

## JOINT METROPOLITAN WATER BOARD ORDINANCE No. 1980-1B

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2 A CITY AND COUNTY JOINT ORDINANCE RELATING TO THE  
3 ADMINISTRATION OF WATER; CREATING THE CITY AND COUNTY  
4 JOINT METROPOLITAN WATER BOARD; PROVIDING FOR POWERS  
AND DUTIES; PROVIDING FOR A FISCAL AGENT; AND PROVIDING  
FOR PAYMENTS.

5 BE IT ORDAINED BY THE GOVERNING BODIES OF THE CITY AND COUNTY OF SANTA FE:

6 Section 1. SHORT TITLE.—This Ordinance shall be known as the "City  
7 and County Joint Metropolitan Water Board Ordinance."

8 Section 2. PURPOSE.—The purpose of this Ordinance is to establish a  
9 Metropolitan Water Board.

10 Section 3. DEFINITIONS.—The following terms, when used herein, shall  
11 have the following meanings:

12 A. "Allocation" means an allocation of project water to a sig-  
13 natory or an applicant which is intended to be a permanent grant of project  
14 water.

15 B. "Applicant" shall mean any governmental body, corporation,  
16 organization, group or individual, other than the City, County or PNM,  
17 which requests an allocation or lease of project water from the Board.

18 C. "Board" means the Metropolitan Water Board.

19 D. "Central Water System" means any central water system other  
20 than the regional water system which provides water distribution service  
21 to five or more persons or entities whether the water system is owned by  
22 the water users, a non-profit corporation, a utility, or other entity or  
23 person or group of persons. This shall also include a cluster water system  
24 which is a water operation where five or more persons or entities obtain  
25 water from the same underground aquifer through a series of two or more

1 separate wells whether the separate wells are interconnected by piping or  
2 not, if the separate wells are operated through centralized management for  
3 the benefit of the five or more persons or entities.

4 E. "City" means the incorporated municipality of Santa Fe, New  
5 Mexico.

6 F. "Contracting Officer" means the Secretary of the United  
7 States Department of Interior or his duly-authorized representative.

8 G. "County" means the County of Santa Fe, State of New Mexico.

9 H. "Extraordinary Majority Vote" means a vote of the Board by a  
10 vote of five members in favor out of a total of seven members of the Board.

11 I. "Lease" means a written agreement executed by the Board and  
12 an applicant leasing or subleasing project water described in Section 7,  
13 Subsection B, Paragraph 1(b) to the applicant for a short period of time,  
14 not to exceed five years.

15 J. "Municipal Boundaries" means the territory located within  
16 the designated boundaries of the City as these boundaries now exist or as  
17 they may be extended in the future from time to time.

18 K. "Operating Account" means the bank account or bank accounts  
19 created by the Board and held by the fiscal agent for the benefit of the  
20 Board.

21 L. "PNM" means the Public Service Company of New Mexico, its  
22 legal representatives, successors, lessees or assigns.

23 M. "Project" means the San Juan-Chama Project, as authorized by  
24 Act of Congress dated June 13, 1962 (76 Stat. 96).

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1 N. "Project Agreement" means that certain agreement dated  
2 November 23, 1976, as amended between the City, County, PNM and the United  
3 States of America, Department of Interior, Bureau of Reclamation.

4 O. "Project Water" means the water allocated jointly to the  
5 City, County and PNM under the terms of the project agreement.

6 P. "Public Service Commission" means the New Mexico Public  
7 Service Commission, established pursuant to Section 62-5-1 et seq. NMSA  
8 1978, as amended, or if the power to regulate public utilities be delegated  
9 to some other state agency, then, and in that event, such state agency  
10 having jurisdiction to regulate public utilities.

11 Q. "Regional Water System" means the integrated system of water  
12 facilities owned and operated by PNM which includes the water, water  
13 rights, rights to water, wells, surface water supply facilities, trans-  
14 mission lines, chemical treatment equipment, water storage, pumps and pump-  
15 ing stations, water distribution pipes, fire hydrants, meters and other  
16 necessary or useful facilities for providing water service within and out-  
17 side the municipal boundaries.

18 R. "Service Area Boundaries" means the exterior boundaries of  
19 the regional water system water distribution boundaries lying outside of  
20 the municipal limits as the service area boundaries presently exist or as  
21 the service area boundaries may be extended in the future from time to  
22 time.

23 S. "Signatories" means the City, County and PNM, which are  
24 parties to the project agreement.

25 T. "State Engineer" means the director of the water resources  
division of the New Mexico state natural resources department or if his

1 duties be delegated to some other person or state official, then and in  
2 that event, such person or state official.

3 U. "Water Franchise Ordinance" means that certain franchise  
4 entered into between the City and PNM on this 19th day of December, 1979,  
5 being Franchise Ordinance No. 1979-40.

6 V. "Year" means the calendar year January 1 through the follow-  
7 ing December 31.

8 Section 4. METROPOLITAN WATER BOARD CREATED.--There is hereby created  
9 a Metropolitan Water Board to have charge of the administration of the con-  
10 tracting for, allocating, leasing or subleasing certain water or water  
11 rights pursuant to the City and County Joint Metropolitan Water Board  
12 Ordinance, to initiate research, planning and conduct or engage in analyses  
13 or studies, of the short and long-range availability and need of water  
14 resources and of ways to accomplish more efficient use of water resources  
15 for purposes related to municipal, industrial and domestic water use for  
16 the regional water system and the central water systems, to make policy  
17 recommendations based upon the research and planning as provided for here-  
18 in, and to initiate, study and recommend service area boundaries.

19 Section 5. MEMBERSHIP OF BOARD.--

20 A. The Board shall be composed of seven members.

21 B. One of the members shall be a resident of the City, ap-  
22 pointed by the Mayor, with the approval of the City Council for a two-year  
23 term. One of the members shall be a resident of the County, appointed by  
24 the Board of County Commissioners for a four-year term. One of the members  
25 shall be appointed by the President of PNM for a four-year term. One of

1 the members, who shall not be an employee of the City, County or PNM, shall  
2 be appointed for a four year term jointly and concurrently by the Mayor,  
3 with the approval of the City Council, the Board of County Commissioners  
4 and the President of PNM. Three members shall be elected as provided in  
5 Paragraph C.

6 C. At the November 1980 General Elections, three members of the  
7 Board shall be elected. Two of these shall be residents of the City and  
8 one shall be a resident of the County residing outside the municipal  
9 boundaries of the City and within the area shown on Exhibit A. The term of  
10 the County resident shall be two years. The terms of the two City resi-  
11 dents shall be four years. Candidates for these positions shall be  
12 registered, qualified electors of the County. Rules of this election will  
13 be as set forth in the County Election Code.

14 D. The members of the Board, except for the members of the  
15 initial Board, shall be appointed or elected for a term of four years. The  
16 term of office of Board members shall commence on January 1. The members  
17 shall serve in office until the expiration of the term for which they have  
18 been appointed or elected, and they shall continue in office until their  
19 successors are appointed or elected and take office.

20 E. Until successors are elected or appointed and qualified pur-  
21 suant to Section 5, Paragraphs B and C of this Ordinance, membership on the  
22 Board shall be governed by the Joint City and County Ordinance No. 1977-24.

23 F. Any vacancy on the Board in an appointed position which is  
24 created for reasons other than the expiration of a term of office shall be  
25 filled by the signatory whose appointee has vacated or is to vacate the

1 office. Any vacancy on the Board in an elected position created for rea-  
2 sons other than the expiration of a term of office shall be filled by the  
3 remaining members of the Board. The successor shall be appointed to fill  
4 the remaining unexpired term of office for which such successor is ap-  
5 pointed. Any person selected to fill a vacancy in an elected position on  
6 the Board shall meet the residency requirements for that position.

7 G. Before the expiration of the term of any appointed member,  
8 the signatory or signatories which selected that Board member shall appoint  
9 a successor to take office on January 1 following the expiration of that  
10 Board member's term of office.

11 H. Any appointed member may be removed by the signatory or  
12 signatories appointing the member upon fifteen days' written notice.

13 Section 6. ORGANIZATION AND MEETINGS.—

14 A. The Board shall elect its own Chairman and Vice Chairman  
15 from among its members, and the Vice Chairman shall serve as Chairman in  
16 the Chairman's absence. The first Chairman shall be elected from among the  
17 elected members of the Board.

18 B. Members of the Board shall serve without compensation, but  
19 shall be reimbursed for per diem and mileage for attending Board meetings  
20 outside the County, at the rate prescribed by the Per Diem and Mileage Act.

21 C. Regular Board meetings shall occur not less than once  
22 every three months at such places and at such times as a majority of  
23 the Board shall designate, pursuant to written notice to all members of  
24 the Board. Special Board meetings may be called by the Chairman or by  
25 any three members of the Board. Five members shall constitute a quo-  
rum. Unless otherwise provided herein, the Board shall act, if at all,

1 by an extraordinary majority vote. The Chairman shall be entitled to vote.

2 The Board shall adopt a policy toward open meetings which is consistent  
3 with applicable laws.

4 D. Unless otherwise specified by the Board, the City shall be  
5 the custodian of the Board's books and records. For purposes of any notice  
6 authorized or required to be given pursuant to the provisions of the City  
7 and County Joint Metropolitan Water Board Ordinance, the Board's address  
8 shall be that of the City, unless otherwise specified by the Board.

9 E. The covenants, obligations and liabilities of the entities  
10 which appoint members to the Board are intended to be several and not joint  
11 or collective. The City and County Joint Metropolitan Water Board Ordinance  
12 or any action taken by the Board shall not be construed to create an  
13 agency, association, joint venture, trust or partnership, nor to impose a  
14 trust or partnership covenant, obligation or liability on or with regard to  
15 any one or more of the signatories. The City, County and PNM shall be  
16 individually responsible for their own covenants, obligations and liabilities.  
17 No signatory shall be the agent of or have the right or power to  
18 bind any other signatory without its express written consent, except as  
19 expressly provided in the project agreement.

20 F. No meeting for action on any matter within the powers of the  
21 Board shall be held outside the County, and no action taken at such a meeting  
22 held outside the County shall be valid.

23 G. It is hereby determined that the Board is a governmental  
24 entity and the Board's and any employee's or official's (full- or  
25 part-time, compensated or uncompensated or loaned by a signatory)

1 liability for acting within the scope of duty of the Board shall be limited  
2 and exclusively governed by the Tort Claims Act, §41-4-1 et seq., NMSA  
3 1978.

4 H. No employee of the Board shall be permitted to participate  
5 in the Public Employees Retirement Act.

6 Section 7. POWERS AND DUTIES.--

7 A. Unless otherwise provided for in this Ordinance, the Board  
8 may only take action by a vote of five members in favor out of the seven  
9 members.

10 B. Subject to the authority and limitations provided to it in  
11 the water franchise ordinance, or in any other applicable water franchises,  
12 the Board shall have the following powers and duties:

13 (1) Subject to the provisions of Section 8 of this City and  
14 County Joint Metropolitan Water Board Ordinance, the Board may contract  
15 for, allocate, or lease any supply of water which the City and the County,  
16 in combination with any other entity, public or private, may receive from  
17 the United States Department of the Interior, Bureau of Reclamation, for  
18 municipal, domestic or industrial purposes, pursuant to the Reclamation Act  
19 of 1902 (32 Stat. 388), the Act of June 13, 1962 (76 Stat. 96), and the Act  
20 of April 11, 1956 (70 Stat. 105), all as amended or supplemented, subject  
21 to the limitation that project water must be allocated:

22 (a) 746 acre feet per annum which the Board shall per-  
23 manently transfer to PNM for use within the service area boundaries;

24 (b) 375 acre feet for allocation to applicants or to  
25 one or more signatories for use outside of the regional water system as it

1 exists at the time the allocation is made; provided that the Board shall  
2 annually reserve 25 acre feet per annum to provide emergency water to ap-  
3 plicants or signatories and to help in protecting against possible short-  
4 ages in water availability;

5 (c) Notwithstanding any other provisions of this City  
6 and County Joint Metropolitan Water Board Ordinance, the Board recognizes  
7 and confirms that 4,484 acre feet per annum of the project waters are  
8 hereby permanently transferred to PNM to be used to provide water service  
9 to its consumers lying within the service area boundaries and such other  
10 uses as specified in the water franchise ordinance.

11 (2) The Board may enter into contracts, leases or subleases  
12 with other agencies of the United States and the State of New Mexico for  
13 purposes related to municipal, industrial and domestic water use, as neces-  
14 sary, pursuant to appropriate federal and state law, provided that the  
15 Board has surplus funds available for such purposes, or that the Board  
16 obtains from the signatories written agreement to pay all or their agreed  
17 portion of the amount required for such purposes.

18 (3) Subject to the limitations contained in the rules and  
19 regulations and orders adopted or approved from time to time by the New  
20 Mexico Public Service Commission and in conformance with the then existing  
21 City General Plan, City Development Codes, City Zoning Ordinances, City  
22 Improvement Plan and County General Plan and City and County Ordinances, as  
23 they may be approved, revised or modified from time to time by the appro-  
24 priate governing body, the Board shall recommend the service area bounda-  
25 ries and the water distribution service boundaries for central water  
systems.

1                   (4) To initiate research, planning and conduct or engage in  
2 analyses or studies of the short and long-range availability and need of  
3 water resources and of ways to accomplish more efficient use of water  
4 resources for purposes relating to municipal, industrial and domestic water  
5 use for the regional water system and the central water systems and, if  
6 appropriate, to establish policy recommendations on policies based upon the  
7 research and planning. The Board's research and planning studies should  
8 include those listed below as high priorities.

9           Such research and planning may be undertaken by the Board only after  
10 the Board has presented to the signatories a proposal specifically defining  
11 each analysis or study to be conducted or engaged in and included in such  
12 proposal the purpose, objective and total estimated costs including a  
13 cost-effectiveness evaluation of the study; and obtained the approval of  
14 the Board to conduct and engage in each analysis or study.

15           Upon adoption of one or more recommended policies of the Board, the  
16 recommended policies shall be submitted to the appropriate governing bodies  
17 of the City, the County, PNM and the central water systems.

18                   (a) Performance of hydrological, economic and other  
19 planning studies for the purpose of evaluating all potential sources of  
20 supply over a 40-year time frame including impacts of and effects on  
21 domestic wells and in so doing shall determine the most cost-effective  
22 order of use of the present sources and, if appropriate, future sources of  
23 supply. Policy recommendations on order of use may be designed to provide  
24 for long-term yield from each source of supply, unless overriding economic  
25 or other considerations require depletion of a given source of supply.

1 These studies may be performed in coordination with the United States  
2 Geological Survey, the State Engineer, PNM or others.

3 (b) Evaluation, study and recommendation of policy  
4 criteria for the allocation of its project water resources within the  
5 region consistent with existing City and County development plans.

6 (c) Evaluation, study and development of policy recom-  
7 mendations, standards and criteria to apply to all new construction and  
8 operation of central water systems under its jurisdiction, which shall  
9 include cost-effective standards for upgrading of existing central water  
10 systems as deemed necessary. The standards for central water systems may  
11 be developed with input from PNM and proposed and recommended by the Board  
12 for incorporation into City and County ordinances.

13 (d) Evaluation and study of alternative water rate  
14 design and rate base considerations for the purpose of determining the  
15 effect of those policies on the cost-effective operation of water systems  
16 and, if appropriate, for the purpose of recommending policies which will  
17 result in the lowest reasonable rates to the consumer in the long run.

18 (e) Evaluation and study of the need for long-term  
19 water conservation measures and, where appropriate, recommend policy mea-  
20 sures designed to reduce demand for use under normal conditions or unusual  
21 scarcity.

22 (f) Performance of a study of area water demand  
23 trends, including an analysis of the geographical and economic sectors con-  
24 tributing to projected demand. This study may take into account pro-  
25 jections of water use and rates over the study period and the effects of al-

1 alternative water conservation measures. The study shall evaluate alterna-  
2 tive policies for providing water service to different parts of its juris-  
3 diction, by the regional water system, central water systems or private  
4 wells or any combination of these. These alternative policies may recom-  
5 mend the service area, location and timing of extensions of the service  
6 area boundaries and the water distribution service boundaries of central  
7 water systems.

8 (g) Evaluation and study of water rights management  
9 policies. This evaluation may examine possible regulation of domestic  
10 wells, alternative policies toward expiring water rights, alternative  
11 policy approaches to existing irrigated lands and alternative policy ap-  
12 proaches for temporary leases of water rights. The Board shall evaluate  
13 the potential for return flow credit for water in the aquifer. Based on  
14 the studies of these and other water rights management issues, the Board  
15 may recommend policies at its discretion.

16 (h) To obtain and review a ten-year capital improve-  
17 ment and water supply plan to be provided by the City, the County regional  
18 water system and each central water system. The City, County regional  
19 water system and each central water system shall modify and update their  
20 plans annually. These programs of capital improvement should include all  
21 major water projects expected to be undertaken by any governmental entity  
22 or private entity within the jurisdiction of the Board. These programs  
23 shall classify projects with respect to urgency and need for realization,  
24 and it shall establish an estimated time sequence for construction. The  
25 program shall also contain an estimated price or estimated cost of each

1 project and it shall indicate estimated operating and maintenance costs and  
2 probable revenues, if any, as well as the estimated financing to support  
3 the capital improvement plan. The Board shall annually review each of  
4 these programs to determine the degree of consistency with policy recom-  
5 mendations adopted by the Board, including whether new water extensions  
6 located outside the municipal boundaries are in general compliance with the  
7 City and County General Plans, the service area boundaries and the water  
8 distribution service boundaries and other planning studies and reports. If  
9 as a result of this review inconsistencies are found and those incon-  
10 sistencies are brought to the attention of the appropriate entity and no  
11 satisfactory modification is made, then appropriate recommendations may be  
12 made by the Board to the City and County for any action they deem neces-  
13 sary.

14 (1) Performance of a forty-year milestone plan indi-  
15 cating proposed actions during the course of the plan to assure continued  
16 adequate water supply for its jurisdiction. This plan may examine alterna-  
17 tive approaches to development of new facilities.

18 (5) To employ staff members or reimburse signatory staff  
19 members for services performed at the Board's request, if needed, to carry  
20 out the directions of the Board in the exercise of its powers and duties.

21 (6) To develop and approve an annual work program and bud-  
22 get to carry out the duties set forth in this ordinance. The budget shall  
23 be submitted annually to the City Council and County Commission for their  
24 approval and also shall be subject to the approval of the State as required  
25 by law; provided that the City and PNM in their discretion are not required

1 to fund any amounts in excess of the amounts set forth in Section 9, Sub-  
2 section C.

3 (7) To contract for consulting and legal expertise as  
4 needed to carry out its duties.

5 (8) To apply for and receive grants for activities autho-  
6 rized in this ordinance.

7 (9) To establish and execute cooperative work programs with  
8 other governmental entities for the purposes set out in this ordinance.

9 (10) In cooperation with the State Engineer, to inform the  
10 contracting officer in writing of the time and amount of project water  
11 referred to in Section 7, Subsection B, Paragraph 1(b) to be released by  
12 the United States.

13 (11) Upon request of one of the signatories or the  
14 City-County Planning Commission, to assist in an advisory capacity in the  
15 recommendation of water resource policies and in the evaluation of actions  
16 which affect the water resources of the County. Such requests and advice  
17 shall be limited to matters within the legal jurisdiction and policy im-  
18 plementation capabilities of the body making the request.

19 (12) To adopt an allocation policy statement, establishing  
20 the guidelines for allocating the project water referred to in Section 7,  
21 Subsection B, Paragraph 1(b), which shall be adopted by the Board prior to  
22 any allocation of project water being made to any applicant or signatory  
23 other than PNM.

24 C. The Board shall have only those powers specifically enum-  
25 erated in the City and County Joint Metropolitan Water Board Ordinance, and  
shall not have the power of eminent domain, taxation or assessment.

1           D. The Board shall not have the power to enter into any agree-  
2 ment which has the effect of prohibiting the City or the County from re-  
3 pealing or amending this Ordinance.

4           Section 8. WATER USAGE.—

5           A. The project water shall be first reserved to provide water  
6 service for municipal, industrial and domestic use in the City and County.

7           B. As provided in Section 7, Subsection B, Paragraph 1(c), PNM  
8 shall have the right to use 4,484 acre feet per annum of the project water  
9 for the regional water system, in accordance with the water franchise  
10 ordinance. In addition, as provided in Section 7, Subsection B, Paragraph  
11 1(a), PNM shall have the right to use 746 acre feet per annum of the  
12 project water for the regional water system. PNM may lease the above  
13 specified water to persons or entities for a period including options to  
14 renew not exceeding five years or by sale of water on a year to year basis  
15 when this water is determined by PNM to be excess water not necessary for  
16 use in providing water service for the regional water system. As con-  
17 sideration for this use, PNM agrees to pay the amount established by the  
18 contracting officer under the project agreement.

19           C. The 375 acre feet per annum share of water referred to in  
20 Section 7, Subsection B, Paragraph 1(b) may be put to use through the  
21 regional water system or through independent facilities provided by an  
22 investor-owned or government-owned utility or water users association.  
23 Each application for such use will be reviewed by the Board on an indi-  
24 vidual basis. No allocation will be made which contravenes or circumvents  
25 the City's extraterritorial platting and planning jurisdiction in the

1 Extraterritorial Zone, or the County's proposed General Plan and related  
2 ordinances, codes and regulations. Each allocation of project water made  
3 outside the regional water system shall come from the County's 375 acre  
4 feet per annum share of project water provided in Section 7, Subsection B,  
5 Paragraph 1(b), of the City and County Joint Metropolitan Water Board  
6 Ordinance.

7 D. The Board is authorized to negotiate leases with any appli-  
8 cant or signatory for use of the 375 acre feet per annum share of water as  
9 specified in Section 7, Subsection B, Paragraph 1(b) project water not  
10 directly needed by the County. The amount of water specified in this Sub-  
11 section D of this Section available for leases shall be determined by the  
12 Board for a five-year period, and the estimate of such water availability  
13 will be updated on an annual basis. No lease of water as provided under  
14 this Subsection shall take place if the water so leased would be expected  
15 to be needed by the City, County or PNM during the period of the lease. No  
16 such lease, including options to renew, shall exceed five years.

17 E. As a condition to allocations under Subsection C of this  
18 Section, the Board may require that those benefiting from the allocation be  
19 required to acquire and transfer water rights to the signatories or Board  
20 in a manner to be determined by the Board and subject to the regulations of  
21 the State Engineer.

22 F. Any use of water under Subsections C or D of this Section,  
23 once approved, shall be the responsibility of the applicant receiving the  
24 allocation or lease and putting said water to beneficial use. Unless  
25 otherwise agreed by the signatories, the signatories shall not be re-

1 sponsible for distribution of the water, nor for approvals to use such  
2 water, which must be obtained from the State Engineer, or any other govern-  
3 mental authority having authority to approve such usage. Applicants re-  
4 ceiving allocations or leases of project water shall save harmless the  
5 Board, City, County and PNM from any and all liability from any cause what-  
6 soever.

7 G. All applicants who receive project water under Section 7,  
8 Subsection B, Paragraph 1(b) shall maintain accurate and detailed records.  
9 as may be required by the Board as to their use of project water, which  
10 shall be available for public review upon one day's notice.

11 H. All agreements allocating or leasing project water entered  
12 into by the Board shall contain language providing that if and in the event  
13 the City and County Joint Metropolitan Water Board is terminated for any  
14 reason the agreement shall be assignable by the Board to its successor  
15 entity, or to any one or more of the signatories as determined jointly by  
16 an agreement between the signatories and upon such assignment, the Board  
17 shall be relieved of any and all obligations under the contract and the  
18 Board shall not be liable for any obligation under the project agreement  
19 occurring before or after the effective date of the assignment.

20 Section 9. BOARD FINANCES.--

21 The City shall be fiscal agent for the Board until the Board becomes  
22 its own fiscal agent.

23 A. The fiscal agent shall be empowered to establish an opera-  
24 ting account into which funds shall be deposited and to make disbursements  
25 from the operating account in accordance with authorizations received from

1 the Board. The fiscal agent shall make reports to the Board on a quarterly  
2 basis. The books of the operating account shall be owned by the signa-  
3 tories in proportion to their respective contributions therein at any given  
4 time, and the fiscal agent, in its capacity as such, shall not have any  
5 right or title therein, except to maintain custody of and to disburse the  
6 funds as authorized by the Board. The books of the operating account shall  
7 be open and available to the public.

8           B. The Board shall annually develop a budget projected for an  
9 eighteen-month period, to include schedules of payments to the United  
10 States Government, administrative costs, potential reimbursements from  
11 applicants for project water, and additional payments to be made and  
12 revenues to be received. The budget shall be utilized by the signatories  
13 in such a manner as to prepare their respective internal budgets so that  
14 funds are available for payment to the operating account. Any person or  
15 agent authorized to expend money on behalf of the Board shall do as pro-  
16 vided by the budget; any deviations from the budget shall be submitted to  
17 the Board for prior approval. The Board may revise the budget as may be  
18 necessary.

19           C. Beginning with the fiscal year 1980-81 PNM, consistent with  
20 the Board's budget, shall match the City's contribution to the Board up to  
21 an amount equal to two percent of the gross receipts that PNM received from  
22 water sales within the municipal boundaries of the regional water system  
23 during each preceding calendar year. The payments by the City and PNM  
24 shall be made to the operating account of the Board on a monthly basis as  
25 specified in the Board's budget.

1           The County shall provide to the Board an amount not to exceed ten  
2 percent of the total provided by PNM and the City, and further provided  
3 that such amount shall be utilized by the Board for the rental of office  
4 space (including utilities and janitorial service) from the County. Money,  
5 equipment or services may be contributed to the Board by the County to  
6 satisfy its obligations under the provisions of this Subsection C.

7           D. The budget of the Board shall be included in the budget of  
8 the City and County and PNM, and the City and County budget shall be sub-  
9 ject to the approval of the New Mexico Department of Finance and Admin-  
10 istration, as required by § 6-6-2 NMSA 1978. Any funds provided to the  
11 Board by the City, the County or PNM in excess of those specifically agreed  
12 to herein shall be at the sole discretion of the entity providing the  
13 funds.

14           E. The Board shall require any applicant authorized to receive  
15 project water to prepay the Board for water to be received at such times  
16 and in such amounts as the Board shall determine, but in no event shall the  
17 amount be less than the cost of the project water plus administrative costs  
18 incurred by the Board.

19           F. On and after January 1, 1980, PNM shall pay for 4,484 acre  
20 feet per annum. In addition, upon the Board providing the 746 acre feet  
21 per annum to PNM, PNM shall pay for such water. The remaining 375 acre  
22 feet per annum shall be paid for by the County except to the extent that  
23 the Board can recover these remaining amounts from the City, PNM, appli-  
24 cants or persons or entities on short-term leases as provided for herein.  
25 The amounts to be paid to the Board for such water shall be the acre-foot  
amounts required to be paid by the project agreement.

1           G. Payments shall be made to the operating account on the basis  
2 of written notices or bills provided to each applicant authorized to re-  
3 ceive project water, and to each signatory by the fiscal agent, no less  
4 than thirty business days prior to the time at which payments must be made  
5 to the United States. Payments made to the operating account by applicants  
6 shall reach that account no less than ten business days prior to the time  
7 at which payments must be made to the United States. Payments made to the  
8 operating account by the signatories hereto shall reach that account not  
9 less than one business day prior to the time at which payments must be made  
10 to the United States.

11           H. The water charge due to the United States is to be paid from  
12 the operating account on or before December 31 of each year, beginning  
13 December 31, 1977. Project operation, maintenance and replacement charges  
14 are to be paid from the operating account to the United States as they  
15 become due.

16           I. In the event that the operating account has insufficient  
17 funds to make full payment of the charges owed to the United States by the  
18 signatories under the project agreement, the fiscal agent is authorized to  
19 make full payment of said charges from its separate funds. In the event  
20 that the fiscal agent makes such payment, it shall be reimbursed from the  
21 operating account.

22           Section 10. REHEARING AND APPEAL PROCEDURE.--

23           A. Any person aggrieved by a decision of the Metropolitan Water  
24 Board with respect to water allocated or to be allocated under Section 7,  
25 Subsection B, Paragraph 1(b), shall submit a request for rehearing to the

1 Board within fifteen calendar days after the decision is made by the  
2 Board. The Board shall schedule a hearing on the request for rehearing  
3 within forty-five days after receipt of the request and provide the ag-  
4 grieved party ten days' notice of the hearing. The aggrieved party or his  
5 representative shall appear at the hearing. The Board shall, within thirty  
6 days after the hearing, affirm, modify, reverse, revise or withdraw its  
7 decision.

8 B. An Appeals Committee is created which shall consist of the  
9 Mayor of the City, the Chairman of the Board of County Commissioners and  
10 the President of PNM. The Appeals Committee shall hear and decide any  
11 appeals made pursuant to this Section.

12 (1) Any person aggrieved or any three members of the Board  
13 may appeal the decision of the Board to make an allocation or enter into a  
14 lease to the Appeals Committee.

15 (2) The appeal must be in writing, state the grounds of the  
16 appeal, and be received by the Board and each signatory within ten days of  
17 the date of the decision on rehearing by the Board to enter into the lease  
18 or allocation agreement.

19 (3) The Appeals Committee may reverse the decision of the  
20 Board by unanimous vote.

21 (4) Failure of the Appeals Committee to notify the Board in  
22 writing of a decision to reverse the Board's action within thirty days of  
23 receipt of an appeal shall constitute approval of the Board's action.

24 Section 11. ACTION BY SIGNATORIES.--Any act which, under the pro-  
25 visions of this Ordinance, requires the approval of a signatory or signa-

1 tories shall be deemed to have received that approval unless the signatory  
 2 or signatories give written notice to the Board of disapproval of the  
 3 action within ninety days after mailing by registered mail or delivery to  
 4 the signatory or signatories of written notice of the proposed action of  
 5 the Board.

6 Section 12. EFFECTIVE DATE.--This Ordinance shall become effective

7 *February 1, 1980*

8 PASSED, ADOPTED AND APPROVED this 28<sup>th</sup> day of *January*

9 CITY OF SANTA FE

10 *Arthur E. Trujillo*  
 11 Mayor

12 *462.065*  
 13 STATE OF NEW MEXICO )

14 CITY OF SANTA FE )

15 by Hand and Seal of Office

16 JANA R. GONZALES

17 Clerk, Santa Fe County, N.M.

18 I *hereby* certify that this instrument was filed  
 19 for record on the 30 day of July A.D.,  
 20 1980 at 4:25 o'clock P.M.  
 21 and was duly recorded in book 403  
 22 page 538-559 of the records of Santa Fe County

23 *OK Aragon*  
 24 Deputy

25 COUNTY OF SANTA FE

*Bennie J. Chavez*  
 Chairman of the Board of the  
 Board of County Commissioners

26 ATTEST:

27 *Carolina R. Lopez*  
 28 (SEAL)

29 THIS ORDINANCE WAS RECORDED IN THE SANTA FE COUNTY ORDINANCE BOOK ON  
 30 THE 30 DAY OF July 1980.