



Date: Sept 16, 2020

Time: 12:00 p.m.

Places: Online Zoom meeting

Event: Regular Board Meeting

Name	Company Name	Contact Information Phone Number	Email Address
Karen Nichols	LRG- Projects Manager	575-233-5742 Ext1018	
Furman Smith	LRG- Board Vice Chair	575-382-5982	
Patricia Charles	LRG- Projects Specialist	575-233-5742 Ext1021	
Esperanza Holguin	LRG- Board Chair	575-644-9543	
Paul Smith	LRG- Board Director	505-710-4671	
John Schroder	LRG- Accounting Assistant	575-233-5742 Ext1006	
Martin Lopez	LRG- General Manager	575-233-5742 Ext1004	
Mike Lopez	LRG- Operations Manager	575-233-5742 Ext1011	
Kathi Jackson	LRG - Finance Manager	575-233-5742 Ext1005	
Henry Magallanez	LRG-Board Director	575-525-9683	
Marty Howel	Souder Miller & Associates	575-647-0799	

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Draft Minutes —REGULAR BOARD OF DIRECTORS MEETING

DELAY IN MEETING START TIME

12:00 p.m. Wednesday, September 16, 2020 via Online Zoom Meeting

Contact us at 575-233-5742 or board@LRGauthority.org for information, assistance, or to subscribe to email board meeting reminders. Email the board address or dial extension 1021 or 1018 and leave a message if requesting phone or log-in information for online meetings. Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office or at www.LRGauthority.org/noticesavisos.html

- I. **Call to Order, Roll Call to Establish Quorum:** Chair Mrs. Holguin called the meeting to order at 12:00 p.m. Mr. P Smith representing District #1 was present, District #2 is vacant, Mr. Evaro representing District #3 was absent, Mrs. Holguin representing District #4 was present, Mr. Magallanez representing District # 5 was present, District #6 is vacant, Mr. F Smith representing District #7 was present. Staff members present were General Manager Martin Lopez, Projects Manager Karen Nichols, Projects Specialist Patricia Charles, Finance Manager Kathi Jackson, Operations Manager Mike Lopez, Accounting Assistant John Schroder and Marty Howell from Souder Miller & Associates.
- II. **Pledge of Allegiance – postponed due to online meeting**
- III. **Motion to approve Agenda:** Mr. Magallanez made the motion to approve the agenda. Mr. P Smith seconded the motion, the motion passed with all in favor.
- IV. **Approval of Minutes**
 - A. **Motion to approve the minutes of the August 19, 2020 Regular Board Meeting:** Mr. F Smith made the motion to approve the minutes for August 19, 2020 regular board meeting. Mr. Magallanez seconded the motion, the motion passed with all in favor.
- V. **Presentations: None**
- VI. **Public Input**
 - A. **General Matters: 15 minutes are allotted for this item, 3 minutes per person: None**
- VII. **Managers' Reports**
 - A. **General Manager:** Mr. Lopez provided a written report and stood for questions. None of the board members had any questions for Mr. Lopez.
 - B. **Finance:** Ms. Jackson provided a written report and stood for questions. Ms. Jackson said revenues were \$369,304.12 and expenses were \$284,445.86. The only unusual spending was for Professional fees \$23,766.00 for scanning our customer files so they can be accessed from any office. She said the Audit process has started.

- C. Projects:** Ms. Nichols provided a written report and stood for questions. Kick off meeting with Bohannon Huston, Inc. was held on 9/8/20 for the Water Master Plan. The Mesquite Wetlands Closure project was bid on 9/6/20.
- D. Operations:** Mr. Mike Lopez provided a written report and stood for questions. The well drillers went to the El Centro well and gave it an acid wash and equipped it with a 75 horse power pump and motor. They took video of the well and reported it looked very good. Ms. Nichols asked how the supply of water for High Valley customers was going. Mr. Lopez said Henry from Southwest EnviroTech has been hauling potable water in a large tanker.

VIII. Unfinished Business

- A. Appointment of Directors for Districts 2 & 6 - Postponed**

IX. New Business

- A. Motion to adopt Resolution #FY2021-09 Authorizing Officer & Agents SAP 20-E4037:** Mr. F. Smith made the motion to adopt Resolution #FY2021-09 Authorizing Officer & Agents SAP 20-E4037. Mr. Magallanez seconded the motion, the motion passed with all in favor. Mr. Lopez said these resolutions are for reauthorizations. Ms. Nichols said one of these SAP is for the Mini Excavator purchase project and the other is for the additional funds requested for the Jacquez Road Project that will now be used for improvements in the Vado area.
- B. Motion to adopt Resolution #FY2021-10 Authorizing Officer & Agents SAP 20-E4038:** Mr. Magallanez made the motion to adopt Resolution #FY2021-10 authorizing Officer & Agents SAP20-E4038. Mr. F Smith 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, October 21, 2020 at the East Mesa Office.

- A. Have any Board Members participated in training? If so, please give us a copy of your certificate**
- B. Directors should turn in Board of Directors Manuals so staff can update them**
- C. Termination of Membership for Delinquent Accounts**
- D. Approve 1st Quarter Budget Report w/Resolution**
- E. General Manager Annual Evaluation**

XI. Motion to Adjourn: Mr. F Smith made the motion to adjourn the board meeting at 12:11 p.m. Mr. Magallanez seconded the motion, the motion passed with all in favor.

These minutes were approved on the 21st Day of October, 2020 at a regular meeting of the Board of Directors:

SEAL:

Esperanza Holguin, Board Chair

Attest:

Joe Evaro, Secretary

DRAFT

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Meeting Notice & Agenda—REGULAR BOARD OF DIRECTORS MEETING

DELAY IN MEETING START TIME

12:00 p.m. Wednesday, September 16, 2020 via Online Zoom Meeting

Contact us at 575-233-5742 or board@LRGauthority.org for information, assistance, or to subscribe to email board meeting reminders. Email the board address or dial extension 1021 or 1018 and leave a message if requesting phone or log-in information for online meetings. Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWVA Office or at www.LRGauthority.org/noticesavisos.html

- I. Call to Order, Roll Call to Establish Quorum: District #1 (Mr. P. Smith) __, #2 (Vacant) __, #3 (Mr. Evaro) __, #4 (Mrs. Holguin) __, # 5 (Mr. Magallanez) __, #6 (Vacant) __, #7 (Mr. F. Smith) __
- II. Pledge of Allegiance – postponed due to online meeting
- III. Motion to approve Agenda
- IV. Approval of Minutes
 - A. Motion to approve the minutes of the August 19, 2020 Regular Board Meeting
- V. Presentations: None
- VI. Public Input
 - A. General Matters: 15 minutes are allotted for this item, 3 minutes per person
- VII. Managers’ Reports
 - A. General Manager
 - B. Finance
 - C. Projects
 - D. Operations
- VIII. Unfinished Business
 - A. Appointment of Directors for Districts 2 & 6 - Postponed
- IX. New Business
 - A. Motion to adopt Resolution #FY2021-09 Authorizing Officer & Agents SAP 20-E4037
 - B. Motion to adopt Resolution #FY2021-10 Authorizing Officer & Agents SAP 20-E4038
- X. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, October 21, 2020 at the East Mesa Office.

- A.** Have any Board Members participated in training? If so, please give us a copy of your certificate
- B.** Directors should turn in Board of Directors Manuals so staff can update them
- C.** Termination of Membership for Delinquent Accounts
- D.** Approve 1st Quarter Budget Report w/Resolution
- E.** General Manager Annual Evaluation

XI. 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 LRGPWWA 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 LRGPWWA 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 LRGPWWA, 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 LRGPWWA 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 19, 2020 via Online Zoom Meeting

Contact us at 575-233-5742 or board@LRGauthority.org for information, assistance, or to subscribe to email board meeting reminders. Email the board address or dial extension 1021 or 1018 and leave a message if requesting phone or log-in information for online meetings. Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office or at www.LRGauthority.org/noticesavisos.html

- I. **Call to Order, Roll Call to Establish Quorum:** Chair Mrs. Holguin called the meeting to order at 9:31 a.m. Mr. P. Smith representing District #1 was present, District #2 is vacant, Mr. Evaro representing District #3 was present, Mrs. Holguin representing District #4 was present, Mr. Magallanez representing District # 5 was absent, District #6 is vacant, Mr. F. Smith representing District #7 was present. Staff present were General Manager Martin Lopez, Projects Manager Karen Nichols, Finance Manager Kathi Jackson, Accounting Assistant John Schroder, Projects Specialist Patricia Charles, Operations Manager Mike Lopez.
- II. **Pledge of Allegiance – postponed due to online meeting**
- III. **Motion to approve Agenda:** Mr. F. Smith made the motion to approve the agenda. Mr. Evaro seconded the motion, the motion passed with all in favor.
- IV. **Approval of Minutes**
 - A. **Motion to approve the minutes of the July 15, 2020 Regular Board Meeting:** Mr. Evaro made the motion to approve the minutes for July 15, 2020 regular board meeting with one correction change (Mrs. to Mr.) Mr. P Smith seconded the motion, the motion passed with all in favor.
- V. **Presentations:** None
- VI. **Public Input**
 - A. **General Matters: 15 minutes are allotted for this item, 3 minutes per person:** none
 - B. **Public Input RE: Infrastructure Capital Improvements Plan (ICIP) and needed projects:** none
- VII. **Managers' Reports**
 - A. **General Manager:** Mr. Lopez provided a written report and stood for questions. One of the service trucks was stolen from the Berino Office. Truck had been authorized for auction. They went thru the back gate. Blue book value is at \$1,500.00 trade in value \$750.00. A sheriff's report was filed on July 23, 2020. We picked up the last of the trucks which were ordered in 2019. The truck is equipped with a crane and compressor. Waiting to close on RD funds for partial reimbursement. A low density, large acreage subdivision is being proposed in Vado. Earth work has started for a 65- lot subdivision in Berino. The internet usage by GISD (home schooling) is impacting our internet service and phone system. Internet providers are making

upgrades to their systems. Reminder that our offices will be closed on Labor Day (September 7th).

- B. Projects:** Ms. Nichols provided a written report and stood for questions. Mesquite Brazito Sewer Project hook-ups and septic tank decommissions are still in process. Change order #3 was approved the contract time is extended 60 days September 7, 20 with substantial completion to complete additional connections. This will be extended further in order to add SCADA to Lift station #1 in Mesquite. Mesquite Brazito Sewer Project 2 waiting on last 3 right of ways to get authorization to bid. South Valley Water Supply extension of time has been submitted to NM OSE for the well. RD approval to bid and closing on RCAC construction loan are pending, and all LOC items have been submitted. We should have authorization to bid any day now. Water Master Plan approval of the engineering contract has been received and Notice to Proceed has been issued. Kick off meeting is pending and should be scheduled soon. Central Office Building, Wilson & Co. has addressed the comments from Construction Programs Bureau and have submitted contract docs. We should have authorization to bid within 30 days. Valle Del Rio Water System Project construction is under way. Change order is pending to add new meter setters and modify the booster pumps. There is a claim pending, a small dispute on the location of a fire hydrant. East Mesa Water System final design was submitted to NMED-CPB about a month ago. Land purchase is being finalized and will have to apply for funding. High Valley Water System Project the contract has been awarded for Phase I to D&J out of Deming but they needed some time to schedule the project. We submitted a request for time extension to NMFA because the schedule will be tight. Phase II is in design. Mesquite Wetlands Closure the contract documents were revised and submitted to NMED-CPB alone with response to their comments on 8/4/20. The ICIP is on today's agenda for approval. We have a bin for document destruction ready for pickup this week.
- C. Operations:** Mr. Lopez provided a written report and stood for questions. Mr. Lopez was in contact with Statewide Drilling over the El Centro Well. They had to order some components and today they started acid washing and brushing, this will take a few days. Then we will send a camera in to see how well the acid wash and brushing worked.
- D. Finance:** Ms. Jackson provided a written report and stood for questions. Ms. Jackson said revenues were \$432,000.00 and expenditures were a little over \$300,000.00 leaving a balance for the winter months. There were no highly unusual expenditures this period. She has been getting ready to turn things in to the Auditor. Mr. Evaro requested the report be printed with a larger font.

VIII. Unfinished Business

A. Appointment of Directors for Districts 2 & 6 - Postponed

IX. New Business

A. Motion to adopt Resolution FY2021-06 adopting an Infrastructure Capital Improvements Plan for FY2022-FY2026: Mr. Evaro made the motion to adopt Resolution FY2021-06 adopting an

ICIP for FY2022-2026. Mr. P. Smith seconded the motion. Ms. Nichols said the first two pages list the projects required. The motion passed with all in favor.

B. Motion to adopt Resolution FY2021-07 accepting Disposition Committee recommendation and authorizing disposal of vehicle: Mr. F Smith made the motion to adopt Resolution FY2021-07 accepting Disposition Committee recommendation and authorizing disposal of vehicle. Ms. Nichols presented the valuation and findings. Mr. P Smith seconded the motion the motion passed with all in favor.

C. Motion to adopt Resolution FY2021-08 accepting amendment to the Real Estate Policy: Mr. F Smith made the motion to adopt Resolution FY2021-08 accepting amendment to the Real Estate Policy. Mr. Evaro seconded the motion. Mr. Lopez said the changes were to remove the responsibility from LRGPWWA to Buyers and Sellers of notifying us of the change of ownership. The motion passed with all in favor.

X. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, September 16, 2020 at the Vado Office.

A. Have any Board Members participated in training? If so, please give us a copy of your certificate. Ms. Nichols congratulated Mr. P Smith for the training he recently attended.

B. Directors should turn in Board of Directors Manuals so staff can update them

XI. Motion to Adjourn: Mr. F Smith made the motion to adjourn the board meeting at 9:55 a.m. Mr. Evaro seconded the motion, the motion passed with all in favor.

These minutes were approved on the 16th Day of September, 2020 at a regular meeting of the Board of Directors:

SEAL:

Esperanza Holguin, Board Chair

Attest:

Joe Evaro, Secretary

LRGPWWA
Manager's Report
September 16, 2020

- We received authorization to dispose (auction) of the 2007 Silverado from DFA with notification to the State Auditor
- An employee was tested for Covid -19 (results negative)
- Continuing to coordinate with the County for possible sewer billing agreement (pending LRGPWWA Board and DAC BOCC consideration/approvals)
- Paid a Drinking Water (SRF) Loan used to purchase radio read meters and system
- Un-Solicited request to purchase property near Vado Truck Stops



Lower Rio Grande Public Water Works Authority

Income Statement

Group Summary

For Fiscal: FYE 2021 Period Ending: 08/31/2020

AcctNumber	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Revenue				
40000 - Operating Revenue	2,990,000.00	318,617.45	634,836.46	2,355,163.54
40002 - Installation Fees	105,000.00	11,924.46	23,191.13	81,808.87
40003 - Activation & Connection Fees-Water	5,000.00	100.00	300.00	4,700.00
40005 - Backflow Testing	7,000.00	1,625.00	2,625.00	4,375.00
40006 - Tampering Fee/Line Breaks	0.00	0.00	62.40	-62.40
40007 - Delinquency Fee	50,000.00	6,900.00	19,300.00	30,700.00
40008 - Penalties-Water	50,000.00	9,981.67	20,158.05	29,841.95
40009 - Membership Fees	5,000.00	800.00	1,450.00	3,550.00
40010 - Impact Fees	40,000.00	7,329.32	13,516.92	26,483.08
40011 - Returned Check Fees	0.00	35.00	35.00	-35.00
40012 - Credit Card Fees	8,000.00	1,116.00	2,216.00	5,784.00
40013 - Miscellaneous Revenue	0.00	20.00	40.00	-40.00
40015 - Penalties-Sewer	4,500.00	690.01	1,155.18	3,344.82
40017 - Hydrant Meter Rental Fee	5,000.00	0.00	250.00	4,750.00
40019 - DAC Trash Coupons	1,000.00	92.00	212.00	788.00
40020 - Miscellaneous Revenue-Sewer	2,500.00	1,991.96	2,052.79	447.21
45000 - Tower Rent	5,000.00	500.00	1,000.00	4,000.00
45001 - Billing Adjustments-Water	0.00	-331.72	-539.03	539.03
45005 - Fiscal Agent Fees	50,000.00	4,445.38	9,349.53	40,650.47
45010 - Interest	0.00	22.72	44.95	-44.95
45015 - Copy/Fax	0.00	5.25	5.25	-5.25
45020 - Other Income	45,000.00	200.88	1,157.03	43,842.97
45022 - Annual Farm Rental	5,000.00	0.00	0.00	5,000.00
45025 - Contract Services	40,000.00	3,038.75	6,497.88	33,502.12
45030 - Transfers In	0.00	0.00	62,263.11	-62,263.11
49000 - Recovered Bad Debts	0.00	100.00	500.00	-500.00
Revenue Total:	3,418,000.00	369,204.13	801,679.65	2,616,320.35
Expense				
60001 - Transfer to Reserves	0.00	10,175.95	20,175.95	-20,175.95
60005 - Accounting Fees	500.00	0.00	0.00	500.00
60010 - Audit	14,000.00	0.00	0.00	14,000.00
60020 - Bank Service Charges	15,000.00	2,563.08	5,030.03	9,969.97
60025 - Cash Short/Over	500.00	1.24	39.02	460.98
60026 - Computer Hardware	10,000.00	0.00	0.00	10,000.00
60030 - Dues and Subscriptions	3,000.00	1,750.00	3,004.62	-4.62
60035 - Engineering Fees	10,000.00	265.69	1,967.80	8,032.20

60045 - Late Fees	1,000.00	0.00	0.00	1,000.00
60050 - Legal Fees	5,000.00	0.00	378.01	4,621.99
60055 - Legal Notices	2,500.00	0.00	0.00	2,500.00
60060 - Licenses & Fees	6,000.00	150.00	200.00	5,800.00
60065 - Meals	2,500.00	8.99	17.93	2,482.07
60075 - Permit Fees	1,500.00	0.00	25.00	1,475.00
60080 - Postage	3,000.00	121.02	236.32	2,763.68
60090 - Professional Fees-Other	10,000.00	23,766.14	23,766.14	-13,766.14
60100 - Project Development	0.00	0.00	3,000.00	-3,000.00
60120 - Retirement Account Fees	6,500.00	0.00	1,273.33	5,226.67
60125 - Easements & Leases	10,000.00	0.00	0.00	10,000.00
60130 - Training	5,000.00	0.00	0.00	5,000.00
60140 - Travel:Airfare Per Diem	3,000.00	0.00	0.00	3,000.00
60150 - Travel:Lodging Per Diem	4,000.00	0.00	0.00	4,000.00
60155 - Travel:Meals Per Diem	2,000.00	0.00	0.00	2,000.00
60160 - Travel:Mileage/Parking Per Diem	1,500.00	0.00	0.00	1,500.00
60165 - Travel:Vehicle Rental Per Diem	1,000.00	0.00	0.00	1,000.00
60600 - Debit Service	148,000.00	5,759.74	19,078.68	128,921.32
60625 - Interest paid to NMED	14,000.00	0.00	0.00	14,000.00
60650 - Interest paid to NMFA	37,000.00	0.00	3,733.68	33,266.32
60675 - Interest paid to USDA	125,000.00	11,596.26	23,192.52	101,807.48
63000 - Regular Pay	1,120,000.00	84,145.17	201,609.14	918,390.86
63001 - Overtime	54,500.00	2,947.11	5,299.25	49,200.75
63006 - Holiday Pay	56,500.00	0.00	4,624.12	51,875.88
63007 - Sick Pay	50,000.00	4,721.81	10,783.48	39,216.52
63008 - Annual Leave Pay	118,000.00	4,371.40	13,828.29	104,171.71
63010 - 401K 10% Company Contribution	5,000.00	0.00	0.00	5,000.00
63020 - 401K Employee Contribution	2,000.00	0.00	0.00	2,000.00
63040 - Administrative Labor	5,000.00	0.00	0.00	5,000.00
63070 - Employee Benefits-401K Contrib	168,500.00	2,655.25	6,617.38	161,882.62
63100 - Insurance-Dental	12,500.00	985.02	2,006.12	10,493.88
63110 - Insurance-Health	250,000.00	21,064.23	42,277.89	207,722.11
63115 - Salaries: Insurance - Work Comp	15,000.00	1,435.00	2,870.00	12,130.00
63125 - Insurance: Life & Disability	12,500.00	0.00	18.23	12,481.77
63130 - Mileage	1,500.00	0.00	0.00	1,500.00
63135 - Drug Testing	500.00	0.00	0.00	500.00
63160 - Payroll Taxes-Medicare	20,500.00	1,394.68	3,424.10	17,075.90
63170 - Payroll Taxes-Social Security	80,500.00	5,963.52	14,640.97	65,859.03
63200 - Vision Insurance	4,000.00	316.18	632.38	3,367.62
64100 - Sewer:DAC Waste Water Flow Charge	50,000.00	4,513.43	11,161.03	38,838.97
64200 - Sewer:Electricity-Sewer	9,000.00	2,052.36	3,270.00	5,730.00
64300 - Sewer:Lab & Chemicals-Sewer	10,000.00	0.00	1,516.99	8,483.01
64500 - Sewer:Supplies & Materials	28,500.00	45.87	45.87	28,454.13
65010 - Automobile Repairs & Maint.	30,000.00	5,581.85	9,177.36	20,822.64

65230 - Computer Maintenance	70,000.00	3,055.51	8,853.57	61,146.43
65240 - Equipment Rental	2,500.00	0.00	0.00	2,500.00
65250 - Fuel	60,000.00	8,185.83	8,919.32	51,080.68
65255 - GPS Insights Charges	7,000.00	1,138.60	1,672.20	5,327.80
65260 - Kitchen & Cleaning Supplies	1,000.00	0.00	0.00	1,000.00
65270 - Lab Chemicals-Water	5,000.00	0.00	259.95	4,740.05
65275 - SCADA Maintenance Fee	2,000.00	0.00	0.00	2,000.00
65276 - Test Equipment Calibration	2,000.00	0.00	0.00	2,000.00
65277 - Generator Maintenance Contract	3,000.00	0.00	0.00	3,000.00
65278 - Meter Testing/Repair/Replacement	20,000.00	0.00	0.00	20,000.00
65280 - Lab Chemicals-Water:Chemicals	35,000.00	3,795.75	8,692.83	26,307.17
65300 - Locates	2,500.00	0.00	0.00	2,500.00
65310 - Maint. & Repairs-Infrastructure	65,000.00	1,931.28	6,903.23	58,096.77
65320 - Maint. & Repairs-Office	12,500.00	228.53	4,270.33	8,229.67
65330 - Maintenance & Repairs-Other	16,500.00	6,167.88	7,340.56	9,159.44
65340 - Materials & Supplies	50,000.00	2,833.02	6,897.17	43,102.83
65345 - Non Inventory-Consumables	50,000.00	9,504.22	10,115.98	39,884.02
65350 - Office Supplies	10,000.00	1,390.97	2,216.67	7,783.33
65360 - Printing and Copying	47,500.00	4,607.24	7,719.08	39,780.92
65370 - Tool Furniture	10,000.00	549.35	549.35	9,450.65
65390 - Uniforms-Employee	15,000.00	460.40	1,103.05	13,896.95
65490 - Cell Phone	20,000.00	1,598.62	3,233.94	16,766.06
65500 - Electricity-Lighting	6,000.00	715.46	1,125.61	4,874.39
65510 - Electricity-Offices	15,000.00	2,615.86	3,456.76	11,543.24
65520 - Electricity-Wells	200,000.00	33,513.02	41,655.70	158,344.30
65530 - Garbage Service	3,000.00	219.58	439.16	2,560.84
65540 - Natural Gas	3,000.00	73.69	203.92	2,796.08
65550 - Security/Alarm	5,000.00	0.00	0.00	5,000.00
65560 - Telephone	20,000.00	1,505.53	3,005.81	16,994.19
65561 - Telstar Maintenance Contract	7,000.00	0.00	0.00	7,000.00
65570 - Wastewater	2,000.00	190.06	375.38	1,624.62
66200 - Insurance-General Liability	90,000.00	0.00	17,455.00	72,545.00
66700 - Water Conservation Fee	15,000.00	1,814.47	3,701.67	11,298.33
Expense Total:	3,418,000.00	284,445.86	589,087.87	2,828,912.13
Total Surplus (Deficit):	0.00	84,758.27	212,591.78	-212,591.78

**LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY
PROJECTS REPORT – 9/16/20**

LRG-11-02.2 – Mesquite-Brazito Sewer Project – Bohannon Huston, Inc. & File Construction – Construction – 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 – Progress meeting was held on 9/8/20.. 14th Contractor’s pay application has been submitted. Customer hook-up and septic tank decommissions are complete. Change Order #4 was approved. Contract time is extended 21 days with substantial completion set for 9/28/20.

LRG-17-01 – Mesquite-Brazito Sewer Project 2 – Bohannon Huston, Inc. – Design Stage – USDA-RD LOC \$15,030,780 – 23rd Request for Funds from RCAC bridge loan was submitted. Two easements and one real property are pending, Josh is taking care of these. All three are condemnation suits. USDA-RD is ready to issue closing instructions once the final LOC documents are submitted.

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: RCAC loan was approved, and loan commitment has been extended. Contract Documents have been approved by USDA-RD and NMED-DWB. Extension of Time has been submitted to NM OSE for the well. RD approval to bid and closing on RCAC construction loan are pending, closing instructions have been requested from OGC, and all LOC items have been submitted.

LRG-17-01 – Water Master Plan – BHI - WTB #252/CDBG 19-C-NR-I-06-G-100: Kick-off meeting with Bohannon Huston, Inc. was held on 9/8/20.

LRG-17-02 – Central Office Building – Wilson & Co. - DW-4213 \$3,285,619: Wilson & Co. has submitted revised contract documents and response to NMED-CPB comments, and review is pending. Resolution of the NM DOT permit issue is still pending.

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 – Construction Stage & Ph. II Design - \$1,197,708 DWSRLF funding - \$898,281 principal forgiveness – 299,427 loan repayment – Souder, Miller & Associates: Construction is well under way. Change Order #1 to add new meter setters was approved and work is underway.

LRG-17-03 –East Mesa Water System Improvements Project – NMFA 3803-PG & 3804-PG, 4915-CIF – Design –Final design comments were received from NMED-CPB, and DB Stephens submitted response to comments and revised documents on 8/21/20. Land purchase is being finalized.

LRG-18-01 – High Valley Water System Improvements Project – NMFA 4645-CIF18, 4915-CIF – Design & Construction – Souder, Miller & Assoc. – Driller has pulled the well and videoed it, video indicated the well is in great shape. Field Order was issued instructing the bail the sediment out, brush & acidize, and conduct another pump test. Engineer will spec the new pump and motor after the pump test. We submitted a request for time extension to NMFA because the schedule will be tight to complete the project before the funding expiration date. The Colonia’s Board meets on 9/17/20.

LRG-18-01 Ph. II – High Valley Water System Improvements Ph. II Project – NMFA 4916-CIF \$630,384 Grant, \$111,244 Loan – Design & Construction – Souder, Miller & Assoc. – Design work is under way.

LRG-18-02 – Stern Drive Waterline Extension Project – Design/Build – SMA - \$150,000 SAP –SMA Additional design work is under way. Engineering Services Agreement Amendment #5 for additional survey work has been submitted to NMED-CPB for approval.

LRG-19-09 – S. Valley Service Area Line Extensions - SMA – Authorization to apply to NMED Local Government Planning Fund for PER funding was approved by the board, but due to NMFA restrictions, we cannot apply until December and January.

LRG-19-10 – Vehicle Purchase - \$64,700 USDA-CF - \$120,388 GF – All vehicles have been received. Will close on the funding once we have the final invoices for decals and GPS tracking equipment.

LRG-20-01 – Mesquite Wetlands Closure – Plan/Design - BHI - \$250,000 SAP: Project was bid on 9/6/20.

Other projects:

Infrastructure Capital Improvements Plan 2022-2026: ICIP is final, has been submitted to NM DFA, corrected, and approved. Final document is posted on the Projects & Planning page at our website.

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. One bin was sent out for shredding in the past month.

Website and Email – Notices and Minutes pages are up to date.

Training – Patty attended Capital Projects Monitoring System webinar on 8/26/20 and Using Median Household Income Data for Water on 9/9/20.

As Needed Engineering Services - Currently we have one active Task Order: Souder, Miller & Associates for two NM DOT permits for new services.

Collection & Lien Procedures - 213 first notifications, 127 certified letters have been sent and 87 liens have been filed to date. 16 liens have been released following payment in full of the account.

Water Audits –Water audit results have been reported to NMED.

Rate Study – Is ongoing.

Lower Rio Grande PWWA

Operators Report

September 16 , 2020

System Problems and Repairs.

- Backflow inspections are Current. (Mesquite District)
- For the month of August, we were issued 326 work and service orders, most were register change outs.
- For the month of July, we were issued 345 work and service orders.
- For the month of August, we installed 5 new water service connections in the South Valley.
- We had one main line break at Alto De Las Flores.
- We had two main line breaks at the East Mesa.
- We had Four main line breaks at Talavera MDWCA.
- We had 7 Main and service line breaks in South valley area.
- Alto de Las Flores started their construction up grades at the beginning of July and should be completed in less than a year.

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

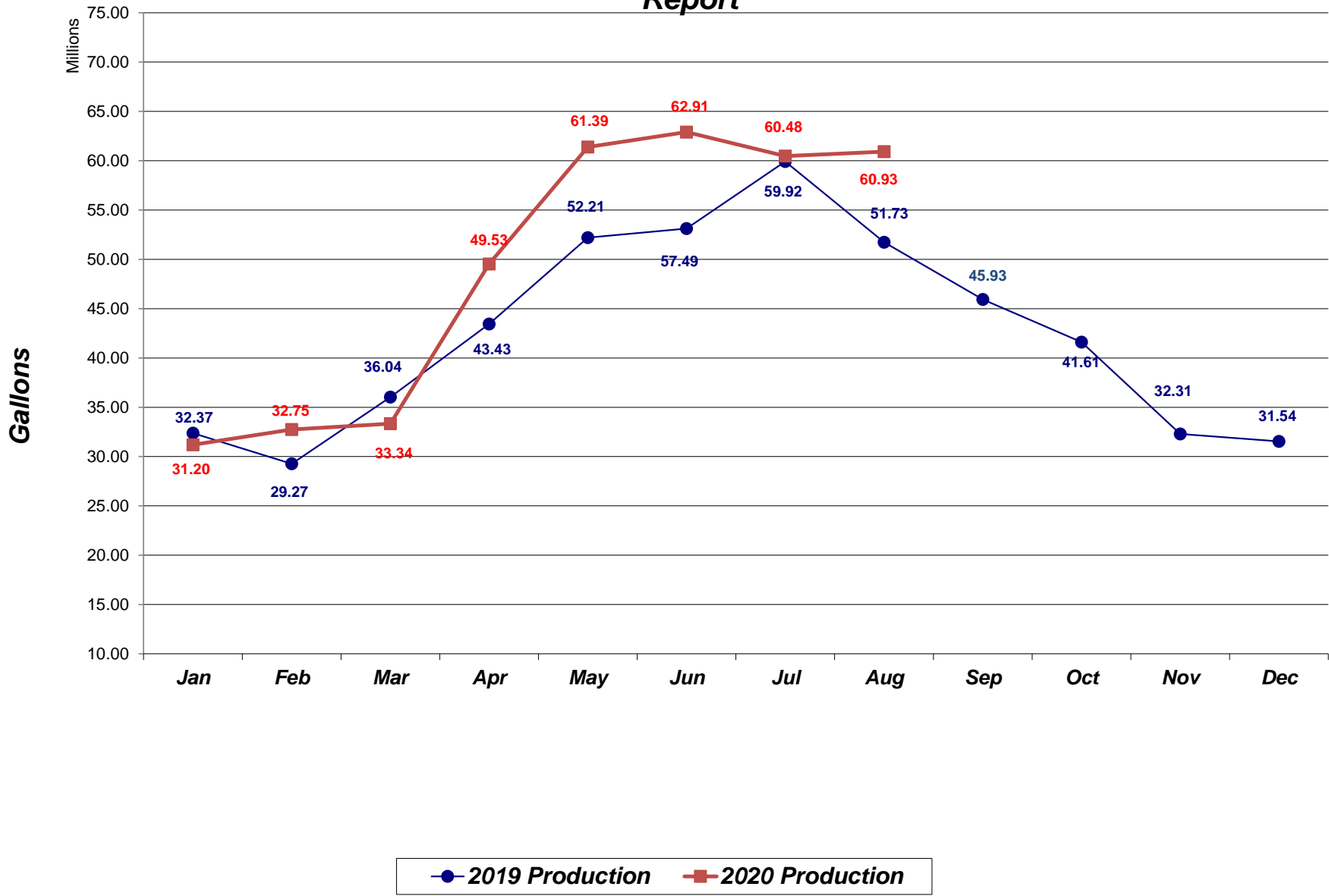
Mesquite district Wetlands: NMED is going to require us to drill 3 monitoring wells as the existing are dry.

Mesquite and Organ Sewer Reports. The Organ and the Mesquite Wastewater reports are due on January 1st, 2021

Chlorine: No problems.

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

Lower Rio Grande PWWA Water Production Report



A RESOLUTION AUTHORIZING THE ASSIGNMENT OF AUTHORIZED OFFICER(S) AND AGENT(S)

Resolution Number

Whereas, the Board of Directors / Council / Commission of Community / Utility of County Name 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 Project Number SAP: SAP 20-E4037-GFR

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Name, Mayor/ Chairperson / Director / Officer, or successor is authorized to sign the Grant Agreement and Promissory Note for this project, and

Authorized Officer Name, Authorized Officer Title, or successor is the OFFICAL REPRESENTATIVES or ALTERNATE OFFICAL REPRESENTATIVE who is authorized to sign all other documents necessary to fulfill the Grant Agreement and the requirements (Project Description, Disbursements and Notice of Obligations (NOO)) and to act as the project contact (*may have more than one*), and

Name of Authorized Agent or Employee, Title, or successor is the SIGNATORY AUTHORITY who is authorized to sign reimbursement requests only for this project. (*optional*)

PASSED, APPROVED, AND ADOPTED: 9/16/20 at a regular meeting of the Lower Rio Grande Public Water Works Authority Board of Directors

Name, ~~Mayor / Chairperson / Director / Officer~~, Title, Community / Utility
Esperanza Holguin, Board Chair, Lower Rio Grande Public Water Works Authority

(Signature) September 16, 2020

Date

(SEAL)

ATTEST:

~~(Municipal Clerk)~~ Joe Evaro, Secretary

Name of Borrower: Works Authority **Project Number:** SAP 20-E4037-GFR

Current Authorized Signatures (submit with Signature Resolution; update when necessary)

Authorized to Sign Grant Agreement			
Name	Esperanza Holguin	Name	
Title	Board Chair	Title	
Signature		Signature	
Address	325 Holguin Rd.	Address	
	Vado, NM 88072		
Email	espy.holguin@LRGauthority.org	Email	
Phone	575-644-9543	Phone	
All Other Documents			
Name	Martin G. Lopez	Name	Karen Nichols
Title	General Manager	Title	Projects Manager
Signature		Signature	
Address	325 Holguin Rd.	Address	325 Holguin Rd.
	Vado, NM 88072		Vado, NM 88072
Email	martin.lopez@LRGauthority.org	Email	karen.nichols@LRGauthority.org
Phone	575-571-3628	Phone	
Disbursements Only			
Name		Name	
Title		Title	
Signature		Signature	
Address		Address	
Email		Email	
Phone		Phone	

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT]
CAPITAL APPROPRIATION PROJECT
*19 LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY MINI-EXCAVATOR
PURCHASE, RET
SAP 20-E4037-GFR**

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 2020, Chapter 82, Section 39, Paragraph , 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 20-E4037-GFR (\$50,962.00) APPROPRIATION REVERSION DATE: June 30, 2021
Laws of 2020 Chapter 82, Section 39, Paragraph , Fifty Thousand Nine Hundred Sixty Two Dollars (\$50,962.00):**

The department of environment project in Subsection 24 of Section 26 of Chapter 277 of Laws 2019 to purchase and equip a mini-excavator for the lower Rio Grande public water works authority in Dona Ana county may include purchasing and equipping excavators and mini-excavators.

The Grantee's total reimbursements shall not exceed Fifty Thousand Nine Hundred Sixty Two Dollars (\$50,962.00) minus the allocation for Art in Public Places¹, if applicable, No Dollars (\$0.00) which equals Fifty Thousand Nine Hundred Sixty Two Dollars (\$50,962.00) (the "Adjusted Appropriation Amount").

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

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.

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.

- (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 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
P.O. Box 5469
Santa Fe, NM 87502

Email: paulette.ortiz@state.nm.us
Telephone: 505-670-3583

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, 2021 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 (Applicable only if the appropriation is funded by Severance Tax Bonds or General Obligations Bonds).

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.

[THIS SPACE LEFT BLANK INTENTIONALLY]

Authorization Page

*19 LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY MINI-EXCAVATOR
PURCHASE, RET SAP 20-E4037-GFR

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: Esperanza Holguin
(Type or Print Name)

Its: Board Chair
(Type or Print Title)

September 16, 2020
Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Designee

Date

A RESOLUTION AUTHORIZING THE ASSIGNMENT OF AUTHORIZED OFFICER(S) AND AGENT(S)

Resolution Number

Whereas, the Board of Directors / Council / Commission of Community / Utility of County Name 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 Project Number SAP: SAP 20-E4038-GFR

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Name, Mayor/ Chairperson / Director / Officer, or successor is authorized to sign the Grant Agreement and Promissory Note for this project, and

Authorized Officer Name, Authorized Officer Title, or successor is the OFFICAL REPRESENTATIVES or ALTERNATE OFFICAL REPRESENTATIVE who is authorized to sign all other documents necessary to fulfill the Grant Agreement and the requirements (Project Description, Disbursements and Notice of Obligations (NOO)) and to act as the project contact (*may have more than one*), and

Name of Authorized Agent or Employee, Title, or successor is the SIGNATORY AUTHORITY who is authorized to sign reimbursement requests only for this project. (*optional*)

PASSED, APPROVED, AND ADOPTED: 9/16/20 at a regular meeting of the Lower Rio Grande Public Water Works Authority Board of Directors

Name, ~~Mayor / Chairperson / Director / Officer~~, Title, ~~Community / Utility~~
Esperanza Holguin, Board Chair, Lower Rio Grande Public Water Works Authority

(Signature) September 16, 2020
Date

(SEAL)

ATTEST:

(~~Municipal Clerk~~) Joe Evaro, Secretary

Name of Borrower: Works Authority **Project Number:** SAP 20-E4038-GFR

Current Authorized Signatures (submit with Signature Resolution; update when necessary)

Authorized to Sign Grant Agreement			
Name	Esperanza Holguin	Name	
Title	Board Chair	Title	
Signature		Signature	
Address	325 Holguin Rd.	Address	
	Vado, NM 88072		
Email	espy.holguin@LRGauthority.org	Email	
Phone	575-644-9543	Phone	
All Other Documents			
Name	Martin G. Lopez	Name	Karen Nichols
Title	General Manager	Title	Projects Manager
Signature		Signature	
Address	325 Holguin Rd.	Address	325 Holguin Rd.
	Vado, NM 88072		Vado, NM 88072
Email	martin.lopez@LRGauthority.org	Email	karen.nichols@LRGauthority.org
Phone	575-571-3628	Phone	
Disbursements Only			
Name		Name	
Title		Title	
Signature		Signature	
Address		Address	
Email		Email	
Phone		Phone	

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT]
CAPITAL APPROPRIATION PROJECT
*19 LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY WATER LINE
CONSTRUCTION, RET
SAP 20-E4038-GFR**

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 2020, Chapter 82, Section 40, Paragraph , 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 20-E4038-GFR (\$139,000.00) APPROPRIATION REVERSION DATE: June 30, 2023
Laws of 2020 Chapter 82, Section 40, Paragraph , One Hundred Thirty Nine Thousand Dollars
(\$139,000.00):**

The department of environment project in Subsection 23 of Section 26 of Chapter 277 of Laws 2019 to plan, design and construct a water line extension on Jacquez road from Three Saints road to the end of Jacquez road in the lower Rio Grande public water works authority service area in Dona Ana county may include planning, designing and constructing water system improvements in the lower Rio Grande public water works authority south valley service area in the Vado, Del Cerro, Berino and Bosque communities in Dona Ana county.

The Grantee's total reimbursements shall not exceed One Hundred Thirty Nine Thousand Dollars (\$139,000.00) minus the allocation for Art in Public Places¹, if applicable, No Dollars (\$0.00) which equals One Hundred Thirty Nine Thousand Dollars (\$139,000.00) (the "Adjusted Appropriation Amount").

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

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.

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.

- (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 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
P.O. Box 5469
Santa Fe, NM 87502

Email: paulette.ortiz@state.nm.us
Telephone: 505-670-3583

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, 2023 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 (Applicable only if the appropriation is funded by Severance Tax Bonds or General Obligations Bonds).

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.

[THIS SPACE LEFT BLANK INTENTIONALLY]

Authorization Page

*19 LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY WATER LINE
CONSTRUCTION, RET SAP 20-E4038-GFR

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: Esperanza Holguin
(Type or Print Name)

Its: Board Chair
(Type or Print Title)

September 16, 2020
Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Designee

Date