

\$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. 2013-46, 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.]

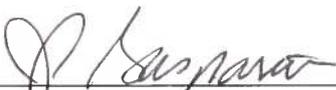
[Signature pages follow.]

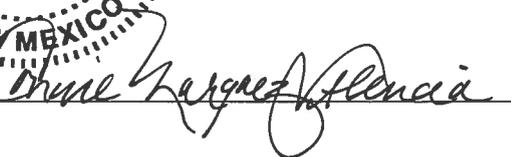
IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, which was approved by the Water Trust Board on April 25, 2012 and by the Finance Authority's Board of Directors on June 22, 2012, in their respective corporate 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:

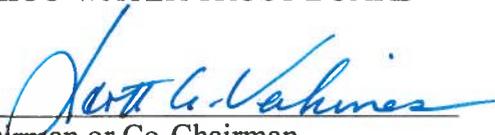


NEW MEXICO FINANCE AUTHORITY

By 
Chief Executive Officer or Designee

By 

NEW MEXICO WATER TRUST BOARD

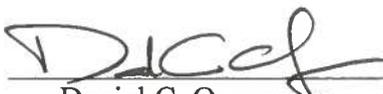
By 
Chairman or Co-Chairman

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*
Kathleen S. Holian, Chair

ATTEST:

By *Geraldine Salazar*
Geraldine Salazar, County Clerk
4/30/13

Approved as to form
Santa Fe County Attorney
By: *Robert J. Quisenberry*
Date: *April 4, 2013*
smh 4/13



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. 2013-46, Adopted April 30, 2013

Additional Funding Amount: \$13,500

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.

Detailed Bond Debt Service
 Santa Fe County
 Water Trust Board Loan
Water Trust Board Loan (BOND)

Period Ending	Principal	Coupon	Admin Fee	Interest	Admin Fee	Total Interest and Admin	
						Fee	Debt Service
6/1/2014	1,315	0.000%	0.250%	0.00	33.19	33.19	1,348.19
6/1/2015	1,340	0.000%	0.250%	0.00	30.46	30.46	1,370.46
6/1/2016	1,344	0.000%	0.250%	0.00	27.12	27.12	1,371.12
6/1/2017	1,347	0.000%	0.250%	0.00	23.76	23.76	1,370.76
6/1/2018	1,351	0.000%	0.250%	0.00	20.38	20.38	1,371.38
6/1/2019	1,354	0.000%	0.250%	0.00	17.00	17.00	1,371.00
6/1/2020	1,357	0.000%	0.250%	0.00	13.62	13.62	1,370.62
6/1/2021	1,361	0.000%	0.250%	0.00	10.24	10.24	1,371.24
6/1/2022	1,364	0.000%	0.250%	0.00	6.82	6.82	1,370.82
6/1/2023	1,367	0.000%	0.250%	0.00	3.42	3.42	1,370.42
	13,500			0.00	186.01	186.01	13,686.01

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: _____