the Governmental Unit.

7. The Resolution has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Resolution. The Resolution constitutes valid and sufficient legal authority for the Governmental Unit to carry out and enforce the provisions of the Loan Agreement. No referendum petition has been filed with respect to the Resolution under the provisions of the laws, bylaws or regulations of the Governmental Unit or the State.

8. No event will result from the execution and delivery of the Loan Agreement that constitutes a default or an event of default under the Loan Agreement or the Resolution, and no event of default and no default under the Loan Agreement or the Resolution have occurred and are continuing on the date of this Certificate.

9. The Governmental Unit has duly authorized and approved the consummation by it of all transactions and has complied with all requirements and satisfied all conditions, which are required by the Loan Agreement to have been authorized, approved, performed or consummated by the Governmental Unit at or prior to the date of this Certificate. The Governmental Unit has full legal right, power and authority to carry out and consummate the transactions contemplated by the Resolution and the Loan Agreement.

10. A. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the enforceability of the Loan Agreement or to any of the actions required to be taken by the Resolution or the Loan Agreement on or prior to the date of this Certificate have been obtained and are in full force and effect; and

B. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the financing of the Project have been obtained and are in full force and effect.

11. Neither the Governmental Unit's adoption of the Resolution nor any action contemplated by or pursuant to the Resolution or the Loan Agreement does or will conflict with, or constitute a breach by the Governmental Unit of, or default by the Governmental Unit under, any law, court decree or order, governmental regulation, rule or order, resolution, agreement, indenture, mortgage or other instrument to which the Governmental Unit is subject or by which it is bound.

12. No material adverse change has occurred, nor has any development occurred involving a prospective material and adverse change in, or affecting the affairs, business, financial condition, results of operations, prospects, properties of the Governmental Unit or the Pledged Revenues since the date of the Resolution.

13. None of the events of default referred to in Article X of the Loan Agreement has occurred.

14. Subsequent to the adoption of the Resolution, the Governmental Unit has not pledged or otherwise encumbered the Pledged Revenues. On the date of this Certificate, except as set forth in the Term Sheet, there are no other outstanding obligations with a lien or encumbrance against the Pledged Revenues senior to or on a parity with the lien of the Loan Agreement.

15. The Loan Agreement permits the Governmental Unit to issue additional bonds or other obligations with a lien on the Pledged Revenues, on parity with or subordinate to the lien of the Loan Agreement on the Pledged Revenues upon satisfaction of the conditions set forth in the Loan Agreement. The Loan Agreement prohibits the Governmental Unit from issuing additional bonds or other obligations with a lien on the Pledged Revenues senior to the lien of the Loan Agreement without the prior written approval of the Finance Authority.

16. There is no threatened action, suit, proceeding, inquiry or investigation against the Governmental Unit, at law or in equity, by or before any court, public board or body, nor to the Governmental Unit's knowledge is there any basis therefore, affecting the existence of the Governmental Unit or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the pledge of revenues or assets of the Governmental Unit pledged or to be pledged to pay the principal, interest, and Administrative Fee on the Loan Agreement, or in any way materially adversely affecting or questioning (a) the territorial jurisdiction of the Governmental Unit; (b) the use of the proceeds of the Loan Agreement for the Project and to pay certain costs of the Finance Authority associated with the administration of its drinking water state revolving fund loan program; (c) the validity or enforceability of the Loan Agreement or any proceedings of the Governmental Unit taken with respect to the Loan Agreement or the Resolution; (d) the execution and delivery of the Loan Agreement; or (e) the power of the Governmental Unit to carry out the transactions contemplated by the Loan Agreement or the Resolution.

17. The Governmental Unit has complied with all the covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to the date hereof, and the representations and warranties of the Governmental Unit contained in the Loan Agreement and the Resolution are true and correct as of the date hereof.

18. The Governmental Unit is not in default, and has not been in default within the ten (10) years immediately preceding the date of this Certificate, in the payment of principal of, premium, if any, or interest on any bonds, notes or other obligations which it has issued, assumed or guaranteed as to payment of principal, premium, if any, or interest except that no representation is made with respect to industrial revenue bonds or conduit bonds payable solely

from installment sale or lease payments, loan repayments or other amounts received by the Governmental Unit from private entities.

19. To the best of our knowledge and belief after due investigation, neither the Chairman, Secretary, any member of the Governing Body, nor any other officer, employee or other agent of the Governmental Unit is interested (except in the performance of his or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.

20. Regular meetings of the Governing Body have been held at 521 St. Valentine, La Mesa, New Mexico, one of the principal meeting places of the Governing Body.

21. The Governing Body has no rules of procedure which would invalidate or make ineffective the Resolution or other action taken by the Governing Body in connection with the Loan Agreement. The Open Meetings Act Resolution No. FY2018-18 adopted and approved by the Governing Body on May 16, 2018 establishes notice standards as required by NMSA 1978, § 10-15-1, as amended. The Open Meetings Act Resolution No. FY2018-18 has not been amended or repealed. All action of the Governing Body with respect to the Loan Agreement and the Resolution was taken at meetings held in compliance with the Open Meetings Act and Resolution No. FY2018-18.

22. The Chairman and Secretary, on the date of the signing of the Loan Agreement, and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Governmental Unit authorized to execute such agreements.

23. This Certificate is for the benefit of the Finance Authority.

24. This Certificate may be executed in counterparts.

[Remainder of page left intentionally blank]

[Signature page follows.]

WITNESS our signatures and the seal of the Governmental Unit this 26th day of October, 2018.

LOWER RIO GRANDE PUBLIC WATER
WORKS AUTHORITY, DONA ANA COUNTY,
NEW MEXICO

By _____
Mike McMullen, Chairman

[SEAL]

By _____
Esperanza Holguin, Secretary

4740762.doc



LOWER RIO GRANDE

Public Water Works Authority

325 Holguin Road

Vado, New Mexico 88072

(575) 233-5742

www.LRGauthority.org

Resolution Number FY2019-12

Authorizing Funding Application to New Mexico Water Trust Board for South Valley Waterline Extension Project

WHEREAS, the Lower Rio Grande Public Water Works Authority ("LRGPWWA") is a qualified entity under the Water Project Finance Act, Sections 72-4A-1 through 72-4A-10, NMSA 1978 ("Act"), and the Lower Rio Grande Public Water Works Authority ("Governing Body") is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the LRGPWWA; and

WHEREAS, the LRGPWWA has received requests for new water service in unserved parts of its South Valley Service Area; and

WHEREAS, the LRGPWWA seeks to provide water service to those who request it within its service areas;

NOW THEREFORE, the Board of Directors of the Lower Rio Grande Public Water Works Authority resolves to authorize its officers and staff to submit a funding application to the New Mexico Water Trust Board for the Lower Rio Grande Public Water Works Authority South Valley Waterline Extension Project.

PASSED, APPROVED AND ADOPTED this 19th Day of September, 2018.

SEAL:

GOVERNING BODY:

Mike McMullen, Board Chairman

Attest:

Esperanza Holguin, Secretary



www.lrgauthority.org

LOWER RIO GRANDE

Public Water Works Authority

Resolution #FY2019-13 Authorizing Signatory Authority for SAP 18-C2244

NMED Attachment F

Whereas, the Board of Directors of the Lower Rio Grande Public Water Works Authority of Doña Ana County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department; and

Whereas, the Agreement is identified as SAP 18-C2244 Grant Agreement;

NOW THEREFORE, BE IT RESOLVED by the Lower Rio Grande Public Water Works Authority that: Mike McMullen, Board Chair, is authorized to sign the agreement for this project, and Martin G. Lopez, General Manager, and Karen Nichols, Projects Manager, or his/her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests and act as a single point of contact concerning all matters related to the grant agreement.

PASSED, APPROVED, AND ADOPTED: September 19, 2018 at a regular meeting of the Board of Directors of the Lower Rio Grande Public Water Works Authority, 9:30 a.m. at its East Mesa Office, 9774 Butterfield Boulevard in the community of Butterfield Park.

Mike McMullen, Board Chair
Lower Rio Grande Public Water Works Authority

ATTEST: (SEAL)
Esperanza Holguin, Secretary

(Signature)
September 19, 2018

(Signature)
September 19, 2018

NOTARY:

Patricia Charles, Notary, September 19, 2018

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT]
FUND 89200 CAPITAL APPROPRIATION PROJECT
18-C2244-STB**

THIS AGREEMENT is made and entered into as of this [19th] day of [September], 20[18], by and between the New Mexico Environment Department hereinafter called the “Department” or “NMED”, and Lower Rio Grande PWWA hereinafter called the “Grantee”. This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2018, Chapter 80, Section 20, Paragraph 12, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

**SAP 18-C2244-STB (\$50,000.00) APPROPRIATION REVERSION DATE: June 30, 2022
Laws of 2018 Chapter 80, Section 20, Paragraph 12,
Fifty Thousand Dollars and No Cents (\$50,000.00):**

To construct a water pipeline extension, including connections, hydrants, valves and appurtenances, along Jacquez road in Berino in Dona Ana county

The Grantee’s total reimbursements shall not exceed Fifty Thousand Dollars and No Cents (\$50,000.00) minus the allocation for Art in Public Places¹, if applicable, zero dollars (0) which equals Fifty Thousand Dollars and No Cents (\$50,000.00) (the “Adjusted Appropriation Amount”).

¹ The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the “Project”; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the “Project Description.” Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT’S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department’s Obligation to Reimburse² Grantee (hereinafter referred to as “Notice of Obligation”). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee’s expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee’s Third-Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee’s expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with Third-Party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as “Third-Party Obligations”; and
- (iv) The Grantee’s submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

² “Reimburse” as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a Third-Party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The Grantee shall submit to the Department one copy of all Third-Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third-Party **but prior to execution by the Grantee.**
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third-Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third-Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third-Party Obligation and request the Third-Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

Please provide this information in the Resolution and Signature page; this page does NOT need to be completed.

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: New Mexico Environment Department
Name: Paulette Ortiz
Title: Project Administrator
Address: Construction Program Bureau
NMED, Harold Runnels Building
1190 St. Francis Drive S-2072
Santa Fe, NM 87502

Email: paulette.ortiz@state.nm.us
Telephone: (505) 827-2958

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above-named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party’s actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the

Department. It shall terminate on June 30, 2022 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project’s funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a Third-Party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days’ advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term “non-appropriate” or “non-appropriation” includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department’s decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department’s Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department’s sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a Third-Party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a Third-Party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the Third-Party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a Third-Party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third-Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
 - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
 - (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
 - (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
 - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex,

sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project's funds.
 - (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
 - (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
 - (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
 - (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
 - (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
 - (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third-Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all sub awards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid,

selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Lower Rio Grande PWWA may immediately terminate this Agreement by giving Contractor written notice of such termination. The Lower Rio Grande PWWA’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the Lower Rio Grande PWWA or the New Mexico Environment Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Lower Rio Grande PWWA or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a New Mexico Environment Department Grant Agreement. Should the New Mexico Environment Department early terminate the grant agreement, the Lower Rio Grande PWWA may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Lower Rio Grande PWWA’s only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

- A. Throughout the term of this Agreement, Grantee shall:
1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
 2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
 3. timely submit all required financial reports to its budgetary oversight agency (if any); and
 4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

- B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:
1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
 2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
 3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
 4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee’s sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department’s failure to inform

Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

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Authorization Page

Lower Rio Grande PWWA Jacquez Rd Pipeline SAP 18-C2244-STB

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

Signature of Official with Authority to Bind Grantee

Lower Rio Grande Public Water Works Authority
Entity Name

By: Mike McMullen
(Type or Print Name)

Its: Board Chair
(Type or Print Title)

September 19, 2019
Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Designee

Date

**NMED Attachment G
SAP Signature Page**

Project Name:	Lower Rio Grande PWWA Jacquez Rd Pipeline
Project Number:	SAP 18-C2244-STB
Official Representative:	
Name	Martin G. Lopez
Title	General Manager
Signature	
Address	325 Holguin Rd. Vado, NM 88072
E-mail	martin.lopez@lrgauthority.org
Phone	575-233-5742 ext. 1004 575-571-3628

Alternate - Official Representative:	
Name	Karen Nichols
Title	Projects Manager
Signature	
Address	325 Holguin Rd. Vado, NM 88072
E-mail	karen.nichols@lrgauthority.org
Phone	575-233-5742 ext. 1018 915-203-2057



www.lrgauthority.org

LOWER RIO GRANDE

Public Water Works Authority

Resolution #FY2019-14 Authorizing Signatory Authority for SAP 18-C2242

NMED Attachement F

Whereas, the Board of Directors of the Lower Rio Grande Public Water Works Authority of Doña Ana County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department; and

Whereas, the Agreement is identified as SAP 18-C2242 Grant Agreement;

NOW THEREFORE, BE IT RESOLVED by the Lower Rio Grande Public Water Works Authority that: Mike McMullen, Board Chair, is authorized to sign the agreement for this project, and Martin G. Lopez, General Manager, and Karen Nichols, Projects Manager, or his/her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests and act as a single point of contact concerning all matters related to the grant agreement.

PASSED, APPROVED, AND ADOPTED: September 19, 2018 at a regular meeting of the Board of Directors of the Lower Rio Grande Public Water Works Authority, 9:30 a.m. at its East Mesa Office, 9774 Butterfield Boulevard in the community of Butterfield Park.

**Mike McMullen, Board Chair
Lower Rio Grande Public Water Works Authority**

**ATTEST: (SEAL)
Esperanza Holguin, Secretary**

**(Signature)
September 19, 2018**

**(Signature)
September 19, 2018**

NOTARY:

Patricia Charles, Notary, September 19, 2018

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT]
FUND 89200 CAPITAL APPROPRIATION PROJECT
18-C2242-STB**

THIS AGREEMENT is made and entered into as of this [____] day of [____], 20[____], by and between the New Mexico Environment Department hereinafter called the “Department” or “NMED”, and Lower Rio Grande PWWA hereinafter called the “Grantee”. This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2018, Chapter 80, Section 20, Paragraph 10, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

SAP 18-C2242-STB (\$150,000.00) APPROPRIATION REVERSION DATE: **June 30, 2022
Laws of 2018 Chapter 80, Section 20, Paragraph 10,
One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00):**

To design and construct a water pipeline extension along Stern drive from Mesquite drive to the north, including hydrants and appurtenances, for the lower Rio Grande public water works authority in Dona Ana county

The Grantee’s total reimbursements shall not exceed One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) minus the allocation for Art in Public Places¹, if applicable, zero dollars (0) which equals One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) (the “Adjusted Appropriation Amount”).

¹ The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the “Project”; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the “Project Description.” Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT’S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department’s Obligation to Reimburse² Grantee (hereinafter referred to as “Notice of Obligation”). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee’s expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee’s Third-Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee’s expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with Third-Party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as “Third-Party Obligations”; and
- (iv) The Grantee’s submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

² “Reimburse” as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a Third-Party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The Grantee shall submit to the Department one copy of all Third-Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third-Party **but prior to execution by the Grantee.**
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third-Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third-Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third-Party Obligation and request the Third-Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

Please provide this information in the Resolution and Signature page; this page does NOT need to be completed.

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: New Mexico Environment Department
Name: Paulette Ortiz
Title: Project Administrator
Address: Construction Program Bureau
NMED, Harold Runnels Building
1190 St. Francis Drive S-2072
Santa Fe, NM 87502

Email: paulette.ortiz@state.nm.us
Telephone: (505) 827-2958

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above-named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party’s actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the

Department. It shall terminate on June 30, 2022 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project’s funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a Third-Party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days’ advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term “non-appropriate” or “non-appropriation” includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department’s decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department’s Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department’s sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a Third-Party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a Third-Party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the Third-Party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a Third-Party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third-Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
 - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
 - (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
 - (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
 - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex,

sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project's funds.
 - (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
 - (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
 - (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
 - (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
 - (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
 - (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third-Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all sub awards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid,

selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Lower Rio Grande PWWA may immediately terminate this Agreement by giving Contractor written notice of such termination. The Lower Rio Grande PWWA’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the Lower Rio Grande PWWA or the New Mexico Environment Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Lower Rio Grande PWWA or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a New Mexico Environment Department Grant Agreement. Should the New Mexico Environment Department early terminate the grant agreement, the Lower Rio Grande PWWA may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Lower Rio Grande PWWA’s only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

- A. Throughout the term of this Agreement, Grantee shall:
1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
 2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
 3. timely submit all required financial reports to its budgetary oversight agency (if any); and
 4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

- B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:
1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
 2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
 3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
 4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee’s sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department’s failure to inform

Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

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Authorization Page

Lower Rio Grande PWWA Stern Dr Pipeline SAP 18-C2242-STB

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

Signature of Official with Authority to Bind Grantee

Lower Rio Grande Public Water Works Authority
Entity Name

By: Mike McMullen
(Type or Print Name)

Its: Board Chair
(Type or Print Title)

September 19, 2018
Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Designee

Date

**NMED Attachment G
SAP Signature Page**

Project Name:	Lower Rio Grande PWWA Stern Dr Pipeline
Project Number:	SAP 18-C2242-STB
Official Representative:	
Name	Martin G. Lopez
Title	General Manager
Signature	
Address	325 Holguin Rd. Vado, NM 88072
E-mail	martin.lopez@lrgauthority.org
Phone	575-233-5742 ext. 1004 575-571-3628

Alternate - Official Representative:	
Name	Karen Nichols
Title	Projects Manager
Signature	
Address	325 Holguin Rd. Vado, NM 88072
E-mail	karen.nichols@lrgauthority.org
Phone	575-233-5742 ext. 1018 9105-203-2057



www.lrgauthority.org

LOWER RIO GRANDE

Public Water Works Authority

Resolution #FY2019-15

Adopting an Asset Management Plan and Recognizing the Lower Rio Grande Public Water Works Authority's Commitment to Fully Implement an Asset Management Plan Within Three Years

WHEREAS, the Lower Rio Grande Public Water Works Authority ("LRGPWWA") is a qualified entity under the New Mexico Finance Authority Act ("Act"), Sections 6-21-1 through 6-21-3 1, NMSA 1978, and the LRGPWWA Board of Directors ("Governing Body") is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the LRGPWWA; and

WHEREAS, the New Mexico Finance Authority ("Authority") is the institution for public utility funds created under the Act, and has developed an application procedure whereby the Governing Body may submit an application for financial assistance from the Authority for public projects; and

WHEREAS, the LRGPWWA has initiated development of an asset management plan; and

WHEREAS, an asset management plan is required for the LRGPWWA to apply for funding through the Authority's Water Trust Board, the New Mexico Environment Department Drinking Water Revolving Loan Fund or Clean Water Revolving Loan Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY that the Governing Body hereby adopts an Asset Management Plan and recognizes LRGPWWA's commitment to fully implement its Asset Management Plan within three years, and hereby directs the General Manager to develop such a plan in accordance to the following principles as identified by the New Mexico Finance Authority:

- The current state of LRGPWWA assets; and
- The desired level of customer service; and
- LRGPWWA assets that are critical to sustained performance; and
- The best life cycle cost for the identified assets; and
- The long-term funding strategy for the LRGPWWA

BE IT FURTHER RESOLVED that the New Mexico Finance Authority and New Mexico Environment Department have identified the AM. Kan Work Manual as a guide to the aforementioned principles, which staff may incorporate into the Lower Rio Grande Public Water Works Authority's Asset Management Plan.



LOWER RIO GRANDE
Public Water Works Authority

PASSED, APPROVED, AND ADOPTED: September 19, 2018 at a regular meeting of the Board of Directors of the Lower Rio Grande Public Water Works Authority, 9:30 a.m. at its East Mesa Office, 9774 Butterfield Boulevard in the community of Butterfield Park.

Mike McMullen, Board Chair
Lower Rio Grande Public Water Works Authority

ATTEST: (SEAL)
Esperanza Holguin, Secretary

(Signature)
September 19, 2018

(Signature)
September 19, 2018

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY
South Valley Service Area Waterline Extension Project RFP Committee Report
Wednesday, September 12, 2018, 10:00 a.m. at La Mesa Office

Offerors	Date Submitted	Time Submitted	6 Copies	8.5x11" bound left side	* 10 Pg. Max.	** Format & Sequence	Labeled per instructions	Campaign Disclosure	Non-Disclosure Request?	Sub-Cons. List	Vol. of Wk. not 75%	Resident-Res. Vet. Bus. Cert.	Grand Total Score	Preference Points	TOTAL POINTS	Rank
Vencor Engineering, LLC	9/5/2018	10:02 AM	yes	yes	yes	yes	yes	yes	no	yes		0 vet.	105.0	12.5	117.5	3
Souder, Miller & Assoc.	9/5/2018	11:00 AM	yes	yes	yes	yes	yes***	yes	no	no		0 bus.	118.2	6.3	124.5	1
Zia Engineering & Env.	9/5/2018	11:37 AM	yes	yes	yes	yes	yes	yes	no	yes		0 bus.	99.6	6.3	105.9	5
Parkhill, Smith & Cooper	9/5/2018	2:31 PM	yes	yes	yes	yes	no****	yes	no	yes		0 bus.	102.2	6.3	108.5	4
Daniel B. Stephens & Assoc.	9/5/2018	2:35 PM	yes	yes	yes	yes	yes	yes	no	yes		0 bus.	117.8	6.3	124.1	2

* 10 Pg. Max. does not incl. Covers, Cover Letter, Table of Contents, Preference Certifications or Campaign Disclosure Forms

**Format & Sequence:

1. Cover Letter
2. Response to Evaluation Criteria
3. Other supporting or resource material

*** Did not address to Procurement Mgr.

**** Did not address to Procurement Mgr., did not list project #

NOTE: Because we will be seeking state funding, Resident and Resident Veteran Preferences do apply.

PROCESS: The RFP Committee individually read and scored each proposal and then discussed each of the rating criteria as a group. During the discussion, the committee members were able to make adjustments to their scores based on things coming up that they may not have previously considered. The scores for each of the criteria were then added and averaged, and the committee concurred with the final score for each of the criteria. Below are the committee scores awarded to each proposal and a summary of the discussion:

Waiver of Technical Irregularities: Kathi Jackson made a motion to waive technical irregularities, Patty Charles seconded, and it carried unanimously.

Planning & Design Phase #1 Scores – Specialized Design & Technical Competence – 25 possible: Proposals from Souder, Miller & Associates and D.B. Stephens detailed more extensive expertise and experience in project planning and design in a presentation format clear and easy to comprehend. None of the other proposals had specific weaknesses, but were just not as clear due formatting or an overabundance of information.

P&D #2 Scores – Capacity & Capability – 25 possible: Proposals from SMA and DBS were ranked highest in this criteria because their proposals tied together the qualifications and experience of their staff with the needs of the project.

P&D #3 Scores – Past Record of Performance – 25 possible: Proposals from SMA and DBS identified past projects that are relevant to this one with several different clients.

P&D #4 Scores – Familiarity with the Contracting Agency – 15 possible: The scoring for this criteria correlates directly with the LRGPWWA's experience working with these firms.

P&D #5 Scores – Current Volume of Work with the Contracting Agency Not 75% Complete – 5: None of these firms have work with the LRGPWWA less than 75% complete.

P&D #6 Scores – Work to be done in New Mexico – 5: Parkhill, Smith & Cooper’s proposal indicates that some of the work will be done in their El Paso office.

P&D #7 – Familiarity with Project Areas – 15: DBS has done three planning projects for the LRGWWA which encompass the entire service area. Other firms have been involved in LRGWWA projects in portions of the area.

Construction Phase #1 – Construction Observation Experience – 5 possible: SMA is the only firm who identified an observer for this project.

Construction #2 – Specialized Experience with Start Up Assistance – 5 possible: The three firms with the highest score outlined their procedure most clearly.

Construction #3 – Capacity & Capability to Perform the Work Within Owner’s Timeframe – 5 possible: All of the firms demonstrated their ability to work within our timeframe, scoring differences are due to level of detail and clarity.

Construction #4 – History of Past Performance – 5 possible: The top scoring proposals identified projects where bids came in within engineers estimates.

Construction #5 – History of Claims - 5 possible: SMA noted that there had been claims that were resolved, DBS actually detailed a claim and the results. Other proposals were more vague about claims.

RECOMMENDATION: The RFP Committee recommends the selection of Souder, Miller & Associates.

TOTAL SCORES:

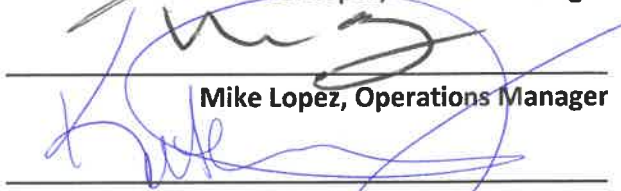
Ranked:																						
Consultant																						
Planning & Design Services									Construction Services							TOTAL						
Item 1	pts.25	Item 2	pts.20	Item 3	pts.20	Item 4	pts.10	Item 5	pts.5	Item 6	pts.5	Item 7	pts. 15	Subtotal	Item 1	Item 2	Item 3	Item 4	Item 5	Subtotal	TOTAL	
Vencor Engineering, LLC														100	Pts.5	Pts.5	Pts.5	Pts.5	Pts.5	25	125	Possible
Average Score	20.6	14.0	15.4	10.0	5.0	4.8	11.6	81.4	4.8	4.8	4.4	4.6	5.0	23.6	105.0							
Ranked:																						
Consultant																						
Planning & Design Services									Construction Services							TOTAL						
Item 1	pts.25	Item 2	pts.20	Item 3	pts.20	Item 4	pts.10	Item 5	pts.5	Item 6	pts.5	Item 7	pts. 15	Subtotal	Item 1	Item 2	Item 3	Item 4	Item 5	Subtotal	TOTAL	
Souder, Miller & Assoc.														100	Pts.5	Pts.5	Pts.5	Pts.5	Pts.5	25	125	Possible
Average Score	24.4	19.8	18.6	9.8	4.8	4.6	12.2	94.2	5.0	4.8	4.6	4.8	4.8	24.0	118.2							
Ranked:																						
Consultant																						
Planning & Design Services									Construction Services							TOTAL						
Item 1	pts.25	Item 2	pts.20	Item 3	pts.20	Item 4	pts.10	Item 5	pts.5	Item 6	pts.5	Item 7	pts. 15	Subtotal	Item 1	Item 2	Item 3	Item 4	Item 5	Subtotal	TOTAL	
Zia Engineering & Env.														100	Pts.5	Pts.5	Pts.5	Pts.5	Pts.5	25	125	Possible
Average Score	21.6	16.6	14.2	7.0	4.8	4.6	11.4	80.2	4.2	4.2	3.4	3.0	4.6	19.4	99.6							
Ranked:																						
Consultant																						
Planning & Design Services									Construction Services							TOTAL						
Item 1	pts.25	Item 2	pts.20	Item 3	pts.20	Item 4	pts.10	Item 5	pts.5	Item 6	pts.5	Item 7	pts. 15	Subtotal	Item 1	Item 2	Item 3	Item 4	Item 5	Subtotal	TOTAL	
Parkhill, Smith & Cooper														100	Pts.5	Pts.5	Pts.5	Pts.5	Pts.5	25	125	Possible
Average Score	22.2	16.6	13.6	7.6	4.6	4.4	12.4	81.4	4.4	4.4	3.8	4.0	4.2	20.8	102.2							
Ranked:																						
Consultant																						
Planning & Design Services									Construction Services							TOTAL						
Item 1	pts.25	Item 2	pts.20	Item 3	pts.20	Item 4	pts.10	Item 5	pts.5	Item 6	pts.5	Item 7	pts. 15	Subtotal	Item 1	Item 2	Item 3	Item 4	Item 5	Subtotal	TOTAL	
Daniel B. Stephens & Assoc.														100	Pts.5	Pts.5	Pts.5	Pts.5	Pts.5	25	125	Possible
Average Score	24.4	19.4	18.4	9.6	4.8	4.8	13.2	94.6	4.4	4.8	4.6	4.6	4.8	23.2	117.8							



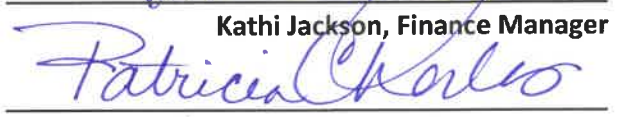
Karen Nichols, Projects Manager, Procurement Manager



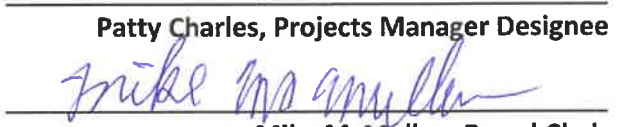
Martin G. Lopez, General Manager



Mike Lopez, Operations Manager



Kathi Jackson, Finance Manager



Patty Charles, Projects Manager Designee



Mike McMullen, Board Chair



LOWER RIO GRANDE

Public Water Works Authority

325 Holguin Road

Vado, New Mexico 88072

(575) 233-5742

www.LRGauthority.org

September 19, 2018

Mr. Gary L. Esslinger, Treasurer-Manager
Elephant Butte Irrigation District
530 S. Melendres St.
Las Cruces, NM 88005

Dear Mr. Esslinger,

We have been notified by NMED Drinking Water Bureau that your plans for a .1 mgd surface water treatment plant to provide water to our Brazito distribution system have been approved. Congratulations to you and your staff.

I am writing to inform you that our board and staff have determined that it will not be feasible for us to operate and maintain this surface water treatment plant due to persistent drought conditions and the unreliable supply of available surface water. We have completed a Preliminary Engineering Report which evaluated future water supplies for the Lower Rio Grande Public Water Works Authority, and after examining the potential for utilizing surface water and brackish groundwater, the conclusion of that report was that, based on cost and availability factors, we should continue to utilize groundwater supplies for the foreseeable future.

It has been a pleasure working with your staff on this project, and we look forward to future opportunities for collaboration.

Best regards,

Martin G. Lopez, General Manager