

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: April 15, 2013

TO: Board of County Commissioners

FROM: Karen Torres, County Hydrologist

VIA: RM for
Adam Leigland, Public Works Department Director
Katherine Miller, County Manager

km 4.22.13

ITEM AND ISSUE: BCC Meeting April 30, 2013

RESOLUTION 2013 - ____ AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT NO. 258-WTB BETWEEN THE NEW MEXICO WATER TRUST BOARD AND SANTA FE COUNTY TO FUND THE PURCHASE AND INSTALLATION OF SURFACE AND GROUNDWATER MONITORING EQUIPMENT IN THE AMOUNT OF \$135,000 (PUBLIC WORKS/KAREN TORRES)

BACKGROUND AND SUMMARY:

In October of 2011 the Board of County Commissioners, by Resolution No. 2011-162, approved the submission of applications to the Water Trust Board for funding consideration in the 2012 funding cycle. The La Cienega / Cieneguilla Spring Monitoring Project was approved the Water Trust Board, on April 25, 2012 for a loan/ grant in the amount of \$135,000.

These funds will be used for the design, purchase and installation of surface and groundwater monitoring equipment. Such monitoring and data collection will enhance our understanding of the interaction between surface and groundwater in the La Cienega and Cieneguilla areas of the lower Santa Fe River watershed. A detailed cost estimate is attached to this memo with the funding breakout as follows:

Water Trust Board Grant = \$121,500
SFC Loan Repayment = \$13,500
SFC hard cash match = \$6,750
SFC in kind service is \$6,750

Total = \$148,500

ACTION REQUESTED:

Staff recommends approval of this Resolution to execute and deliver WTB-258 Water Project Fund Loan/ Grant Agreement in the amount of \$135,000 between The New Mexico Water Trust Board/New Mexico Finance Authority and Santa Fe County.

Santa Fe County

Fiscal Impact Report

Department / Division: Public Works Project Development

Action Item to be Considered: Resolution for Water Trust Board Loan / Gr...

Agreement Number: WTB-258 La Cienega Spring Monitoring

Indicate with <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input checked="" type="checkbox"/>	Loan/Grant Agreement
<input type="checkbox"/>	Other:

Indicate with <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc.
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input checked="" type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds) Hard cash match of \$6,750 (213-1458-481-8010)
<input checked="" type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % ⁸⁰ \$ 121,500 Source Water Trust Board
<input checked="" type="checkbox"/>	\$13,500 Debt Service and \$6,750 in-kind Other: service

Section 3 - Ongoing operations and maintenance (O&M) requirements:		
Short Term (Specify needs for the current fiscal year only)		
Repayment of the loan and hard cash match totaling \$20,250 are the initial cost and county staff time is required for current fiscal year.		
Number of FTE's #	Position	Hourly Rate \$
Current Fiscal Year Cost \$ 0	Annual Cost \$ 0	
Initial Costs (Vehicle, computer, office space, etc.)		
10,000 for field equipment is earmarked for this project. This includes but not limited to staff gages, sounding device, price pygmy flow meter, field computer, software, camera, external hard drive, waders and GPS unit.		
O & M (Concisely identify the recurring needs, supplies, equipment, and the resources		

necessary for carrying out the job duties)

Once gages and transducers are installed approximately 5 hours per month of staff time will be needed to download data and calibrate equipment.

Current Fiscal Year Cost \$ 500

Annual Cost \$ 3,000

Long Term (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

Necessary equipment, supplies and replacement parts will be purchased with grant funding. Download and synthesis of data along with operation and maintenance of monitoring sites will be performed by the county hydrologist. Incorporation of data into the ISGS or OSE monitoring network for public viewing is the desired outcome of this project.

Salary & Benefits:

All other expenses:

Section 4 - Revenue

Short Term (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

no potential revenue.

Current FY Estimate \$ 0

Long Term (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Annual Estimate \$ 0

Total (next 4 years) \$

Additional Narrative

Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

Funding Terms of Loan / Grant are attached.

Prepared by Karen Torres

Reviewed by

WTB-258 Funding Terms.pdf
Adobe Acrobat Document
244 KB

File Attachment

File Attachment

**WTB-258 La Cienega Spring Monitoring Opinion of Cost
Santa Fe County In Kind Service Estimate**

Description	Quantity	Unit	Price per unit	Total	Water Trust Board Funds	County In Kind Service	County Cash Contribution
Project Scoping	20	hr	\$50	\$1,000	\$0	\$1,000	\$0
Field Reconnaissance (2 staff members)	40	hr	\$100	\$4,000	\$0	\$4,000	\$0
Design Review / Meetings (2 staff members)	20	hr	\$100	\$2,000	\$0	\$2,000	\$0
Professional Services Cost Estimate							
Description	Quantity	Unit	Price per unit	Total Price	Water Trust Board Funds	County In Kind Service	County Cash Contribution
Professional Hydrology Services	1	LS	\$20,000	\$15,000	\$15,000	0	
Biological Survey	1	LS	\$10,000	\$8,000	\$8,000		
Construction Cost Estimate							
Description	Quantity	Unit	Price per unit	Total Price	Water Trust Board Funds	County In Kind Service	County Cash Contribution
Drill and Install Shallow Piezometer	1	EA	\$20,000	\$20,000	\$20,000		
Groundwater Level and Temperature Logger installed	6	EA	\$5,000	\$30,000	\$25,000	\$0	\$5,000
Surface Water Weir and Flow Logger installed	4	EA	\$10,000	\$40,000	\$40,000		
Field Equipment	1	LS	\$7,000	\$7,000	\$5,250		\$1,750
Staff Gages	10	LF	\$40	\$400	\$400		
Water Trust Board Funds Summary							
In-kind Design Service				\$7,000	\$0	\$7,000	\$5,000
Professional Services Sub- Total				\$23,000	\$23,000	\$0	\$0
Construction Sub- Total				\$97,400	\$90,650	\$0	\$6,750
10% Contingency				\$12,040	\$12,040	\$0	\$0
NM GRT @ 6.625%				\$8,774	\$8,327	\$0	\$447
Project Total				\$148,214	\$134,017	\$7,000	\$7,197

La Cienega Spring Monitoring Project Funding Drawdown Schedule

[illegible]

SANTA FE COUNTY, NEW MEXICO
RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY", AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE "LENDERS/GRANTORS") AND THE SANTA FE COUNTY (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF \$135,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS THE PROJECT WHICH WILL INCLUDE THE ENGINEERING AND CONSTRUCTION OF A WATERSHED RESTORATION AND MANAGEMENT PROJECT WHICH WILL INCLUDE THE PURCHASE AND INSTALLATION OF GROUNDWATER AND SURFACE WATER MONITORING AND RECORDING EQUIPMENT AT LOCATIONS ALONG LA CIENEGA CREEK, SANTA FE RIVER, ARROYO HONDO, GUICU CREEK AND ALAMO CREEK, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND ADMINISTRATIVE FEE SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing county under the general laws of the State of New Mexico; and

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

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

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

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

WHEREAS, the Governing Body hereby determines that (i) the Additional Funding Amount is now available to the Borrower/Grantee to complete the Project; or (ii) that the Governing Body will take such steps as are necessary to obtain the Additional Funding Amount within six (6) months after the Closing Date; and

WHEREAS, the Borrower/Grantee acknowledges that, in the event that it is unable to provide the Additional Funding Amount within six (6) months after the Closing Date, the Loan/Grant Agreement shall, at the option of the Water Trust Board and the Finance Authority, terminate and be of no further force or effect; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SANTA FE COUNTY, NEW MEXICO:

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

“Act” means the general laws of the State, particularly the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10, (2001, as amended through 2011), and enactments of the Governing Body relating to the Loan/Grant Agreement, including this Resolution, all as amended and supplemented.

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which, in combination with the Loan/Grant Amount, is sufficient to complete the Project. The Additional Funding Amount is thirteen thousand five hundred dollars (\$13,500).

“Administrative Fee” means an amount equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

“Authorized Officers” means the Chair, Vice-Chair, County Manager and County Clerk of the Borrower/Grantee.

“Board Rules” means Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC.

“Borrower/Grantee” means the Santa Fe County in Santa Fe County, New Mexico.

“Closing Date” means the date of execution, delivery and funding of the Loan/Grant Agreement.

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

“Expense Account” means the account established pursuant to this Resolution and held by the Finance Authority to pay the Expenses incurred by the Lenders/Grantors in connection with the Loan/Grant Agreement and the Loan/Grant.

“Expenses” means the costs of the Lenders/Grantors of originating and administering the Loan/Grant, including Eligible Legal Costs and Eligible Fiscal Agent Fees to the extent allowed by the Act, the Board Rules and applicable policies of the Water Trust Board.

“Finance Authority” means the New Mexico Finance Authority.

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

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

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is one hundred twenty-one thousand five hundred dollars (\$121,500).

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

“Lenders/Grantors” means the Water Trust Board and the Finance Authority.

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is thirteen thousand five hundred dollars (\$13,500).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is one hundred thirty-five thousand dollars (\$135,000).

“Loan/Grant Agreement” means the Water Project Fund Loan/Grant Agreement entered into by and between the Borrower/Grantee, the Water Trust Board and the Finance Authority as authorized by this Resolution.

“Net System Revenues” means the gross revenues of the water and wastewater utility system owned and operated by the Borrower/Grantee minus operation and maintenance expenses, indirect charges, amounts expended for capital replacement and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water and wastewater utility system.

“NMAC” means the New Mexico Administrative Code.

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

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

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

“Project Account” means the book account established by the Finance Authority in the name of the Borrower/Grantee documenting the Loan/Grant Amount, as shown in the Term Sheet, which shall be kept separate and apart from all other accounts of the Finance Authority.

“Qualifying Water Project” means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to NMSA 1978, § 72-4A-9(B).

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

“State” means the State of New Mexico.

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

“Useful Life” means the structural and material design life of the Project, including planning and design features which shall not be less than twenty (20) years as required by the Act and the Board Rules.

“Water Project Fund” means the fund of the same name created pursuant to NMSA 1978, §72-4A-9, and held and administered by the Finance Authority.

“Water Trust Board” or “WTB” means the water trust board created and established pursuant to the Act.

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

Section 3. Authorization of the Project and the Loan/Grant Agreement. The acquisition and completion of the Project and the method of funding the Project through execution and delivery of the Loan/Grant Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Borrower/Grantee and the public whom it serves.

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

A. The Project is needed to meet the needs of the Borrower/Grantee and the public whom it serves.

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

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

D. The Borrower/Grantee will acquire and complete the Project with the proceeds of the Loan/Grant, the Additional Funding Amount and other amounts available to the Borrower/Grantee, and except as otherwise expressly provided by the Loan/Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life, which is not less than twenty (20) years, as required by NMSA 1978, § 72-4A-7(A)(1).

E. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now available to the Borrower/Grantee, or is expected to become available to the Borrower/Grantee within six (6) months after the Closing

Date, and, in combination with the Loan/Grant Amount, will be sufficient to complete the Project and pay Expenses.

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

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

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

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the constituent public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of one hundred twenty-one thousand five hundred dollars (\$121,500) and borrowing the Loan Amount of thirteen thousand five hundred dollars (\$13,500) to be utilized solely for the purpose of completing the Project and paying Expenses, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project and to pay Expenses.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of one hundred twenty-one thousand five hundred dollars (\$121,500) and the Loan shall be in the amount of thirteen thousand five hundred dollars (\$13,500). Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

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

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

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

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the Finance Authority and approves of the deposit or crediting of the Loan/Grant Amount and Expenses in those accounts in the respective amounts shown in the Term Sheet. Until the Completion Date, the money in the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement.

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

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

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

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount and Administrative Fee, which lien shall be subordinate to any lien on the Pledged Revenues existing on the Closing Date and, further, shall be subordinate to all other indebtedness secured or that may in the future be secured by the Pledged Revenues, except, however, that the lien shall be on parity with any other lien, present or future, for the repayment of any other loan provided to the Borrower/Grantee by the Lenders/Grantors pursuant to the Act.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually

authorized to do all acts and things required of them by this Resolution and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

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

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

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

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

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

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

[Remainder of page intentionally left blank.]

[Form of Summary of Resolution for Publication]

SANTA FE COUNTY, NEW MEXICO

Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. _____, duly adopted and approved by the Board of County Commissioners of Santa Fe County on April 30, 2013. A complete copy of the Resolution is available for public inspection during normal and regular business hours in the office of the County Clerk, at 102 Grant Avenue Santa Fe, New Mexico 87504.

The title of the Resolution is:

SANTA FE COUNTY, NEW MEXICO

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY", AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE "LENDERS/GRANTORS") AND THE SANTA FE COUNTY (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF \$135,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS THE PROJECT WHICH WILL INCLUDE THE ENGINEERING AND CONSTRUCTION OF A WATERSHED RESTORATION AND MANAGEMENT PROJECT WHICH WILL INCLUDE THE PURCHASE AND INSTALLATION OF GROUNDWATER AND SURFACE WATER MONITORING AND RECORDING EQUIPMENT AT LOCATIONS ALONG LA CIENEGA CREEK, SANTA FE RIVER, ARROYO HONDO, GUICU CREEK AND ALAMO CREEK, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND ADMINISTRATIVE FEE SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

[End of Form of Summary for Publication]

PASSED, APPROVED AND ADOPTED THIS 30TH DAY OF APRIL, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney
By: Robert M. [Signature]
Date: 4/8/13

[Remainder of page intentionally left blank.]

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

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

Those Voting Aye:

Those Voting Nay:

Those Absent:

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

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

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: *[Signature]* SCD

Date: 4/8/13

[Remainder of page intentionally left blank.]

April 30, 2013

)

) SS.

)

Present:

Kathleen S. Holian

Miguel M. Chavez

Robert A. Anaya

Liz Stefanics

Daniel “Danny” Mayfield

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

Thereupon, there were officially filed with the County Clerk copies of a proposed Resolution and Water Project Fund Loan/Grant Agreement in final form, the proposed Resolution being as hereinafter set forth.

VIRTUE NAJJAR & BROWN, PC
LAWYERS

RICHARD L. C. VIRTUE
DANIEL A. NAJJAR
THOMAS E. BROWN III

OF COUNSEL
BOB D. BARBEROUSSE
LUCY E. BETTIS

2200 BROTHERS ROAD
P.O. BOX 22249
SANTA FE, NEW MEXICO
87502-2249
(505) 983-6101
FAX: (505) 983-8304

ALBUQUERQUE OFFICE:
600 CENTRAL AVENUE S.E.
SUITE 203
ALBUQUERQUE, NEW MEXICO
87102
(505) 352-1614
FAX: (505) 352-1644

March 29, 2013

HAND DELIVERED:

Gerald Garcia, Grants Administrator
Santa Fe County
142 W. Palace Ave 2nd Floor
Santa Fe, NM 87501

4:30 PM
03-29-13 4:30 PM IN

258-WTB Water Project Loan/Grant
To Santa Fe County, New Mexico

Dear Mr. Garcia:

We enclose the documents listed below, for signature where indicated, for the above-referenced loan/grant:

1. Financing Schedule (no signature requested);
2. Authorizing Resolution (1 original and 2 sets of additional signature pages);
3. Loan/Grant Agreement (1 original document and 2 additional signature pages);
4. General and No Litigation Certificate (1 original document and 2 additional signature pages);
5. Right of Way Certificate (1 original document and 2 additional signature pages);
and
6. Final Opinion of Counsel (1 original document and 2 additional signature pages).

All original documents and signature pages will need to be signed and sealed, if indicated, and returned as discussed below.

We anticipate that the County Commission will adopt the Authorizing Resolution ("Resolution") at its April 30, 2013 regular meeting. Following the meeting, please insert the number of the Resolution in the appropriate blank spaces in the original document, complete the attendance record (front page) and the voting record (page 13), and have the original signature pages (pages 12 and 14) each signed and sealed by the Chair and County Clerk. Return all the documents to me, along with the original Clerk's Certificate (page 15 of the Ordinance) signed and sealed.

257-WTB Santa Fe County
March 28, 2013
Page 2

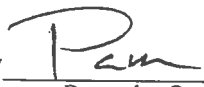
In regard to all the documents, I have flagged all the pages requiring the Chair's signature with red tabs, the County Clerks signature with yellow tabs and Attorney's signature with blue tabs.

Also, we ask that you also return the meeting agenda and a signed copy of the approved April 30, 2013, minutes. The provisions in the loan/grant agreement (Term Sheet Exhibit A) set forth the conditions to be satisfied prior to the first disbursement of the loan/grant funds. The City cannot draw funds until the minutes of the April 30, 2013, meeting have been signed and approved.

We ask that you please have all the documents signed where indicated, and returned to us by, Wednesday, May 8, 2013, using enclosed the prepaid Federal Express slip. Thank you for your assistance with this matter. If you have any questions, or you need additional information, please call me at (505) 983-6101, extension 55, or Richard Virtue at (505) 983-6101, extension 57.

Very truly yours,

Virtue Najjar & Brown, PC

By 
Pamela Ortiz
Paralegal

Enclosures

cc: Gloria Castillo, Finance Authority w/encl. by electronic mail

MARCH 2013						
M	T	W	T	F	S	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

APRIL 2013						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MAY 2013						
M	T	W	T	F	S	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

**NEW MEXICO FINANCE AUTHORITY
and
NEW MEXICO WATER TRUST BOARD**

FINANCING SCHEDULE & DISTRIBUTION LIST

**\$358,000 Water Project Fund Loan/Grant
(\$322,200 Grant/ \$35,800 Loan)
Project No. 257-WTB**

SANTA FE COUNTY, SANTA FE COUNTY, NEW MEXICO

**\$135,000 Water Project Fund Loan/Grant
(\$121,500 Grant/ \$13,500 Loan)
Project No. 258-WTB**

Prepared: January 25, 2013

Revised: March 5, 2013

Revised: March 27, 2013

DATE	ACTION	PARTIES
Tuesday, November 1, 2011	Application received by Finance Authority (258-WTB)	Borrower/Grantee
Thursday, November 3, 2011	Application received by Finance Authority (257-WTB)	Borrower/Grantee
Thursday, March 1, 2012	Legislative approval	Legislature
Wednesday, April 25, 2012	Water Trust Board approval	WTB
Friday, August 24, 2012	"Ready to Close" Determination & Notice	Finance Authority
Friday, January 25, 2013	Distribute Draft Resolution for inclusion in County Agenda material packets	VNB
Friday, January 25, 2013	Distribute Draft Financing Schedule and draft closing documents for review and comment by Finance Authority, Borrower/Grantee and Borrower/Grantee's counsel	VNB

DATE	ACTION	PARTIES
Monday, March 4, 2013	Comments received on Draft Financing Schedule and draft closing documents from Finance Authority Borrower/Grantee and Borrower/Grantee's counsel	Finance Authority, Borrower/Grantee, Borrower/Grantee's counsel
Thursday, March 28, 2013	Revised Final Debt Service Schedule Due	Finance Authority
Thursday, March 28, 2013	Closing documents in final form distributed to Borrower/Grantee for signature with a copy to the Finance Authority	VNB
Tuesday, April 30, 2013	Governing Body adopts Resolution	Borrower/Grantee
Wednesday, May 1, 2013	Submit notice of adoption to newspaper (before 9:00 am)	VNB or Borrower/Grantee
Monday, May 6, 2013	Publication of notice of adoption	Legal newspaper for Borrower/Grantee,
Wednesday, May 8, 2013	Closing documents signed by Borrower/Grantee and delivered to closing counsel	Borrower/Grantee
Friday, May 31, 2013	Delivery of closing documents forwarded to Finance Authority in paper and electronic form for signature	VNB
Wednesday, June 5, 2013	Thirty-day limitations period ends	
Wednesday, June 5, 2013	WTB Chairman signs closing documents	Finance Authority/WTB
Wednesday, June 5, 2013	Requisition for funds submitted to Finance Authority	Borrower/Grantee
Friday, June 7, 2013	Closing	All
Friday, June 21, 2013	Transcript distributed	VNB

DISTRIBUTION LIST

BORROWER/GRANTEE

Name: Santa Fe County
Address: 102 Grant Ave.,
Santa Fe, NM 87501
Phone: (505) 986-6200

Contact(s): Karen Torres
Address: P.O. Box 276
Santa Fe, NM 87504
Email: ktorres@co.santa-fe.nm.us
Phone: (505) 992-9871

NEW MEXICO FINANCE AUTHORITY

(Finance Authority)
207 Shelby Street
Santa Fe, NM 87501

Gloria Castillo, Sr. Administrative Assistant
Email: gcastillo@nmfa.net
Phone: (505) 992-9663

Jana M. Amacher, Director of Water Resources
Email: jamacher@nmfa.net

Angela Quintana, Senior Program Administrator

BORROWER/GRANTEE'S COUNSEL

Name: Stephen Ross, County Attorney
P.O. Box 276
Santa Fe, NM 87504
Email: sross@co.santa-fe.nm.us
Phone: (505) 992-6279

LOAN/GRANT COUNSEL

Virtue Najjar & Brown, PC (VNB)
2200 Brothers Road, 2nd Floor
P.O. Box 22249
Santa Fe, New Mexico 87502-2249
Phone: (505) 983-6101
Fax: (505) 983-8304

Richard L.C. Virtue, Attorney
Email: rvirtue@virtuelaw.com
Phone: (505) 983-6101 ext. 57

Lucy E. Bettis, Attorney
Email: lbettis@virtuelaw.com
Phone: (505) 983-6101

Pam Ortiz, Paralegal
Email: portiz@virtuelaw.com
Phone: (505) 983-6101 ext. 55

Email: aquintana@nmfa.net

Leslie Medina, Director of Loan Operations
Email: Lmedina@nmfa.net

E.J. Peinado, Financial Advisor
Email: epeinado@nmfa.net

NEWSPAPER

Name: Santa Fe New Mexican
Email: classad@sfnewmexican.com
Phone: (505) 986-3000

Deadlines: Legal's published Monday – Friday's.
(Deadline: Notice must be received by 9:30 a.m. four days prior to publication)

C

Thereupon, there were officially filed with the County Clerk copies of a proposed Resolution and Water Project Fund Loan/Grant Agreement in final form, the proposed Resolution being as hereinafter set forth.

[Remainder of page intentionally left blank.]

SANTA FE COUNTY, NEW MEXICO
RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY", AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE "LENDERS/GRANTORS") AND THE SANTA FE COUNTY (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF \$135,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS THE PROJECT WHICH WILL INCLUDE THE ENGINEERING AND CONSTRUCTION OF A WATERSHED RESTORATION AND MANAGEMENT PROJECT WHICH WILL INCLUDE THE PURCHASE AND INSTALLATION OF GROUNDWATER AND SURFACE WATER MONITORING AND RECORDING EQUIPMENT AT LOCATIONS ALONG LA CIENEGA CREEK, SANTA FE RIVER, ARROYO HONDO, GUICU CREEK AND ALAMO CREEK, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND ADMINISTRATIVE FEE SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing county under the general laws of the State of New Mexico; and

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

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

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

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

WHEREAS, the Governing Body hereby determines that (i) the Additional Funding Amount is now available to the Borrower/Grantee to complete the Project; or (ii) that the Governing Body will take such steps as are necessary to obtain the Additional Funding Amount within six (6) months after the Closing Date; and

WHEREAS, the Borrower/Grantee acknowledges that, in the event that it is unable to provide the Additional Funding Amount within six (6) months after the Closing Date, the Loan/Grant Agreement shall, at the option of the Water Trust Board and the Finance Authority, terminate and be of no further force or effect; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SANTA FE COUNTY, NEW MEXICO:

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

“Act” means the general laws of the State, particularly the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10, (2001, as amended through 2011), and enactments of the Governing Body relating to the Loan/Grant Agreement, including this Resolution, all as amended and supplemented.

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which, in combination with the Loan/Grant Amount, is sufficient to complete the Project. The Additional Funding Amount is thirteen thousand five hundred dollars (\$13,500).

“Administrative Fee” means an amount equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

“Authorized Officers” means the Chair, Vice-Chair, County Manager and County Clerk of the Borrower/Grantee.

“Board Rules” means Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC.

“Borrower/Grantee” means the Santa Fe County in Santa Fe County, New Mexico.

“Closing Date” means the date of execution, delivery and funding of the Loan/Grant Agreement.

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

“Expense Account” means the account established pursuant to this Resolution and held by the Finance Authority to pay the Expenses incurred by the Lenders/Grantors in connection with the Loan/Grant Agreement and the Loan/Grant.

“Expenses” means the costs of the Lenders/Grantors of originating and administering the Loan/Grant, including Eligible Legal Costs and Eligible Fiscal Agent Fees to the extent allowed by the Act, the Board Rules and applicable policies of the Water Trust Board.

“Finance Authority” means the New Mexico Finance Authority.

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

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

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is one hundred twenty-one thousand five hundred dollars (\$121,500).

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

“Lenders/Grantors” means the Water Trust Board and the Finance Authority.

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is thirteen thousand five hundred dollars (\$13,500).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is one hundred thirty-five thousand dollars (\$135,000).

“Loan/Grant Agreement” means the Water Project Fund Loan/Grant Agreement entered into by and between the Borrower/Grantee, the Water Trust Board and the Finance Authority as authorized by this Resolution.

“Net System Revenues” means the gross revenues of the water and wastewater utility system owned and operated by the Borrower/Grantee minus operation and maintenance expenses, indirect charges, amounts expended for capital replacement and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water and wastewater utility system.

“NMAC” means the New Mexico Administrative Code.

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

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

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

“Project Account” means the book account established by the Finance Authority in the name of the Borrower/Grantee documenting the Loan/Grant Amount, as shown in the Term Sheet, which shall be kept separate and apart from all other accounts of the Finance Authority.

“Qualifying Water Project” means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to NMSA 1978, § 72-4A-9(B).

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

“State” means the State of New Mexico.

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

“Useful Life” means the structural and material design life of the Project, including planning and design features which shall not be less than twenty (20) years as required by the Act and the Board Rules.

“Water Project Fund” means the fund of the same name created pursuant to NMSA 1978, §72-4A-9, and held and administered by the Finance Authority.

“Water Trust Board” or “WTB” means the water trust board created and established pursuant to the Act.

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

Section 3. Authorization of the Project and the Loan/Grant Agreement. The acquisition and completion of the Project and the method of funding the Project through execution and delivery of the Loan/Grant Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Borrower/Grantee and the public whom it serves.

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

A. The Project is needed to meet the needs of the Borrower/Grantee and the public whom it serves.

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

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

D. The Borrower/Grantee will acquire and complete the Project with the proceeds of the Loan/Grant, the Additional Funding Amount and other amounts available to the Borrower/Grantee, and except as otherwise expressly provided by the Loan/Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life, which is not less than twenty (20) years, as required by NMSA 1978, § 72-4A-7(A)(1).

E. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now available to the Borrower/Grantee, or is expected to become available to the Borrower/Grantee within six (6) months after the Closing

Date, and, in combination with the Loan/Grant Amount, will be sufficient to complete the Project and pay Expenses.

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

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

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

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the constituent public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of one hundred twenty-one thousand five hundred dollars (\$121,500) and borrowing the Loan Amount of thirteen thousand five hundred dollars (\$13,500) to be utilized solely for the purpose of completing the Project and paying Expenses, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project and to pay Expenses.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of one hundred twenty-one thousand five hundred dollars (\$121,500) and the Loan shall be in the amount of thirteen thousand five hundred dollars (\$13,500). Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

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

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

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

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the Finance Authority and approves of the deposit or crediting of the Loan/Grant Amount and Expenses in those accounts in the respective amounts shown in the Term Sheet. Until the Completion Date, the money in the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement.

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

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

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

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount and Administrative Fee, which lien shall be subordinate to any lien on the Pledged Revenues existing on the Closing Date and, further, shall be subordinate to all other indebtedness secured or that may in the future be secured by the Pledged Revenues, except, however, that the lien shall be on parity with any other lien, present or future, for the repayment of any other loan provided to the Borrower/Grantee by the Lenders/Grantors pursuant to the Act.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually

authorized to do all acts and things required of them by this Resolution and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

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

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

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

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

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

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

[Remainder of page intentionally left blank.]

[Form of Summary of Resolution for Publication]
SANTA FE COUNTY, NEW MEXICO
Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. _____, duly adopted and approved by the Board of County Commissioners of Santa Fe County on April 30, 2013. A complete copy of the Resolution is available for public inspection during normal and regular business hours in the office of the County Clerk, at 102 Grant Avenue Santa Fe, New Mexico 87501.

The title of the Resolution is:

SANTA FE COUNTY, NEW MEXICO
RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY", AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE "LENDERS/GRANTORS") AND THE SANTA FE COUNTY (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF \$135,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS THE PROJECT WHICH WILL INCLUDE THE ENGINEERING AND CONSTRUCTION OF A WATERSHED RESTORATION AND MANAGEMENT PROJECT WHICH WILL INCLUDE THE PURCHASE AND INSTALLATION OF GROUNDWATER AND SURFACE WATER MONITORING AND RECORDING EQUIPMENT AT LOCATIONS ALONG LA CIENEGA CREEK, SANTA FE RIVER, ARROYO HONDO, GUICU CREEK AND ALAMO CREEK, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND ADMINISTRATIVE FEE SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

[End of Form of Summary for Publication]

PASSED, APPROVED AND ADOPTED THIS 30TH DAY OF APRIL, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney
By: *[Signature]*
Date: *April 1, 2013*
Only 4/1/12

[Remainder of page intentionally left blank.]

PASSED, APPROVED AND ADOPTED THIS 30TH DAY OF APRIL, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: *[Signature]*

Date: *April 30, 2013*

Amby 4/2/13

[Remainder of page intentionally left blank.]

PASSED, APPROVED AND ADOPTED THIS 30TH DAY OF APRIL, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: Robert A. De la Sota

Date: April 1, 2013

[Remainder of page intentionally left blank.]

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

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

Those Voting Aye:

Those Voting Nay:

Those Absent:

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

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

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: [Signature] for SCOA

Date: April 1, 2013

[Remainder of page intentionally left blank.] Andy 4/2/13

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: *[Signature]*
Date: April 3, 2013

[Remainder of page intentionally left blank.]

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: *[Signature]* for SCRA

Date: *April 16, 2013* *only 4/2/13*

[Remainder of page intentionally left blank.]

STATE OF NEW MEXICO

)

) ss.

COUNTY OF SANTA FE

)

I, Geraldine Salazar, the duly qualified and acting County Clerk of the Santa Fe County (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of County Commissioners of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held in the County Commission Chambers located at 102 Grant Avenue Santa Fe, New Mexico, on April 30, 2013 at the hour of 1:00 p.m., insofar as the same relate to the adoption of Resolution No. _____ and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1 (1999), including the Borrower/Grantee's open meetings Resolution No. 2013-03 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of June, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: [Signature]

Date: April 3, 2013

[Signature] 4/3/13

STATE OF NEW MEXICO

)

) ss.

COUNTY OF SANTA FE

)

I, Geraldine Salazar, the duly qualified and acting County Clerk of the Santa Fe County (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of County Commissioners of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held in the County Commission Chambers located at 102 Grant Avenue Santa Fe, New Mexico, on April 30, 2013 at the hour of 1:00 p.m., insofar as the same relate to the adoption of Resolution No. _____ and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1 (1999), including the Borrower/Grantee's open meetings Resolution No. 2013-03 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of June, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: [Signature]

Date: April 3, 2013

copy 4/3/13

STATE OF NEW MEXICO

)

) ss.

COUNTY OF SANTA FE

)

I, Geraldine Salazar, the duly qualified and acting County Clerk of the Santa Fe County (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of County Commissioners of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held in the County Commission Chambers located at 102 Grant Avenue Santa Fe, New Mexico, on April 30, 2013 at the hour of 1:00 p.m., insofar as the same relate to the adoption of Resolution No. _____ and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1 (1999), including the Borrower/Grantee's open meetings Resolution No. 2013-03 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of June, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: [Signature]

Date: April 30, 2013

[Signature] 4/3/13

EXHIBIT "A"

Notice of Meeting

\$135,000

**WATER PROJECT FUND
LOAN/GRANT AGREEMENT**

Dated

June 7, 2013

By and Among the

**NEW MEXICO WATER TRUST BOARD
and the
NEW MEXICO FINANCE AUTHORITY,
as Lenders/Grantors,**

and the

**SANTA FE COUNTY,
New Mexico,
as Borrower/Grantee.**

**WATER PROJECT FUND
LOAN/GRANT AGREEMENT**

THIS LOAN/GRANT AGREEMENT (the "Agreement") dated June 7, 2013, is entered into by and among the **NEW MEXICO WATER TRUST BOARD** (the "Water Trust Board") and **THE NEW MEXICO FINANCE AUTHORITY** (the "Finance Authority") (collectively, the "Lenders/Grantors"), and the **SANTA FE COUNTY** in Santa Fe County, New Mexico (the "Borrower/Grantee").

WITNESSETH:

Capitalized terms used in the following preambles of this Agreement have the same meaning as defined in Article I of this Agreement unless the context requires otherwise.

WHEREAS, the Water Trust Board is a public body duly organized and created under and pursuant to the laws of the State of New Mexico, particularly NMSA 1978, §§ 72-4A-1 through 72-4A-10 (2001, as amended through 2011); and

WHEREAS, the Finance Authority is a public body politic and corporate, separate and apart from the State of New Mexico, constituting a governmental instrumentality, duly organized and created under and pursuant to the laws of the State, particularly NMSA 1978, §§ 6-21-1 through 6-21-31 (1992, as amended through 2012); and

WHEREAS, the Act provides that the Water Trust Board and the Finance Authority may make loans and grants from the Water Project Fund to qualifying entities for projects approved by the Legislature; and

WHEREAS, pursuant to the Act, the Water Trust Board has established the Board Rules governing the terms and conditions of loans and grants made from the Water Project Fund as set out in Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC, for the purpose of making loans and grants available to qualifying entities pursuant to the Board Rules for Qualifying Water Projects; and

WHEREAS, pursuant to the Board Rules, except as provided in the Policies, a qualifying entity is expected to receive some portion of its funding as a loan in order to maximize the potential for the return of funds to the Water Project Fund, thereby increasing the limited financial resources expected to be available in the Water Project Fund; and

WHEREAS, pursuant to the Policies certain systems that establish managerial, technical and financial policies and procedures consistent with the Policies may be eligible for loan forgiveness as further described in the Policies; and

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing county under the general laws of the State and more specifically, NMSA 1978, §§ 4-61-1 through 4-62-10 (as amended and supplemented, and is a qualifying entity under

the Act and is qualified for financial assistance as determined by the Finance Authority and approved by the Water Trust Board pursuant to the Board Rules; and

WHEREAS, the Borrower/Grantee has determined that it is in the best interests of the Borrower/Grantee and the constituent public that it serves that the Borrower/Grantee enter into this Agreement with the Lenders/Grantors to borrow thirteen thousand five hundred dollars (\$13,500) from the Lenders/Grantors and to accept a grant in the amount of one hundred twenty-one thousand five hundred dollars (\$121,500) from the Lenders/Grantors to finance the costs of the Project, this project being more particularly described in the Term Sheet; and

WHEREAS, based upon the Finance Authority's evaluation of the Application dated November 1, 2011 of the Borrower/Grantee and dealing with the Project, the Finance Authority has recommended to the Water Trust Board that the Borrower/Grantee receive financial assistance in the form of the Loan/Grant, and the Water Trust Board has authorized the Finance Authority to enter into and administer this Agreement; and

WHEREAS, the Borrower/Grantee is willing to pledge the Pledged Revenues to the payment of the Loan and Administrative Fee with a lien on the Pledged Revenues subordinate to all other liens thereon present and future, except that the lien on the Pledged Revenues of any future loans from the Lenders/Grantors to the Borrower/Grantee pursuant to the Water Project Finance Act, secured by the Pledged Revenues shall be on a parity with this Loan/Grant; and

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

WHEREAS, 2012 N.M. Laws Ch. 17, being House Bill 95 of the 2012 Regular New Mexico Legislative Session, authorized the funding of the Project from the Water Project Fund; and

WHEREAS, the Borrower/Grantee will use the proceeds of the Loan/Grant to finance the cost of the Project; and

WHEREAS, the Water Trust Board has authorized the Finance Authority to enter into and administer this Agreement; and

WHEREAS, the Finance Authority on behalf of the Water Trust Board has determined that the Borrower/Grantee has met or will meet prior to the disbursement of any portion of the Loan/Grant Amount, the Conditions and readiness to proceed requirements established for the Loan/Grant by the Finance Authority and the Water Trust Board; and

WHEREAS, the Water Trust Board has determined that the Project is a Qualifying Water Project, is important to the overall needs of the citizens of the State and will directly enhance the health, safety and welfare of the constituent public served by the Borrower/Grantee; and

WHEREAS, the plans and specifications for the Project have been approved by the Finance Authority (or by the New Mexico Environment Department or other appropriate agency or entity on behalf of the Finance Authority, pursuant to an agreement between such agency or entity and the Finance Authority), and the plans and specifications for the Project incorporate available technologies and operational design for water use efficiency; and

WHEREAS, as planned and designed, the structural and material design life of the Project is not less than twenty (20) years; and

WHEREAS, for purposes of providing funding for the Project, the Governing Body of the Borrower/Grantee and the Water Trust Board have determined that it is in the best interests of the Borrower/Grantee and the constituent public it serves that the Borrower/Grantee borrow the Loan Amount from the Lenders/Grantors and that the Water Trust Board provide the Grant Amount to the Borrower/Grantee; and

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

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

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

ARTICLE I DEFINITIONS

The capitalized terms defined in this Article I shall have the meanings assigned therein, unless the context clearly requires otherwise.

“Act” means the general laws of the State, particularly the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10 (2001, as amended through 2011), and enactments of the Governing Body relating to the Loan/Grant Agreement, including the Resolution, all as amended and supplemented.

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which includes the total value of the soft or hard match which, in combination with the Loan/Grant Amount together with other moneys available to the Borrower/Grantee, is sufficient to complete the Project or to provide matching funds needed to complete the Project. The Additional Funding Amount is thirteen thousand five hundred dollars (\$13,500).

“Administrative Fee” means an amount equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

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

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

“Application” means the New Mexico Water Trust Board Application for Financial Assistance dated November 1, 2011 of the Borrower/Grantee and pursuant to which the Borrower/Grantee requested funding for the Project.

“Authorized Officers” means, with respect to the Borrower/Grantee, any one or more of the Chair, Vice-Chair, County Manager and County Clerk thereof; with respect to the Finance Authority, any one or more of the Chairperson, Vice-Chairperson, Secretary and Chief Executive Officer of the Finance Authority; and with respect to the Water Trust Board, any one or more of the Chairman or a Co-Chairman and the Secretary thereof, and any other officer or employee of the Finance Authority or of the Water Trust Board designated in writing by an Authorized Officer thereof.

“Board Rules” means Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC.

“Borrower/Grantee” means the Santa Fe County in Santa Fe County, New Mexico.

“Conditions” means the conditions to be satisfied prior to the disbursement of the Loan/Grant Amount or which otherwise apply to the performance of this Agreement including those set forth in the Term Sheet.

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

“Effective Date” or “Closing Date” means the date of execution of this Agreement by the Borrower/Grantee, the Water Trust Board and the Finance Authority.

“Eligible Fiscal Agent Fees” means fees and costs incurred by a fiscal agent for the administration of Project funds, including the collection and reporting of Project information as required by this Agreement, in an amount not exceeding five (5) percent of the Loan/Grant Amount. The total amount of the combined Eligible Fiscal Agent Fees and Eligible Legal Fees may not exceed ten (10) percent of the total Water Project Fund Financial Assistance.

“Eligible Items” means eligible Project costs for which grants and loans may be made pursuant to NMSA 1978, § 72-4A-7(C) of the Act, the Board Rules and applicable Policies, and includes Expenses.

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

amount of the combined Eligible Fiscal Agent Fees and Eligible Legal Fees may not exceed ten (10) percent of the total Water Project Fund Financial Assistance.

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

“Expense Account” means the account established pursuant to the Resolution and held by the Finance Authority to pay the Expenses incurred by the Lenders/Grantors in connection with the Loan/Grant Agreement and the Loan/Grant.

“Expenses” means the costs of the Lenders/Grantors of originating and administering the Loan/Grant, and includes Eligible Legal Costs and Eligible Fiscal Agent Fees to the extent allowed under the Act, the Board Rules, other applicable statutes and rules, and applicable Policies.

“Finance Authority” means the New Mexico Finance Authority.

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

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

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to this Agreement for the purpose of funding the Project and equals one hundred twenty-one thousand five hundred dollars (\$121,500).

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

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

“Lenders/Grantors” means the Water Trust Board and the Finance Authority.

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to this Agreement for the purpose of funding the Project and equals thirteen thousand five hundred dollars (\$13,500).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to this Agreement for the purpose of funding the Project.

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

"Net System Revenues" means the gross revenues of the water and wastewater utility system owned and operated by the Borrower/Grantee minus operation and maintenance expenses, indirect charges, amounts expended for capital replacement and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water and wastewater utility system.

"NMAC" means the New Mexico Administrative Code.

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

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

"Policies" means the Water Trust Board Water Project Fund Project Management Policies approved by the Water Trust Board and the Finance Authority, as amended.

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

"Project" means the project described in the Term Sheet.

"Project Account" means the book account established by the Finance Authority in the name of the Borrower/Grantee documenting the Loan/Grant Amount, as shown in the Term Sheet, which shall be kept separate and apart from all other accounts of the Finance Authority.

"Qualifying Water Project" means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to NMSA 1978, § 72-4A-9(B).

"Resolution" means the Borrower/Grantee's Resolution No. _____, adopted April 30, 2013, authorizing the execution of this Agreement.

"State" means the State of New Mexico.

"Term Sheet" means Exhibit "A" attached to this Agreement.

"Useful Life" means the structural and material design life of the Project including planning and design features, which shall not be less than twenty (20) years as required by the Act and the Board Rules.

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

“Water Trust Board” or “WTB” means the water trust board created and established pursuant to the Act.

ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

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

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

(b) No Personal Liability. No covenant, stipulation, obligation or agreement contained in this Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Borrower/Grantee or member of the Governing Body in his or her individual capacity, and neither the members of the Governing Body nor any officer executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

(c) Authorization of Agreement. The Borrower/Grantee is a qualifying entity as defined in the Act and the Board Rules. Pursuant to the laws of the State and in particular, laws governing its creation and existence, as amended and supplemented from time to time, the Borrower/Grantee is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The Borrower/Grantee has duly authorized and approved the execution and delivery of this Agreement and the other documents related to the transaction described in this Agreement.

(d) Nature and Use of Agreement Proceeds. The Borrower/Grantee acknowledges that the distribution of the proceeds of the Loan/Grant Amount shall be deemed to be a distribution to the Borrower/Grantee first of the Loan Amount and then, once an amount equal to the Loan Amount has been distributed, of the Grant Amount. The Borrower/Grantee shall apply the proceeds of the Loan/Grant solely to Eligible Items that will facilitate the completion of the Project as well as the payment of the Expenses, and shall not use the

Loan/Grant proceeds for any other purpose. The Loan/Grant Amount, together with the Additional Funding Amount and other moneys reasonably expected to be available to the Borrower/Grantee, is sufficient to complete the Project in its entirety and to pay the Expenses.

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

(f) Completion of Project; Compliance with Laws. The Project will consist of engineering and construction of a watershed Restoration and Management project which will include the purchase and installation of groundwater and surface water monitoring and recording equipment at locations along La Cienega Creek, Santa Fe River, Arroyo Hondo, Guicu Creek and Alamo Creek. The Project is more particularly described in the Term Sheet. The Project will be completed, operated and maintained so as to comply with all applicable federal, state and local laws, ordinances, resolutions and regulations relating to the acquisition, operation, maintenance and completion of the Project and to the use of the Loan/Grant proceeds.

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

(h) Legal, Valid and Binding Obligation. The Borrower/Grantee has taken all required action necessary to authorize the execution and delivery of this Agreement, and this Agreement constitutes a legal agreement of the Borrower/Grantee enforceable in accordance with its terms.

(i) Agreement Term Not Less than Useful Life. The Agreement Term is not less than the Useful Life of the Project, which is not less than twenty (20) years, as required by NMSA 1978, § 72-4A-7 of the Act.

(j) Benefit to Borrower/Grantee. During the Agreement Term, the Project will at all times be used for the purpose of benefiting the Borrower/Grantee and the constituent public it serves. The Borrower/Grantee intends to utilize the Project on a continuing basis and shall not sell or transfer the Project during the Useful Life of the Project, and the Project will be used solely in a manner consistent with the purposes of the Loan/Grant; provided that, if any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee shall, prior to any expenditure of the Loan/Grant funds for the Project, obtain the written agreement of such other qualifying entity to abide by these requirements with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by

such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

(k) Amount of Agreement. The sum of the Grant Amount, the Loan Amount and the Additional Funding Amount (and as set forth on the Term Sheet) does not exceed the cost of the Project and the Expenses.

(l) No Breach or Default Caused by Agreement. Neither the execution and delivery of this Agreement nor the fulfillment of or compliance with the terms and Conditions in the Agreement nor the consummation of the transactions contemplated herein conflicts with or results in a breach of terms, Conditions or provisions of any restriction or any agreement or instrument to which the Borrower/Grantee is a party or by which the Borrower/Grantee is bound or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Borrower/Grantee or its properties are subject, or constitutes a default under any of the foregoing.

(m) Irrevocability of Enactments. While this Agreement remains outstanding, any ordinance, resolution or other enactment of the Governing Body accepting the terms hereof, including the Resolution, shall be irrevocable until the Project has been fully acquired and completed, and shall not be subject to amendment or modification in any manner which would result in any use of the proceeds of this Agreement in a manner not permitted or contemplated by the terms hereof. The Borrower/Grantee shall not impair the rights of any holders of bonds or other obligations payable from the Net System Revenues while this Agreement is outstanding.

(n) No Litigation. To the knowledge of the Borrower/Grantee, no litigation or proceeding is pending or threatened against the Borrower/Grantee or any other person affecting the right of the Borrower/Grantee to execute this Agreement or to comply with its obligations hereunder. Neither the execution of this Agreement by the Borrower/Grantee nor compliance by the Borrower/Grantee with the obligations hereunder requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(o) Occurrence of Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Agreement, would constitute an Event of Default on the part of the Borrower/Grantee hereunder.

(p) Budgeting of Pledged Revenues; Approval by Department of Finance and Administration. The Borrower/Grantee anticipates that the Pledged Revenues will be sufficient to make the Loan Payments, as and when due. The Borrower/Grantee will adequately budget for the Loan Payments and other amounts payable by the Borrower/Grantee under this Agreement and will submit such budget on an annual basis to the Department of Finance and Administration for review and verification of compliance with this requirement.

(q) Borrower/Grantee's Existence. The Borrower/Grantee will maintain its legal identity and existence so long as this Agreement remains outstanding unless another political subdivision or State agency by operation of law succeeds to the liabilities, rights and

duties of the Borrower/Grantee under this Agreement without adversely affecting to any substantial degree the privileges and rights of the Lenders/Grantors.

(r) Use of Project; Continuing Covenant. The Borrower/Grantee shall not sell, lease, mortgage, pledge, relocate or otherwise dispose of or transfer the Project or any part of the Project during its Useful Life; provided, however, that if the Project is a joint project of the Borrower/Grantee and other qualifying entities (as defined by the Act), the Borrower/Grantee and the other qualifying entities may, with the express written approval of the Lenders/Grantors and not otherwise, enter into an agreement allocating ownership and operational and maintenance responsibilities for the Project during its Useful Life. Any, such agreement shall provide that the Lenders/Grantors, or either of them, shall have the power to enforce the terms of this Agreement, without qualification, as to each and every qualifying entity owning or operating any portion of the Project during its Useful Life. If any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee shall, prior to any use of the Loan/Grant funds for the Project on such real property, obtain the written agreement of such other qualifying entity to abide by these restrictions with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement. The provisions of this Section shall remain effective and enforceable by the Lenders/Grantors for the duration of the Useful Life of the Project.

(s) Maintenance of Separate Project Accounts. The Borrower/Grantee acknowledges that the Lenders/Grantors on behalf of the Borrower/Grantee shall maintain a Project Account or accounts. The Borrower/Grantee shall maintain financial records in accordance with Generally Accepted Accounting Principles during the construction or implementation of the Project.

(t) Title and Rights of Way. The Borrower/Grantee has title to, easements, rights of way or use permits on the real property upon which the Project is being constructed, located, completed or extended, and if any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, such other qualifying entity has title to such real property. As required by NMSA 1978, § 72-4A-7(A)(3) of the Act and the Board Rules as a Condition to any disbursement of the Loan/Grant Amount for Project construction, the Borrower/Grantee shall provide written assurance signed by an attorney or provide a title insurance policy ensuring that the Borrower/Grantee has proper title to, easements, rights of way or use permits on the real property upon or through which the Project is to be constructed, located, completed or extended. If any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee shall provide written assurance signed by an attorney or provide a title insurance policy ensuring that such other qualifying entity has proper title to such real property.

(u) Additional Funding Amount. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now

available to the Borrower/Grantee, or will become available to the Borrower/Grantee within six (6) months after the Closing Date, and in combination with the Loan/Grant Amount, will be sufficient to complete the Project. If any other additional expenses are incurred, the Borrower/Grantee shall be responsible for payment of such expenses.

(v) Audit Requirement. During the term of the Loan/Grant Agreement the Borrower/Grantee shall comply with the requirements of the State Audit Act, NMSA 1978, §§ 12-6-1 through 12-6-14 (1969, as amended through 2011). Upon request by the Finance Authority or the Water Trust Board, the Borrower/Grantee shall provide the requesting party a copy of any audit prepared pursuant to the State Audit Act.

Section 2.2 Representations, Covenants, Warranties and Findings of the Water Trust Board and the Finance Authority. The Water Trust Board and the Finance Authority represent, covenant and warrant for the benefit of the Borrower/Grantee as follows:

(a) Authority of Water Trust Board. The Water Trust Board has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Agreement and, by proper action, has duly authorized the execution and delivery of this Agreement.

(b) Authority of Finance Authority. The Finance Authority has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Agreement and, by proper action, has duly authorized the execution and delivery of this Agreement.

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

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

(e) Legal, Valid and Binding Obligation. This Agreement constitutes a legal, valid and binding obligation of the Water Trust Board and the Finance Authority enforceable in accordance with its terms.

(f) Importance of Project. The Project is important to the overall needs of the State and its citizens.

(g) Compliance with Policies. As related to this Agreement, the Finance Authority and the Water Trust Board have complied with all applicable Policies and procedures as adopted and approved by the Finance Authority and the Water Trust Board, as applicable, or such Policies and procedures have been waived by the Finance Authority or the Water Trust Board, as applicable.

ARTICLE III AGREEMENT TERM

The Agreement Term shall commence on the Closing Date and shall terminate at the end of the Useful Life of the Project, which in no event shall be less than twenty (20) years, as required by NMSA 1978, § 72-4A-7 of the Act.

ARTICLE IV LOAN/GRANT AMOUNT DISBURSEMENT CONDITIONS

Section 4.1 Conditions Precedent to Disbursement of Loan/Grant. Prior to the disbursement of the Loan/Grant Amount or any portion thereof, the following Conditions and readiness to proceed items shall be satisfied:

(a) The Finance Authority, on behalf of the Water Trust Board, shall have determined that the Borrower/Grantee has met the Conditions and readiness to proceed requirements established for the Loan/Grant by the Finance Authority and the Water Trust Board including any Conditions set out in the Term Sheet; and

(b) The Borrower/Grantee shall have provided written assurance addressed to the Water Trust Board and the Finance Authority and signed by an attorney (or shall have provided a title insurance policy) that the Borrower/Grantee has proper title to or easements, rights of way, or permits on the real property upon or through which the Project is to be constructed, located, completed or extended; and

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

(d) The plans and specifications for the Project shall have been approved by or on behalf of the Finance Authority as required by NMSA 1978, § 72-4A-7(B); and

(e) Except as otherwise expressly provided in the Conditions, the Borrower/Grantee shall have certified to the Lenders/Grantors that the Additional Funding Amount is available for the Project, and, in addition, shall have provided additional evidence reasonably acceptable to the Lenders/Grantors of the availability of the Additional Funding Amount; and

(f) The Borrower/Grantee shall be in compliance with the provisions of this Agreement.

Section 4.2 Determination of Eligibility Is Condition Precedent to Disbursement. No disbursement shall be made from the Project Account except upon a determination by the Finance Authority that such disbursement is for payment of Eligible Items, and that the disbursement does not exceed any limitation upon the amount payable for any Eligible Item pursuant to the Act, the Board Rules, and the Policies governing the Water Project Fund. The Finance Authority, as a condition precedent to making any requested disbursement, may require submittal of such documentation as the Finance Authority deems necessary, in its sole and absolute discretion, for a determination whether any requested disbursement is for payment of Eligible Items and is fully consistent with the Act, the Board Rules, and the applicable Policies.

ARTICLE V

LOAN TO THE BORROWER/GRANTEE; GRANT TO THE BORROWER/GRANTEE; APPLICATION OF MONEYS

Section 5.1 Loan and Grant to the Borrower/Grantee.

(a) Loan to the Borrower/Grantee. The Lenders/Grantors hereby lend to the Borrower/Grantee and the Borrower/Grantee hereby borrows from and agrees to pay to the order of the Lenders/Grantors, without interest, an amount equal to the Loan Amount, with the principal amount of the Loan Amount being payable as provided by Exhibit "C" of this Agreement. The Loan Amount shall be pre-payable by the Borrower/Grantee at any time without penalty.

(i) Subordinate Nature of Loan Amount and Administrative Fee Obligation. The obligation of the Borrower/Grantee to make the Loan Payments and to pay the Administrative Fee shall be subordinate to all other indebtedness secured by the Pledged Revenues existing on the Closing Date and, further, that may in the future be secured by the Pledged Revenues; except, however, that the obligation of the Borrower/Grantee to make the Loan Payments and to pay the Administrative Fee shall be on parity with any other obligation, present or future, of the Borrower/Grantee to repay a loan provided by the Lenders/Grantors pursuant to the Act.

(ii) Administrative Fee. The Borrower/Grantee shall, on an annual basis beginning June 1, 2014, pay to the Lenders/Grantors an administrative fee equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee as provided by this Agreement. Any such

Administrative Fee payment shall be due irrespective of whether or not a hardship waiver of payment is granted to the Borrower/Grantee for the principal payment otherwise due on June 1 of the applicable year or any other year.

(iii) Hardship Waivers of Payment. Each year while any portion of the Loan Amount remains outstanding, no later than April 1 of each such year, the Borrower/Grantee may apply in writing to the Finance Authority for a determination of whether the annual principal payment on the Loan Amount otherwise due on the upcoming June 1 of such year should be forgiven because such payment would cause undue hardship for the Borrower/Grantee or the constituent public it serves. Although such determination shall be made by the New Mexico Department of Finance and Administration (the "DFA"), the Borrower/Grantee shall submit such application to DFA through the Finance Authority for determination by DFA and shall submit with such application sufficient documentation of the existence of such undue hardship as is reasonably required by DFA (as determined by the Finance Authority and DFA) to make such determination, and the Borrower/Grantee shall promptly respond to additional requests for information from DFA or the Finance Authority. Such application shall be executed by the Authorized Officers of the Borrower/Grantee. For purposes of this Agreement and that determination, an "undue hardship" shall be deemed to exist if DFA determines that the Borrower/Grantee demonstrates economic need and the inability to pay on a timely basis such annual payment on the Loan Amount. DFA shall make such determination no later than May 15 of the applicable year, and the Finance Authority shall promptly communicate to the Borrower/Grantee in writing the results of such determination. Upon receipt of written notice of such determination, either the principal payment otherwise due on June 1 of such year shall be forgiven (in the event of a determination of undue hardship) or such principal payment shall remain outstanding and due and payable on such date (in the event no undue hardship is determined to exist).

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

(c) Project Account. The Finance Authority shall establish and maintain the Project Account as a book account only, on behalf of the Borrower/Grantee. The Borrower/Grantee hereby pledges to the Lenders/Grantors all its rights, title and interest in the Loan/Grant Amount including the Project Account, for the purpose of securing the Borrower/Grantee's obligations under this Agreement. The Loan/Grant Amount shall be disbursed as provided in Section 7.2 hereof.

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

Section 5.2 Application of Loan/Grant Amount. Following the determination by the Water Trust Board and/or the Finance Authority, as applicable, that the Conditions to the disbursement of the Loan/Grant Amount have been satisfied, the Finance Authority shall:

(a) when made available transfer to the Expense Account the amount necessary to pay the Expenses of the Lenders/Grantors, as shown on the Term Sheet; and

(b) make an entry in its accounts, and in particular in the Project Account reflecting the proceeds of the Loan/Grant Amount made available for disbursement to the Borrower/Grantee at its request, and as needed by it to acquire and complete the Project, as provided in Section 7.2 of this Agreement.

Section 5.3 Investment of Borrower/Grantee's Accounts. Money on deposit in the Borrower/Grantee's accounts created hereunder may be invested by the Finance Authority for the credit of the Water Project Fund.

ARTICLE VI LOAN PAYMENTS BY THE BORROWER/GRANTEE

Section 6.1 Payment Obligations Limited to Pledged Revenues; Pledge of the Pledged Revenues. The Borrower/Grantee promises to make the Loan Payments and to pay the Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided. The Borrower/Grantee does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right, title and interest of the Borrower/Grantee in and to (i) the Pledged Revenues to the extent required to make the Loan Payments, and to pay the Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided, subject to and subordinate to all other pledges of the Pledged Revenues existing on the Closing Date and, further, that may exist in the future (except only that the pledge of the Pledged Revenues herein shall be on a parity with any other pledge of the Pledged Revenues by the Borrower/Grantee to repay any obligations issued by the Lenders/Grantors pursuant to the Act), and (ii) all other rights hereinafter granted, for securing of the Borrower/Grantee's obligations under this Agreement, including payment of the Loan Amount, Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided, provided, however that if the Borrower/Grantee, its successors or assigns, shall well and truly pay, or cause to be paid the Loan Amount at the time and in the manner contemplated by this Agreement, according to the true intent and meaning hereof, the Administrative Fees and all other amounts due or to become due under this Agreement in accordance with its terms and provisions then, upon such final payment or provision for payment by the Borrower/Grantee, the provisions of this Agreement and the rights created thereby with respect to the Loan Amount shall terminate and the Lenders/Grantors shall give a written release or such other confirmation as may be necessary to remove any encumbrances upon the Pledged Revenues; otherwise, such provisions of this Agreement shall remain in full force and effect.

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Effective Date. The Borrower/Grantee, the Finance Authority, and the Water Trust Board acknowledge and agree that the obligations of the Borrower/Grantee hereunder are limited to the Pledged Revenues; and that this Agreement with respect to the Loan Amount, the Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided shall constitute a special, limited obligation of the Borrower/Grantee. No provision of this Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the

Borrower/Grantee within the meaning of any constitutional or statutory debt limitation. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Borrower/Grantee's moneys other than the Pledged Revenues, nor shall any provision of this Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Borrower/Grantee's moneys including the Pledged Revenues. In addition, the Pledged Revenues may be utilized by the Borrower/Grantee for any other purposes permitted by law.

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

Section 6.3 Manner of Payment. All payments of the Borrower/Grantee hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 of this Agreement. The obligation of the Borrower/Grantee to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Borrower/Grantee and the Finance Authority, any vendor or any other person, the Borrower/Grantee shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Borrower/Grantee assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

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

Section 6.5 Lenders/Grantors' Release of Lien and Further Assurances. Upon payment in full of the Loan Amount, Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided in this Agreement the Lenders/Grantors agree to execute a release of lien and to give such further assurances as are reasonably necessary to ensure that the Lenders/Grantors no longer hold or maintain any lien or claim against the Pledged Revenues.

ARTICLE VII THE PROJECT

Section 7.1 Agreement to Acquire, Complete and Maintain the Project.

(a) The Borrower/Grantee hereby agrees that in order to effectuate the purposes of this Agreement and to acquire and complete the Project it shall take such steps as are necessary and appropriate to acquire, complete and operate the Project lawfully and efficiently. The Project shall be constructed and completed substantially in accordance with the approved plans and specifications, and shall fully incorporate the available technologies and operational

design for water use efficiency described in the approved plans and specifications. No Loan/Grant funds shall be used for items not constituting Eligible Items.

(b) As provided by NMSA 1978, § 72-4A-7(A)(1) of the Act, the Borrower/Grantee shall operate and maintain the Project in good operating condition and repair at all times during the Useful Life of the Project, which shall in no event be less than twenty (20) years, so that the Project will function properly over the Useful Life of the Project; provided, that if any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee may, prior to any use of the Loan/Grant funds for the Project on such real property, obtain the written agreement of such other qualifying entity to perform these obligations with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall be subject to approval by the Lenders/Grantors and shall include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

Section 7.2 Disbursements from the Project Account. So long as no Event of Default shall occur and provided that all Conditions to the disbursement of the Loan/Grant Amount have been satisfied, the Finance Authority shall disburse moneys from the Loan/Grant Amount upon receipt by the Finance Authority of a requisition substantially in the form of Exhibit "B" attached hereto signed by an Authorized Officer of the Borrower/Grantee, supported by certification by the Borrower/Grantee's project architect, engineer, or such other authorized representative of the Borrower/Grantee that the amount of the disbursement request represents the progress of construction, acquisition or other Project-related activities accomplished as of the date of the disbursement request, and the Finance Authority shall make the appropriate entry in the Project Account reflecting the disbursement. Such certification must be acceptable in form and substance to the Finance Authority and, at its request, the Water Trust Board. The Borrower/Grantee shall provide such records or access to the Project as the Finance Authority, and, at its request, the Water Trust Board, in the discretion of each, may request in connection with the approval of the Borrower/Grantee's disbursement requests made hereunder.

Section 7.3 No Disbursement for Prior Expenditures Except upon Approval. No disbursement shall be made of the Loan/Grant Amount, or any portion thereof, without the approval of the Finance Authority and, at its request, the Water Trust Board, to reimburse any expenditure made prior to the Effective Date.

Section 7.4 Borrower/Grantee Reporting to Lenders/Grantors. During the acquisition and construction of the Project, the Borrower/Grantee shall provide the Lenders/Grantors with a quarterly written report executed by an Authorized Officer of the Borrower/Grantee, in the form attached as Exhibit "D" hereto or in another form reasonably acceptable to the Lenders/Grantors, describing the status of the Project as of the report date, uses of Loan/Grant funds during the quarterly period ending on the report date, and requests for distributions of Loan/Grant funds anticipated to occur during the quarterly period immediately following the report date. The first quarterly report shall be due on June 30, 2013, and subsequent reports shall be due on each March 31, June 30, September 30 and December 31 thereafter until the report date next

following final distribution of the Loan/Grant funds. No reports shall be required after the report date next following final distribution of the Loan/Grant Funds, unless specifically required by the Finance Authority or the Water Trust Board. The description of the status of the Project in each quarterly report shall include, among other information, (a) a comparison of actual and anticipated requests for distributions of Loan/Grant funds as of the report date with those anticipated as of the Closing Date, (b) a description of actual and anticipated changes in the cost estimates for the Project as of the report date compared with those anticipated as of the Closing Date, and (c) a description of the percentage of completion of the Project.

Section 7.5 Completion of Disbursement of Loan/Grant Funds. Upon completion of disbursement of Loan/Grant funds, an Authorized Officer of the Borrower/Grantee shall deliver a certificate to the Finance Authority and the Water Trust Board, substantially in the form of Exhibit "E" attached hereto, stating that, to his or her knowledge, the Project has been completed and Loan/Grant funds needed for the Project have been disbursed in accordance with the terms of this Agreement. No Loan/Grant funds shall be disbursed after the date which is three (3) years from the Effective Date or unless a later date is approved by an Authorized Officer of the Water Trust Board and an Authorized Officer of the Finance Authority, if the funds from the Water Project Fund utilized to make the Loan/Grant are the proceeds of tax exempt Severance Tax Bonds issued pursuant to NMSA 1978, § 7-27-10.1 (2010), and appropriated to the Water Project Fund as provided by NMSA 1978, § 7-27-10.1, the earlier of such date or the date which is three (3) years from the date of issuance of such Severance Tax Bonds unless a later date is approved by an Authorized Officer of the Water Trust Board and an Authorized Officer of the Finance Authority.

Section 7.6 Application of Project Account Subsequent to Disbursement of Loan/Grant Funds; Termination of Pledge. Upon the first to occur of either (a) completion of the disbursement of Loan/Grant funds as signified by delivery of the completion certificate contemplated in Section 7.5 hereof; or (b) the expiration of time allowed for disbursements of Loan/Grant funds as provided in Section 7.5 hereof, the Finance Authority shall, to the extent such remaining amount represents the proceeds of Severance Tax Bonds issued pursuant to NMSA 1978, § 7-27-10.1 (2010), transfer the amounts remaining on deposit in the Project Account to the Water Project Fund, to the state agency responsible for administering the Severance Tax Bonding Fund created by NMSA 1978, § 7-27-2 (1985), and shall transfer such other unexpended amounts to such other fund permitted by law as may be established by the Water Trust Board, the Finance Authority or an agency of the State having authority to establish such fund and shall make the appropriate entry in the Project Account. Upon such entry, the pledge of the Project Account established in this Loan/Grant Agreement shall terminate.

ARTICLE VIII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

Section 8.1 Further Assurances and Corrective Instruments. The Lenders/Grantors and the Borrower/Grantee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention hereof.

Section 8.2 Representatives of Lenders/Grantors or of Borrower/Grantee. Whenever under the provisions hereof the approval of the Lenders/Grantors, collectively or individually, or the Borrower/Grantee is required, or the Borrower/Grantee, or the Lenders/Grantors, collectively or individually, are required to take some action at the request of any of them, such approval or such request shall be given for the Lenders/Grantors, collectively or individually, or for the Borrower/Grantee, by an Authorized Officer of the Lenders/Grantors, collectively or individually, or the Borrower/Grantee, as the case may be, and any party hereto shall be authorized to act on any such approval or request.

Section 8.3 Requirements of Law. During the Agreement Term, the Borrower/Grantee shall observe and comply promptly with all applicable federal, State and local laws and regulations affecting the Project, and all current and future orders of all courts having jurisdiction over the Borrower/Grantee with regard to the Project.

Section 8.4 Selection of Contractors. All contractors providing services or materials in connection with the Project shall be selected in accordance with applicable provisions of the New Mexico Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199 (1984, as amended through 2012), or, if the Borrower/Grantee is not subject to the New Mexico Procurement Code, shall be selected in accordance with a documented procurement process duly authorized and established pursuant to laws and regulations applicable to the Borrower/Grantee.

Section 8.5 Required Contract Provisions. The Borrower/Grantee shall require the following provisions in any contract or subcontract executed in connection with the Project to which the Borrower/Grantee is a party:

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

(b) Any contractor or subcontractor providing construction services in connection with the Project shall post a performance and payment bond in accordance with the requirements of NMSA 1978, § 13-4-18 (1987).

Section 8.6 Expeditious Completion of the Project. The Borrower/Grantee shall complete the Project with all practical dispatch.

ARTICLE IX INSURANCE; NON-LIABILITY OF LENDERS/GRANTORS

Section 9.1 Insurance. The Borrower/Grantee shall carry general liability insurance or participate in the State's risk-management program and, to the extent allowed by the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 through 41-4-30 (1976, as amended through 2010), shall and hereby agrees to name the Lenders/Grantors as additional insureds with respect to all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition, completion or implementation of the Project or otherwise during the Agreement Term; provided, that if any portion of the Project will be constructed, located, completed or

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

Section 9.2 Non-Liability of Lenders/Grantors.

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

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

**ARTICLE X
EVENTS OF DEFAULT AND REMEDIES**

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

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

(b) Failure by the Borrower/Grantee to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower/Grantee by the Lenders/Grantors, collectively or individually, unless the Lenders/Grantors, collectively or individually shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Lenders/Grantors but cannot be cured within the applicable thirty (30) day period, the Lenders/Grantors, collectively or individually, will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Borrower/Grantee within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Borrower/Grantee is unable to carry out the agreements on its part herein contained, the Borrower/Grantee shall not be deemed in default under this paragraph 10.1(b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default); or

(c) Any warranty, representation or other statement by or on behalf of the Borrower/Grantee contained in this Agreement or in any instrument furnished in compliance

with or in reference to this Agreement is determined to be false or misleading in any material respect.

Section 10.2 Limitations on Remedies. A judgment requiring payment of money entered against the Borrower/Grantee shall be paid from only available Pledged Revenues unless the Borrower/Grantee in its sole discretion pays the judgment from other available funds.

Section 10.3 Remedies on Default. Whenever any Event of Default has occurred and is continuing and subject to Section 10.2 hereof, the Lenders/Grantors, collectively or individually, may take whatever of the following actions may appear necessary or desirable to enforce performance of any agreement of the Borrower/Grantee in this Agreement:

(a) by mandamus or other action or proceeding or suit at law or in equity compel the Borrower/Grantee to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or

(b) by suit in equity enjoin any acts or things which are unlawful or violate the rights of the Lenders/Grantors, collectively or individually; or

(c) by whatever other action at law or in equity may appear necessary or desirable to collect amounts then due under this Agreement or enforce any other of its rights hereunder; or

(d) by causing the Borrower/Grantee to account as if it were the trustee of an express trust for all of the Pledged Revenues; or

(e) by applying any amounts in the Project Account toward satisfaction of any of the obligations of the Borrower/Grantee under this Agreement other than repayment of the Loan or payment of any Administrative Fee due under this Agreement.

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

Section 10.5 Waivers of Events of Default. The Lenders/Grantors, collectively or individually, may, in the respective discretion of each, waive any Event of Default hereunder and the consequences of any such Event of Default; provided, however, all expenses of the Lenders/Grantors, collectively or individually, in connection with such Event of Default shall have been paid or provided for. Such waiver shall be effective only if made by a written statement of waiver issued by the Finance Authority and the Water Trust Board. In case of any

such waiver or rescission, or in case any proceeding taken by the Lenders/Grantors, collectively or individually, on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Lenders/Grantors shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

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

ARTICLE XI MISCELLANEOUS

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

If to the Borrower/Grantee, to:

Santa Fe County
Attn.: County Manager
P.O. Box 276
Santa Fe, New Mexico 87504

If to the Water Trust Board or to the Finance Authority, then to:

New Mexico Finance Authority
Attn.: Chief Executive Officer
207 Shelby Street
Santa Fe, New Mexico 87501

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

Section 11.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Lenders/Grantors and the Borrower/Grantee and their respective successors and assigns, if any.

Section 11.3 Integration. This Agreement and any other agreements, certifications and commitments entered into between the Lenders/Grantors and the Borrower/Grantee on the Effective Date constitute the entire agreement of the parties regarding the Loan/Grant and the funding of the Project through the Loan/Grant as of the Effective Date, and the terms of this Agreement supersede any prior applications, discussions, understandings or agreements between

or among the parties in connection with the Loan/Grant, to the extent such prior applications, discussions, understandings or agreements are inconsistent with this Agreement.

Section 11.4 Amendments. This Agreement may be amended only with the written consent of all of the parties hereto. The consent of the Finance Authority for amendments not affecting the terms of payment of the loan component of this Agreement may be given by an Authorized Officer of the Finance Authority. The execution of any such consent by and Authorized Officer of the Finance Authority shall constitute his or her determination that such amendment does not affect the terms of payment of the loan component of this Agreement.

Section 11.5 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Lenders/Grantors, either directly or through the Finance Authority or the Water Trust Board, or against any officer, employee, director or member of the Borrower/Grantee, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director or member of the Borrower/Grantee, the Water Trust Board or of the Finance Authority is hereby expressly waived and released by the Borrower/Grantee, the Water Trust Board and the Finance Authority as a condition of and in consideration for the execution of this Agreement.

Section 11.6 Severability. In the event that any provision of this Agreement, other than the obligation of the Borrower/Grantee to make the Loan Payments and the Administrative Fee hereunder, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.7 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.8 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

Section 11.9 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 11.10 Application of Act and Board Rules. The Lenders/Grantors and the Borrower/Grantee expressly acknowledge that this Agreement is governed by provisions and requirements of the Act and the Board Rules, as amended and supplemented, and all applicable provisions and requirements of the Act and the Board Rules are incorporated into this Agreement by reference.

[Remainder of page intentionally left blank.]

[Signature pages follow.]

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, which was approved by the Water Trust Board on April 25, 2012 and by the Finance Authority's Board of Directors on June 22, 2012, in their respective corporate names with their corporate seals affixed hereto and attested by their duly authorized officers; and the Borrower/Grantee has caused this Agreement to be executed and attested by duly authorized officers thereof. All of the above are effective as of the date first above written.

LENDERS/GRANTORS:

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

ATTEST:

By _____

NEW MEXICO WATER TRUST BOARD

By _____
Chairman or Co-Chairman

Prepared for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

VIRTUE NAJJAR & BROWN, PC
As Loan/Grant Counsel

By _____
Richard L. C. Virtue

Approved for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

By _____
Daniel C. Opperman
Finance Authority General Counsel

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, which was approved by the Water Trust Board on April 25, 2012 and by the Finance Authority's Board of Directors on June 22, 2012, in their respective corporate names with their corporate seals affixed hereto and attested by their duly authorized officers; and the Borrower/Grantee has caused this Agreement to be executed and attested by duly authorized officers thereof. All of the above are effective as of the date first above written.

LENDERS/GRANTORS:

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

ATTEST:

By _____

NEW MEXICO WATER TRUST BOARD

By _____
Chairman or Co-Chairman

Prepared for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

VIRTUE NAJJAR & BROWN, PC
As Loan/Grant Counsel

By _____
Richard L. C. Virtue

Approved for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

By _____
Daniel C. Opperman
Finance Authority General Counsel

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, which was approved by the Water Trust Board on April 25, 2012 and by the Finance Authority's Board of Directors on June 22, 2012, in their respective corporate names with their corporate seals affixed hereto and attested by their duly authorized officers; and the Borrower/Grantee has caused this Agreement to be executed and attested by duly authorized officers thereof. All of the above are effective as of the date first above written.

LENDERS/GRANTORS:

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

ATTEST:

By _____

NEW MEXICO WATER TRUST BOARD

By _____
Chairman or Co-Chairman

Prepared for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

VIRTUE NAJJAR & BROWN, PC
As Loan/Grant Counsel

By _____
Richard L. C. Virtue

Approved for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

By _____
Daniel C. Opperman
Finance Authority General Counsel

BORROWER/GRANTEE:

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: *Robert L. [Signature]*

Date: *April 4, 2013*
smg 4/2/13

BORROWER/GRANTEE:

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: *[Signature]*

Date: *April 1, 2013* *gentry 4/2/13*

BORROWER/GRANTEE:

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney
By: [Signature]
Date: April 1, 2013 only 4/2/13

EXHIBIT "A"

TERM SHEET

**\$135,000 WATER PROJECT LOAN/GRANT TO
SANTA FE COUNTY, NEW MEXICO**

Project Description: The Project consists of the engineering and construction of a watershed restoration and management project which will include the purchase and installation of groundwater and surface water monitoring and recording equipment at locations along La Cienega Creek, Santa Fe River, Arroyo Hondo, Guicu Creek and Alamo Creek. The Project may be further described in the Application and in the final plans and specifications for the Project approved by the Water Trust Board and the Finance Authority as provided by this Agreement. However, in the event of any inconsistency, the description of the Project as stated in this Term Sheet shall control.

Grant Amount: \$121,500

Loan Amount: \$13,500

Pledged Revenues: Net System Revenues.

Currently Outstanding
Senior Obligations for
Pledged Revenues: None.

Outstanding Parity

Obligations: NMFA Water Trust Board Loan 227-WTB, Matures

06/2022; NMFA Water Trust Board Loan 257-WTB,

Matures 06/2033;

Authorizing Legislation: Borrower/Grantee Resolution No. _____,
Adopted April 30, 2013

Additional Funding Amount: \$13,500

Loan/Grant Agreement A-1
Santa Fe County Loan/Grant No. 258-WTB

Effective Date: June 7, 2013

Project Account Deposit: \$135,000

Expense Account Deposit: \$0

Conditions to be satisfied prior to first disbursement of Loan/Grant funds: Delivery to Finance Authority of (i) a copy of the agenda of the meeting of the Governing Body at which the Resolution was adopted and at which this Agreement, the Resolution and all other Loan/Grant documents were authorized by the Governing Body (the "Meeting"), certified as a true and correct copy by the County Clerk of the Borrower/Grantee, (ii) a copy of the minutes or record of proceedings of the Meeting, approved and signed by the Chair and attested to by the County Clerk of the Borrower/Grantee, and (iii) a copy of the notice of meeting for the Meeting evidencing compliance with the Borrower/Grantee's Open Meetings standards in effect on the date of the Meeting.

Other Conditions applicable to the Loan/Grant: Conditions set forth in the Loan/Grant Agreement.

EXHIBIT "B"

FORM OF REQUISITION

RE: \$135,000 Loan/Grant Agreement by and between the Water Trust Board and the Finance Authority, as Lenders/Grantors, and the Santa Fe County, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 258-WTB

Closing Date: June 7, 2013

TO: NEW MEXICO FINANCE AUTHORITY

You are hereby authorized to disburse from the Project Account – Santa Fe County with regard to the above-referenced Loan/Grant Agreement the following:

REQUISITION NUMBER: _____

NAME AND ADDRESS OF PAYEE: _____

WIRING INFORMATION

BANK NAME:	
ACCOUNT NUMBER:	
ROUTING NUMBER:	

AMOUNT OF PAYMENT: \$ _____

PURPOSE OF PAYMENT: _____

ELIGIBLE ITEM CATEGORY (See below): _____

DATED: _____

By: _____
Authorized Officer

Title: _____

Each obligation, item of cost or expense mentioned herein is for a loan/grant made by the Lenders/Grantors pursuant to the Water Project Finance Act to the Borrower/Grantee within the State of New Mexico, is due and payable, has not been the subject of any previous requisition and is a proper charge against the Project Account – Santa Fe County. All representations contained in the Loan/Grant Agreement and the related closing documents remain true and correct and the Borrower/Grantee is not in breach of any of the covenants contained therein.

The proceeds of the Loan/Grant have been or will be used to pay the costs of Eligible Items, as defined in the Loan/Grant Agreement. Eligible Items are (1) matching requirements for federal and local cost shares, (2) engineering feasibility reports, (3) contracted engineering design, (4) inspection of construction, (5) special engineering services, (6) environmental or archeological surveys, (7) construction, (8) land acquisition, (9) easements and rights of way, (10) Eligible Legal Costs and (11) Eligible Fiscal Agent Fees, subject to limitations as set forth in the Loan/Grant Agreement.

All construction and acquisition of equipment with proceed of the Loan/Grant has or will be used in accordance with plans and/or specifications approved by the New Mexico Environment Department and/or the Office of the State Engineer and in compliance with applicable procurement laws and regulations and has or will be inspected and approved in accordance with applicable laws and regulations.

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

EXHIBIT "C"

PAYMENT PROVISIONS OF THE LOAN

The Loan Amount shall be payable by the Borrower/Grantee to the Lenders/Grantors in ten (10) annual installments of principal pursuant to the attached debt service schedule, beginning June 1, 2014 and ending June 1, 2023. The Loan Amount shall be prepayable at any time without penalty. The Administrative Fee shall be due and payable annually on June 1 of each year while the Loan, or any portion thereof, remains outstanding.

EXHIBIT "D"

WATER TRUST BOARD PROJECT STATUS REPORT
PREPARED FOR THE
NEW MEXICO FINANCE AUTHORITY

Fund Recipient Names: Santa Fe County		WTB Project Number: 258-WTB	
Recipient Contact: County Manager		WTB Project Name: Watershed-La Cienega/La Cieneguilla Springs Monitoring Project	
Phone Number: (505) 986-6200		Project Type: Watershed Restoration and Management	
Quarterly Project Report <input type="checkbox"/>		Final <input type="checkbox"/>	Other <input type="checkbox"/>
Report Period: From - ____ / ____ / ____		To - ____ / ____ / ____	
Contract Expiration: _____			
Total WTB Award: \$ _____ Current Balance: \$ _____			
Loan % 10% Grant % 90% Match % 10%			
Expected WTB Award Expenditure Next Quarter: \$ _____			
Project Phase: Planning <input type="checkbox"/> Design <input type="checkbox"/> Construction <input type="checkbox"/>			
PROJECT TIME: Original Completion Date: _____			
Current Completion Date: _____			
Days Remaining for Completion _____			
Percent Project is Complete _____% On Schedule? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Briefly Describe Project Progress During This Reporting Period:			
Issues Addressed During This Period (Indicate any current and/or anticipated issues that remain unresolved):			
Goals/Milestones With Timeline or Dates For The Next Reporting Period:			
Name and Title of Authorized Representative: (Print)		Authorized Representative Signature:	
Date: _____			

EXHIBIT "E"

FORM OF CERTIFICATE OF COMPLETION

RE: \$135,000 Loan/Grant Agreement by and between the Water Trust Board and the Finance Authority, as Lenders/Grantors, and the Santa Fe County, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 258-WTB

Closing Date: June 7, 2013

TO: NEW MEXICO FINANCE AUTHORITY

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

Borrower/Grantee, hereby certify as follows:

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

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

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

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

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

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

SANTA FE COUNTY, NEW MEXICO

By: _____

Its: _____

\$135,000
SANTA FE COUNTY, NEW MEXICO
WATER PROJECT FUND LOAN/GRANT
NO. 258-WTB

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

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Chair and County Clerk for the Santa Fe County (the "Borrower/Grantee") in the State of New Mexico (the "State"):

Capitalized terms used in this Certificate have the same meaning as defined in Resolution No. _____ adopted by the Governing Body of the Borrower/Grantee on April 30, 2013 (the "Resolution") unless otherwise defined in this Certificate or the context requires otherwise.

1. The Borrower/Grantee is a duly organized and existing county under the laws of the State of New Mexico.

2. From at least January 1, 2013 to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers of the Borrower/Grantee:

Chair: Kathleen S. Holian (District 4)

Vice Chair: Danny Mayfield (District 1)

Commissioners: Miguel M. Chavez (District 2)
Robert Anaya (District 3)
Liz Stefanics (District 5)

County Manager: Katherine Miller

County Attorney: Stephen Ross

County Clerk: Geraldine Salazar

3. Based on data collected during the 2010 Census, the population of Santa Fe County is less than 75% English speaking and less than 75% Spanish Speaking.

4. The *Santa Fe New Mexican*, a newspaper of general circulation in Santa Fe County, is published primarily in English.

5. There is no reason within our knowledge why the Borrower/Grantee may not enter into the Loan/Grant Agreement with the New Mexico Finance Authority and the Water Trust Board, as authorized by the Resolution.

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

7. To our knowledge, none of the events of default referred to in Article X of the Loan/Grant Agreement has occurred.

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

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

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

11. To our knowledge, neither the Chair, the County Clerk, any member of the Governing Body of the Borrower/Grantee, nor any other officer, employee or other agent of the Borrower/Grantee is interested (except in the performance of his or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.

12. Regular meetings of the Borrower/Grantee's Governing Body and the meeting at which the Resolution was adopted have been held in the County Commission Chambers located at 102 Grant Avenue Santa Fe, New Mexico, the principal meeting place of the Borrower/Grantee.

13. The Borrower/Grantee's Governing Body has no rules of procedure which would invalidate or make ineffective the Resolution or other action taken by the Borrower/Grantee's Governing Body in connection with the Loan/Grant Agreement. The Open Meetings Act Resolution adopted and approved by the Governing Body on January 8, 2013 establishes notice standards for meetings of the Governing Body. The Open Meetings Act Resolution has not been amended or repealed. All action of the Governing Body with respect to the Resolution and the

Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution.

14. The Chair and the County Clerk, on the date of the signing of the Loan/Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Borrower/Grantee authorized to execute the Loan/Grant Agreement.

15. This Certificate is for the benefit of the Finance Authority and the Water Trust Board.

16. This Certificate may be executed in counterparts.

WITNESS our signatures and the seal of the Borrower/Grantee this 7th day of June, 2013.

SANTA FE COUNY, NEW MEXICO

(SEAL)

By _____
Kathleen S. Holian, Chair

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: *[Signature]*

Date: *April 1, 2013*
gentry 4/2/13

Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution.

14. The Chair and the County Clerk, on the date of the signing of the Loan/Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Borrower/Grantee authorized to execute the Loan/Grant Agreement.

15. This Certificate is for the benefit of the Finance Authority and the Water Trust Board.

16. This Certificate may be executed in counterparts.

WITNESS our signatures and the seal of the Borrower/Grantee this 7th day of June, 2013.

SANTA FE COUNY, NEW MEXICO

(SEAL)

By _____
Kathleen S. Holian, Chair

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: *Robert A. [Signature]*

Date: *April 1, 2013*
Justly 4/1/13

Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution.

14. The Chair and the County Clerk, on the date of the signing of the Loan/Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Borrower/Grantee authorized to execute the Loan/Grant Agreement.

15. This Certificate is for the benefit of the Finance Authority and the Water Trust Board.

16. This Certificate may be executed in counterparts.

WITNESS our signatures and the seal of the Borrower/Grantee this 7th day of June, 2013.

SANTA FE COUNTY, NEW MEXICO

(SEAL)

By _____
Kathleen S. Holian, Chair

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: [Signature] per SCC

Date: April 1, 2013
gms 4/2/13

\$135,000
SANTA FE COUNTY
SANTA FE COUNTY, NEW MEXICO
WATER PROJECT FUND LOAN/GRANT
NO. 258-WTB

RIGHT-OF-WAY CERTIFICATE

The undersigned on behalf of the Santa Fe County (the "Borrower/Grantee"), a county in the County of Santa Fe and the State of New Mexico, hereby certifies except as noted in item 4 below:

1. That the Borrower/Grantee is the owner in fee simple of the lands needed for the construction, operation, and maintenance of the facilities to be installed, repaired, or enlarged with the proceeds of the above-referenced Loan/Grant made by the New Mexico Finance Authority and the New Mexico Water Trust Board (the "Project"), or that the Borrower/Grantee has acquired and presently holds continuous and adequate rights-of-way on lands owned by others that are needed for the Project, whether public or private, and such omissions, defects, or restrictions as may exist will in no substantial way or manner endanger the value or the operation of the Project.
 2. That the Borrower/Grantee has acquired all necessary permits, franchises, and authorizations or other instruments by whatsoever name designated, from public utilities and public bodies, commissions, or agencies authorizing the construction, operation, and maintenance of the facilities upon, along or across streets, roads, highways, and utility corridors.
 3. That the attached map or plat shows the location of all lands and rights-of-way needed for the Project, which lands and rights-of-way the Borrower/Grantee has acquired and now holds by purchase or dedication, by right of use or adverse possession, or by legal conveyances such as right-of-way or easement deeds, permits, or other instruments.
 4. Exceptions: None.
-

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned has executed this Certificate on behalf of the Santa Fe County as of this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

IN WITNESS WHEREOF, the undersigned has executed this Certificate on behalf of the Santa Fe County as of this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

IN WITNESS WHEREOF, the undersigned has executed this Certificate on behalf of the Santa Fe County as of this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

NEW MEXICO FINANCE AUTHORITY

FINAL OPINION OF COUNSEL

To: New Mexico Finance Authority
207 Shelby Street
Santa Fe, New Mexico 87501

Re: Santa Fe County, Santa Fe County, New Mexico
\$135,000 Loan/Grant No. 258-WTB

Ladies and Gentlemen:

I am an attorney representing the Santa Fe County (the "Borrower/Grantee") in connection with the above-referenced Loan/Grant. I am licensed to practice law and in good standing in the State of New Mexico. I provide this opinion in my role as counsel to the Borrower/Grantee, understanding that the New Mexico Finance Authority and the New Mexico Water Trust Board (the "Lenders/Grantors") are relying on all representations herein made by me on behalf of my client and but for these representations, the Loan/Grant would not be approved.

Capitalized terms used in this Opinion have the same meaning as defined in Resolution No. _____ adopted by the Governing Body of the Borrower/Grantee on April 30, 2013 (the "Resolution") unless otherwise defined in this Opinion or the context requires otherwise.

I hereby certify that I have examined:

- (1) The Santa Fe County Water Project Fund Application dated November 1, 2011 and the New Mexico Water Trust Board Approval dated April 25, 2012 for Loan/Grant No. 258-WTB (the "Application" and the "Approval," respectively), relating to the Project.
- (2) The incorporation documents creating the Borrower/Grantee.
- (3) The Annual Open Meetings Act Resolution or resolutions of the Borrower/Grantee in effect on April 30, 2013 and on June 7, 2013.
- (4) The proceedings of the Governing Body (including all agendas, minutes, resolutions, ordinances and publications) which authorize the Loan/Grant application, the Project development, the budget for the Project, and the contracts with the various Project professionals including but not limited to architects, engineers, planners and contractors.
- (5) Corporate proceedings of the Borrower/Grantee from the date of the Application to the date of this Opinion, including, without limiting the generality of the foregoing, the corporate action of the Borrower/Grantee relating to (a) the selection of its

Chair, Board of County Commissioners, and County Clerk; (b) the adoption of the Borrower/Grantee's Annual Open Meetings Act Resolution or resolutions; (c) the adoption of ordinances or resolutions governing the operation of the Project; (d) the plans and specifications for the Project; (e) cost estimates for the Project; (f) the adoption of ordinances, resolutions and regulations for the furnishing of service to customers; (g) the proposed operating budget for services to be provided, in whole or in part, by means of the Project; (h) the proposal to finance the Project, in whole or in part, with a Loan/Grant made by the Water Trust Board, acting through the Finance Authority; (i) the Resolution authorizing the Chair to execute necessary documents to obtain the Loan/Grant for the Project; (j) all necessary approvals for the Project from federal, State or local authorities; and (k) the execution and delivery of the Loan/Grant Agreement evidencing such Loan/Grant.

- (6) The Resolution and the Loan/Grant Agreement providing that Loan/Grant funds will be deposited to the Project Account held by the Finance Authority on behalf of the Borrower/Grantee and drawdowns out of the Project Account will only be on written authorization of the Borrower/Grantee's Authorized Officers after certification of completion of the work in a satisfactory manner by a licensed professional engineer, architect or other authorized representative contractually obligated to the Borrower/Grantee, and only to pay Eligible Items (as defined in the Loan/Grant Agreement).
- (7) The records and files of all offices in which there might be recorded, filed, or indexed, any liens of any nature whatsoever, affecting the title to any real property to be acquired with the Loan/Grant proceeds, or on which will be located any Project property to be acquired with the Loan/Grant proceeds.

Based upon my examination of the foregoing, it is my opinion that:

- A. The Borrower/Grantee is a duly organized and existing county under the laws of the State of New Mexico.
- B. The ordinances, resolutions, rules and regulations governing the operation of the Project have been duly adopted and are now in full force and effect.
- C. The Authorized Officers of the Borrower/Grantee were duly and validly elected or appointed and are empowered to act for the Borrower/Grantee.
- D. The Borrower/Grantee has corporate power:
 - (1) to acquire, construct and complete the Project;
 - (2) to execute and deliver Loan/Grant documents including those identified above;
 - (3) to perform all acts required by such Loan/Grant documents to be done by it; and

- (4) to own, operate and maintain the Project during its Useful Life.
- E. All proceedings of the Borrower/Grantee, its elected and appointed officers, and employees, required or necessary to be taken in connection with the authorization of the actions specified above have been duly taken and all such authorizations are presently in full force and effect.
- F. The Resolution has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Resolution. The Resolution constitutes valid and sufficient legal authority for the Borrower/Grantee to carry out and enforce the provisions of the Loan/Grant Agreement.
- G. To my knowledge after due investigation, no event will result from the execution and delivery of the Loan/Grant Agreement that constitutes a default or an event of default under either the Loan/Grant Agreement or the Resolution, and no event of default and no default under the Loan/Grant Agreement or the Resolution has occurred and is continuing on the date of this Opinion.
- H. To my knowledge after due investigation, the Borrower/Grantee has duly authorized and approved the consummation by it of all transactions, and has complied with all requirements and satisfied all conditions, which are required by the Loan/Grant Agreement to have been authorized, approved, performed or consummated by the Borrower/Grantee at or prior to the date of this Opinion. The Borrower/Grantee has full legal right, power and authority to carry out and consummate the transactions contemplated by the Resolution and the Loan/Grant Agreement.
- I. To my knowledge after due investigation, all approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the enforceability of the Loan/Grant Agreement or any of the actions required to be taken by the Resolution or the Loan/Grant Agreement to the date of this Opinion have been obtained and are in full force and effect.
- J. To my knowledge after due investigation, neither the Borrower/Grantee's adoption of the Resolution nor any action contemplated by or pursuant to the Resolution or the Loan/Grant Agreement does or will conflict with, or constitutes a breach by the Borrower/Grantee of, or default by the Borrower/Grantee under any law, court decree or order, governmental regulation, rule or order, ordinance, resolution, agreement, indenture, mortgage or other instrument to which the Borrower/Grantee is subject or by which it is bound.
- K. To my knowledge after due investigation, there is no actual or threatened action, suit, proceeding, inquiry or investigation against the Borrower/Grantee, at law or in equity, by or before any court, public board or body, nor to my knowledge, is there any basis therefore, affecting the existence of the Borrower/Grantee or the titles of its officials to their respective offices, or in any way materially adversely affecting or questioning (a)

the territorial jurisdiction of the Borrower/Grantee, (b) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain costs of the Finance Authority and the Water Trust Board associated with the administration of the Water Project Fund, (c) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee with respect to the Resolution or the Loan/Grant Agreement, (d) the execution and delivery of the Loan/Grant Agreement, (e) the authority of the Borrower/Grantee to repay the Loan Amount, or (f) the power of the Borrower/Grantee to carry out the transactions contemplated by the Resolution and the Loan/Grant Agreement.

- L. To my knowledge after due investigation, there are no recorded liens of any nature whatsoever affecting the title to any real property upon which the Project will be located.
- M. To my knowledge after due investigation, no legal proceedings have been instituted or are pending, and to my knowledge none are threatened, whether or not the Borrower/Grantee is named as a party in such proceedings, which would affect the Borrower/Grantee's interest in the real property upon which the Project will be located, and there are no judgments against the Borrower/Grantee or liens against any property of the Borrower/Grantee that would impair the Borrower/Grantee's ability to complete the Project.
- N. The Borrower/Grantee has acquired all of the necessary land rights, easements and rights-of-way for the Project and the Borrower/Grantee now has sufficient, adequate and continuous rights-of-way to permit the construction, operation and maintenance of the Project.

Dated this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

the territorial jurisdiction of the Borrower/Grantee, (b) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain costs of the Finance Authority and the Water Trust Board associated with the administration of the Water Project Fund, (c) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee with respect to the Resolution or the Loan/Grant Agreement, (d) the execution and delivery of the Loan/Grant Agreement, (e) the authority of the Borrower/Grantee to repay the Loan Amount, or (f) the power of the Borrower/Grantee to carry out the transactions contemplated by the Resolution and the Loan/Grant Agreement.

- L. To my knowledge after due investigation, there are no recorded liens of any nature whatsoever affecting the title to any real property upon which the Project will be located.
- M. To my knowledge after due investigation, no legal proceedings have been instituted or are pending, and to my knowledge none are threatened, whether or not the Borrower/Grantee is named as a party in such proceedings, which would affect the Borrower/Grantee's interest in the real property upon which the Project will be located, and there are no judgments against the Borrower/Grantee or liens against any property of the Borrower/Grantee that would impair the Borrower/Grantee's ability to complete the Project.
- N. The Borrower/Grantee has acquired all of the necessary land rights, easements and rights-of-way for the Project and the Borrower/Grantee now has sufficient, adequate and continuous rights-of-way to permit the construction, operation and maintenance of the Project.

Dated this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

the territorial jurisdiction of the Borrower/Grantee, (b) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain costs of the Finance Authority and the Water Trust Board associated with the administration of the Water Project Fund, (c) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee with respect to the Resolution or the Loan/Grant Agreement, (d) the execution and delivery of the Loan/Grant Agreement, (e) the authority of the Borrower/Grantee to repay the Loan Amount, or (f) the power of the Borrower/Grantee to carry out the transactions contemplated by the Resolution and the Loan/Grant Agreement.

- L. To my knowledge after due investigation, there are no recorded liens of any nature whatsoever affecting the title to any real property upon which the Project will be located.
- M. To my knowledge after due investigation, no legal proceedings have been instituted or are pending, and to my knowledge none are threatened, whether or not the Borrower/Grantee is named as a party in such proceedings, which would affect the Borrower/Grantee's interest in the real property upon which the Project will be located, and there are no judgments against the Borrower/Grantee or liens against any property of the Borrower/Grantee that would impair the Borrower/Grantee's ability to complete the Project.
- N. The Borrower/Grantee has acquired all of the necessary land rights, easements and rights-of-way for the Project and the Borrower/Grantee now has sufficient, adequate and continuous rights-of-way to permit the construction, operation and maintenance of the Project.

Dated this 7th day of June, 2013.

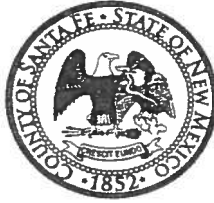


Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: *April 15, 2013*

TO: *Board of County Commissioners*

FROM: *Karen Torres, County Hydrologist*

VIA: *RM for*
Adam Leigland, Public Works Department Director
Katherine Miller, County Manager *km 4.22.13*

ITEM AND ISSUE: *BCC Meeting April 30, 2013*

RESOLUTION 2013 - ____ AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT NO. 258-WTB BETWEEN THE NEW MEXICO WATER TRUST BOARD AND SANTA FE COUNTY TO FUND THE PURCHASE AND INSTALLATION OF SURFACE AND GROUNDWATER MONITORING EQUIPMENT IN THE AMOUNT OF \$135,000 (PUBLIC WORKS/KAREN TORRES)

BACKGROUND AND SUMMARY:

In October of 2011 the Board of County Commissioners, by Resolution No. 2011-162, approved the submission of applications to the Water Trust Board for funding consideration in the 2012 funding cycle. The La Cienega / Cieneguilla Spring Monitoring Project was approved the Water Trust Board, on April 25, 2012 for a loan/ grant in the amount of \$135,000.

These funds will be used for the design, purchase and installation of surface and groundwater monitoring equipment. Such monitoring and data collection will enhance our understanding of the interaction between surface and groundwater in the La Cienega and Cieneguilla areas of the lower Santa Fe River watershed. A detailed cost estimate is attached to this memo with the funding breakout as follows:

Water Trust Board Grant = \$121,500
SFC Loan Repayment = \$13,500
SFC hard cash match = \$6,750
SFC in kind service is \$6,750

Total = \$148,500

ACTION REQUESTED:

Staff recommends approval of this Resolution to execute and deliver WTB-258 Water Project Fund Loan/ Grant Agreement in the amount of \$135,000 between The New Mexico Water Trust Board/New Mexico Finance Authority and Santa Fe County.

Santa Fe County

Fiscal Impact Report

Department / Division: Public Works Project Development

Action Item to be Considered: Resolution for Water Trust Board Loan / Gr...

Agreement Number: WTB-258 La Cienega Spring Monitoring

Indicate with <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input checked="" type="checkbox"/>	Loan/Grant Agreement
<input type="checkbox"/>	Other:

Indicate with <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc.
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input checked="" type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds) Hard cash match of \$6,750 (213-1458-481-8010)
<input checked="" type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % ⁸⁰ \$ 121,500 Source Water Trust Board
<input checked="" type="checkbox"/>	\$13,500 Debt Service and \$6,750 in-kind Other: service

Section 3 - Ongoing operations and maintenance (O&M) requirements:		
Short Term (Specify needs for the current fiscal year only)		
Repayment of the loan and hard cash match totaling \$20,250 are the initial cost and county staff time is required for current fiscal year.		
Number of FTE's #	Position	Hourly Rate \$
Current Fiscal Year Cost \$ 0	Annual Cost \$ 0	
Initial Costs (Vehicle, computer, office space, etc.)		
10,000 for field equipment is earmarked for this project. This includes but not limited to staff gages, sounding device, price pygmy flow meter, field computer, software, camera, external hard drive, waders and GPS unit.		
O & M (Concisely identify the recurring needs, supplies, equipment, and the resources		

necessary for carrying out the job duties)

Once gages and transducers are installed approximately 5 hours per month of staff time will be needed to download data and calibrate equipment.

Current Fiscal Year Cost \$ 500

Annual Cost \$ 3,000

Long Term (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

Necessary equipment, supplies and replacement parts will be purchased with grant funding. Download and synthesis of data along with operation and maintenance of monitoring sites will be performed by the county hydrologist. Incorporation of data into the ISGS or OSE monitoring network for public viewing is the desired outcome of this project.

Salary & Benefits:

All other expenses:

Section 4 - Revenue

Short Term (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

no potential revenue.

Current FY Estimate \$ 0

Long Term (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

Annual Estimate \$ 0

Total (next 4 years) \$

Additional Narrative

Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

Funding Terms of Loan / Grant are attached.

Prepared by Karen Torres

Reviewed by

WTB-258 Funding Terms.pdf
Adobe Acrobat Document
244 KB

File Attachment

File Attachment

**WTB-258 La Cienega Spring Monitoring Opinion of Cost
Santa Fe County In Kind Service Estimate**

Description	Quantity	Unit	Price per unit	Total	Water Trust Board Funds	County In Kind Service	County Cash Contribution
Project Scoping	20	hr	\$50	\$1,000	\$0	\$1,000	\$0
Field Reconnaissance (2 staff members)	40	hr	\$100	\$4,000	\$0	\$4,000	\$0
Design Review / Meetings (2 staff members)	20	hr	\$100	\$2,000	\$0	\$2,000	\$0
Professional Services Cost Estimate							
Description	Quantity	Unit	Price per unit	Total Price	Water Trust Board Funds	County In Kind Service	County Cash Contribution
Professional Hydrology Services	1	LS	\$20,000	\$15,000	\$15,000	0	
Biological Survey	1	LS	\$10,000	\$8,000	\$8,000		
Construction Cost Estimate							
Description	Quantity	Unit	Price per unit	Total Price	Water Trust Board Funds	County In Kind Service	County Cash Contribution
Drill and Install Shallow Piezometer	1	EA	\$20,000	\$20,000	\$20,000		
Groundwater Level and Temperature Logger installed	6	EA	\$5,000	\$30,000	\$25,000	\$0	\$5,000
Surface Water Weir and Flow Logger installed	4	EA	\$10,000	\$40,000	\$40,000		
Field Equipment	1	LS	\$7,000	\$7,000	\$5,250		\$1,750
Staff Gages	10	LF	\$40	\$400	\$400		
Water Trust Board Funds Summary							
					Water Trust Board Funds	County In Kind Service	County Cash Contribution
					\$0	\$7,000	\$5,000
					\$23,000	\$0	\$0
					\$90,650	\$0	\$6,750
					\$12,040	\$0	\$0
					\$8,327	\$0	\$447
					\$148,214	\$7,000	\$7,197
Professional Services Sub-Totals							
In-kind Design Service				\$7,000	\$0	\$7,000	\$5,000
Professional Services Sub- Total				\$23,000	\$23,000	\$0	\$0
Construction Sub- Total				\$97,400	\$90,650	\$0	\$6,750
10% Contingency				\$12,040	\$12,040	\$0	\$0
NM GRT @ 6.625%				\$8,774	\$8,327	\$0	\$447
Project Total				\$148,214	\$148,214	\$7,000	\$7,197

La Cienega Spring Monitoring Project Funding Drawdown Schedule

Design Cost Estimate

[illegible]

SANTA FE COUNTY, NEW MEXICO
RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY", AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE "LENDERS/GRANTORS") AND THE SANTA FE COUNTY (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF \$135,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS THE PROJECT WHICH WILL INCLUDE THE ENGINEERING AND CONSTRUCTION OF A WATERSHED RESTORATION AND MANAGEMENT PROJECT WHICH WILL INCLUDE THE PURCHASE AND INSTALLATION OF GROUNDWATER AND SURFACE WATER MONITORING AND RECORDING EQUIPMENT AT LOCATIONS ALONG LA CIENEGA CREEK, SANTA FE RIVER, ARROYO HONDO, GUICU CREEK AND ALAMO CREEK, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND ADMINISTRATIVE FEE SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing county under the general laws of the State of New Mexico; and

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

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

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

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

WHEREAS, the Governing Body hereby determines that (i) the Additional Funding Amount is now available to the Borrower/Grantee to complete the Project; or (ii) that the Governing Body will take such steps as are necessary to obtain the Additional Funding Amount within six (6) months after the Closing Date; and

WHEREAS, the Borrower/Grantee acknowledges that, in the event that it is unable to provide the Additional Funding Amount within six (6) months after the Closing Date, the Loan/Grant Agreement shall, at the option of the Water Trust Board and the Finance Authority, terminate and be of no further force or effect; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SANTA FE COUNTY, NEW MEXICO:

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

“Act” means the general laws of the State, particularly the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10, (2001, as amended through 2011), and enactments of the Governing Body relating to the Loan/Grant Agreement, including this Resolution, all as amended and supplemented.

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which, in combination with the Loan/Grant Amount, is sufficient to complete the Project. The Additional Funding Amount is thirteen thousand five hundred dollars (\$13,500).

“Administrative Fee” means an amount equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

“Authorized Officers” means the Chair, Vice-Chair, County Manager and County Clerk of the Borrower/Grantee.

“Board Rules” means Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC.

“Borrower/Grantee” means the Santa Fe County in Santa Fe County, New Mexico.

“Closing Date” means the date of execution, delivery and funding of the Loan/Grant Agreement.

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

“Expense Account” means the account established pursuant to this Resolution and held by the Finance Authority to pay the Expenses incurred by the Lenders/Grantors in connection with the Loan/Grant Agreement and the Loan/Grant.

“Expenses” means the costs of the Lenders/Grantors of originating and administering the Loan/Grant, including Eligible Legal Costs and Eligible Fiscal Agent Fees to the extent allowed by the Act, the Board Rules and applicable policies of the Water Trust Board.

“Finance Authority” means the New Mexico Finance Authority.

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

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

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is one hundred twenty-one thousand five hundred dollars (\$121,500).

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

“Lenders/Grantors” means the Water Trust Board and the Finance Authority.

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is thirteen thousand five hundred dollars (\$13,500).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is one hundred thirty-five thousand dollars (\$135,000).

“Loan/Grant Agreement” means the Water Project Fund Loan/Grant Agreement entered into by and between the Borrower/Grantee, the Water Trust Board and the Finance Authority as authorized by this Resolution.

“Net System Revenues” means the gross revenues of the water and wastewater utility system owned and operated by the Borrower/Grantee minus operation and maintenance expenses, indirect charges, amounts expended for capital replacement and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water and wastewater utility system.

“NMAC” means the New Mexico Administrative Code.

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

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

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

“Project Account” means the book account established by the Finance Authority in the name of the Borrower/Grantee documenting the Loan/Grant Amount, as shown in the Term Sheet, which shall be kept separate and apart from all other accounts of the Finance Authority.

“Qualifying Water Project” means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to NMSA 1978, § 72-4A-9(B).

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

“State” means the State of New Mexico.

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

“Useful Life” means the structural and material design life of the Project, including planning and design features which shall not be less than twenty (20) years as required by the Act and the Board Rules.

“Water Project Fund” means the fund of the same name created pursuant to NMSA 1978, §72-4A-9, and held and administered by the Finance Authority.

“Water Trust Board” or “WTB” means the water trust board created and established pursuant to the Act.

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

Section 3. Authorization of the Project and the Loan/Grant Agreement. The acquisition and completion of the Project and the method of funding the Project through execution and delivery of the Loan/Grant Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Borrower/Grantee and the public whom it serves.

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

A. The Project is needed to meet the needs of the Borrower/Grantee and the public whom it serves.

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

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

D. The Borrower/Grantee will acquire and complete the Project with the proceeds of the Loan/Grant, the Additional Funding Amount and other amounts available to the Borrower/Grantee, and except as otherwise expressly provided by the Loan/Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life, which is not less than twenty (20) years, as required by NMSA 1978, § 72-4A-7(A)(1).

E. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now available to the Borrower/Grantee, or is expected to become available to the Borrower/Grantee within six (6) months after the Closing

Date, and, in combination with the Loan/Grant Amount, will be sufficient to complete the Project and pay Expenses.

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

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

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

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the constituent public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of one hundred twenty-one thousand five hundred dollars (\$121,500) and borrowing the Loan Amount of thirteen thousand five hundred dollars (\$13,500) to be utilized solely for the purpose of completing the Project and paying Expenses, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project and to pay Expenses.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of one hundred twenty-one thousand five hundred dollars (\$121,500) and the Loan shall be in the amount of thirteen thousand five hundred dollars (\$13,500). Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

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

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

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

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the Finance Authority and approves of the deposit or crediting of the Loan/Grant Amount and Expenses in those accounts in the respective amounts shown in the Term Sheet. Until the Completion Date, the money in the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement.

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

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

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

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount and Administrative Fee, which lien shall be subordinate to any lien on the Pledged Revenues existing on the Closing Date and, further, shall be subordinate to all other indebtedness secured or that may in the future be secured by the Pledged Revenues, except, however, that the lien shall be on parity with any other lien, present or future, for the repayment of any other loan provided to the Borrower/Grantee by the Lenders/Grantors pursuant to the Act.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually

authorized to do all acts and things required of them by this Resolution and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

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

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

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

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

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

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

[Remainder of page intentionally left blank.]

[Form of Summary of Resolution for Publication]
SANTA FE COUNTY, NEW MEXICO
Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. _____, duly adopted and approved by the Board of County Commissioners of Santa Fe County on April 30, 2013. A complete copy of the Resolution is available for public inspection during normal and regular business hours in the office of the County Clerk, at 102 Grant Avenue Santa Fe, New Mexico 87504.

The title of the Resolution is:

SANTA FE COUNTY, NEW MEXICO
RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY", AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE "LENDERS/GRANTORS") AND THE SANTA FE COUNTY (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF \$135,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS THE PROJECT WHICH WILL INCLUDE THE ENGINEERING AND CONSTRUCTION OF A WATERSHED RESTORATION AND MANAGEMENT PROJECT WHICH WILL INCLUDE THE PURCHASE AND INSTALLATION OF GROUNDWATER AND SURFACE WATER MONITORING AND RECORDING EQUIPMENT AT LOCATIONS ALONG LA CIENEGA CREEK, SANTA FE RIVER, ARROYO HONDO, GUICU CREEK AND ALAMO CREEK, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND ADMINISTRATIVE FEE SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

[End of Form of Summary for Publication]

PASSED, APPROVED AND ADOPTED THIS 30TH DAY OF APRIL, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: Robert A. [Signature]
Date: 4/8/13

[Remainder of page intentionally left blank.]

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

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

Those Voting Aye:

Those Voting Nay:

Those Absent:

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

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

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: [Signature] SCD

Date: 4/8/3

[Remainder of page intentionally left blank.]

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

Present:

Miguel M. Chavez
Robert A. Anaya
Liz Stefanics
Daniel “Danny” Mayfield

Absent:

Also Present:

Thereupon, there were officially filed with the County Clerk copies of a proposed Resolution and Water Project Fund Loan/Grant Agreement in final form, the proposed Resolution being as hereinafter set forth.

VIRTUE NAJJAR & BROWN, PC
LAWYERS

RICHARD L. G. VIRTUE
DANIEL A. NAJJAR
THOMAS E. BROWN III

OF COUNSEL
BOB D. BARBEROUSSE
LUCY E. BETTIS

2200 BROTHERS ROAD
P.O. BOX 22249
SANTA FE, NEW MEXICO
87502-2249
(505) 983-6101
FAX: (505) 983-8304

ALBUQUERQUE OFFICE:
600 CENTRAL AVENUE S.E.
SUITE 203
ALBUQUERQUE, NEW MEXICO
87102
(505) 352-1614
FAX: (505) 352-1644

March 29, 2013

HAND DELIVERED:

Gerald Garcia, Grants Administrator
Santa Fe County
142 W. Palace Ave 2nd Floor
Santa Fe, NM 87501

03-29-13 4:30 PM
411-36 IN

258-WTB Water Project Loan/Grant
To Santa Fe County, New Mexico

Dear Mr. Garcia:

We enclose the documents listed below, for signature where indicated, for the above-referenced loan/grant:

1. Financing Schedule (no signature requested);
2. Authorizing Resolution (1 original and 2 sets of additional signature pages);
3. Loan/Grant Agreement (1 original document and 2 additional signature pages);
4. General and No Litigation Certificate (1 original document and 2 additional signature pages);
5. Right of Way Certificate (1 original document and 2 additional signature pages);
and
6. Final Opinion of Counsel (1 original document and 2 additional signature pages).

All original documents and signature pages will need to be signed and sealed, if indicated, and returned as discussed below.

We anticipate that the County Commission will adopt the Authorizing Resolution ("Resolution") at its April 30, 2013 regular meeting. Following the meeting, please insert the number of the Resolution in the appropriate blank spaces in the original document, complete the attendance record (front page) and the voting record (page 13), and have the original signature pages (pages 12 and 14) each signed and sealed by the Chair and County Clerk. Return all the documents to me, along with the original Clerk's Certificate (page 15 of the Ordinance) signed and sealed.

257-WTB Santa Fe County
March 28, 2013
Page 2

In regard to all the documents, I have flagged all the pages requiring the Chair's signature with red tabs, the County Clerks signature with yellow tabs and Attorney's signature with blue tabs.

Also, we ask that you also return the meeting agenda and a signed copy of the approved April 30, 2013, minutes. The provisions in the loan/grant agreement (Term Sheet Exhibit A) set forth the conditions to be satisfied prior to the first disbursement of the loan/grant funds. The City cannot draw funds until the minutes of the April 30, 2013, meeting have been signed and approved.

We ask that you please have all the documents signed where indicated, and returned to us by, Wednesday, May 8, 2013, using enclosed the prepaid Federal Express slip. Thank you for your assistance with this matter. If you have any questions, or you need additional information, please call me at (505) 983-6101, extension 55, or Richard Virtue at (505) 983-6101, extension 57.

Very truly yours,

Virtue Najjar & Brown, PC

By 
Pamela Ortiz
Paralegal

Enclosures

cc: Gloria Castillo, Finance Authority w/encl. by electronic mail

MARCH 2013						
M	T	W	T	F	S	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

APRIL 2013						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MAY 2013						
M	T	W	T	F	S	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

**NEW MEXICO FINANCE AUTHORITY
and
NEW MEXICO WATER TRUST BOARD**

FINANCING SCHEDULE & DISTRIBUTION LIST

**\$358,000 Water Project Fund Loan/Grant
(\$322,200 Grant/ \$35,800 Loan)
Project No. 257-WTB**

SANTA FE COUNTY, SANTA FE COUNTY, NEW MEXICO

**\$135,000 Water Project Fund Loan/Grant
(\$121,500 Grant/ \$13,500 Loan)
Project No. 258-WTB**

**Prepared: January 25, 2013
Revised: March 5, 2013
Revised: March 27, 2013**

DATE	ACTION	PARTIES
Tuesday, November 1, 2011	Application received by Finance Authority (258-WTB)	Borrower/Grantee
Thursday, November 3, 2011	Application received by Finance Authority (257-WTB)	Borrower/Grantee
Thursday, March 1, 2012	Legislative approval	Legislature
Wednesday, April 25, 2012	Water Trust Board approval	WTB
Friday, August 24, 2012	"Ready to Close" Determination & Notice	Finance Authority
Friday, January 25, 2013	Distribute Draft Resolution for inclusion in County Agenda material packets	VNB
Friday, January 25, 2013	Distribute Draft Financing Schedule and draft closing documents for review and comment by Finance Authority, Borrower/Grantee and Borrower/Grantee's counsel	VNB

DATE	ACTION	PARTIES
Monday, March 4, 2013	Comments received on Draft Financing Schedule and draft closing documents from Finance Authority Borrower/Grantee and Borrower/Grantee's counsel	Finance Authority, Borrower/Grantee, Borrower/Grantee's counsel
Thursday, March 28, 2013	Revised Final Debt Service Schedule Due	Finance Authority
Thursday, March 28, 2013	Closing documents in final form distributed to Borrower/Grantee for signature with a copy to the Finance Authority	VNB
Tuesday, April 30, 2013	Governing Body adopts Resolution	Borrower/Grantee
Wednesday, May 1, 2013	Submit notice of adoption to newspaper (before 9:00 am)	VNB or Borrower/Grantee
Monday, May 6, 2013	Publication of notice of adoption	Legal newspaper for Borrower/Grantee,
Wednesday, May 8, 2013	Closing documents signed by Borrower/Grantee and delivered to closing counsel	Borrower/Grantee
Friday, May 31, 2013	Delivery of closing documents forwarded to Finance Authority in paper and electronic form for signature	VNB
Wednesday, June 5, 2013	Thirty-day limitations period ends	
Wednesday, June 5, 2013	WTB Chairman signs closing documents	Finance Authority/WTB
Wednesday, June 5, 2013	Requisition for funds submitted to Finance Authority	Borrower/Grantee
Friday, June 7, 2013	Closing	All
Friday, June 21, 2013	Transcript distributed	VNB

DISTRIBUTION LIST

BORROWER/GRANTEE

Name: Santa Fe County
Address: 102 Grant Ave.,
Santa Fe, NM 87501
Phone: (505) 986-6200

Contact(s): Karen Torres
Address: P.O. Box 276
Santa Fe, NM 87504
Email: ktorres@co.santa-fe.nm.us
Phone: (505) 992-9871

NEW MEXICO FINANCE AUTHORITY

(Finance Authority)
207 Shelby Street
Santa Fe, NM 87501

Gloria Castillo, Sr. Administrative Assistant
Email: gcastillo@nmfa.net
Phone: (505) 992-9663

Jana M. Amacher, Director of Water Resources
Email: jamacher@nmfa.net

Angela Quintana, Senior Program Administrator

BORROWER/GRANTEE'S COUNSEL

Name: Stephen Ross, County Attorney
P.O. Box 276
Santa Fe, NM 87504
Email: sross@co.santa-fe.nm.us
Phone: (505) 992-6279

LOAN/GRANT COUNSEL

Virtue Najjar & Brown, PC (VNB)
2200 Brothers Road, 2nd Floor
P.O. Box 22249
Santa Fe, New Mexico 87502-2249
Phone: (505) 983-6101
Fax: (505) 983-8304

Richard L.C. Virtue, Attorney
Email: rvirtue@virtuelaw.com
Phone: (505) 983-6101 ext. 57

Lucy E. Bettis, Attorney
Email: lbettis@virtuelaw.com
Phone: (505) 983-6101

Pam Ortiz, Paralegal
Email: portiz@virtuelaw.com
Phone: (505) 983-6101 ext. 55

Email: aquintana@nmfa.net

Leslie Medina, Director of Loan Operations
Email: Lmedina@nmfa.net

E.J. Peinado, Financial Advisor
Email: epeinado@nmfa.net

NEWSPAPER

Name: Santa Fe New Mexican
Email: classad@sfnewmexican.com
Phone: (505) 986-3000

Deadlines: Legal's published Monday – Friday's.
(Deadline: Notice must be received by 9:30 a.m. four days prior to publication)

Also Present:

Thereupon, there were officially filed with the County Clerk copies of a proposed Resolution and Water Project Fund Loan/Grant Agreement in final form, the proposed Resolution being as hereinafter set forth.

[Remainder of page intentionally left blank.]

SANTA FE COUNTY, NEW MEXICO
RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY", AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE "LENDERS/GRANTORS") AND THE SANTA FE COUNTY (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF \$135,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS THE PROJECT WHICH WILL INCLUDE THE ENGINEERING AND CONSTRUCTION OF A WATERSHED RESTORATION AND MANAGEMENT PROJECT WHICH WILL INCLUDE THE PURCHASE AND INSTALLATION OF GROUNDWATER AND SURFACE WATER MONITORING AND RECORDING EQUIPMENT AT LOCATIONS ALONG LA CIENEGA CREEK, SANTA FE RIVER, ARROYO HONDO, GUICU CREEK AND ALAMO CREEK, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND ADMINISTRATIVE FEE SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing county under the general laws of the State of New Mexico; and

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

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

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

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

WHEREAS, the Governing Body hereby determines that (i) the Additional Funding Amount is now available to the Borrower/Grantee to complete the Project; or (ii) that the Governing Body will take such steps as are necessary to obtain the Additional Funding Amount within six (6) months after the Closing Date; and

WHEREAS, the Borrower/Grantee acknowledges that, in the event that it is unable to provide the Additional Funding Amount within six (6) months after the Closing Date, the Loan/Grant Agreement shall, at the option of the Water Trust Board and the Finance Authority, terminate and be of no further force or effect; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SANTA FE COUNTY, NEW MEXICO:

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

“Act” means the general laws of the State, particularly the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10, (2001, as amended through 2011), and enactments of the Governing Body relating to the Loan/Grant Agreement, including this Resolution, all as amended and supplemented.

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which, in combination with the Loan/Grant Amount, is sufficient to complete the Project. The Additional Funding Amount is thirteen thousand five hundred dollars (\$13,500).

“Administrative Fee” means an amount equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

“Authorized Officers” means the Chair, Vice-Chair, County Manager and County Clerk of the Borrower/Grantee.

“Board Rules” means Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC.

“Borrower/Grantee” means the Santa Fe County in Santa Fe County, New Mexico.

“Closing Date” means the date of execution, delivery and funding of the Loan/Grant Agreement.

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

“Expense Account” means the account established pursuant to this Resolution and held by the Finance Authority to pay the Expenses incurred by the Lenders/Grantors in connection with the Loan/Grant Agreement and the Loan/Grant.

“Expenses” means the costs of the Lenders/Grantors of originating and administering the Loan/Grant, including Eligible Legal Costs and Eligible Fiscal Agent Fees to the extent allowed by the Act, the Board Rules and applicable policies of the Water Trust Board.

“Finance Authority” means the New Mexico Finance Authority.

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

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

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is one hundred twenty-one thousand five hundred dollars (\$121,500).

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

“Lenders/Grantors” means the Water Trust Board and the Finance Authority.

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is thirteen thousand five hundred dollars (\$13,500).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is one hundred thirty-five thousand dollars (\$135,000).

“Loan/Grant Agreement” means the Water Project Fund Loan/Grant Agreement entered into by and between the Borrower/Grantee, the Water Trust Board and the Finance Authority as authorized by this Resolution.

“Net System Revenues” means the gross revenues of the water and wastewater utility system owned and operated by the Borrower/Grantee minus operation and maintenance expenses, indirect charges, amounts expended for capital replacement and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water and wastewater utility system.

“NMAC” means the New Mexico Administrative Code.

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

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

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

“Project Account” means the book account established by the Finance Authority in the name of the Borrower/Grantee documenting the Loan/Grant Amount, as shown in the Term Sheet, which shall be kept separate and apart from all other accounts of the Finance Authority.

“Qualifying Water Project” means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to NMSA 1978, § 72-4A-9(B).

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

“State” means the State of New Mexico.

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

“Useful Life” means the structural and material design life of the Project, including planning and design features which shall not be less than twenty (20) years as required by the Act and the Board Rules.

“Water Project Fund” means the fund of the same name created pursuant to NMSA 1978, §72-4A-9, and held and administered by the Finance Authority.

“Water Trust Board” or “WTB” means the water trust board created and established pursuant to the Act.

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

Section 3. Authorization of the Project and the Loan/Grant Agreement. The acquisition and completion of the Project and the method of funding the Project through execution and delivery of the Loan/Grant Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Borrower/Grantee and the public whom it serves.

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

A. The Project is needed to meet the needs of the Borrower/Grantee and the public whom it serves.

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

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

D. The Borrower/Grantee will acquire and complete the Project with the proceeds of the Loan/Grant, the Additional Funding Amount and other amounts available to the Borrower/Grantee, and except as otherwise expressly provided by the Loan/Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life, which is not less than twenty (20) years, as required by NMSA 1978, § 72-4A-7(A)(1).

E. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now available to the Borrower/Grantee, or is expected to become available to the Borrower/Grantee within six (6) months after the Closing

Date, and, in combination with the Loan/Grant Amount, will be sufficient to complete the Project and pay Expenses.

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

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

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

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the constituent public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of one hundred twenty-one thousand five hundred dollars (\$121,500) and borrowing the Loan Amount of thirteen thousand five hundred dollars (\$13,500) to be utilized solely for the purpose of completing the Project and paying Expenses, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project and to pay Expenses.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of one hundred twenty-one thousand five hundred dollars (\$121,500) and the Loan shall be in the amount of thirteen thousand five hundred dollars (\$13,500). Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

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

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

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

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the Finance Authority and approves of the deposit or crediting of the Loan/Grant Amount and Expenses in those accounts in the respective amounts shown in the Term Sheet. Until the Completion Date, the money in the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement.

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

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

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

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount and Administrative Fee, which lien shall be subordinate to any lien on the Pledged Revenues existing on the Closing Date and, further, shall be subordinate to all other indebtedness secured or that may in the future be secured by the Pledged Revenues, except, however, that the lien shall be on parity with any other lien, present or future, for the repayment of any other loan provided to the Borrower/Grantee by the Lenders/Grantors pursuant to the Act.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually

authorized to do all acts and things required of them by this Resolution and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

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

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

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

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

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

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

[Remainder of page intentionally left blank.]

[Form of Summary of Resolution for Publication]

SANTA FE COUNTY, NEW MEXICO

Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. _____, duly adopted and approved by the Board of County Commissioners of Santa Fe County on April 30, 2013. A complete copy of the Resolution is available for public inspection during normal and regular business hours in the office of the County Clerk, at 102 Grant Avenue Santa Fe, New Mexico 87501.

The title of the Resolution is:

SANTA FE COUNTY, NEW MEXICO

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY", AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE "LENDERS/GRANTORS") AND THE SANTA FE COUNTY (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF \$135,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS THE PROJECT WHICH WILL INCLUDE THE ENGINEERING AND CONSTRUCTION OF A WATERSHED RESTORATION AND MANAGEMENT PROJECT WHICH WILL INCLUDE THE PURCHASE AND INSTALLATION OF GROUNDWATER AND SURFACE WATER MONITORING AND RECORDING EQUIPMENT AT LOCATIONS ALONG LA CIENEGA CREEK, SANTA FE RIVER, ARROYO HONDO, GUICU CREEK AND ALAMO CREEK, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND ADMINISTRATIVE FEE SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

[End of Form of Summary for Publication]

PASSED, APPROVED AND ADOPTED THIS 30TH DAY OF APRIL, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney
By: [Signature]
Date: April 1, 2013
only 4/1/13

[Remainder of page intentionally left blank.]

PASSED, APPROVED AND ADOPTED THIS 30TH DAY OF APRIL, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: *Robert L. De la Sota*

Date: *April 30, 2013*

Amby 4/2/13

[Remainder of page intentionally left blank.]

PASSED, APPROVED AND ADOPTED THIS 30TH DAY OF APRIL, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney
By: *[Signature]*
Date: April 2, 2013

[Remainder of page intentionally left blank.]

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

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

Those Voting Aye:

Those Voting Nay:

Those Absent:

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

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

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: *[Signature]*

Date: *April 1, 2013*

[Remainder of page intentionally left blank.] Only 4/2/13

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney
By: *[Signature]*
Date: April 3, 2013

[Remainder of page intentionally left blank.]

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: *[Signature]* for SCRA

Date: *April 1, 2013* *only 4/2/13*

[Remainder of page intentionally left blank.]

STATE OF NEW MEXICO

)

) ss.

COUNTY OF SANTA FE

)

I, Geraldine Salazar, the duly qualified and acting County Clerk of the Santa Fe County (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of County Commissioners of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held in the County Commission Chambers located at 102 Grant Avenue Santa Fe, New Mexico, on April 30, 2013 at the hour of 1:00 p.m., insofar as the same relate to the adoption of Resolution No. _____ and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1 (1999), including the Borrower/Grantee's open meetings Resolution No. 2013-03 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of June, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Geraldine Salazar, County Clerk

Approved as to form
Santa Fe County Attorney

By: [Signature]

Date: April 3, 2013

[Signature] 4/3/13

STATE OF NEW MEXICO

)

) ss.

COUNTY OF SANTA FE

)

I, Geraldine Salazar, the duly qualified and acting County Clerk of the Santa Fe County (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of County Commissioners of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held in the County Commission Chambers located at 102 Grant Avenue Santa Fe, New Mexico, on April 30, 2013 at the hour of 1:00 p.m., insofar as the same relate to the adoption of Resolution No. _____ and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1 (1999), including the Borrower/Grantee's open meetings Resolution No. 2013-03 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of June, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: [Signature]

Date: April 3, 2013

[Signature] 4/3/13

STATE OF NEW MEXICO

)

) ss.

COUNTY OF SANTA FE

)

I, Geraldine Salazar, the duly qualified and acting County Clerk of the Santa Fe County (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of County Commissioners of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held in the County Commission Chambers located at 102 Grant Avenue Santa Fe, New Mexico, on April 30, 2013 at the hour of 1:00 p.m., insofar as the same relate to the adoption of Resolution No. _____ and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1 (1999), including the Borrower/Grantee's open meetings Resolution No. 2013-03 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of June, 2013.

SANTA FE COUNTY, NEW MEXICO

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: [Signature]

Date: April 30, 2013

[Signature] 4/30/13

EXHIBIT "A"

Notice of Meeting

\$135,000

**WATER PROJECT FUND
LOAN/GRANT AGREEMENT**

Dated

June 7, 2013

By and Among the

**NEW MEXICO WATER TRUST BOARD
and the
NEW MEXICO FINANCE AUTHORITY,
as Lenders/Grantors,**

and the

**SANTA FE COUNTY,
New Mexico,
as Borrower/Grantee.**

WATER PROJECT FUND LOAN/GRANT AGREEMENT

THIS LOAN/GRANT AGREEMENT (the “Agreement”) dated June 7, 2013, is entered into by and among the **NEW MEXICO WATER TRUST BOARD** (the “Water Trust Board”) and **THE NEW MEXICO FINANCE AUTHORITY** (the “Finance Authority”) (collectively, the “Lenders/Grantors”), and the **SANTA FE COUNTY** in Santa Fe County, New Mexico (the “Borrower/Grantee”).

W I T N E S S E T H:

Capitalized terms used in the following preambles of this Agreement have the same meaning as defined in Article I of this Agreement unless the context requires otherwise.

WHEREAS, the Water Trust Board is a public body duly organized and created under and pursuant to the laws of the State of New Mexico, particularly NMSA 1978, §§ 72-4A-1 through 72-4A-10 (2001, as amended through 2011); and

WHEREAS, the Finance Authority is a public body politic and corporate, separate and apart from the State of New Mexico, constituting a governmental instrumentality, duly organized and created under and pursuant to the laws of the State, particularly NMSA 1978, §§ 6-21-1 through 6-21-31 (1992, as amended through 2012); and

WHEREAS, the Act provides that the Water Trust Board and the Finance Authority may make loans and grants from the Water Project Fund to qualifying entities for projects approved by the Legislature; and

WHEREAS, pursuant to the Act, the Water Trust Board has established the Board Rules governing the terms and conditions of loans and grants made from the Water Project Fund as set out in Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC, for the purpose of making loans and grants available to qualifying entities pursuant to the Board Rules for Qualifying Water Projects; and

WHEREAS, pursuant to the Board Rules, except as provided in the Policies, a qualifying entity is expected to receive some portion of its funding as a loan in order to maximize the potential for the return of funds to the Water Project Fund, thereby increasing the limited financial resources expected to be available in the Water Project Fund; and

WHEREAS, pursuant to the Policies certain systems that establish managerial, technical and financial policies and procedures consistent with the Policies may be eligible for loan forgiveness as further described in the Policies; and

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing county under the general laws of the State and more specifically, NMSA 1978, §§ 4-61-1 through 4-62-10 (as amended and supplemented, and is a qualifying entity under

the Act and is qualified for financial assistance as determined by the Finance Authority and approved by the Water Trust Board pursuant to the Board Rules; and

WHEREAS, the Borrower/Grantee has determined that it is in the best interests of the Borrower/Grantee and the constituent public that it serves that the Borrower/Grantee enter into this Agreement with the Lenders/Grantors to borrow thirteen thousand five hundred dollars (\$13,500) from the Lenders/Grantors and to accept a grant in the amount of one hundred twenty-one thousand five hundred dollars (\$121,500) from the Lenders/Grantors to finance the costs of the Project, this project being more particularly described in the Term Sheet; and

WHEREAS, based upon the Finance Authority's evaluation of the Application dated November 1, 2011 of the Borrower/Grantee and dealing with the Project, the Finance Authority has recommended to the Water Trust Board that the Borrower/Grantee receive financial assistance in the form of the Loan/Grant, and the Water Trust Board has authorized the Finance Authority to enter into and administer this Agreement; and

WHEREAS, the Borrower/Grantee is willing to pledge the Pledged Revenues to the payment of the Loan and Administrative Fee with a lien on the Pledged Revenues subordinate to all other liens thereon present and future, except that the lien on the Pledged Revenues of any future loans from the Lenders/Grantors to the Borrower/Grantee pursuant to the Water Project Finance Act, secured by the Pledged Revenues shall be on a parity with this Loan/Grant; and

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

WHEREAS, 2012 N.M. Laws Ch. 17, being House Bill 95 of the 2012 Regular New Mexico Legislative Session, authorized the funding of the Project from the Water Project Fund; and

WHEREAS, the Borrower/Grantee will use the proceeds of the Loan/Grant to finance the cost of the Project; and

WHEREAS, the Water Trust Board has authorized the Finance Authority to enter into and administer this Agreement; and

WHEREAS, the Finance Authority on behalf of the Water Trust Board has determined that the Borrower/Grantee has met or will meet prior to the disbursement of any portion of the Loan/Grant Amount, the Conditions and readiness to proceed requirements established for the Loan/Grant by the Finance Authority and the Water Trust Board; and

WHEREAS, the Water Trust Board has determined that the Project is a Qualifying Water Project, is important to the overall needs of the citizens of the State and will directly enhance the health, safety and welfare of the constituent public served by the Borrower/Grantee; and

WHEREAS, the plans and specifications for the Project have been approved by the Finance Authority (or by the New Mexico Environment Department or other appropriate agency or entity on behalf of the Finance Authority, pursuant to an agreement between such agency or entity and the Finance Authority), and the plans and specifications for the Project incorporate available technologies and operational design for water use efficiency; and

WHEREAS, as planned and designed, the structural and material design life of the Project is not less than twenty (20) years; and

WHEREAS, for purposes of providing funding for the Project, the Governing Body of the Borrower/Grantee and the Water Trust Board have determined that it is in the best interests of the Borrower/Grantee and the constituent public it serves that the Borrower/Grantee borrow the Loan Amount from the Lenders/Grantors and that the Water Trust Board provide the Grant Amount to the Borrower/Grantee; and

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

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

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

ARTICLE I DEFINITIONS

The capitalized terms defined in this Article I shall have the meanings assigned therein, unless the context clearly requires otherwise.

“Act” means the general laws of the State, particularly the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10 (2001, as amended through 2011), and enactments of the Governing Body relating to the Loan/Grant Agreement, including the Resolution, all as amended and supplemented.

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which includes the total value of the soft or hard match which, in combination with the Loan/Grant Amount together with other moneys available to the Borrower/Grantee, is sufficient to complete the Project or to provide matching funds needed to complete the Project. The Additional Funding Amount is thirteen thousand five hundred dollars (\$13,500).

“Administrative Fee” means an amount equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

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

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

“Application” means the New Mexico Water Trust Board Application for Financial Assistance dated November 1, 2011 of the Borrower/Grantee and pursuant to which the Borrower/Grantee requested funding for the Project.

“Authorized Officers” means, with respect to the Borrower/Grantee, any one or more of the Chair, Vice-Chair, County Manager and County Clerk thereof; with respect to the Finance Authority, any one or more of the Chairperson, Vice-Chairperson, Secretary and Chief Executive Officer of the Finance Authority; and with respect to the Water Trust Board, any one or more of the Chairman or a Co-Chairman and the Secretary thereof, and any other officer or employee of the Finance Authority or of the Water Trust Board designated in writing by an Authorized Officer thereof.

“Board Rules” means Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC.

“Borrower/Grantee” means the Santa Fe County in Santa Fe County, New Mexico.

“Conditions” means the conditions to be satisfied prior to the disbursement of the Loan/Grant Amount or which otherwise apply to the performance of this Agreement including those set forth in the Term Sheet.

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

“Effective Date” or “Closing Date” means the date of execution of this Agreement by the Borrower/Grantee, the Water Trust Board and the Finance Authority.

“Eligible Fiscal Agent Fees” means fees and costs incurred by a fiscal agent for the administration of Project funds, including the collection and reporting of Project information as required by this Agreement, in an amount not exceeding five (5) percent of the Loan/Grant Amount. The total amount of the combined Eligible Fiscal Agent Fees and Eligible Legal Fees may not exceed ten (10) percent of the total Water Project Fund Financial Assistance.

“Eligible Items” means eligible Project costs for which grants and loans may be made pursuant to NMSA 1978, § 72-4A-7(C) of the Act, the Board Rules and applicable Policies, and includes Expenses.

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

amount of the combined Eligible Fiscal Agent Fees and Eligible Legal Fees may not exceed ten (10) percent of the total Water Project Fund Financial Assistance.

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

“Expense Account” means the account established pursuant to the Resolution and held by the Finance Authority to pay the Expenses incurred by the Lenders/Grantors in connection with the Loan/Grant Agreement and the Loan/Grant.

“Expenses” means the costs of the Lenders/Grantors of originating and administering the Loan/Grant, and includes Eligible Legal Costs and Eligible Fiscal Agent Fees to the extent allowed under the Act, the Board Rules, other applicable statutes and rules, and applicable Policies.

“Finance Authority” means the New Mexico Finance Authority.

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

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

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to this Agreement for the purpose of funding the Project and equals one hundred twenty-one thousand five hundred dollars (\$121,500).

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

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

“Lenders/Grantors” means the Water Trust Board and the Finance Authority.

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to this Agreement for the purpose of funding the Project and equals thirteen thousand five hundred dollars (\$13,500).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to this Agreement for the purpose of funding the Project.

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

"Net System Revenues" means the gross revenues of the water and wastewater utility system owned and operated by the Borrower/Grantee minus operation and maintenance expenses, indirect charges, amounts expended for capital replacement and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water and wastewater utility system.

"NMAC" means the New Mexico Administrative Code.

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

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

"Policies" means the Water Trust Board Water Project Fund Project Management Policies approved by the Water Trust Board and the Finance Authority, as amended.

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

"Project" means the project described in the Term Sheet.

"Project Account" means the book account established by the Finance Authority in the name of the Borrower/Grantee documenting the Loan/Grant Amount, as shown in the Term Sheet, which shall be kept separate and apart from all other accounts of the Finance Authority.

"Qualifying Water Project" means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to NMSA 1978, § 72-4A-9(B).

"Resolution" means the Borrower/Grantee's Resolution No. _____, adopted April 30, 2013, authorizing the execution of this Agreement.

"State" means the State of New Mexico.

"Term Sheet" means Exhibit "A" attached to this Agreement.

"Useful Life" means the structural and material design life of the Project including planning and design features, which shall not be less than twenty (20) years as required by the Act and the Board Rules.

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

“Water Trust Board” or “WTB” means the water trust board created and established pursuant to the Act.

ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

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

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

(b) No Personal Liability. No covenant, stipulation, obligation or agreement contained in this Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Borrower/Grantee or member of the Governing Body in his or her individual capacity, and neither the members of the Governing Body nor any officer executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

(c) Authorization of Agreement. The Borrower/Grantee is a qualifying entity as defined in the Act and the Board Rules. Pursuant to the laws of the State and in particular, laws governing its creation and existence, as amended and supplemented from time to time, the Borrower/Grantee is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The Borrower/Grantee has duly authorized and approved the execution and delivery of this Agreement and the other documents related to the transaction described in this Agreement.

(d) Nature and Use of Agreement Proceeds. The Borrower/Grantee acknowledges that the distribution of the proceeds of the Loan/Grant Amount shall be deemed to be a distribution to the Borrower/Grantee first of the Loan Amount and then, once an amount equal to the Loan Amount has been distributed, of the Grant Amount. The Borrower/Grantee shall apply the proceeds of the Loan/Grant solely to Eligible Items that will facilitate the completion of the Project as well as the payment of the Expenses, and shall not use the

Loan/Grant proceeds for any other purpose. The Loan/Grant Amount, together with the Additional Funding Amount and other moneys reasonably expected to be available to the Borrower/Grantee, is sufficient to complete the Project in its entirety and to pay the Expenses.

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

(f) Completion of Project; Compliance with Laws. The Project will consist of engineering and construction of a watershed Restoration and Management project which will include the purchase and installation of groundwater and surface water monitoring and recording equipment at locations along La Cienega Creek, Santa Fe River, Arroyo Hondo, Guicu Creek and Alamo Creek. The Project is more particularly described in the Term Sheet. The Project will be completed, operated and maintained so as to comply with all applicable federal, state and local laws, ordinances, resolutions and regulations relating to the acquisition, operation, maintenance and completion of the Project and to the use of the Loan/Grant proceeds.

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

(h) Legal, Valid and Binding Obligation. The Borrower/Grantee has taken all required action necessary to authorize the execution and delivery of this Agreement, and this Agreement constitutes a legal agreement of the Borrower/Grantee enforceable in accordance with its terms.

(i) Agreement Term Not Less than Useful Life. The Agreement Term is not less than the Useful Life of the Project, which is not less than twenty (20) years, as required by NMSA 1978, § 72-4A-7 of the Act.

(j) Benefit to Borrower/Grantee. During the Agreement Term, the Project will at all times be used for the purpose of benefiting the Borrower/Grantee and the constituent public it serves. The Borrower/Grantee intends to utilize the Project on a continuing basis and shall not sell or transfer the Project during the Useful Life of the Project, and the Project will be used solely in a manner consistent with the purposes of the Loan/Grant; provided that, if any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee shall, prior to any expenditure of the Loan/Grant funds for the Project, obtain the written agreement of such other qualifying entity to abide by these requirements with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by

such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

(k) Amount of Agreement. The sum of the Grant Amount, the Loan Amount and the Additional Funding Amount (and as set forth on the Term Sheet) does not exceed the cost of the Project and the Expenses.

(l) No Breach or Default Caused by Agreement. Neither the execution and delivery of this Agreement nor the fulfillment of or compliance with the terms and Conditions in the Agreement nor the consummation of the transactions contemplated herein conflicts with or results in a breach of terms, Conditions or provisions of any restriction or any agreement or instrument to which the Borrower/Grantee is a party or by which the Borrower/Grantee is bound or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Borrower/Grantee or its properties are subject, or constitutes a default under any of the foregoing.

(m) Irrevocability of Enactments. While this Agreement remains outstanding, any ordinance, resolution or other enactment of the Governing Body accepting the terms hereof, including the Resolution, shall be irrevocable until the Project has been fully acquired and completed, and shall not be subject to amendment or modification in any manner which would result in any use of the proceeds of this Agreement in a manner not permitted or contemplated by the terms hereof. The Borrower/Grantee shall not impair the rights of any holders of bonds or other obligations payable from the Net System Revenues while this Agreement is outstanding.

(n) No Litigation. To the knowledge of the Borrower/Grantee, no litigation or proceeding is pending or threatened against the Borrower/Grantee or any other person affecting the right of the Borrower/Grantee to execute this Agreement or to comply with its obligations hereunder. Neither the execution of this Agreement by the Borrower/Grantee nor compliance by the Borrower/Grantee with the obligations hereunder requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(o) Occurrence of Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Agreement, would constitute an Event of Default on the part of the Borrower/Grantee hereunder.

(p) Budgeting of Pledged Revenues; Approval by Department of Finance and Administration. The Borrower/Grantee anticipates that the Pledged Revenues will be sufficient to make the Loan Payments, as and when due. The Borrower/Grantee will adequately budget for the Loan Payments and other amounts payable by the Borrower/Grantee under this Agreement and will submit such budget on an annual basis to the Department of Finance and Administration for review and verification of compliance with this requirement.

(q) Borrower/Grantee's Existence. The Borrower/Grantee will maintain its legal identity and existence so long as this Agreement remains outstanding unless another political subdivision or State agency by operation of law succeeds to the liabilities, rights and

duties of the Borrower/Grantee under this Agreement without adversely affecting to any substantial degree the privileges and rights of the Lenders/Grantors.

(r) Use of Project; Continuing Covenant. The Borrower/Grantee shall not sell, lease, mortgage, pledge, relocate or otherwise dispose of or transfer the Project or any part of the Project during its Useful Life; provided, however, that if the Project is a joint project of the Borrower/Grantee and other qualifying entities (as defined by the Act), the Borrower/Grantee and the other qualifying entities may, with the express written approval of the Lenders/Grantors and not otherwise, enter into an agreement allocating ownership and operational and maintenance responsibilities for the Project during its Useful Life. Any, such agreement shall provide that the Lenders/Grantors, or either of them, shall have the power to enforce the terms of this Agreement, without qualification, as to each and every qualifying entity owning or operating any portion of the Project during its Useful Life. If any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee shall, prior to any use of the Loan/Grant funds for the Project on such real property, obtain the written agreement of such other qualifying entity to abide by these restrictions with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement. The provisions of this Section shall remain effective and enforceable by the Lenders/Grantors for the duration of the Useful Life of the Project.

(s) Maintenance of Separate Project Accounts. The Borrower/Grantee acknowledges that the Lenders/Grantors on behalf of the Borrower/Grantee shall maintain a Project Account or accounts. The Borrower/Grantee shall maintain financial records in accordance with Generally Accepted Accounting Principles during the construction or implementation of the Project.

(t) Title and Rights of Way. The Borrower/Grantee has title to, easements, rights of way or use permits on the real property upon which the Project is being constructed, located, completed or extended, and if any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, such other qualifying entity has title to such real property. As required by NMSA 1978, § 72-4A-7(A)(3) of the Act and the Board Rules as a Condition to any disbursement of the Loan/Grant Amount for Project construction, the Borrower/Grantee shall provide written assurance signed by an attorney or provide a title insurance policy ensuring that the Borrower/Grantee has proper title to, easements, rights of way or use permits on the real property upon or through which the Project is to be constructed, located, completed or extended. If any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee shall provide written assurance signed by an attorney or provide a title insurance policy ensuring that such other qualifying entity has proper title to such real property.

(u) Additional Funding Amount. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now

available to the Borrower/Grantee, or will become available to the Borrower/Grantee within six (6) months after the Closing Date, and in combination with the Loan/Grant Amount, will be sufficient to complete the Project. If any other additional expenses are incurred, the Borrower/Grantee shall be responsible for payment of such expenses.

(v) Audit Requirement. During the term of the Loan/Grant Agreement the Borrower/Grantee shall comply with the requirements of the State Audit Act, NMSA 1978, §§ 12-6-1 through 12-6-14 (1969, as amended through 2011). Upon request by the Finance Authority or the Water Trust Board, the Borrower/Grantee shall provide the requesting party a copy of any audit prepared pursuant to the State Audit Act.

Section 2.2 Representations, Covenants, Warranties and Findings of the Water Trust Board and the Finance Authority. The Water Trust Board and the Finance Authority represent, covenant and warrant for the benefit of the Borrower/Grantee as follows:

(a) Authority of Water Trust Board. The Water Trust Board has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Agreement and, by proper action, has duly authorized the execution and delivery of this Agreement.

(b) Authority of Finance Authority. The Finance Authority has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Agreement and, by proper action, has duly authorized the execution and delivery of this Agreement.

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

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

(e) Legal, Valid and Binding Obligation. This Agreement constitutes a legal, valid and binding obligation of the Water Trust Board and the Finance Authority enforceable in accordance with its terms.

(f) Importance of Project. The Project is important to the overall needs of the State and its citizens.

(g) Compliance with Policies. As related to this Agreement, the Finance Authority and the Water Trust Board have complied with all applicable Policies and procedures as adopted and approved by the Finance Authority and the Water Trust Board, as applicable, or such Policies and procedures have been waived by the Finance Authority or the Water Trust Board, as applicable.

ARTICLE III AGREEMENT TERM

The Agreement Term shall commence on the Closing Date and shall terminate at the end of the Useful Life of the Project, which in no event shall be less than twenty (20) years, as required by NMSA 1978, § 72-4A-7 of the Act.

ARTICLE IV LOAN/GRANT AMOUNT DISBURSEMENT CONDITIONS

Section 4.1 Conditions Precedent to Disbursement of Loan/Grant. Prior to the disbursement of the Loan/Grant Amount or any portion thereof, the following Conditions and readiness to proceed items shall be satisfied:

(a) The Finance Authority, on behalf of the Water Trust Board, shall have determined that the Borrower/Grantee has met the Conditions and readiness to proceed requirements established for the Loan/Grant by the Finance Authority and the Water Trust Board including any Conditions set out in the Term Sheet; and

(b) The Borrower/Grantee shall have provided written assurance addressed to the Water Trust Board and the Finance Authority and signed by an attorney (or shall have provided a title insurance policy) that the Borrower/Grantee has proper title to or easements, rights of way, or permits on the real property upon or through which the Project is to be constructed, located, completed or extended; and

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

(d) The plans and specifications for the Project shall have been approved by or on behalf of the Finance Authority as required by NMSA 1978, § 72-4A-7(B); and

(e) Except as otherwise expressly provided in the Conditions, the Borrower/Grantee shall have certified to the Lenders/Grantors that the Additional Funding Amount is available for the Project, and, in addition, shall have provided additional evidence reasonably acceptable to the Lenders/Grantors of the availability of the Additional Funding Amount; and

(f) The Borrower/Grantee shall be in compliance with the provisions of this Agreement.

Section 4.2 Determination of Eligibility Is Condition Precedent to Disbursement. No disbursement shall be made from the Project Account except upon a determination by the Finance Authority that such disbursement is for payment of Eligible Items, and that the disbursement does not exceed any limitation upon the amount payable for any Eligible Item pursuant to the Act, the Board Rules, and the Policies governing the Water Project Fund. The Finance Authority, as a condition precedent to making any requested disbursement, may require submittal of such documentation as the Finance Authority deems necessary, in its sole and absolute discretion, for a determination whether any requested disbursement is for payment of Eligible Items and is fully consistent with the Act, the Board Rules, and the applicable Policies.

ARTICLE V

LOAN TO THE BORROWER/GRANTEE; GRANT TO THE BORROWER/GRANTEE; APPLICATION OF MONEYS

Section 5.1 Loan and Grant to the Borrower/Grantee.

(a) Loan to the Borrower/Grantee. The Lenders/Grantors hereby lend to the Borrower/Grantee and the Borrower/Grantee hereby borrows from and agrees to pay to the order of the Lenders/Grantors, without interest, an amount equal to the Loan Amount, with the principal amount of the Loan Amount being payable as provided by Exhibit "C" of this Agreement. The Loan Amount shall be pre-payable by the Borrower/Grantee at any time without penalty.

(i) Subordinate Nature of Loan Amount and Administrative Fee Obligation. The obligation of the Borrower/Grantee to make the Loan Payments and to pay the Administrative Fee shall be subordinate to all other indebtedness secured by the Pledged Revenues existing on the Closing Date and, further, that may in the future be secured by the Pledged Revenues; except, however, that the obligation of the Borrower/Grantee to make the Loan Payments and to pay the Administrative Fee shall be on parity with any other obligation, present or future, of the Borrower/Grantee to repay a loan provided by the Lenders/Grantors pursuant to the Act.

(ii) Administrative Fee. The Borrower/Grantee shall, on an annual basis beginning June 1, 2014, pay to the Lenders/Grantors an administrative fee equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee as provided by this Agreement. Any such

Administrative Fee payment shall be due irrespective of whether or not a hardship waiver of payment is granted to the Borrower/Grantee for the principal payment otherwise due on June 1 of the applicable year or any other year.

(iii) Hardship Waivers of Payment. Each year while any portion of the Loan Amount remains outstanding, no later than April 1 of each such year, the Borrower/Grantee may apply in writing to the Finance Authority for a determination of whether the annual principal payment on the Loan Amount otherwise due on the upcoming June 1 of such year should be forgiven because such payment would cause undue hardship for the Borrower/Grantee or the constituent public it serves. Although such determination shall be made by the New Mexico Department of Finance and Administration (the "DFA"), the Borrower/Grantee shall submit such application to DFA through the Finance Authority for determination by DFA and shall submit with such application sufficient documentation of the existence of such undue hardship as is reasonably required by DFA (as determined by the Finance Authority and DFA) to make such determination, and the Borrower/Grantee shall promptly respond to additional requests for information from DFA or the Finance Authority. Such application shall be executed by the Authorized Officers of the Borrower/Grantee. For purposes of this Agreement and that determination, an "undue hardship" shall be deemed to exist if DFA determines that the Borrower/Grantee demonstrates economic need and the inability to pay on a timely basis such annual payment on the Loan Amount. DFA shall make such determination no later than May 15 of the applicable year, and the Finance Authority shall promptly communicate to the Borrower/Grantee in writing the results of such determination. Upon receipt of written notice of such determination, either the principal payment otherwise due on June 1 of such year shall be forgiven (in the event of a determination of undue hardship) or such principal payment shall remain outstanding and due and payable on such date (in the event no undue hardship is determined to exist).

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

(c) Project Account. The Finance Authority shall establish and maintain the Project Account as a book account only, on behalf of the Borrower/Grantee. The Borrower/Grantee hereby pledges to the Lenders/Grantors all its rights, title and interest in the Loan/Grant Amount including the Project Account, for the purpose of securing the Borrower/Grantee's obligations under this Agreement. The Loan/Grant Amount shall be disbursed as provided in Section 7.2 hereof.

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

Section 5.2 Application of Loan/Grant Amount. Following the determination by the Water Trust Board and/or the Finance Authority, as applicable, that the Conditions to the disbursement of the Loan/Grant Amount have been satisfied, the Finance Authority shall:

(a) when made available transfer to the Expense Account the amount necessary to pay the Expenses of the Lenders/Grantors, as shown on the Term Sheet; and

(b) make an entry in its accounts, and in particular in the Project Account reflecting the proceeds of the Loan/Grant Amount made available for disbursement to the Borrower/Grantee at its request, and as needed by it to acquire and complete the Project, as provided in Section 7.2 of this Agreement.

Section 5.3 Investment of Borrower/Grantee's Accounts. Money on deposit in the Borrower/Grantee's accounts created hereunder may be invested by the Finance Authority for the credit of the Water Project Fund.

ARTICLE VI LOAN PAYMENTS BY THE BORROWER/GRANTEE

Section 6.1 Payment Obligations Limited to Pledged Revenues; Pledge of the Pledged Revenues. The Borrower/Grantee promises to make the Loan Payments and to pay the Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided. The Borrower/Grantee does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right, title and interest of the Borrower/Grantee in and to (i) the Pledged Revenues to the extent required to make the Loan Payments, and to pay the Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided, subject to and subordinate to all other pledges of the Pledged Revenues existing on the Closing Date and, further, that may exist in the future (except only that the pledge of the Pledged Revenues herein shall be on a parity with any other pledge of the Pledged Revenues by the Borrower/Grantee to repay any obligations issued by the Lenders/Grantors pursuant to the Act), and (ii) all other rights hereinafter granted, for securing of the Borrower/Grantee's obligations under this Agreement, including payment of the Loan Amount, Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided, provided, however that if the Borrower/Grantee, its successors or assigns, shall well and truly pay, or cause to be paid the Loan Amount at the time and in the manner contemplated by this Agreement, according to the true intent and meaning hereof, the Administrative Fees and all other amounts due or to become due under this Agreement in accordance with its terms and provisions then, upon such final payment or provision for payment by the Borrower/Grantee, the provisions of this Agreement and the rights created thereby with respect to the Loan Amount shall terminate and the Lenders/Grantors shall give a written release or such other confirmation as may be necessary to remove any encumbrances upon the Pledged Revenues; otherwise, such provisions of this Agreement shall remain in full force and effect.

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Effective Date. The Borrower/Grantee, the Finance Authority, and the Water Trust Board acknowledge and agree that the obligations of the Borrower/Grantee hereunder are limited to the Pledged Revenues; and that this Agreement with respect to the Loan Amount, the Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided shall constitute a special, limited obligation of the Borrower/Grantee. No provision of this Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the

Borrower/Grantee within the meaning of any constitutional or statutory debt limitation. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Borrower/Grantee's moneys other than the Pledged Revenues, nor shall any provision of this Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Borrower/Grantee's moneys including the Pledged Revenues. In addition, the Pledged Revenues may be utilized by the Borrower/Grantee for any other purposes permitted by law.

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

Section 6.3 Manner of Payment. All payments of the Borrower/Grantee hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 of this Agreement. The obligation of the Borrower/Grantee to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Borrower/Grantee and the Finance Authority, any vendor or any other person, the Borrower/Grantee shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Borrower/Grantee assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

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

Section 6.5 Lenders/Grantors' Release of Lien and Further Assurances. Upon payment in full of the Loan Amount, Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided in this Agreement the Lenders/Grantors agree to execute a release of lien and to give such further assurances as are reasonably necessary to ensure that the Lenders/Grantors no longer hold or maintain any lien or claim against the Pledged Revenues.

ARTICLE VII THE PROJECT

Section 7.1 Agreement to Acquire, Complete and Maintain the Project.

(a) The Borrower/Grantee hereby agrees that in order to effectuate the purposes of this Agreement and to acquire and complete the Project it shall take such steps as are necessary and appropriate to acquire, complete and operate the Project lawfully and efficiently. The Project shall be constructed and completed substantially in accordance with the approved plans and specifications, and shall fully incorporate the available technologies and operational

design for water use efficiency described in the approved plans and specifications. No Loan/Grant funds shall be used for items not constituting Eligible Items.

(b) As provided by NMSA 1978, § 72-4A-7(A)(1) of the Act, the Borrower/Grantee shall operate and maintain the Project in good operating condition and repair at all times during the Useful Life of the Project, which shall in no event be less than twenty (20) years, so that the Project will function properly over the Useful Life of the Project; provided, that if any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee may, prior to any use of the Loan/Grant funds for the Project on such real property, obtain the written agreement of such other qualifying entity to perform these obligations with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall be subject to approval by the Lenders/Grantors and shall include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

Section 7.2 Disbursements from the Project Account. So long as no Event of Default shall occur and provided that all Conditions to the disbursement of the Loan/Grant Amount have been satisfied, the Finance Authority shall disburse moneys from the Loan/Grant Amount upon receipt by the Finance Authority of a requisition substantially in the form of Exhibit "B" attached hereto signed by an Authorized Officer of the Borrower/Grantee, supported by certification by the Borrower/Grantee's project architect, engineer, or such other authorized representative of the Borrower/Grantee that the amount of the disbursement request represents the progress of construction, acquisition or other Project-related activities accomplished as of the date of the disbursement request, and the Finance Authority shall make the appropriate entry in the Project Account reflecting the disbursement. Such certification must be acceptable in form and substance to the Finance Authority and, at its request, the Water Trust Board. The Borrower/Grantee shall provide such records or access to the Project as the Finance Authority, and, at its request, the Water Trust Board, in the discretion of each, may request in connection with the approval of the Borrower/Grantee's disbursement requests made hereunder.

Section 7.3 No Disbursement for Prior Expenditures Except upon Approval. No disbursement shall be made of the Loan/Grant Amount, or any portion thereof, without the approval of the Finance Authority and, at its request, the Water Trust Board, to reimburse any expenditure made prior to the Effective Date.

Section 7.4 Borrower/Grantee Reporting to Lenders/Grantors. During the acquisition and construction of the Project, the Borrower/Grantee shall provide the Lenders/Grantors with a quarterly written report executed by an Authorized Officer of the Borrower/Grantee, in the form attached as Exhibit "D" hereto or in another form reasonably acceptable to the Lenders/Grantors, describing the status of the Project as of the report date, uses of Loan/Grant funds during the quarterly period ending on the report date, and requests for distributions of Loan/Grant funds anticipated to occur during the quarterly period immediately following the report date. The first quarterly report shall be due on June 30, 2013, and subsequent reports shall be due on each March 31, June 30, September 30 and December 31 thereafter until the report date next

following final distribution of the Loan/Grant funds. No reports shall be required after the report date next following final distribution of the Loan/Grant Funds, unless specifically required by the Finance Authority or the Water Trust Board. The description of the status of the Project in each quarterly report shall include, among other information, (a) a comparison of actual and anticipated requests for distributions of Loan/Grant funds as of the report date with those anticipated as of the Closing Date, (b) a description of actual and anticipated changes in the cost estimates for the Project as of the report date compared with those anticipated as of the Closing Date, and (c) a description of the percentage of completion of the Project.

Section 7.5 Completion of Disbursement of Loan/Grant Funds. Upon completion of disbursement of Loan/Grant funds, an Authorized Officer of the Borrower/Grantee shall deliver a certificate to the Finance Authority and the Water Trust Board, substantially in the form of Exhibit "E" attached hereto, stating that, to his or her knowledge, the Project has been completed and Loan/Grant funds needed for the Project have been disbursed in accordance with the terms of this Agreement. No Loan/Grant funds shall be disbursed after the date which is three (3) years from the Effective Date or unless a later date is approved by an Authorized Officer of the Water Trust Board and an Authorized Officer of the Finance Authority, if the funds from the Water Project Fund utilized to make the Loan/Grant are the proceeds of tax exempt Severance Tax Bonds issued pursuant to NMSA 1978, § 7-27-10.1 (2010), and appropriated to the Water Project Fund as provided by NMSA 1978, § 7-27-10.1, the earlier of such date or the date which is three (3) years from the date of issuance of such Severance Tax Bonds unless a later date is approved by an Authorized Officer of the Water Trust Board and an Authorized Officer of the Finance Authority.

Section 7.6 Application of Project Account Subsequent to Disbursement of Loan/Grant Funds; Termination of Pledge. Upon the first to occur of either (a) completion of the disbursement of Loan/Grant funds as signified by delivery of the completion certificate contemplated in Section 7.5 hereof; or (b) the expiration of time allowed for disbursements of Loan/Grant funds as provided in Section 7.5 hereof, the Finance Authority shall, to the extent such remaining amount represents the proceeds of Severance Tax Bonds issued pursuant to NMSA 1978, § 7-27-10.1 (2010), transfer the amounts remaining on deposit in the Project Account to the Water Project Fund, to the state agency responsible for administering the Severance Tax Bonding Fund created by NMSA 1978, § 7-27-2 (1985), and shall transfer such other unexpended amounts to such other fund permitted by law as may be established by the Water Trust Board, the Finance Authority or an agency of the State having authority to establish such fund and shall make the appropriate entry in the Project Account. Upon such entry, the pledge of the Project Account established in this Loan/Grant Agreement shall terminate.

ARTICLE VIII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

Section 8.1 Further Assurances and Corrective Instruments. The Lenders/Grantors and the Borrower/Grantee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention hereof.

Section 8.2 Representatives of Lenders/Grantors or of Borrower/Grantee. Whenever under the provisions hereof the approval of the Lenders/Grantors, collectively or individually, or the Borrower/Grantee is required, or the Borrower/Grantee, or the Lenders/Grantors, collectively or individually, are required to take some action at the request of any of them, such approval or such request shall be given for the Lenders/Grantors, collectively or individually, or for the Borrower/Grantee, by an Authorized Officer of the Lenders/Grantors, collectively or individually, or the Borrower/Grantee, as the case may be, and any party hereto shall be authorized to act on any such approval or request.

Section 8.3 Requirements of Law. During the Agreement Term, the Borrower/Grantee shall observe and comply promptly with all applicable federal, State and local laws and regulations affecting the Project, and all current and future orders of all courts having jurisdiction over the Borrower/Grantee with regard to the Project.

Section 8.4 Selection of Contractors. All contractors providing services or materials in connection with the Project shall be selected in accordance with applicable provisions of the New Mexico Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199 (1984, as amended through 2012), or, if the Borrower/Grantee is not subject to the New Mexico Procurement Code, shall be selected in accordance with a documented procurement process duly authorized and established pursuant to laws and regulations applicable to the Borrower/Grantee.

Section 8.5 Required Contract Provisions. The Borrower/Grantee shall require the following provisions in any contract or subcontract executed in connection with the Project to which the Borrower/Grantee is a party:

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

(b) Any contractor or subcontractor providing construction services in connection with the Project shall post a performance and payment bond in accordance with the requirements of NMSA 1978, § 13-4-18 (1987).

Section 8.6 Expeditious Completion of the Project. The Borrower/Grantee shall complete the Project with all practical dispatch.

ARTICLE IX INSURANCE; NON-LIABILITY OF LENDERS/GRANTORS

Section 9.1 Insurance. The Borrower/Grantee shall carry general liability insurance or participate in the State's risk-management program and, to the extent allowed by the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 through 41-4-30 (1976, as amended through 2010), shall and hereby agrees to name the Lenders/Grantors as additional insureds with respect to all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition, completion or implementation of the Project or otherwise during the Agreement Term; provided, that if any portion of the Project will be constructed, located, completed or

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

Section 9.2 Non-Liability of Lenders/Grantors.

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

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

**ARTICLE X
EVENTS OF DEFAULT AND REMEDIES**

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

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

(b) Failure by the Borrower/Grantee to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower/Grantee by the Lenders/Grantors, collectively or individually, unless the Lenders/Grantors, collectively or individually shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Lenders/Grantors but cannot be cured within the applicable thirty (30) day period, the Lenders/Grantors, collectively or individually, will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Borrower/Grantee within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Borrower/Grantee is unable to carry out the agreements on its part herein contained, the Borrower/Grantee shall not be deemed in default under this paragraph 10.1(b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default); or

(c) Any warranty, representation or other statement by or on behalf of the Borrower/Grantee contained in this Agreement or in any instrument furnished in compliance

with or in reference to this Agreement is determined to be false or misleading in any material respect.

Section 10.2 Limitations on Remedies. A judgment requiring payment of money entered against the Borrower/Grantee shall be paid from only available Pledged Revenues unless the Borrower/Grantee in its sole discretion pays the judgment from other available funds.

Section 10.3 Remedies on Default. Whenever any Event of Default has occurred and is continuing and subject to Section 10.2 hereof, the Lenders/Grantors, collectively or individually, may take whatever of the following actions may appear necessary or desirable to enforce performance of any agreement of the Borrower/Grantee in this Agreement:

(a) by mandamus or other action or proceeding or suit at law or in equity compel the Borrower/Grantee to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or

(b) by suit in equity enjoin any acts or things which are unlawful or violate the rights of the Lenders/Grantors, collectively or individually; or

(c) by whatever other action at law or in equity may appear necessary or desirable to collect amounts then due under this Agreement or enforce any other of its rights hereunder; or

(d) by causing the Borrower/Grantee to account as if it were the trustee of an express trust for all of the Pledged Revenues; or

(e) by applying any amounts in the Project Account toward satisfaction of any of the obligations of the Borrower/Grantee under this Agreement other than repayment of the Loan or payment of any Administrative Fee due under this Agreement.

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

Section 10.5 Waivers of Events of Default. The Lenders/Grantors, collectively or individually, may, in the respective discretion of each, waive any Event of Default hereunder and the consequences of any such Event of Default; provided, however, all expenses of the Lenders/Grantors, collectively or individually, in connection with such Event of Default shall have been paid or provided for. Such waiver shall be effective only if made by a written statement of waiver issued by the Finance Authority and the Water Trust Board. In case of any

such waiver or rescission, or in case any proceeding taken by the Lenders/Grantors, collectively or individually, on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Lenders/Grantors shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

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

ARTICLE XI MISCELLANEOUS

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

If to the Borrower/Grantee, to:

Santa Fe County
Attn.: County Manager
P.O. Box 276
Santa Fe, New Mexico 87504

If to the Water Trust Board or to the Finance Authority, then to:

New Mexico Finance Authority
Attn.: Chief Executive Officer
207 Shelby Street
Santa Fe, New Mexico 87501

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

Section 11.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Lenders/Grantors and the Borrower/Grantee and their respective successors and assigns, if any.

Section 11.3 Integration. This Agreement and any other agreements, certifications and commitments entered into between the Lenders/Grantors and the Borrower/Grantee on the Effective Date constitute the entire agreement of the parties regarding the Loan/Grant and the funding of the Project through the Loan/Grant as of the Effective Date, and the terms of this Agreement supersede any prior applications, discussions, understandings or agreements between

or among the parties in connection with the Loan/Grant, to the extent such prior applications, discussions, understandings or agreements are inconsistent with this Agreement.

Section 11.4 Amendments. This Agreement may be amended only with the written consent of all of the parties hereto. The consent of the Finance Authority for amendments not affecting the terms of payment of the loan component of this Agreement may be given by an Authorized Officer of the Finance Authority. The execution of any such consent by and Authorized Officer of the Finance Authority shall constitute his or her determination that such amendment does not affect the terms of payment of the loan component of this Agreement.

Section 11.5 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Lenders/Grantors, either directly or through the Finance Authority or the Water Trust Board, or against any officer, employee, director or member of the Borrower/Grantee, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director or member of the Borrower/Grantee, the Water Trust Board or of the Finance Authority is hereby expressly waived and released by the Borrower/Grantee, the Water Trust Board and the Finance Authority as a condition of and in consideration for the execution of this Agreement.

Section 11.6 Severability. In the event that any provision of this Agreement, other than the obligation of the Borrower/Grantee to make the Loan Payments and the Administrative Fee hereunder, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.7 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.8 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

Section 11.9 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 11.10 Application of Act and Board Rules. The Lenders/Grantors and the Borrower/Grantee expressly acknowledge that this Agreement is governed by provisions and requirements of the Act and the Board Rules, as amended and supplemented, and all applicable provisions and requirements of the Act and the Board Rules are incorporated into this Agreement by reference.

[Remainder of page intentionally left blank.]

[Signature pages follow.]

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, which was approved by the Water Trust Board on April 25, 2012 and by the Finance Authority's Board of Directors on June 22, 2012, in their respective corporate names with their corporate seals affixed hereto and attested by their duly authorized officers; and the Borrower/Grantee has caused this Agreement to be executed and attested by duly authorized officers thereof. All of the above are effective as of the date first above written.

LENDERS/GRANTORS:

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

ATTEST:

By _____

NEW MEXICO WATER TRUST BOARD

By _____
Chairman or Co-Chairman

Prepared for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

VIRTUE NAJJAR & BROWN, PC
As Loan/Grant Counsel

By _____
Richard L. C. Virtue

Approved for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

By _____
Daniel C. Opperman
Finance Authority General Counsel

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, which was approved by the Water Trust Board on April 25, 2012 and by the Finance Authority's Board of Directors on June 22, 2012, in their respective corporate names with their corporate seals affixed hereto and attested by their duly authorized officers; and the Borrower/Grantee has caused this Agreement to be executed and attested by duly authorized officers thereof. All of the above are effective as of the date first above written.

LENDERS/GRANTORS:

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

ATTEST:

By _____

NEW MEXICO WATER TRUST BOARD

By _____
Chairman or Co-Chairman

Prepared for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

VIRTUE NAJJAR & BROWN, PC
As Loan/Grant Counsel

By _____
Richard L. C. Virtue

Approved for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

By _____
Daniel C. Opperman
Finance Authority General Counsel

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, which was approved by the Water Trust Board on April 25, 2012 and by the Finance Authority's Board of Directors on June 22, 2012, in their respective corporate names with their corporate seals affixed hereto and attested by their duly authorized officers; and the Borrower/Grantee has caused this Agreement to be executed and attested by duly authorized officers thereof. All of the above are effective as of the date first above written.

LENDERS/GRANTORS:

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

ATTEST:

By _____

NEW MEXICO WATER TRUST BOARD

By _____
Chairman or Co-Chairman

Prepared for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

VIRTUE NAJJAR & BROWN, PC
As Loan/Grant Counsel

By _____
Richard L. C. Virtue

Approved for Execution by Officers of the
New Mexico Finance Authority and the
New Mexico Water Trust Board:

By _____
Daniel C. Opperman
Finance Authority General Counsel

BORROWER/GRANTEE:

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: *Rebecca L. O'Neil* *scn*

Date: *April 4, 2013* *smh 4/2/13*

BORROWER/GRANTEE:

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: *Geraldine Salazar*

Date: *April 1, 2013* *gentz 4/2/13*

BORROWER/GRANTEE:

SANTA FE COUNTY, NEW MEXICO

By _____
Kathleen S. Holian, Chair

ATTEST:

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: *[Signature]*

Date: *April 1, 2013*
only 4/1/13

EXHIBIT "A"

TERM SHEET

**\$135,000 WATER PROJECT LOAN/GRANT TO
SANTA FE COUNTY, NEW MEXICO**

Project Description: The Project consists of the engineering and construction of a watershed restoration and management project which will include the purchase and installation of groundwater and surface water monitoring and recording equipment at locations along La Cienega Creek, Santa Fe River, Arroyo Hondo, Guicu Creek and Alamo Creek. The Project may be further described in the Application and in the final plans and specifications for the Project approved by the Water Trust Board and the Finance Authority as provided by this Agreement. However, in the event of any inconsistency, the description of the Project as stated in this Term Sheet shall control.

Grant Amount: \$121,500

Loan Amount: \$13,500

Pledged Revenues: Net System Revenues.

Currently Outstanding
Senior Obligations for
Pledged Revenues: None.

Outstanding Parity

Obligations: NMFA Water Trust Board Loan 227-WTB, Matures

06/2022; NMFA Water Trust Board Loan 257-WTB,

Matures 06/2033;

Authorizing Legislation: Borrower/Grantee Resolution No. _____,
Adopted April 30, 2013

Additional Funding Amount: \$13,500

Loan/Grant Agreement A-1
Santa Fe County Loan/Grant No. 258-WTB

Effective Date: June 7, 2013

Project Account Deposit: \$135,000

Expense Account Deposit: \$0

Conditions to be satisfied prior to first disbursement of Loan/Grant funds: Delivery to Finance Authority of (i) a copy of the agenda of the meeting of the Governing Body at which the Resolution was adopted and at which this Agreement, the Resolution and all other Loan/Grant documents were authorized by the Governing Body (the "Meeting"), certified as a true and correct copy by the County Clerk of the Borrower/Grantee, (ii) a copy of the minutes or record of proceedings of the Meeting, approved and signed by the Chair and attested to by the County Clerk of the Borrower/Grantee, and (iii) a copy of the notice of meeting for the Meeting evidencing compliance with the Borrower/Grantee's Open Meetings standards in effect on the date of the Meeting.

Other Conditions applicable to the Loan/Grant: Conditions set forth in the Loan/Grant Agreement.

EXHIBIT "B"

FORM OF REQUISITION

RE: \$135,000 Loan/Grant Agreement by and between the Water Trust Board and the Finance Authority, as Lenders/Grantors, and the Santa Fe County, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 258-WTB

Closing Date: June 7, 2013

TO: NEW MEXICO FINANCE AUTHORITY

You are hereby authorized to disburse from the Project Account – Santa Fe County with regard to the above-referenced Loan/Grant Agreement the following:

REQUISITION NUMBER: _____

NAME AND ADDRESS OF PAYEE: _____

WIRING INFORMATION

BANK NAME:	
ACCOUNT NUMBER:	
ROUTING NUMBER:	

AMOUNT OF PAYMENT: \$ _____

PURPOSE OF PAYMENT: _____

ELIGIBLE ITEM CATEGORY (See below): _____

DATED: _____

By: _____
Authorized Officer

Title: _____

Each obligation, item of cost or expense mentioned herein is for a loan/grant made by the Lenders/Grantors pursuant to the Water Project Finance Act to the Borrower/Grantee within the State of New Mexico, is due and payable, has not been the subject of any previous requisition and is a proper charge against the Project Account – Santa Fe County. All representations contained in the Loan/Grant Agreement and the related closing documents remain true and correct and the Borrower/Grantee is not in breach of any of the covenants contained therein.

The proceeds of the Loan/Grant have been or will be used to pay the costs of Eligible Items, as defined in the Loan/Grant Agreement. Eligible Items are (1) matching requirements for federal and local cost shares, (2) engineering feasibility reports, (3) contracted engineering design, (4) inspection of construction, (5) special engineering services, (6) environmental or archeological surveys, (7) construction, (8) land acquisition, (9) easements and rights of way, (10) Eligible Legal Costs and (11) Eligible Fiscal Agent Fees, subject to limitations as set forth in the Loan/Grant Agreement.

All construction and acquisition of equipment with proceed of the Loan/Grant has or will be used in accordance with plans and/or specifications approved by the New Mexico Environment Department and/or the Office of the State Engineer and in compliance with applicable procurement laws and regulations and has or will be inspected and approved in accordance with applicable laws and regulations.

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

EXHIBIT "C"

PAYMENT PROVISIONS OF THE LOAN

The Loan Amount shall be payable by the Borrower/Grantee to the Lenders/Grantors in ten (10) annual installments of principal pursuant to the attached debt service schedule, beginning June 1, 2014 and ending June 1, 2023. The Loan Amount shall be prepayable at any time without penalty. The Administrative Fee shall be due and payable annually on June 1 of each year while the Loan, or any portion thereof, remains outstanding.

EXHIBIT "E"

FORM OF CERTIFICATE OF COMPLETION

RE: \$135,000 Loan/Grant Agreement by and between the Water Trust Board and the Finance Authority, as Lenders/Grantors, and the Santa Fe County, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 258-WTB

Closing Date: June 7, 2013

TO: NEW MEXICO FINANCE AUTHORITY

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

Borrower/Grantee, hereby certify as follows:

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

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

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

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

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

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

SANTA FE COUNTY, NEW MEXICO

By: _____

Its: _____

\$135,000
SANTA FE COUNTY, NEW MEXICO
WATER PROJECT FUND LOAN/GRANT
NO. 258-WTB

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

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Chair and County Clerk for the Santa Fe County (the "Borrower/Grantee") in the State of New Mexico (the "State"):

Capitalized terms used in this Certificate have the same meaning as defined in Resolution No. _____ adopted by the Governing Body of the Borrower/Grantee on April 30, 2013 (the "Resolution") unless otherwise defined in this Certificate or the context requires otherwise.

1. The Borrower/Grantee is a duly organized and existing county under the laws of the State of New Mexico.

2. From at least January 1, 2013 to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers of the Borrower/Grantee:

Chair: Kathleen S. Holian (District 4)

Vice Chair: Danny Mayfield (District 1)

Commissioners: Miguel M. Chavez (District 2)
Robert Anaya (District 3)
Liz Stefanics (District 5)

County Manager: Katherine Miller

County Attorney: Stephen Ross

County Clerk: Geraldine Salazar

3. Based on data collected during the 2010 Census, the population of Santa Fe County is less than 75% English speaking and less than 75% Spanish Speaking.

4. The *Santa Fe New Mexican*, a newspaper of general circulation in Santa Fe County, is published primarily in English.

5. There is no reason within our knowledge why the Borrower/Grantee may not enter into the Loan/Grant Agreement with the New Mexico Finance Authority and the Water Trust Board, as authorized by the Resolution.

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

7. To our knowledge, none of the events of default referred to in Article X of the Loan/Grant Agreement has occurred.

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

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

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

11. To our knowledge, neither the Chair, the County Clerk, any member of the Governing Body of the Borrower/Grantee, nor any other officer, employee or other agent of the Borrower/Grantee is interested (except in the performance of his or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.

12. Regular meetings of the Borrower/Grantee's Governing Body and the meeting at which the Resolution was adopted have been held in the County Commission Chambers located at 102 Grant Avenue Santa Fe, New Mexico, the principal meeting place of the Borrower/Grantee.

13. The Borrower/Grantee's Governing Body has no rules of procedure which would invalidate or make ineffective the Resolution or other action taken by the Borrower/Grantee's Governing Body in connection with the Loan/Grant Agreement. The Open Meetings Act Resolution adopted and approved by the Governing Body on January 8, 2013 establishes notice standards for meetings of the Governing Body. The Open Meetings Act Resolution has not been amended or repealed. All action of the Governing Body with respect to the Resolution and the

Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution.

14. The Chair and the County Clerk, on the date of the signing of the Loan/Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Borrower/Grantee authorized to execute the Loan/Grant Agreement.

15. This Certificate is for the benefit of the Finance Authority and the Water Trust Board.

16. This Certificate may be executed in counterparts.

WITNESS our signatures and the seal of the Borrower/Grantee this 7th day of June, 2013.

SANTA FE COUNY, NEW MEXICO

(SEAL)

By _____
Kathleen S. Holian, Chair

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: *[Signature]*

Date: *April 1, 2013*
sent 4/2/13

Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution.

14. The Chair and the County Clerk, on the date of the signing of the Loan/Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Borrower/Grantee authorized to execute the Loan/Grant Agreement.

15. This Certificate is for the benefit of the Finance Authority and the Water Trust Board.

16. This Certificate may be executed in counterparts.

WITNESS our signatures and the seal of the Borrower/Grantee this 7th day of June, 2013.

SANTA FE COUNY, NEW MEXICO

(SEAL)

By _____
Kathleen S. Holian, Chair

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: Robert A. [Signature]

Date: April 1, 2013
July 9/13

Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution.

14. The Chair and the County Clerk, on the date of the signing of the Loan/Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Borrower/Grantee authorized to execute the Loan/Grant Agreement.

15. This Certificate is for the benefit of the Finance Authority and the Water Trust Board.

16. This Certificate may be executed in counterparts.

WITNESS our signatures and the seal of the Borrower/Grantee this 7th day of June, 2013.

SANTA FE COUNY, NEW MEXICO

(SEAL)

By _____
Kathleen S. Holian, Chair

By _____
Geraldine Salazar, County Clerk

Approved as to form

Santa Fe County Attorney

By: [Signature] SCA

Date: April 1, 2013
gmk 4/2/13

\$135,000
SANTA FE COUNTY
SANTA FE COUNTY, NEW MEXICO
WATER PROJECT FUND LOAN/GRANT
NO. 258-WTB

RIGHT-OF-WAY CERTIFICATE

The undersigned on behalf of the Santa Fe County (the "Borrower/Grantee"), a county in the County of Santa Fe and the State of New Mexico, hereby certifies except as noted in item 4 below:

1. That the Borrower/Grantee is the owner in fee simple of the lands needed for the construction, operation, and maintenance of the facilities to be installed, repaired, or enlarged with the proceeds of the above-referenced Loan/Grant made by the New Mexico Finance Authority and the New Mexico Water Trust Board (the "Project"), or that the Borrower/Grantee has acquired and presently holds continuous and adequate rights-of-way on lands owned by others that are needed for the Project, whether public or private, and such omissions, defects, or restrictions as may exist will in no substantial way or manner endanger the value or the operation of the Project.
 2. That the Borrower/Grantee has acquired all necessary permits, franchises, and authorizations or other instruments by whatsoever name designated, from public utilities and public bodies, commissions, or agencies authorizing the construction, operation, and maintenance of the facilities upon, along or across streets, roads, highways, and utility corridors.
 3. That the attached map or plat shows the location of all lands and rights-of-way needed for the Project, which lands and rights-of-way the Borrower/Grantee has acquired and now holds by purchase or dedication, by right of use or adverse possession, or by legal conveyances such as right-of-way or easement deeds, permits, or other instruments.
 4. Exceptions: None.
-

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned has executed this Certificate on behalf of the Santa Fe County as of this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

IN WITNESS WHEREOF, the undersigned has executed this Certificate on behalf of the Santa Fe County as of this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

IN WITNESS WHEREOF, the undersigned has executed this Certificate on behalf of the Santa Fe County as of this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

NEW MEXICO FINANCE AUTHORITY

FINAL OPINION OF COUNSEL

To: New Mexico Finance Authority
207 Shelby Street
Santa Fe, New Mexico 87501

Re: Santa Fe County, Santa Fe County, New Mexico
\$135,000 Loan/Grant No. 258-WTB

Ladies and Gentlemen:

I am an attorney representing the Santa Fe County (the "Borrower/Grantee") in connection with the above-referenced Loan/Grant. I am licensed to practice law and in good standing in the State of New Mexico. I provide this opinion in my role as counsel to the Borrower/Grantee, understanding that the New Mexico Finance Authority and the New Mexico Water Trust Board (the "Lenders/Grantors") are relying on all representations herein made by me on behalf of my client and but for these representations, the Loan/Grant would not be approved.

Capitalized terms used in this Opinion have the same meaning as defined in Resolution No. _____ adopted by the Governing Body of the Borrower/Grantee on April 30, 2013 (the "Resolution") unless otherwise defined in this Opinion or the context requires otherwise.

I hereby certify that I have examined:

- (1) The Santa Fe County Water Project Fund Application dated November 1, 2011 and the New Mexico Water Trust Board Approval dated April 25, 2012 for Loan/Grant No. 258-WTB (the "Application" and the "Approval," respectively), relating to the Project.
- (2) The incorporation documents creating the Borrower/Grantee.
- (3) The Annual Open Meetings Act Resolution or resolutions of the Borrower/Grantee in effect on April 30, 2013 and on June 7, 2013.
- (4) The proceedings of the Governing Body (including all agendas, minutes, resolutions, ordinances and publications) which authorize the Loan/Grant application, the Project development, the budget for the Project, and the contracts with the various Project professionals including but not limited to architects, engineers, planners and contractors.
- (5) Corporate proceedings of the Borrower/Grantee from the date of the Application to the date of this Opinion, including, without limiting the generality of the foregoing, the corporate action of the Borrower/Grantee relating to (a) the selection of its

Chair, Board of County Commissioners, and County Clerk; (b) the adoption of the Borrower/Grantee's Annual Open Meetings Act Resolution or resolutions; (c) the adoption of ordinances or resolutions governing the operation of the Project; (d) the plans and specifications for the Project; (e) cost estimates for the Project; (f) the adoption of ordinances, resolutions and regulations for the furnishing of service to customers; (g) the proposed operating budget for services to be provided, in whole or in part, by means of the Project; (h) the proposal to finance the Project, in whole or in part, with a Loan/Grant made by the Water Trust Board, acting through the Finance Authority; (i) the Resolution authorizing the Chair to execute necessary documents to obtain the Loan/Grant for the Project; (j) all necessary approvals for the Project from federal, State or local authorities; and (k) the execution and delivery of the Loan/Grant Agreement evidencing such Loan/Grant.

- (6) The Resolution and the Loan/Grant Agreement providing that Loan/Grant funds will be deposited to the Project Account held by the Finance Authority on behalf of the Borrower/Grantee and drawdowns out of the Project Account will only be on written authorization of the Borrower/Grantee's Authorized Officers after certification of completion of the work in a satisfactory manner by a licensed professional engineer, architect or other authorized representative contractually obligated to the Borrower/Grantee, and only to pay Eligible Items (as defined in the Loan/Grant Agreement).
- (7) The records and files of all offices in which there might be recorded, filed, or indexed, any liens of any nature whatsoever, affecting the title to any real property to be acquired with the Loan/Grant proceeds, or on which will be located any Project property to be acquired with the Loan/Grant proceeds.

Based upon my examination of the foregoing, it is my opinion that:


- A. The Borrower/Grantee is a duly organized and existing county under the laws of the State of New Mexico.
- B. The ordinances, resolutions, rules and regulations governing the operation of the Project have been duly adopted and are now in full force and effect.
- C. The Authorized Officers of the Borrower/Grantee were duly and validly elected or appointed and are empowered to act for the Borrower/Grantee.
- D. The Borrower/Grantee has corporate power:
 - (1) to acquire, construct and complete the Project;
 - (2) to execute and deliver Loan/Grant documents including those identified above;
 - (3) to perform all acts required by such Loan/Grant documents to be done by it; and

- (4) to own, operate and maintain the Project during its Useful Life.
- E. All proceedings of the Borrower/Grantee, its elected and appointed officers, and employees, required or necessary to be taken in connection with the authorization of the actions specified above have been duly taken and all such authorizations are presently in full force and effect.
- F. The Resolution has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Resolution. The Resolution constitutes valid and sufficient legal authority for the Borrower/Grantee to carry out and enforce the provisions of the Loan/Grant Agreement.
- G. To my knowledge after due investigation, no event will result from the execution and delivery of the Loan/Grant Agreement that constitutes a default or an event of default under either the Loan/Grant Agreement or the Resolution, and no event of default and no default under the Loan/Grant Agreement or the Resolution has occurred and is continuing on the date of this Opinion.
- H. To my knowledge after due investigation, the Borrower/Grantee has duly authorized and approved the consummation by it of all transactions, and has complied with all requirements and satisfied all conditions, which are required by the Loan/Grant Agreement to have been authorized, approved, performed or consummated by the Borrower/Grantee at or prior to the date of this Opinion. The Borrower/Grantee has full legal right, power and authority to carry out and consummate the transactions contemplated by the Resolution and the Loan/Grant Agreement.
- I. To my knowledge after due investigation, all approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the enforceability of the Loan/Grant Agreement or any of the actions required to be taken by the Resolution or the Loan/Grant Agreement to the date of this Opinion have been obtained and are in full force and effect.
- J. To my knowledge after due investigation, neither the Borrower/Grantee's adoption of the Resolution nor any action contemplated by or pursuant to the Resolution or the Loan/Grant Agreement does or will conflict with, or constitutes a breach by the Borrower/Grantee of, or default by the Borrower/Grantee under any law, court decree or order, governmental regulation, rule or order, ordinance, resolution, agreement, indenture, mortgage or other instrument to which the Borrower/Grantee is subject or by which it is bound.
- K. To my knowledge after due investigation, there is no actual or threatened action, suit, proceeding, inquiry or investigation against the Borrower/Grantee, at law or in equity, by or before any court, public board or body, nor to my knowledge, is there any basis therefore, affecting the existence of the Borrower/Grantee or the titles of its officials to their respective offices, or in any way materially adversely affecting or questioning (a)

the territorial jurisdiction of the Borrower/Grantee, (b) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain costs of the Finance Authority and the Water Trust Board associated with the administration of the Water Project Fund, (c) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee with respect to the Resolution or the Loan/Grant Agreement, (d) the execution and delivery of the Loan/Grant Agreement, (e) the authority of the Borrower/Grantee to repay the Loan Amount, or (f) the power of the Borrower/Grantee to carry out the transactions contemplated by the Resolution and the Loan/Grant Agreement.

- L. To my knowledge after due investigation, there are no recorded liens of any nature whatsoever affecting the title to any real property upon which the Project will be located.
- M. To my knowledge after due investigation, no legal proceedings have been instituted or are pending, and to my knowledge none are threatened, whether or not the Borrower/Grantee is named as a party in such proceedings, which would affect the Borrower/Grantee's interest in the real property upon which the Project will be located, and there are no judgments against the Borrower/Grantee or liens against any property of the Borrower/Grantee that would impair the Borrower/Grantee's ability to complete the Project.
- N. The Borrower/Grantee has acquired all of the necessary land rights, easements and rights-of-way for the Project and the Borrower/Grantee now has sufficient, adequate and continuous rights-of-way to permit the construction, operation and maintenance of the Project.

Dated this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

the territorial jurisdiction of the Borrower/Grantee, (b) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain costs of the Finance Authority and the Water Trust Board associated with the administration of the Water Project Fund, (c) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee with respect to the Resolution or the Loan/Grant Agreement, (d) the execution and delivery of the Loan/Grant Agreement, (e) the authority of the Borrower/Grantee to repay the Loan Amount, or (f) the power of the Borrower/Grantee to carry out the transactions contemplated by the Resolution and the Loan/Grant Agreement.

- L. To my knowledge after due investigation, there are no recorded liens of any nature whatsoever affecting the title to any real property upon which the Project will be located.
- M. To my knowledge after due investigation, no legal proceedings have been instituted or are pending, and to my knowledge none are threatened, whether or not the Borrower/Grantee is named as a party in such proceedings, which would affect the Borrower/Grantee's interest in the real property upon which the Project will be located, and there are no judgments against the Borrower/Grantee or liens against any property of the Borrower/Grantee that would impair the Borrower/Grantee's ability to complete the Project.
- N. The Borrower/Grantee has acquired all of the necessary land rights, easements and rights-of-way for the Project and the Borrower/Grantee now has sufficient, adequate and continuous rights-of-way to permit the construction, operation and maintenance of the Project.

Dated this 7th day of June, 2013.



Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

the territorial jurisdiction of the Borrower/Grantee, (b) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain costs of the Finance Authority and the Water Trust Board associated with the administration of the Water Project Fund, (c) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee with respect to the Resolution or the Loan/Grant Agreement, (d) the execution and delivery of the Loan/Grant Agreement, (e) the authority of the Borrower/Grantee to repay the Loan Amount, or (f) the power of the Borrower/Grantee to carry out the transactions contemplated by the Resolution and the Loan/Grant Agreement.

- L. To my knowledge after due investigation, there are no recorded liens of any nature whatsoever affecting the title to any real property upon which the Project will be located.
- M. To my knowledge after due investigation, no legal proceedings have been instituted or are pending, and to my knowledge none are threatened, whether or not the Borrower/Grantee is named as a party in such proceedings, which would affect the Borrower/Grantee's interest in the real property upon which the Project will be located, and there are no judgments against the Borrower/Grantee or liens against any property of the Borrower/Grantee that would impair the Borrower/Grantee's ability to complete the Project.
- N. The Borrower/Grantee has acquired all of the necessary land rights, easements and rights-of-way for the Project and the Borrower/Grantee now has sufficient, adequate and continuous rights-of-way to permit the construction, operation and maintenance of the Project.

Dated this 7th day of June, 2013.

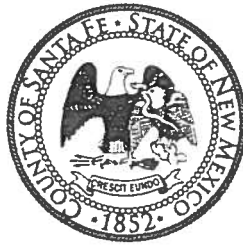


Stephen C. Ross 4-1-13
102 Grant Avenue
Santa Fe, New Mexico 87501
Attorney for Borrower/Grantee,
Santa Fe County, New Mexico

Daniel "Danny" Mayfield
Commissioner, District 1

Virgina Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathleen Holian
Commissioner, District 4

Elizabeth Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: ³⁰ April 8, 2013

TO: Board of County Commissioners

FROM: Adam Leigland, Public Works Department Director

VIA: Katherine Miller, County Manager ³⁰ *KLm 4.1.13*

ITEM AND ISSUE: ³⁰ BCC Meeting April 8, 2013
REQUEST APPROVAL OF TERMINATION OF COOPERATIVE PROJECT
AGREEMENT, CONTRACT NUMBER D13724, CONTROL NUMBER S100060 NEW
MEXICO CENTRAL RAIL TRAIL (PUBLIC WORKS/ADAM LEIGLAND)

BACKGROUND AND SUMMARY:

In March 2012 Santa Fe County requested that the Statewide Transportation Improvement Program (STIP) for FY 12 be amended to reprogram the \$100,000 from S100060 (New Mexico Central Rail Trail) to S100040 (Santa Fe Rail Trail). This request was the outcome of coordination between the Santa Fe County Open Space and Trails Program, Planning, and Public Works Road Projects sections, the Santa Fe Metropolitan Planning Organization and the NMDOT regarding the second phase of the planned Southeast Connector, a future county road that is intended to connect Rancho Viejo to Eldorado. The scope of the New Mexico Central Rail Trail (S100060) project consisted of right-of-way acquisition, planning, design and construction of approximately four (4) miles of paved bike trail connecting Richards Avenue near the Santa Fe Community College to Avenida Vista Grande in Eldorado, along the abandoned rail bed of the former New Mexico Central Railroad. This bikeway facility may be redundant if the Southeast Connector design includes bike lanes. County and Agency staff decided it would be a better use of limited funding to wait to see how the plans for the Southeast Connector develop before pursuing the New Mexico Central Trail, and to reallocate the funding for the New Mexico Central Trail to the Santa Fe Rail Trail which is already designed and ready to construct. The STIP was amended to reprogram the funding accordingly. In order to complete the reallocation of the STIP funding to the Santa Fe Rail Trail, it is necessary to terminate the Cooperative Project Agreement between the County and NMDOT for the New Mexico Central Trail, Contract Number D13724.

ACTION REQUESTED:

Staff recommends approval of the termination of Cooperative Project Agreement, Contract Number D13724, Control Number S100060 entered into on February 21, 2012.



New Mexico DEPARTMENT OF
TRANSPORTATION

February 14, 2013

Ms. Colleen Baker
Project Manager
County of Santa Fe
P.O. Box 276
Santa Fe, New Mexico 87504

RE: Control Number: S100060

Dear Ms. Baker:

This letter is to inform the County of Santa Fe (County) that the New Mexico Department of Transportation (Department) is amending and, thus terminating the Cooperative Project Agreement, Contract Number D13724, Control Number S100060 that the Department and the County entered into on February 21, 2012.

Section Twenty Two of Contract Number D13724, Control Number S100060 provides for modification of the agreement by an instrument in writing executed by all the parties. This letter of agreement is to amend Section Twenty Two, the surface Transportation Enhancement (TPE) Funds to \$0.00. In a STIP amendment the funding for this project was re-programmed to Contract Number D13725, Control Number S100040, which has been fully executed between the Department and the City.

In order to document your agreement with reduction of funding to \$0.00 and, thus the termination of Contract Number D13724, Control Number S100060 please have the appropriate person sign on behalf of the County in the concurrence blocks on the second page of this letter and return the signed originals to me.

If you have any questions or if I can be of further assistance, please contact me at 505-827-5309.

Sincerely,

Kimberly Wildharber
Contract Manager

Enclosures

c: Miguel Gabaldon, District 5 Engineer
Margaret Haynes P.E., Assistant Regional Division Manager
Richard Martinez, Contracts Administration
Bryan Brock, Office of Equal Opportunity Programs Bureau

Susana Martinez
Governor

Tom Church
Acting Cabinet Secretary

Commissioners

Pete K. Rahn
Chairman
District 3

Dr. Kenneth White
Secretary
District 1

Robert R. Wallach
Commissioner
District 2

Ronald Schmeits
Commissioner
District 4

Butch Mathews
Commissioner
District 5

Jackson Gibson
Commissioner
District 6

Page 2
February 14, 2013
Termination of the Cooperative Project Agreement
Contract No. D13724

Concurrence:

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Kathryn E. Bender, Deputy Secretary
Programs & Infrastructure

Date: _____

**REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE
DEPARTMENT'S OFFICE OF GENERAL COUNSEL**

By: Cynthia A. Chert
Assistant General Counsel

Date: 2-18-13

COUNTY OF SANTA FE

By: _____
Chairman of County Commission

Date: _____

ATTEST

By: _____
County Clerk

Date: _____

APPROVED AS TO FORM BY THE COUNTY ATTORNEY

By: Robert J. [Signature]
County Attorney
for fee
JEMB 3/21/2013

Date: March 26, 2013

Contract Number
Vendor Number
Control Number

D13724
0000054360
S100060

COOPERATIVE PROJECT AGREEMENT

This Agreement is made and entered into this 21st day of February 2012 by and between the New Mexico Department of Transportation (Department) and the County of Santa Fe (County), collectively referred to as the "Parties."

In consideration of the covenants contained herein and pursuant to NMSA 1978, § 67-3-28, the Parties agree as follows:

SECTION ONE: PURPOSE

The purpose of this Agreement is to provide Federal Highway Administration (FHWA) funds to the County for a transportation project described in the County's Plans Specifications and Estimate Package (PS&E), the Project Identification Form (PIF) and the Statewide Transportation Improvement Program (STIP). This Project is referred to interchangeably as "Project" or "Project Control No. S100060." The Project is a joint and coordinated effort for which the Department and the County each have authority or jurisdiction.

SECTION TWO: FUNDING

1. The total funding for Project Control No. S100060, is One Hundred Thousand Dollars (\$100,000) which will be shared by the Parties as follows:
 - A. 2011/2012 Surface Transportation Enhancements (TPE) Funds
Department's 75% share \$75,000
For Right of Way, acquisition, planning, design and construction of
A multi-use trail and trail facilities from Richards Ave. to Avenida
Vista Grande.
 - B. County's matching 25% share \$25,000
For the purpose stated above.
 - C. The Total Project Funding \$100,000
2. The County shall pay all Project costs that exceed the total funding amount specified in this section.
3. FHWA's obligation of federal funds shall be supported by a certified cost estimate based on the County's Engineer's Estimate of Probable Cost. The engineer's estimate shall be submitted to the Department's Regional Division Manager or Designee prior to the PS&E Review pursuant to 23 CFR Part 630B.
4. After the project is advertised, bids shall be submitted to the Department's Regional Division Manager or Designee, who will review and determine if the amount of federal funds obligated by the FHWA requires adjustment pursuant to 23 CFR Part 630.106. The County's approved responsive low bid for the project, including approved alternates, will be

compared to the amount obligated. The Department will allow a 15% increase over the base bid and any approved alternates to cover Engineering and Contingencies and Gross Receipts Tax. If the difference between the FHWA's obligation amount and the responsive low bid plus the 15% is within \$250,000, the amount of funds obligated will not change. If the difference between the obligation amount and the responsive low bid plus the 15% exceeds \$250,000, the difference will be deducted reducing the amount of funds obligated.

5. The County shall abide with the conditions identified within 23 CFR 635.120 in entirety. If the County identifies additional work that may be justifiable in incorporating into the construction contract this work shall be reviewed and approved by the Department prior to commencing with the additional work.

SECTION THREE: METHOD OF PAYMENT--REIMBURSEMENT

The Department's District Office shall reimburse the County upon receipt of payment requests for the purposes stated in Section Two, with supporting documentation as determined and/or approved by the Department, certifying that costs have been incurred in compliance with this Agreement. Invoices shall be submitted monthly to the Department District Office. Payment requests shall be identified by the project control number and certified that the requests accurately reflect work completed, amount due and the remaining Agreement balance. All expenses must be actual, rather than estimated, and listed on the payment request as charged. Only those expenses that are properly documented and deemed eligible will be reimbursed. Incomplete submittals will be returned to the County for corrections. Reimbursements shall include the information contained in **Appendix J**.

The Department's District Office will not reimburse the County for costs incurred prior to the full execution of the Agreement and obligation of federal funding, after the expiration of the Agreement, or in excess of the maximum dollar amount of the Agreement. Costs incurred prior to FHWA authorization require additional justification pursuant to 23 CFR Part 1.9. Final payment requests shall be submitted to the Department's District Office within four months of completion of the project and prior to the termination date identified within Section Twenty.

SECTION FOUR: COUNTY SHALL

1. Be the lead agency for the Project.
2. Use the Project Control Number in all correspondence and submittals to the Department.
3. Pay all costs, perform all labor, and supply all material for the Project.
4. Identify a Project Manager who shall be the single point of contact to the Department.
5. Adopt a written resolution of support for the Project, including, as appropriate, an assumption of ownership, liability, maintenance, related amenities, and the availability of required matching funds.
6. Obtain approval from the Department's Regional Division Manager or Designee, and the District Technical Support Engineer of PS&E Package which includes the following:
 - a. Construction Plans;
 - b. Engineer's Estimate/Engineer's Opinion of Probable Cost;
 - c. Specifications; and,
 - d. Contract Book.
7. Obtain written authorization from the Department prior to advertising the Project for bids or performing work with the County's personnel, equipment, and /or resources.

8. Advertise, let, and supervise the construction of Project Control No. S100060 using applicable federal, state or local requirements.
9. If the Project is to be put out for bid, prepare a final, detailed estimate of the work, indicating the bid items, the quantity in each item, the unit bid price, and cost of the items based on the bid price.
10. If the Project will be built with County resources, prepare a detailed report of equipment and labor, including a project schedule, for submission to the Department's District Office.
11. Obtain Department agreement in awarding the bid.
12. Register and enter all required data into B2Gnow and LCPtracker programs and contractually require the prime contractor and subcontractors to do the same.
13. Submit reimbursement requests monthly in the Department's federal aid format to include details of the quantities allowed on various items of work.
14. Agree that the Department has the option to terminate this Agreement if the County's Certification Package is not received by the Department's Regional Division Manager or Designee by August 15th of the year in which the project funds are programmed. The Certification Package shall remain in the County's project file for five years after project completion and shall contain, the following documents:
 - a. Signed Certification of Pre-Construction Phase (**Appendix F-1**);
 - b. Estimate of T/LGA Project Pay-Out (**Appendix F-2**);
 - c. The PS&E assembly;
 - d. Environmental clearance and certification documentation;
 - e. The State Historic Preservation Officer's concurrence;
 - f. Right of Way certification documentation;
 - g. Utility certification documentation;
 - h. Intelligent Transportation Systems (ITS) certification documentation; and,
 - i. Railroad certification documentation.
15. Agree that if current federal fiscal year funding is not obligated by **September 30th**, this Agreement shall terminate. However, if prior federal fiscal year funding has been authorized, this Agreement will remain in effect. If the County cannot meet the federal fiscal year deadline, and the money is reprogrammed for the next fiscal year, this Agreement will remain in effect.
16. Be responsible for preliminary engineering, environmental documentation, right-of-way activities, project development, utility coordination, project construction, and construction management and testing.
 - a. Construction management and inspection services may be eligible for reimbursement if the underlying procurement is consistent with federal aid funding and state procurement laws and regulations.
 - b. The County's award of contracts for construction management or inspection services must be pre-approved by the Department's Regional Division Manager or Designee.
 - c. If the County hires construction management or inspection services, County shall provide copies of any applicable task order, contract and supporting procurement documents to the Department's Regional Division Manager or Designee prior to the Project construction start date.
17. Be responsible for all applicable design, pre-construction and maintenance activity including, but not limited to the following:

- a. utility coordination and relocation;
 - b. drainage and storm drain design;
 - c. geotechnical design;
 - d. pavement design;
 - e. traffic design;
 - f. structural design;
 - g. obtaining environmental and cultural resource clearances;
 - h. right-of-way mappings;
 - i. right-of-way acquisition;
 - j. submitting acceptable hazardous materials reports;
 - k. public involvement;
 - l. agency coordination;
 - m. permit application;
 - n. blading;
 - o. shaping;
 - p. snow removal;
 - q. gravel;
 - r. repair of washouts; and,
 - s. chip sealing.
18. Develop and execute the Project in accordance with the Department's current Tribal/Local Government Agency Handbook, Construction Procedures Handbook for Federal Aid Local Government Lead Projects, and the New Mexico Transportation Department's Office Procedures Manual.
 19. Insure all designs comply with **Appendix A**, "Preliminary Engineering/Construction Engineering" to be performed under the direct supervision of a Registered New Mexico Professional Engineer and/or Registered New Mexico Architect, as required by NMSA 1978, §§ 61-23-21 and 61-15-1.
 20. Design the Project in accordance with **Appendix C**, "Design Standards," which is hereby incorporated in this Agreement.
 21. Comply with **Appendix D**, "Survey and Right of Way Acquisition Requirements," which is hereby incorporated in this Agreement.
 22. Comply with **Appendix E**, "Construction Phase Duties and Obligations," which is hereby incorporated in this Agreement, for construction projects.
 23. Submit all required environmental documents to the Department's Environmental Design Division. The Department shall coordinate all activities related to environmental certifications through the FHWA.
 24. Warrant, covenant, and agree that the County will comply with conditions and terms contained in **Appendices A through F-2**. The County will perform any and all applicable obligations contained herein.
 25. Complete the environmental process as described in the Department's Tribal/Local Government Agency Handbook and in accordance with state and federal guidelines and regulations including the National Environmental Policy Act (NEPA), FHWA Technical Advisory T 6640.8, 23 CFR Part 771, and guidance for preparing environmental documents. This effort includes, but will not be limited to:
 - a. A Location Corridor Study (if applicable) as described in **Appendix B**. Initiate and cause to be prepared, an Initial Corridor Analysis Report "Phase A Report," a

- Location Study Report "Phase B Report," and the appropriate level of environmental documentation "Phase C";
- b. Submittal of a scope of work to the Department's Environmental Design Division to determine the level of effort needed for completing the environmental certification process;
 - c. Conducting a cultural resources survey if required, and submitting the cultural resources survey report to the Department's Environmental Design Division for review and submittal to SHPO. The survey will be conducted and the report will be prepared in accordance with the Department's Guidelines for Cultural Resource Investigations;
 - d. Conducting and documenting hazardous materials investigations according to the Department's Environmental Geology Bureau's Hazardous Materials Assessment Handbook. The appropriate environmental documents will be prepared by a qualified environmental professional, as defined in 40 CFR Part 312, and submitted to the Department's Environmental Geology Bureau for review;
 - e. Conducting and documenting the appropriate public notifications and public involvement activities;
 - f. Submittal of appropriate and acceptable NEPA documents prepared by a qualified environmental professional to the Department's Environmental Design Division for review and certification. "Acceptable" means documents that meet the criteria specified in the Department's Tribal/Local Government Agency Handbook; and,
 - g. Produce and distribute to regulatory agencies and interested parties the appropriate number of copies of environmental documents.
26. Comply with **Appendix H-1** if the Project involves lighting and/or highway lighting.
 27. Comply with **Appendix H-2** if the Project involves signal(s) and/or highway signal(s).
 28. Shall register with www.ccr.gov and DUNS and provide such information to the Department as well as the total compensation and names of the County's top five executives to comply with the Federal Funding Accountability and Transparency Act of 2006.
 29. If the County has received a combined \$500k in Federal Funding, which under OMB Circular A-133 requires the County to have a single audit performed, the County must provide the Department a copy of the most recent completed audit report before the start of work.
 30. Ensure that Project inspection and material testing records are certified and sealed by a professional engineer. The records shall remain in the County's project file for five years after project completion.

SECTION FIVE: DEPARTMENT SHALL

1. Assign a representative to provide technical assistance to develop, monitor and oversee the project.
2. Provide copies of environmental guidelines, Location Corridor Study Procedures, laws, and regulations, as requested.
3. Review NEPA and related environmental documentation for appropriate level of effort and acceptability.
4. Transmit NEPA documents to the FHWA for review and approval.
5. Review cultural resource technical reports and coordinate consultation between FHWA and the State Historic Preservation Officer.

6. Review hazardous material investigation deliverables to ensure they are ASTM- and NMDOT-compliant.
7. Review required certification documents for completion prior to requesting obligation of federal funding. Review of documents by the Department does not relieve the County or its consultants of their responsibility for errors and omissions.

SECTION SIX: BOTH PARTIES AGREE

Upon termination of this Agreement, the County shall account for any remaining property, materials or equipment that belongs to the Department, and dispose of it as directed by the Department.

SECTION SEVEN: PROJECT RESPONSIBILITY

The County is solely responsible for ensuring that the Project is carried out to completion. The improvements and services required under this Agreement shall remain the full responsibility of the County, unless stated otherwise in **Appendices H-1 and H-2**.

SECTION EIGHT: COUNTY SOLE JURISDICTION

The Department is not incorporating this Project into the State Highway System. After the completion of this Agreement, ownership of the project shall remain with the County.

SECTION NINE: LEGAL COMPLIANCE

The County shall comply with all applicable federal, state and local laws and regulations, and applicable Department policies in the performance of this Agreement. These laws include, but are not limited to: FHWA memorandums; Authorization to proceed and project monitoring at 23 CFR Part 630.106; Agreement provisions at 23 CFR Part 630.112; Project approval and oversight at 23 U.S.C. § 106 [as amended by SAFETEA-LU section 1904]; Single Audit Act Amendments of 1996 (P.L. 104-156)/OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 CFR Part 18; Titles VI and VII of the Civil Rights Act of 1964 and related statutes; Disadvantaged Business Enterprise Program, 49 CFR Part 26; External Equal Opportunity/Contractor Compliance Program, including On-the-Job training requirements, 23 CFR Part 230; the Americans with Disabilities Act, 42 §§ 12101-12213 and 28 CFR Parts 35 and 36; the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252; 2 CFR Part 170; and 2 CFR Part 25.

Additionally, the County shall comply with all applicable federal, state and local laws and regulations governing environmental issues, workplace safety, employer-employee relations and all other laws and regulations governing operation of the workplace. The County shall ensure that the requirements of this compliance are made a part of each contract and subcontract on this Project at all tiers.

SECTION TEN: FEDERAL GRANT REPORTING REQUIREMENTS

Under the Federal Funding Accountability and Transparency Act, the DEPARTMENT is required to report on projects or activities, which are awarded federal grants of \$25,000 or more. This information will be made available to the public on www.USASpending.gov.

The type of information the DEPARTMENT is required to report includes:

1. Name of SUBGRANTEE receiving the award;
2. Amount of Award;
3. Funding Agency;
4. NAICS code for contracts or the Catalog of Federal Domestic Assistance program number for grants;
5. Program source;
6. Award title descriptive of the purpose of the funding action;
7. Location of the SUBGRANTEE, which includes the Congressional District;
8. Place of performance of the program or activity, which includes the Congressional District;
9. Unique identifier – DUNS -- of the SUBGRANTEE and its parent organization, if one exists; and,
10. Total compensation and names of the top five executives of the SUBGRANTEE. This information is required, if the SUBGRANTEE in the preceding year received eighty (80) percent or more of its annual gross revenues in federal awards, which exceeds \$25 million annually, and the public has no access to this information under the Securities Exchange Act or the Internal Revenue Code.

The DEPARTMENT will extract as much information as possible from the SUBGRANTEE'S grant application and standard reports. As specified in Section Four, Paragraph 28, the SUBGRANTEE will be required to provide the total compensation and names of the SUBGRANTEE'S top five executives, if applicable, and shall register with www.ccr.gov and DUNS and provide that information to the DEPARTMENT.

More information on the Transparency Act may be located via the following links:
<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>; and,
<http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

SECTION ELEVEN: DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM OBLIGATIONS

1. DBE Goal Setting – In accordance with 49 CFR Part 26, The Department establishes an overall state DBE goal tri-annually. In the event the Department assigns a project specific DBE goal, the County is required to meet that goal through its contractors or demonstrate good faith efforts. The County shall ensure that DBE provisions and goals are included in its invitations to bid and resulting contracts. DBE payment and utilization information shall be tracked through the B2Gnow software.
2. Record Keeping Responsibilities – The County shall appoint a DBE liaison officer and assure that its officer completes and submits required Program forms and information to the Department's Office of Equal Opportunity Programs (OEOP). The OEOP can be contacted as follows:

New Mexico Department of Transportation
OEOP
Aspen Plaza, Suite 107
1596 Pacheco Street
Santa Fe, New Mexico 87505

Phone: 1-800-544-0936 or 505-827-1774

Fax: 505-827-1779

3. Sanctions – Compliance with the DBE provisions is mandatory. Failure to comply will be treated as a violation of this Agreement. Furthermore, if the County fails to comply with the DBE provisions, the Department may impose sanctions as provided in 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801, et seq.).

SECTION TWELVE: ON-THE-JOB TRAINING (OJT) PROGRAM OBLIGATIONS

1. OJT Goal Setting – In the event the Department assigns a project specific OJT goal, the County is required to meet that goal through its contractors. If a project specific goal is assigned, the County shall include the Department's Apprentice/Trainee Special Provisions (May 13, 2009) in the County's Invitation to Bid and resulting contracts. The County shall also ensure that an OJT Plan and Training Schedule is provided to the Department at the pre-construction conference.
2. Record Keeping Responsibilities – The County is responsible to appoint or have its prime contractor appoint an OJT liaison officer who is responsible for ensuring compliance with the OJT goal, plan and training schedule. OJT compliance efforts will be reported to the Department's Project Manager and tracked through the LCPtracker software.
3. Sanctions – Compliance with the OJT provisions is mandatory. Failure to comply with the OJT provisions shall be treated as a violation of this Agreement. Further, if the County fails to comply with the OJT provisions, the Department may impose sanctions and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801, et seq.).

SECTION THIRTEEN: EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND TITLE VI PROGRAM OBLIGATIONS

1. County Assurances – Each contract the County enters into with a construction contractor, design consultant, other consultant or recipient on a project assisted by the United States Department of Transportation (DOT), and any subcontract thereto, shall include the assurances contained in **Appendix G, G-1, G-2 and G-3**:
2. The County shall sign and submit the attached **Appendix G (Equal Employment Opportunity (EEO) and Title VI Program Recipient Assurances)** to the Department's Office of Equal Opportunity Programs as identified within the Appendix. By signing **Appendix G, ASSURANCE** is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the County.
3. The County shall require recipients to sign and submit the attached **Appendix G (Equal Employment Opportunity (EEO) and Title VI Program Recipient Assurances)** to the Department's Office of Equal Opportunity Programs as identified within the Appendix for each contract the County enters into with a construction contractor, design consultant, other consultant or recipient on a DOT-assisted project, and any subcontract thereto.

SECTION FOURTEEN: THIRD PARTY BENEFICIARY CLAUSE

No provision of this Agreement creates in the public, or any member thereof, a third-party beneficiary nor authorizes anyone not a party to the Agreement to maintain a suit for wrongful

death, bodily and/or personal injury to person, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

SECTION FIFTEEN: NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the Department or the County arising from the performance of this Agreement apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1, et seq.

SECTION SIXTEEN: OFFICE OF INSPECTOR GENERAL REVIEWS

The County shall provide to all bidders the reporting and oversight requirements that they are bound to from the time of bid submission. The following provisions must be included in all prime contracts, subcontracts, and other contracts for services for a federally-funded project.

- a. Inspector General Reviews. Any Inspector General of a federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using federal funds. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned.
- b. Access of Offices of Inspector General to Certain Records and Employees. With respect to each contract or grant awarded using federal funds, any representative of an appropriate Inspector General appointed under the Inspector General Act of 1978, 5 U.S.C. App. §§ 3 or 8G, is authorized to examine any records of the contractor or grantee, any of its subcontractors or sub-grantees, or any state or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or sub-grant; and to interview any officer or employee of the contractor, grantee, sub-grantee, or agency regarding such transactions.
 - i. Allow access by the Government Accountability Office Comptroller General and his representatives to examine any records of the contractor or any of contractor's subcontractors, or any state or local agency administering such contract that directly pertain to, and involve transactions relating to, the contract or subcontract.
 - ii. Allow the Comptroller General and his representatives to interview any officer or employee of the contractor or any of contractor's subcontractors, or of any state or local government agency administering the contract, regarding such transactions.
 - iii. Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.
- c. New Mexico Department of Transportation/Office of Inspector General as specified in New Mexico State Transportation Commission Policy Number 30 (CP-30), dated June 2006, has the authority to carry out all duties required. The duties are the same as those specified in Federal Law: Office of Inspector General, 23 U.S.C. §302 (the capability to carry out the duties required by law); 23 U.S.C. §112 (contracting for engineering and design services); the review of Federal-aid construction contracts references; 23 U.S.C. § 106 (project approval); 23 U.S.C. § 112 (letting of contracts); 23 U.S.C. § 113 (prevailing rate of wage); 23 U.S.C. § 114

(construction); 23 CFR Parts 635 and 636 (design build); 23 CFR Part 637 (construction inspection approval); the State Departments of Transportation are responsible for ensuring that all federal-aid projects are carried out in accordance with federal requirements. This responsibility was specifically clarified in 23 U.S.C. § 106, as amended by Section 1904(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Public Law 109-59).

SECTION SEVENTEEN: ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS

There shall be strict accountability for all receipts and disbursements. The County shall maintain all records and documents relative to the Project for five years after completion. Project files should be kept in accordance with the Department's "Office Procedures Manual (December 2009 Edition)." The County shall furnish the Department, State Auditor, or appropriate Federal Auditors, upon demand, any and all records relevant to this Agreement for auditing purposes. If an audit determines that a specific expense was inappropriate or not related to the Project, the County shall reimburse that portion to the Department within thirty days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense identified shall be reimbursed to the Department within thirty days of written notification.

SECTION EIGHTEEN: APPROPRIATION

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the State Legislature, or the Congress of the United States, if federal funds are involved. If sufficient appropriations and authorizations are not made, this Agreement shall terminate upon written notice given by the Department to the County. The Department is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, obligated by FHWA, encumbered, and approved for expenditure by the Department. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

SECTION NINETEEN: TERMS OF THIS AGREEMENT

This Agreement constitutes the entire Agreement between the Parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

SECTION TWENTY: TERMINATION

1. This Agreement shall terminate on **September 30, 2016**. Neither party shall have any obligation after said date except as stated in Section Seven.
2. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed between the County and a contractor within one year from the date the funds have been authorized by the FHWA.
3. The Department will review inactive projects on a quarterly basis. An inactive project is a project for which no expenditures have been charged against federal funds for the past 12 months.
4. If the Department determines a project to be inactive, the Department may, as directed by FHWA, redirect the unexpended balance pursuant to 23 CFR Part 630.106.

5. The Department may, at its option, terminate this Agreement if the County fails to comply with any provision of this Agreement. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to termination of the Agreement.

SECTION TWENTY ONE: SEVERABILITY

In the event that any portion of this Agreement is determined to be void, unconstitutional, or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.

SECTION TWENTY TWO: AMENDMENT

This Agreement shall not be altered, modified, supplemented, or amended except by an instrument in writing and executed by the Parties.

In witness whereof, the Parties have set their hands and seal the day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: *William Bender* Date: 2/21/12
Deputy Secretary *Rec'd 2/17/12*

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL

By: *Cynthia A. Chert* Date: 11-18-11
Assistant General Counsel

COUNTY OF SANTA FE

By: *Jim Stefanes* Date: 1/31/12
Chairman of County Commission

ATTEST

By: *Valerie Espinoza* Date: 1/31/12
County Clerk

APPROVED AS TO FORM BY THE COUNTY ATTORNEY

By: Ana Marie Ruffolo Steu Ross
County Attorney
Joseph C. Marlonz 1/17/12

Date: 1/11/12

APPENDIX A

Preliminary Engineering/Construction Engineering

1. The County may select design consultants for studies and preliminary engineering and construction engineering. Preliminary Engineering/Construction Engineering, consultant selection procedures shall be in accordance with 23 CFR Part 172 and the State Procurement Code, NMSA 1978, §§ Chapter 13-1-1 et. seq. If the County is a Home Rule City, their Procurement Code shall be followed.
2. Costs incurred for Preliminary Engineering/Construction Engineering may be reimbursed if funding for design is stipulated in Section Two of the Project Agreement, programmed into the Statewide Transportation Improvement Program (STIP), authorized and obligated under the design phase, and comply with applicable provisions listed in paragraph 1 above.
3. On occasion, state funds are used for the design of a federal aid construction project. Stand-alone projects funded with these monies, such as Municipal Arterial Program, Severance Tax, or General Fund are normally certification projects that require minimal oversight by the Department. If state funds are used for preliminary engineering for a federal aid construction project, the associated Request for Proposals and Architectural/Engineering Contracts must follow the same procedures as if federal funds were being used.
4. Engineering consultants shall prepare a final fee estimate of any work to be performed, indicating each element or task with estimated personnel-hours and associated unit costs. The County shall keep this on file for five years.
5. Requests for Proposals (RFP) for federally funded professional engineering services shall be reviewed and approved by the Department's Regional Division Manager or Designee before it is advertised. After approval, the County can advertise the RFP and can enter into a contract with the consultant pursuant to the Department's Consultant Services Procedures Manual or their own procedures that comply with 23 CFR Part 172. After the contract is in place the FHWA will authorize the federal funds. If the County uses their own funds for design or construction engineering, no approvals for the consultant selection or process are required.
6. Reimbursements to the County for preliminary engineering or construction engineering will be made in accordance with reimbursement provisions of this Agreement, and based upon appropriate, timely submittals by the County of **Appendix F-1**, and compliance with applicable provisions listed in **Appendix A** of this Agreement. Costs incurred prior to FHWA authorization require additional justification pursuant to 23 CFR Part 1.9.
7. The County's Project Manager shall keep the Department's Regional Division Manager and Assistant District Engineer or their respective Designees apprised of the Project's progress and important issues as well as forward to them all pertinent correspondence in a timely manner.
8. The County shall invite the FHWA Area Engineer, Department's Regional Division Manager, Assistant District Engineer, and Construction Liaison Engineer to participate in any design reviews, pre-construction conference and any pre-paving and partnering meetings.

APPENDIX B

Location Corridor Study Guidelines The County shall:

1. Be responsible for the Location Corridor Study, preliminary design, environmental documentation, and preliminary right of way activities.
2. Agree to comply with the Department's Location Study Procedures, Phases A, B, and C.
 - a. **PHASE A – INITIAL CORRIDOR STUDY**
Determine the need for the project, define the full range of viable alternates, identify social, economic, environmental constraints, and select the most practical alignments for further study.
 - b. **PHASE B – DETAILED ALTERNATE EVALUATION**
Refine alternate alignments and generate feasible designs for each alternate at a conceptual level and provide adequate detailed information to serve as a basis for the preparation of the environmental documentation and the selection of the final alternate.
 - c. **PHASE C – ENVIRONMENTAL DOCUMENTATION**
Complete the environmental documentation process, subsequent circulation and public hearing procedures in accordance with the action plan and federal requirements.
3. Initiate and ensure the reports detailed in Number 2 above are prepared.
4. Require its Engineering Consultant to prepare a final fee estimate of the work to be performed, indicating each element or task with estimated personnel-hours and associated unit costs. The County shall keep this on file for a minimum of five years.
5. Secure the Department's approval of the reports detailed in Number 2 above. The Department shall coordinate all related activities through the FHWA.

APPENDIX C

Design Standards

I. Roadway Projects (paving, landscaping, parking lots, etc.)

1. Project design shall comply with all federal and state laws and regulations, including but not limited to the Americans with Disabilities Act, New Mexico Department of Transportation-Pedestrian Access Details and NMSA 1978 §§ 67-3-62 67-3-64.
2. New construction or reconstruction of pavement shall have, at a minimum, a 20-year-life. Rehabilitation of pavement shall have, at a minimum, a 10-year-life.
3. The Department's Standard Specifications for Highway and Bridge Construction, 2007 edition "Orange Book," shall be used for projects on the State Highway System and the National Highway System and on supplemental specifications.
4. The following documents shall be used as a minimum, in the design of this Project and for projects **on the State Highway System or the National Highway System**. Current New Mexico American Public Works Association (APWA) or the County standards may be used on County facilities. Asterisk (*) items shall be used on **all** roadway projects:
 - *a. FHWA Manual on Uniform Traffic Control Devices, 2009 edition;
 - b. AASHTO A Policy on Geometric Design of Highways and Streets, 2004 edition "Green Book;"
 - c. AASHTO Guide for the Development of Bicycle Facilities, 1991 edition;
 - d. Department's Regulations for Driveway and Median Openings on Non-Access Controlled Highways, 2001;
 - e. Department's Urban Drainage Design Criteria;
 - f. Department's Geotechnical Manual, September 1990;
 - *g. Department's Tribal/Local Government Agency Handbook, latest edition;
 - h. Department's Hazardous Materials Assessment Handbook, latest edition;
 - *i. Department's Location Study Procedures, August 2000;
 - *j. Department's Right of Way Handbooks, May 2005;
 - *k. Department's Right of Way Mapping Development Procedures, latest edition;
 - *l. AASHTO Guide to Design of Pavement Structures, latest edition;
 - *m. Department's Pedestrian Access Details (NMDOT-PAD), latest edition; and,
 - *n. Department's New Mexico State Access Management Manual (SAMM), 2001.

APPENDIX C

II. Architectural Projects (Transportation Related Buildings, etc.)

1. Project design shall comply with all federal and state laws and regulations, including but not limited to the Americans with Disabilities Act, the Americans with Disabilities Accessibility Guidelines, and NMSA 1978 §§ 67-3-62 67-3-64.
2. New construction or reconstruction of structure(s) or artwork shall have, at a minimum, a 20-year-life. Rehabilitation of structure(s) or artwork shall have, at a minimum, a 10-year-life.
3. The Local International Building Code, electrical code, plumbing code or federal or state codes shall be used, as applicable, for design, construction or rehabilitation project(s).
4. The following documents shall be used, as a minimum, in the design of this Project and for projects **on the State Highway System or the National Highway System**. Current New Mexico APWA or the County standards may be used on County facilities. Asterisk (*) items shall be used on **all** architectural projects:
 - *a. FHWA Manual on Uniform Traffic Control Devices, 2009 edition;
 - b. American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets, 2004 edition "Green Book;"
 - c. AASHTO Guide for the Development of Bicycle Facilities, 1991 edition;
 - d. Department's Regulations for Driveway and Median Openings on Non-Access Controlled Highways, 2001;
 - e. Department's Urban Drainage Design Criteria;
 - f. Department's Geotechnical Manual, September 1990;
 - g. Department's Hazardous Materials Assessment Handbook, latest edition;
 - *h. Department's Location Study Procedures, August 2000;
 - *i. Department's Right of Way Handbooks, May 2005;
 - j. Department's Right of Way Mapping Development Procedures, latest edition;
 - k. AASHTO Guide to Design of Pavement Structures, latest edition;
 - *l. 2006 New Mexico Commercial Building Code;
 - *m. 2006 New Mexico Plumbing Code;
 - *n. 2006 New Mexico Mechanical Code;
 - *o. 2008 New Mexico Electrical Code;
 - p. U. S. Department of Interior, National Park Service Preservation Assistance Division, Standards for Rehabilitation and Guidelines for Rehabilitation Historic Buildings, 1983 edition;
 - *q. Department's Pedestrian Access Details (NMDOT-PAD), latest edition; and,
 - *r. Department's New Mexico State Access Management Manual (SAMM), 2001.

APPENDIX D

Survey and Right of Way Acquisition Requirements

1. All Department Right of Way Handbooks, particularly Volume VII Tribal/Local Government Agency (T/LGA), shall be adhered to for all right of way operations, including title search, property survey, right of way mapping, appraisal, appraisal review, acquisition (including donations), relocation, and right of way certification. *Only qualified personnel may undertake right of way functions.* The County's staff or consultants may not perform any right of way functions unless the following conditions are first met:
 - a. The County submits to the Department's Right of Way Bureau a listing of persons proposed to perform the individual right of way functions, along with their qualifications reflecting right of way experience and training.
 - b. The County submits the name of a contact person for right of way functions and submits a progress schedule for said activities.

Upon written request from the County, the Right of-Way Bureau will supply the names of the right of way contractors currently doing business with the Department. Right of way functions performed prior to making the above submittals will jeopardize federal funding for this Project.

2. All right of way surveying, mapping, and monumentation shall be performed by a licensed professional surveyor experienced in right of way projects and shall conform with the Minimum Standards for Surveying in New Mexico adopted by the New Mexico State Board of Registration for Professional Engineers and Surveyors in February, 1994, as provided in NMSA 1978, Sections 61-23-1 to 61-23-32, as amended.
3. Right of way surveying, mapping, and monumentation shall be performed in accordance with the Department's Surveying Manual, the Right of Way Mapping Development Procedures, latest edition, and subsequent Department guidelines, policies, and procedures. Right of way maps and documents must be 100% complete prior to review by the Department's Lands Engineering Section. Information, additional guidance, and early assistance can be obtained from the Lands Engineering Section Supervisor at (505) 827-5420. Early contact is recommended in order to facilitate and expedite the right of way acquisition process.
4. Title reports shall be obtained and prepared to meet Department format and standards for all affected right of way parcels. Title reports shall be submitted to the Lands Abstracting Unit of the Right of Way Bureau for review prior to the final right of way map submittal according to the Right of Way Acceptance Plan (Volume VII) Tribal/Local Government Agency. Non-compliance with the state and/or federal requirements may result in loss of project funds.
5. Appraisals shall not begin until the Department approves the right of way maps. The County or contracted (fee) appraisers shall not be used prior to making the submittals in paragraph one above.
6. All real property appraisals shall be developed and reported in accordance with the right of way regulations, policies, and procedures of the Department, and the Uniform Standards of Professional Appraisal Practice (USPAP) and where federal funds are involved, 49 CFR Parts 103 and 104. All appraisal and appraisal review actions are subject to Department and FHWA review (see Right of Way Acceptance Plan). Non-compliance with state, federal and/or USPAP requirements may result in loss of project funds.
7. Before the initiation of negotiations, the County shall, through a proper appraisal, establish an amount which it believes is just compensation for the real property to be acquired. The

APPENDIX D

County shall not utilize the same individual/firm to conduct both the appraisals and the appraisal reviews. Upon the completion of the acquisition function, the County shall inform the Acquisition Unit Supervisor and schedule an on-site review of the work. The Department will review the work to render an opinion as to the apparent conformance of the County's work with federal and state statutes and regulations (see Right of Way Acceptance Plan). In the event that a significant amount of the work is found to be unacceptable, no approval of the right of way function will be issued for the Project until the Department is satisfied that the work meets the requirements.

8. The County shall maintain all records and documents relating to the right of way acquisition for a minimum of five years and shall record all transfer of ownership documents with the County Clerk. Department and FHWA personnel shall be provided access to project right of way files upon reasonable notice.
9. The County shall furnish the Department with a written certification (Right of Way Certification) stating that the right of way acquisition (and relocations, if applicable) has been performed in compliance with federal and state laws and regulations.
10. The County shall be responsible for certifying to the Department that all right of way work has been performed according to the required federal and state statutes and regulations.

APPENDIX E

Construction Phase Duties and Obligations

1. The County shall be responsible for all construction engineering; including project supervision, surveying, inspection, and testing. The County shall comply with the Department's Construction Procedures Handbook for Federal-Aid Local Government Projects, the New Mexico Transportation Departments Office Procedures Manual, and Chapter 7 of the Department's Tribal/Local Government Agency Handbook. www.nmshtd.state.nm.us/main.asp?secid=11187
2. The County's general conditions, standard drawings, and specifications may be used if approved by the Department prior to initiating the procurement process.
3. Mix designs, price reduction guidelines, daily production, and test reports shall be pursuant to the Department's or the County's established procedures as approved by the Department, depending on the governing specifications. The American Standard Testing Method equivalents of the American Association of State Highway and Transportation Officials test methods are acceptable. Technician and Training Certification Program (TTCP) procedures are acceptable.
4. The Department's Minimum Acceptance Testing requirements, as identified in the Department's Construction Procedures Handbook for Federal Aid Local Government Projects shall be adhered to, as directed by District lab personnel (Compliance), and as per the following:
 - a. The County's lab personnel or consultant may perform project acceptance testing of materials in accordance with the County's procedures and requirements, if approved by the Department. All test reports shall be available for review by the Department and FHWA (if applicable).
 - b. Independent assurance testing is required and is the sole responsibility of the County and shall be done by an independent lab not responsible for acceptance testing. Periodic independent assurance testing may be conducted by the Department's District personnel to ensure material and construction compliance.
 - c. The Department's District lab personnel shall inspect the County's lab, or the consultant's lab if a consultant is used for project acceptance testing, independent assurance testing, aggregate source acceptance, and concrete mix designs, relative to equipment and procedures used by the County and/or their consultant.
 - d. The County's Engineer shall certify that all materials incorporated into the project meet or exceed the specification requirements. The Department's District Engineer, in turn, shall certify projects to FHWA (if applicable) based on the County's certification.
 - e. Upon request, the Department's Assistant District Engineer or representative shall furnish copies of the Minimum Acceptance Requirements for federal aid projects to the County for guidance at the pre-construction conference.
 - f. All personnel doing sampling and testing for Acceptance/Independent Assurance on federally funded projects shall be certified by the Technical Training and Certificate Program pursuant to the TTCP Manual.
5. The County Engineer shall certify with each reimbursement request that the Certificates of Compliance are on file with the County Engineer's Office, for products and materials incorporated into the Project and for the quantities shown on the progress payment estimate. The Department may periodically conduct an audit of the Certificates of Compliance pursuant to Section 106.4 of the Department's Standard Specifications. Department

APPENDIX E

- personnel may occasionally check the County's procedures for handling of all Certificates of Compliance.
6. The County Engineer shall certify with each reimbursement request that the items shown on the estimate have been completed in accordance with the contract requirements.
 7. The Department may periodically audit the County's source documents for each project. The Department's established guidelines shall be used to prepare the Source Document Books. Department or FHWA (if applicable) personnel may periodically review the County's procedures for documentation.
 8. Change Orders:
 - a. Changes to conform to the field conditions may be warranted; however, these changes shall be discussed with and approved by the Department prior to implementation, in accordance with the Department's Change Order Procedures. The change order shall be submitted soon thereafter to the Project Manager. All decreases/increases shall be documented on factor sheets, which may be obtained from the Department and attached to the change order. No payment shall be made for additional quantities until the Department approves the change orders.
 - b. "Extra Work" for which there is no unit bid price shall be negotiated and the price shall be supported by a cost breakdown, the Department's average unit bid price, or the County's average unit price list on comparable projects. "Extra Work" shall not be performed unless approved by the Department and approved by FHWA, if participation is requested. If, "Extra Work" cannot be negotiated by the preceding manner, then the contractor may be required to do similar work on a "Force Account" basis as per the Department's specifications.
 - c. Change orders for non-participating work shall be submitted to the Department for review and approval. If the work impacts the scope of work, contract time in excess of pro-rated time, and/or additional contracted funds, it shall require Department approval.
 9. The Department shall assign personnel to assist the County in complying with the procedures and stipulations contained herein.
 10. The County shall identify a Project Manager to the Department as the single point of contact and shall be in charge of the Project.
 11. The County's Project Manager shall keep the Department's Assistant District Engineer or Designee routinely apprised of the Project's progress and important issues concerning the Project, and send copies of all pertinent correspondence to the Department's Assistant District Engineer on a monthly basis.

APPENDIX F-1

Certification of Pre-Construction Phase

Control No. S100060

I, _____, in my capacity as _____ of _____ do hereby certify with reference to the aforementioned Project Control Number as follows:

1. That the County has complied with all applicable terms, conditions and certification requirements of this Agreement.
2. That the County has completed environmental coordination and obtained Department and FHWA approval of the Environmental, Right of Way, Utility, Railroad, and ITS documents and completed the consultation process with the State Historic Preservation Officer as required by law. Furthermore, the County has complied with Section Four of the Agreement.

COUNTY OF SANTA FE

By: _____ Date: _____
Chairman of County Commission or designee

When complete, please send APPENDIX F-1 and F-2 to:

Kevin Mentz, North Region Manager
NMDOT North Regional Division
P.O. Box 1149 Room 203
Santa Fe, NM 87504-1149

APPENDIX F-2

New Mexico Department of Transportation Estimate of T/LGA Project Pay-Out

Project Control Number S100060

Project Termini NM Central Railroad Trail from I-25 to Avenida Eldorado

Total Project Cost (Funded under this Project Agreement) \$ **
(Including gross receipts tax)

Month & Year	Monthly Pay-Out
** TOTAL -> -> ->	\$

APPENDIX G

Title VI Nondiscrimination Assurances For FHWA Recipients

The (Title of Recipient) (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation (the Federal Highway Administration), it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures (hereinafter referred to as the Regulations) and other pertinent nondiscrimination authorities and directives, to the end that in accordance with the Act, Regulations, and other pertinent nondiscrimination authorities and directives, no person in the United States shall, on the grounds of race color, or national origin, sex (23 USC 324), age (42 USC 6101), disability/handicap (29 USC 790) and low income (Executive Order 12898) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this Agreement. This assurance is required by Title 49 Code of Federal Regulations, subsection 21.7(a)(1) and Title 23 Code of Federal Regulations, section 200.9(a) (1) of the Regulations, copies of which are attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its (Name of Appropriate Program):

1. That the Recipient agrees that each "program" and each "facility as defined in 49 CFR subsections 21.23(e) and (b) and 23 CFR 200.5(k) and (g) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all (Name of Appropriate Program) and, in adapted form in all proposals for negotiated agreements:

The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally - assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, issued pursuant to such Acts, hereby notifies all bidders that it will affirmatively insure that in any contact entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and low income in consideration for an award.

APPENDIX G

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Acts and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, 'as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix G-3 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under (Name of Appropriate Program); and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under (Name of Appropriate Program).
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient Department of Transportation under the (Name of Appropriate Program) and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the (Name of Appropriate Program). The

APPENDIX G

person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient

Date: _____ Project Control Number: S100060

Recipient Name: County of Santa Fe

Signature of Authorized Official: _____

Print Name: _____ Title: _____

Phone: _____ E-mail: _____

Appendix G should be signed and mailed to the following:

New Mexico Department of Transportation
OEOP
Aspen Plaza, Suite 107
1596 Pacheco Street
Santa Fe, New Mexico 87505
Phone: 1-800-544-0936 or 505-827-1774
Fax: 505-827-1779

APPENDIX G-1

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (Recipient) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (Recipient), or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (Recipient) shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. cancellation, termination or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

APPENDIX G-1

The contractor shall take such action with respect to any subcontract or procurement as the (Recipient) or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the (Recipient) to enter into such litigation to protect the interests of the (Recipient), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX G-2

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the (Name of Recipient) will accept title to the lands and maintain the project constructed thereon, in accordance with (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Name of Appropriate Program) and the policies and procedures prescribed by FHWA, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Name of Recipient) all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "G" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (Name of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the (Name of Recipient), its successors and assigns.

The (Name of Recipient), in consideration or the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, sex, age, and disability/handicap, and low income be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on over or under such lands hereby conveyed [and)* (2) that the (Name of Recipient) shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction. *

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX G-3

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the (Name of Recipient) pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deed.]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by (Name of Recipient) pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin sex, age, disability/handicap, and low income shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of, race, color, or national origin sex, age, disability/handicap, and low income shall be excluded from participation in, denied the benefits of, or be otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX G-3

Regulations. Department of Transportation, Subtitle A, Office of the Secretary. Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX H-1

Lighting and/or Highway Lighting

If the Project involves lighting and/or highway lighting, the County shall:

1. Provide at its own expense, all electrical energy, routine maintenance such as bulb and/or luminaire replacement, and in case of accidental damage to poles or fixtures, replace them with the same brand or equivalent for continued satisfactory operation of said subject lighting system.
2. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the subject lighting system.
3. Service and maintain the lighting system with its own funds.

If the project involves highway lighting, the lighting improvements and services required to be provided under this Agreement shall remain the full responsibility of the County. The roadway shall remain part of the State Highway System. The Department shall maintain ownership over the state or federal route and shall maintain the route with its own funds.

APPENDIX H-2

Signal(s) and/or Highway Signal(s)

If the Project involves signal(s) and/or highway signal(s), the County shall:

1. Make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the controller (and cabinet) or the loop detection system, promptly notify the Traffic Services Section of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "controller") including maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the controller in the event the controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway signal system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject signal system.
7. Make all timing adjustments to the signal control equipment and review the signal system(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the County as an additional insured in the construction contractor's general liability policy.
10. Signal improvements and services required under this Agreement shall remain the full responsibility of the County.
11. Maintain the signal system and all facilities constructed with its own funds.

If the project involves highway signals, the signal system, improvements and services required to be provided under this Agreement shall remain the full responsibility of the County. The roadway shall remain part of the State Highway System. The Department shall maintain ownership over the state or federal route and shall maintain the route with its own funds.

APPENDIX I

CERTIFICATION OF COOPERATIVE AGREEMENT COMPLIANCE/COMPLETION

I, _____, in my capacity as _____ of
_____ do hereby certify as follows:

That the County has complied with all the terms and conditions in the Agreement for
Control Number: S100060

By: _____ Date: _____
Chairman of County Commission or designee

When Completed, please send Certification to:

David Quintana, TSE
New Mexico Department of Transportation
District 5
P.O. Box 4127
Santa Fe, NM 87592-4127

APPENDIX J

CHECK LIST FOR PAYMENTS AND FOR AUDITS

The following items are needed for DISBURSEMENT, PROGRESS, or FINAL PAYMENTS:

NOTE: Please have "PROJECT AND CONTROL NUMBERS" on all documentation submitted for disbursement and reimbursement

- Newspaper bid (advertisement), copy of ad **(BEFORE DISBURSEMENT OR THE FIRST REIMBURSEMENT REQUEST)**
- Bidder's list at bid opening-Company(s) and quotation sheet(s) **(BEFORE DISBURSEMENT OR THE FIRST REIMBURSEMENT REQUEST)**
- Copy of Contract Between Entity and Contractor **(BEFORE DISBURSEMENT OR THE FIRST REIMBURSEMENT REQUEST)**
- Award Letter "NOTICE OF AWARD" and "NOTICE TO PROCEED" forms are required. **(BEFORE DISBURSEMENT OR THE FIRST REIMBURSEMENT REQUEST)**
- Environmental and Cultural Clearances **(BEFORE DISBURSEMENT OR THE FIRST REIMBURSEMENT REQUEST)**
- Construction Notices required **(THROUGHOUT PROJECT)** – start, suspend, resume and completion
- All invoicing (copies) and copies of cancelled checks-for contractor, vendors, suppliers **(EVERY REIMBURSEMENT)**
- Haul tickets (copies) if applicable **(EVERY REIMBURSEMENT)**
- Force account documentation – labor and equipment **(EVERY REIMBURSEMENT)**
- Engineer certification **(EVERY REIMBURSEMENT)** that certifies all materials incorporated into the project to date meet or exceed specification requirements – stamped/sealed – required for all Agreements in excess of \$100,000.00
- Tabulation of quantities (cover letter) itemized expenditure if requesting for reimbursement **(EVERY REIMBURSEMENT)**
- Tabulation of estimated quantities (cover letter) expenditure if requesting for disbursement
- Status Reports **(MONTHLY)** are required for all Federal/ARRA projects and are due at the 1st of each month
- Status Reports are required with each reimbursement request for Non-Federal projects

Final Project Certification from Entity **(FINAL REIMBURSEMENT)**



