

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Joe S. Grifé, Jr.
Commissioner, District 5

Samuel O. Montoya
County Manager

SANTA FE COUNTY

1810472

Resolution No. 2000-129

**A RESOLUTION AUTHORIZING SAMUEL MONTOYA AS SIGNATURE
AUTHORITY AND JAMES LUJAN AS GRANTEE REPRESENTATIVE
FOR THE NEW MEXICO ENVIRONMENTAL DEPARTMENT GRANT
AGREEMENT NO. SAP 00-0101-STB (AGUA FRIA SEWER LINE)**

**WHEREAS, a meeting of the Board of County Commissioners for Santa Fe County
was held on September 26th, 2000.**

**WHEREAS, the New Mexico Environment Department requires that Santa Fe
County name an individual as Signatory Authority and as Grantee Representative for
Grant Agreement Number SAP 00-0101-STB.**

**NOW THEREFORE, the Board of County Commissioners appoints Samuel
Montoya as the Signatory Authority authorized to sign and submit reimbursement
requests to the New Mexico Environment Department and James Lujan as the Grantee
Representative authorized to submit the final and any documents pertaining to the project.**

APPROVED, ADOPTED AND PASSED this 26th day of September, 2000.

BOARD OF COUNTY COMMISSIONERS


Richard Anaya, Chairperson

1810473

Attest:

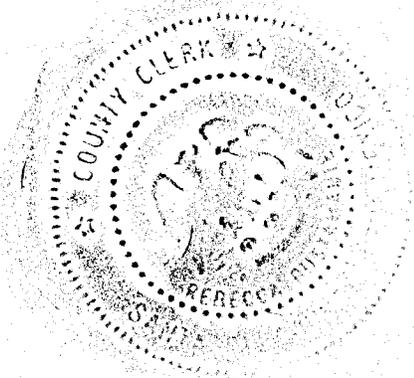
Rebecca Bustamante

Rebecca Bustamante, County Clerk

Approved as to form:

Steve Kopleman

Steve Kopleman, County Attorney



1130190
COUNTY OF SANTA FE
STATE OF NEW MEXICO

} SS

I hereby certify that this instrument was filed for record on the 27 day of Sept, A.D. 2000 at 10:40 o'clock a m and was duly recorded in book 1810 page 472 of the records of Santa Fe County.

484 Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.
Deputy

ARTICLE 3**SCOPE OF WORK**

- A. The GRANTEE agrees that it will implement, in all respects, the project outlined in its Project Description, attached hereto as Exhibit "A" and made a part of this agreement.
- B. The GRANTEE agrees to make no change in the Project Description Exhibit "A" without first submitting a written request to NMED and obtaining NMED's written approval of the required change, and if necessary an amended grant agreement.

ARTICLE 4**ADMINISTRATIVE PROCEDURES**

Upon execution of this grant agreement, the GRANTEE shall follow the procedures listed below unless waived in writing by NMED.

- A. Copies of all executed contracts, entered into by the GRANTEE prior to this grant agreement related to this project must be submitted to NMED for review and, if applicable, approval.
- B. Request for Proposals (RFP) for professional services and/or services must be done in compliance with the New Mexico Procurement Code. Please note that when total engineering fees will exceed \$25,000, excluding gross receipt taxes, you are required by law to contact the Professional Technical Advisory Board, phone number 505/243-3307. That group will provide you with assistance in the preparation of the RFP package as required by law. The GRANTEE must submit for NMED's review documentation regarding the process to be used, PRIOR to selecting a professional and/or services. A draft of an engineering agreement, and/or professional services/service contract or a letter certifying that GRANTEE's staff engineers or other staff professionals will be used, shall be submitted to NMED for review PRIOR to executing the agreement/contract or using GRANTEE's staff. Any pre-existing agreements for professional services, the Grantee proposes to use must be submitted to the NMED for approval PRIOR to expending any Grant Funds.
- C. Engineering reports or studies are required by NMED and shall be submitted to NMED for review and approval PRIOR to starting the preparation of plans and specifications. The purpose of these studies or reports is to analyze and choose the most technically feasible and cost effective solution to the current project defined in this agreement. DO NOT start the preparation of plans and specifications until NMED approval of the report has been received.
- D. All plans, specifications, and any addendum for this project must be submitted to NMED for review and approval BEFORE the project is advertised for construction bids. No advertisement should start until NMED approval is received.

- E. Certified bid tabulation, recommendation of award, copy of bid bond for the selected contractor and evidence of full project financing must be submitted to NMED for review PRIOR to awarding the contract. Do not award the contract until NMED has concurred to the award.
- F. All work related to easements, rights-of-ways, other property rights, and financing provisions shall be completed prior to advertising for construction. The GRANTEE must certify in writing that this has been done prior to starting the advertisement for construction sealed bids. A site certificate addressing the property upon or through which the facility is being constructed and prepared by the GRANTEE's attorney may be required.
- G. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in section 13-4-11, NMSA, 1978), shall be used for awarding construction contracts. Contracts shall be awarded to the responsive bidder who submits the lowest acceptable bid, or as provided for by State Law.
- H. Following NMED approval of the proposed award, the GRANTEE shall provide to NMED for each contract: 1) notice of award, minutes of meeting in which award was made, 2) notice of Pre-construction conference, 3) executed construction contract documents, and 4) notice to contractor to proceed. Contractor of the construction project will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18, NMSA, 1978.
- I. The contractor shall be required to submit a schedule for construction at the pre-construction conference.
- J. The GRANTEE shall submit all modifications to plans and contract by change orders to NMED's project engineer promptly for approval PRIOR to implementation of such modification or change. NMED's decision shall be rendered promptly in writing to the GRANTEE. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written notification to the GRANTEE.
- K. The GRANTEE shall provide a full-time construction inspector during construction of the project.
- L. Notwithstanding those inspections performed by the GRANTEE and its engineer, NMED shall have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations shall not be considered an inspection for compliance with contract plans, but shall be in the nature of general NMED review as described in Article 5.

- M. NMED may require proof of deposit and/or applicable proof of payments to contractors and consultants, including the disbursement of non-Special Appropriation funds.
- N. If this assistance is awarded for construction of wastewater collection lines or water distribution lines, the GRANTEE shall assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This shall be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.

ARTICLE 5**NMED REVIEW**

For the purpose of this agreement, NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures and regulations. NMED approval shall not be interpreted as any warranty or guarantee. Approval of plans and design of the project means only that plans are complete. NMED will bring to the GRANTEE's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction shall be the responsibility of the GRANTEE and its contractors and consultants. Any question raised by NMED shall be resolved exclusively by the GRANTEE and its contractors and consultants who shall remain responsible for the completion and success of the project.

ARTICLE 6**OPERATION AND MAINTENANCE**

The GRANTEE shall perform all operation and maintenance of the project after completion and acceptance of the work under the construction contract(s) to assure satisfactory operation/services to the residents of the COMMUNITY. If applicable, the GRANTEE shall employ qualified utility operators and shall comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1, *et seq.*, NMSA 1978.

ARTICLE 7**EFFECTIVE DATE AND TERMS OF AGREEMENT**

This agreement shall become effective upon execution by NMED's Secretary and shall terminate on June 30, 2005, unless extended, shortened, or cancelled by the Legislature or unless terminated by NMED as provided in Article 17 of this agreement. GRANTEE hereby agrees to complete construction and administrative close out of the project described in exhibit A prior to the date of termination identified in this paragraph.

ARTICLE 8 COMPENSATION AND METHOD OF PAYMENT

- A. For satisfactory performance of all work and services required to be performed under the terms of this agreement, NMED shall reimburse the GRANTEE or its designated payee its actual costs incurred, up to the limit set forth in Article 1 herein. The GRANTEE may submit requests for reimbursement at its discretion, but not more than once in any thirty- (30) day period during the term of this agreement. NMED shall reimburse the GRANTEE or its designated payee when NMED determines, in its sole discretion, that expenditures have been properly documented. If applicable, copies of all pay request vouchers shall be submitted to NMED with requests for reimbursement. Three (3) copies of all requests for reimbursement shall be submitted on the appropriate form and shall be accompanied by three (3) copies of appropriate documentation to assure that those costs being reimbursed are correct and within the approved scope of work and budget. Requests shall include expenditures to date by category and engineering construction status reports submitted on the form provided by NMED.
- B. Interim payments will be made as the work progresses. Said payments will be based upon requests for payment prepared and certified by the GRANTEE and/or GRANTEE's engineer to include value of work performed, materials on hand, and materials in place in accordance with the construction contract. Interim payments for engineering, inspection, legal services or other approved services shall be made in accordance with the approved contracts or agreements for those services. All reimbursement requests must be signed by the proper signatory authority. A transmittal letter is required with every reimbursement request and all requests should be prepared on the proper NMED form.
- C. The GRANTEE shall complete a Project Budget form when signing and returning this Agreement to NMED. When multiple funding sources are being used to complete this project, a separate spreadsheet must be submitted which identifies all funding sources and the line item to which funds are allocated from each source.
- D. Any portion of funds, which remains unexpended after all conditions of this agreement have been satisfied, shall revert to the Severance Tax Bonding Fund.
- E. The funds referred to in Article 1, Supra, shall constitute full and complete payment of monies to be received by the GRANTEE from NMED.
- F. Notwithstanding the other provisions of this article, five percent (5%) of the total construction contract price shall be withheld by NMED until construction is substantially complete. Such retainage shall be held by NMED pending the final project inspection and acceptance, which shall be performed promptly and the results of which conveyed to the GRANTEE in writing. The project will not be

considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the GRANTEE and NMED.

- G. Upon completion of the project, final payment shall be made after the final inspection has been conducted by NMED and the following, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
1. A final reimbursement request including the final certified construction pay request prepared by the GRANTEE's project engineer and approved by the GRANTEE.
 2. A certification of project acceptance prepared by the GRANTEE and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the GRANTEE, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the GRANTEE and contractors shall be submitted to NMED for final review and approval.
 3. Certification letter by the GRANTEE that the Labor Standards Contract Provisions have been met.
 4. "As-built" plans prepared by the GRANTEE's project engineer.
 5. Complete and legally effective releases or waivers (satisfactory to the GRANTEE) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished thereunder. In lieu thereof and as approved by the GRANTEE, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the GRANTEE or its property might in any way be responsible, have been paid or otherwise satisfied.
 8. A written consent of the surety, if any, to final payment.
 9. GRANTEE's ledger sheets including all payments made by the GRANTEE may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

ARTICLE 9 **ALLOWABLE AND UNALLOWABLE COSTS**

- A. The parties agree that allowable costs shall be limited to those costs which are necessary, reasonable, and directly related to the efficient achievement of the objectives of this agreement. GRANTEE must justify all expenditures for which it requests reimbursement, according to accepted NMED criteria and procedures. NMED may withhold reimbursement of any item or expenditure and may reclaim improperly documented reimbursement until the GRANTEE provides sufficient justification.
- B. Unallowable costs include but are not limited to: administrative expenses, costs of GRANTEE employees, late fees, interest or penalties and other noneligible costs, as stated in Article 13, Special Terms and Conditions. Those costs shall be paid by the GRANTEE.

ARTICLE 10 **ACCOUNTING**

Funds received by the GRANTEE from NMED and all other funds, which are contributed by the GRANTEE, shall be established as separate identifiable ledger accounts or be deposited in separate bank accounts. The GRANTEE will comply with generally accepted accounting principles, to account for all funds.

ARTICLE 11 **RECORDS/AUDIT AND INSPECTION**

The GRANTEE shall maintain books, records, documents, and other evidence sufficient to reflect properly all costs incurred in the performance of this agreement. The project site and GRANTEE facilities which are in any part, the subject of this agreement and such books, records, documents, ledgers, and other evidence required by this article shall be preserved and made available to NMED, the State Auditor and/or his agent(s) during the agreement period and for a period of six (6) years from date of final payment. If, upon termination of this agreement, questions exist concerning proper expenditure of funds, the GRANTEE shall preserve and make available all books, records, documents, ledgers, and other evidence relating to this agreement until such questions are settled and the GRANTEE has received written notification, to that effect from NMED. All contracts let by the GRANTEE the cost of which are to be claimed for reimbursements shall include the substance of this record/audit and inspection clause.

ARTICLE 12 **CERTIFICATION**

The GRANTEE gives assurance and certifies, by signing this agreement that:

- A. It possesses legal authority to make application for these funds and to execute this agreement.
- B. Its current governing body has duly adopted or passed a resolution authorizing the person(s) identified as the official representative of the GRANTEE to submit the final and any documents pertaining to the project, along with all understanding and assurance contained herein. The same official resolution must identify the person(s) with signatory authority for the GRANTEE, i.e. the person(s) authorized to submit and sign reimbursement requests to NMED. A copy of the official resolution must be submitted to NMED when the GRANTEE returns the signed grant agreement.
- C. It shall provide all necessary qualified personnel, material, and facilities to implement the project described herein.
- D. It will comply with federal, state and local regulations, policies, guidelines and requirements with respect to the acceptance and use of funds for this project.
- E. With the exception of easements (See Article 4.F), when real property is acquired by the GRANTEE either through purchase or donation as a part of this project and within the project period, the GRANTEE shall submit documentation of the acquisition to NMED, including legal description of the property, the date the property will be acquired, a copy of title search on the property, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition the GRANTEE shall make available to NMED all documents of title pertaining to all easements or rights-of-way necessary for the completion of work under this grant agreement.
- F. No officer or employee of the GRANTEE, or its designees or agents, or no member of the governing body of the locality in which the project is situated during his/her tenure or for one year, thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the project assisted under this agreement. The GRANTEE shall incorporate in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification.
- G. Assistance from the State of New Mexico shall be acknowledged on all project signs, which acknowledge project funding sources. The project sign shall include the name of the project, the name of the GRANTEE, total cost of the project and a listing of the financial participation by dollar amount from all sources.

ARTICLE 13**SPECIAL TERMS AND CONDITIONS**

The GRANTEE agrees to abide by the following special terms and conditions:

- A. None of the Spendable Proceeds will be used to pay, refund, renew, roll over, retire or replace any other obligations previously issued or incurred by the GRANTEE. Any capital expenditures that are to be reimbursed were made after February 12, 2000. Spendable Proceeds will not be used to reimburse expenditures other than as described in Article 8 of this agreement.
- B. The GRANTEE has entered into, or will by December 21st, 2000 enter into, substantial binding obligations relating to the GRANTEE'S Project(s) calling for the aggregate expenditure of at least five (5) percent of the total costs of the GRANTEE'S Project(s) listed in Exhibit A attached hereto. After substantial binding obligations to acquire or commence the GRANTEE'S Project(s) will proceed with due diligence to completion. At least eighty-five (85) percent of the Proceeds will be used prior to June 21st, 2003 to pay costs of the GRANTEE'S Project(s).

ARTICLE 14**OCCUPATIONAL SAFETY**

The GRANTEE covenants that it will take affirmative action to ensure that the project shall be conducted in conformance with federal and state laws and regulations relating to occupational health and safety. Authorized inspectors from NMED's Occupational Health and Safety Bureau shall have unobstructed access to project sites and shall not be impeded in any way from performance of their duties. These provisions shall be included in any contract entered into by the GRANTEE and its contractors(s).

ARTICLE 15**EQUAL EMPLOYMENT OPPORTUNITY**

The GRANTEE agrees to abide by all federal and state laws, rules, and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws, rules, regulations, and executive orders of the Governor of the State of New Mexico, the GRANTEE agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of or otherwise be subject to discrimination under, any activity performed under this agreement. If GRANTEE is found to be not in compliance with these requirements during the life of this agreement, GRANTEE agrees to take appropriate steps to correct any deficiencies.

ARTICLE 16 SCOPE OF AGREEMENT AND AMENDMENTS

This instrument incorporates all of the agreements and understandings between the parties relating to this project and all such agreements and understandings have been merged into this written instrument. Amendments of this agreement shall be by written instrument executed by both parties. No other agreement or understanding of the parties or their agents, whether oral or written, shall be valid or enforceable unless embodied in this instrument.

ARTICLE 17 TERMINATION

NMED shall have the right to terminate this agreement if at any time in the judgement of NMED the terms of the agreement have been violated or the activities described in the attached project description are not progressing satisfactorily. In this regard, NMED may demand refund of all or part of the funds disbursed to GRANTEE. Any termination must be in writing and is effective upon receipt of the written notice by the GRANTEE or as determined by NMED in the termination letter.

ARTICLE 18 NOTICE

The GRANTEE shall give notice to all contractors that the Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978 imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kick-backs.

IN WITNESS WHEREOF, the parties hereto have set their hands.

GRANTEE :	
_____	_____
Grantee	Date

NMED :	
_____	_____
Peter Maggiore, Secretary	Date

<input type="checkbox"/> REVISED
DATE _____

**NEW MEXICO
ENVIRONMENT DEPARTMENT
SPECIAL APPROPRIATION PROGRAM
PROJECT DESCRIPTION**

1810484

NAME OF GRANTEE: _____

PROJECT NO: _____

GRANT AMOUNT: _____

The GRANTEE agrees to accomplish the project described as follows:

X

Signatory Authority