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

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CITY OF SANTA FE
ORDINANCE NO. _____
Bill # 2010-6

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE "LENDERS/GRANTORS") AND THE CITY OF SANTA FE (THE "BORROWER/GRANTEE"), IN THE AGGREGATE AMOUNT OF FOUR MILLION DOLLARS (\$4,000,000), BEING A LOAN IN THE AMOUNT OF EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) AND A GRANT IN THE AMOUNT OF THREE MILLION TWO HUNDRED THOUSAND DOLLARS (\$3,200,000); EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION OF THE BUCKMAN SURFACE WATER DIRECT DIVERSION PROJECT, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in this Authorizing Ordinance or, if not defined in Section 1 of this Authorizing Ordinance, the same meaning as defined in Article I of Ordinance No. 2006-47 (the "Master Ordinance") adopted by the Governing Body on August 9, 2006 unless the context requires otherwise.

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing home-rule municipality under the Constitution and general laws of the State; and

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

WHEREAS, the Master Ordinance provides for the adoption of subsequent ordinances and resolutions to authorize the issuance of additional debt payable from the Pledged Revenues,

as well as for the approval of specific terms and documents relating to the issuance of the additional debt; and

WHEREAS, this Authorizing Ordinance is adopted pursuant to the Master Ordinance in order to authorize the Borrower/Grantee to enter into the Loan/Grant Agreement with the Water Trust Board and the NMFA and pledge the Pledged Revenues to repay the Loan Amount as a subordinate obligation payable from the Pledged Revenues as provided in the Loan/Grant Agreement; and

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

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

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

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE, NEW MEXICO:

Section 1. Definitions. As used in this Authorizing Ordinance, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined). Capitalized terms not defined in this Section 1 shall have the same meanings as defined in the Master Ordinance.

“Act” means the Water Project Finance Act, Sections 72-4A-1 through 72-4A-10, NMSA 1978, as amended and supplemented.

“Additional Funding Amount” means the amounts to be provided by the Borrower/Grantee which, in combination with the Loan/Grant Amount and other moneys reasonably expected to be available to the Borrower/Grantee, are sufficient to complete the Project. The Additional Funding Amount for the Project is eight hundred thousand dollars (\$800,000).

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

“Authorized Officers” means the Mayor, City Manager, Finance Director and City Clerk of the Borrower/Grantee.

“Authorizing Ordinance” means this Ordinance No. _____ as supplemented or amended from time to time.

“BDD Board” means the Buckman Direct Diversion Board created by the Joint Powers Agreement.

“Board” or “Water Trust Board” means the New Mexico Water Trust Board created pursuant to Section 72-4A-4, NMSA 1978.

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

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

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

“County” means Santa Fe County, New Mexico.

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

“Expenses” means the costs of originating and administering the Loan/Grant, including legal fees.

“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 City Council of the Borrower/Grantee, or any future successor governing body of the Borrower/Grantee.

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is three million two hundred thousand dollars (\$3,200,000).

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

“Joint Powers Agreement” means the Joint Powers Agreement between the City of Santa Fe and the County of Santa Fe Governing the Buckman Direct Diversion Project, entered into by the Borrower/Grantee and the County on or about January 18, 2005 and approved by the New Mexico Department of Finance and Administration on March 7, 2005, including any amendments and supplements thereto.

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

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is eight hundred thousand dollars (\$800,000).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement.

“Loan/Grant Agreement” means the Water Project Fund Loan/Grant Agreement entered into by and between the Borrower/Grantee, the Board and the NMFA as authorized by this Authorizing Ordinance.

“Master Ordinance” means the Borrower/Grantee’s Ordinance No. 2006-47, adopted August 9, 2006, as supplemented and amended from time to time.

“NMFA” means the New Mexico Finance Authority.

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

“Pledged Revenues” means the designated revenue stream which is intended to be utilized in funding the repayment of the Loan Amount and to pay Administrative Fees, as more fully described in the Term Sheet.

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

“Project Account” means the account in the name of the Borrower/Grantee established pursuant to this Authorizing Ordinance and held by the NMFA for deposit of the Loan/Grant Amount for disbursal to the Borrower/Grantee for payment of the costs of the Project.

“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 Section 72-4A-9(B) NMSA 1978.

“State” means the State of New Mexico.

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

“Useful Life” means the structural and material design life of the Project.

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

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Authorizing Ordinance) by the Borrower/Grantee and officers of the Borrower/Grantee directed toward the acquisition, construction and completion of the Project and the execution and delivery of the Loan/Grant Agreement shall be, and the same hereby is, ratified, approved and confirmed.

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

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

A. The Project is needed to meet the needs of the Borrower/Grantee and the County, and the public whom they serve.

B. Moneys available and on hand, or reasonably expected to become available for the Project from all sources other than the Loan/Grant Amount (including the Additional Funding Amount) are not sufficient to defray the cost of the Project but, together with the Loan/Grant Amount, will be sufficient to complete the Project.

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

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

E. Together with the Loan/Grant Amount, the Additional Funding Amount is now available to the Borrower/Grantee, or is expected to become available to the Borrower/Grantee within six (6) months after the Closing Date, and, in combination with the Loan/Grant Amount and other moneys reasonably expected to be available to the Borrower/Grantee, the County and the BDD Board, will be sufficient to complete the Project and pay Expenses.

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

G. The Borrower/Grantee, in conjunction with the County and the BDD Board, has or will acquire title to, easements on or rights of way on the real property upon which the Project is being constructed.

H. The Project is a joint project of the Borrower/Grantee and the County, will be acquired jointly by the Borrower/Grantee and the County pursuant to the Joint Powers Agreement, and will be funded jointly by the Borrower/Grantee and the County.

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

A. Authorization. This Authorizing Ordinance has been adopted by the affirmative vote of at least a three-fourths majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the constituent public served by the Borrower/Grantee and the County and acquiring the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of three million two hundred thousand dollars (\$3,200,000) and borrowing the Loan Amount of eight hundred thousand dollars (\$800,000) to be utilized solely for the purpose of completing the Project and paying Expenses, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which are hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to pay Expenses and to finance of the Project. The Project will be jointly owned by the Governmental Unit and the County, in accordance with the Joint Powers Agreement.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Authorizing Ordinance was adopted. The Grant shall be in the amount of three million two hundred thousand dollars (\$3,200,000) and the Loan shall be in the amount of eight hundred thousand dollars (\$800,000). The Loan shall bear interest at a rate of zero percent (0%) per annum, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum.

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

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

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

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the NMFA and approves of the deposit of the Loan/Grant Amount in those accounts as shown in the Term Sheet. Until the Completion Date, the money in the Project Account shall be used and paid out solely for the purpose of acquiring, constructing and completing the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement and the Joint Powers Agreement.

B. Completion of the Project. Upon the Completion Date, the Borrower/Grantee shall execute a certificate stating that the Project and payment therefor have been completed. As soon as practicable, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Project Account shall be transferred and deposited into the Water Project Fund.

C. Board and NMFA Not Responsible. Neither the Board nor the NMFA shall in any manner be responsible for the application or disposal by the Borrower/Grantee or by its officers of the funds derived from the Loan/Grant Agreement or of any other funds herein designated.

Section 9. Deposit of Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Borrower/Grantee shall pay the Loan Amount and Administrative Fees directly to the NMFA as provided in the Loan/Grant Agreement in an amount sufficient to pay principal and Administrative Fees and to cure any deficiencies in the payment of the Loan Amount or Administrative Fees.

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount, which lien shall be subordinate to any lien on the Pledged Revenues existing on the Closing Date or that may arise thereafter (except the lien thereon of other loans made by the Lenders/Grantors pursuant to the Act), including, but not limited to, all indebtedness described in the Master Ordinance, including any amendments or supplements thereto.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Authorizing Ordinance, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Authorizing Ordinance, the Master Ordinance and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Authorizing Ordinance, the Master Ordinance and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

Section 12. Amendment of Ordinance. This Authorizing Ordinance may be amended without receipt by the Borrower/Grantee of any additional consideration, but only with the prior written consent of the Board and the NMFA.

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

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

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

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

Section 17. Master Ordinance. The Governing Body finds that the terms of the Loan/Grant Agreement and of this Authorizing Ordinance are consistent with the terms and parameters established for the issuance of subordinate debt by the Master Ordinance. This Authorizing Ordinance, duly adopted as an ordinance of the Borrower/Grantee, supplements the Master Ordinance in accordance with the provisions hereof and thereof. In the event of any inconsistency between the Loan/Grant Agreement and the Master Ordinance, as supplemented and amended by this Authorizing Ordinance, the provisions of the Master Ordinance shall control.

Section 18. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Authorizing Ordinance shall be published in substantially the following form:

[Remainder of page intentionally left blank.]

[Form of Summary of Ordinance for Publication]

**City of Santa Fe
Notice of Adoption of Ordinance**

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. _____, duly adopted and approved by the City Council of the City of Santa Fe on March 31, 2010. A complete copy of the Ordinance is available for public inspection during normal and regular business hours in the office of the City Clerk, at 200 Lincoln Avenue, Santa Fe, New Mexico 87501.

The title of the Ordinance is:

**CITY OF SANTA FE
ORDINANCE NO. _____**

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE "LENDERS/GRANTORS") AND THE CITY OF SANTA FE (THE "BORROWER/GRANTEE"), IN THE AGGREGATE AMOUNT OF FOUR MILLION DOLLARS (\$4,000,000), BEING A LOAN IN THE AMOUNT OF EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) AND A GRANT IN THE AMOUNT OF THREE MILLION TWO HUNDRED THOUSAND DOLLARS (\$3,200,000); EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION OF THE BUCKMAN SURFACE WATER DIRECT DIVERSION PROJECT, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title.

This notice constitutes compliance with Section 6-14-6, NMSA 1978.

[End of Form of Summary for Publication]

PASSED, APPROVED AND ADOPTED THIS 31ST DAY OF MARCH, 2010.

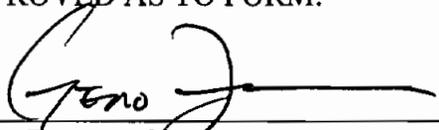
CITY OF SANTA FE

By _____
David Coss, Mayor

ATTEST:

Yolanda Y. Vigil, City Clerk

APPROVED AS TO FORM:



Geno Zamora, City Attorney

[Remainder of page intentionally left blank.]

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

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

Those Voting Aye:

Those Voting Nay:

Those Absent:

_____ () Members of the Governing Body having voted in favor of the motion, the Mayor declared the motion carried and the Authorizing Ordinance adopted, whereupon the Mayor and City Clerk signed the Authorizing Ordinance upon the records of the minutes of the Governing Body.

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

CITY OF SANTA FE

By _____
David Coss, Mayor

ATTEST:

By _____
Yolanda Y. Vigil, City Clerk

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EXHIBIT "A"

Notice of Meeting

\$4,000,000

**WATER PROJECT FUND
LOAN/GRANT AGREEMENT
[No. 170-WTB]**

Dated

May 7, 2010

By and between the

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

and the

**CITY OF SANTA FE,
as Borrower/Grantee.**

**WATER PROJECT FUND
LOAN/GRANT AGREEMENT**

THIS LOAN/GRANT AGREEMENT (the "Agreement") dated May 7, 2010, is entered into by and between the **NEW MEXICO WATER TRUST BOARD** (the "Water Trust Board") and **THE NEW MEXICO FINANCE AUTHORITY** (the "NMFA") (collectively, the "Lenders/Grantors"), and the **CITY OF SANTA FE**, 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 Sections 72-4A-1 through 72-4A-10 NMSA 1978, as amended and supplemented; and

WHEREAS, the NMFA 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 Sections 6-21-1 et seq., NMSA 1978, as amended and supplemented; and

WHEREAS, the Act provides that the Water Trust Board and the NMFA 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 rules governing the terms and conditions of loans and grants made from the Water Project Fund as provided by Section 19.25.10 NMAC, as amended and supplemented, 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, 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 Board Rules, the Water Trust Board and the NMFA are authorized to make combination loan/grants to qualifying entities from the Water Project Fund for Qualifying Water Projects; and

WHEREAS, the Borrower/Grantee is a home-rule municipality, a political subdivision of the State, duly organized and existing under and pursuant to the laws of the State and is a

qualifying entity under the Act and is qualified for financial assistance as defined by the Board Rules; and

WHEREAS, the Buckman Direct Diversion Board (the "BDD Board") is a legally and regularly created, established, organized and existing governing board of the Buckman Direct Diversion Project created by the Joint Powers Agreement entered into between the Borrower/Grantee and the County of Santa Fe pursuant to the Joint Powers Agreement Act, Sections 11-1-1 through 11-1-7, NMSA 1978, on or about January 18, 2005, and approved by the New Mexico Department of Finance and Administration on March 7, 2005, as amended and supplemented; and

WHEREAS, the Borrower/Grantee is permitted and authorized by the Act to enter into this Agreement; and

WHEREAS, the Borrower/Grantee has determined that it is in the best interests of the Borrower/Grantee and the public it serves that the Borrower/Grantee enter into this Agreement with the Lenders/Grantors to borrow eight hundred thousand dollars (\$800,000) from the Lenders/Grantors and to accept a grant in the amount of three million two hundred thousand dollars (\$3,200,000) from the Lenders/Grantors to finance the construction of the Buckman Surface Water Direct Diversion Project, this project being more particularly described in the Term Sheet; and

WHEREAS, based upon the NMFA's evaluation of the New Mexico Water Trust Board Application for Financial Assistance dated October 27, 2008 of the Borrower/Grantee and dealing with the Project, the NMFA's Board of Directors has recommended to the Water Trust Board that the Borrower/Grantee receive financial assistance in the form of the Loan/Grant, and has authorized the NMFA 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 with a lien on the Pledged Revenues subordinate to all other liens thereon, present and future, except only the liens of other loans provided by the Lenders/Grantors pursuant to the Act; and

WHEREAS, the obligation of the Borrower/Grantee under this Agreement shall constitute a special, limited obligation of the Borrower/Grantee, payable from 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; and

WHEREAS, 2009 N.M. Laws ch. 210, being Senate Bill 405 of the 2009 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 and the Grant to finance the costs of the Project; and

WHEREAS, the Water Trust Board has authorized the NMFA to enter into and administer this Agreement governing the Project; and

WHEREAS, the NMFA on behalf of the Water Trust Board has determined that the Borrower/Grantee has met the readiness to proceed requirements established for the Loan/Grant by the NMFA 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 general welfare of the constituent public served by the Borrower/Grantee; and

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

WHEREAS, pursuant to the Joint Powers Agreement, the BDD Board has been designated as the responsible entity to provide for the long-term operation and maintenance of the Project so that it will function properly during the structural and material design life of the Project; 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 represents 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 Authorizing Ordinance; 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 NMFA 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. Other capitalized terms used in this Loan Agreement shall have the same meanings as defined in the Master Ordinance or the Authorizing Ordinance (both as defined below).

“Act” means the Water Project Finance Act, Sections 72-4A-1 through 72-4A-10, NMSA 1978, as amended and supplemented.

“Additional Funding Amount” means any amounts to be provided by the Borrower/Grantee which, in combination with the Loan/Grant Amount, are sufficient to complete the Project. For this Project, the Additional Funding Amount is eight hundred thousand dollars (\$800,000).

“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 Water Project Fund 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 October 27, 2008 of the Borrower/Grantee and dealing with the Project.

“Authorized Officers” means, with respect to the Borrower/Grantee, the Mayor, City Manager, Finance Director and City Clerk thereof; with respect to the NMFA, the Chairman, Vice-Chairman, Secretary and Chief Executive Officer of the NMFA; and with respect to the WTB, the Chairman or a Co-Chairman and the Secretary thereof, and any other officer or employee of the NMFA or of the WTB designated in writing by an Authorized Officer thereof.

“Authorizing Ordinance” means the Borrower/Grantee’s Ordinance No. _____, adopted March 31, 2010, authorizing the execution of this Agreement.

“BDD Board” means the Buckman Direct Diversion Board created by the JPA.

“Board Rules” means Section 19.25.10 NMAC, as amended or supplemented.

“Borrower/Grantee” means the City of Santa Fe 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 and which are set forth in the Term Sheet.

“County” means the County of Santa Fe in the State of New Mexico.

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

“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.

“Eligible Items” means eligible Project costs for which grants and loans may be made pursuant to Section 72-4A-7(C) of the Act, as amended and supplemented, the Board Rules and applicable WTB policies, and includes Expenses. Eligible items include (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 archaeological surveys, (7) construction, (8) land acquisition, (9) easements and rights of way, (10) Eligible Legal Costs, and (11) Eligible Fiscal Agent Fees.

“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.

“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 Authorizing Ordinance and held by the NMFA to pay the Expenses incurred by the Lenders/Grantors in connection with the Loan/Grant Agreement.

“Expenses” means the costs of originating and administering the Loan/Grant, including legal fees.

“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 City Council 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 three million two hundred thousand dollars (\$3,200,000).

“Joint Powers Agreement” or “JPA” means the Joint Powers Agreement between the City of Santa Fe and the County of Santa Fe Governing the Buckman Direct Diversion Project entered into between the Borrower/Grantee and the County on or about January 18, 2005, and approved by the New Mexico Department of Finance and Administration on March 7, 2005, including any amendments and supplements thereto.

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

“Loan” or “Loan Amount” means the amount borrowed by the Borrower/Grantee as a loan pursuant to this Agreement for the purpose of funding the Project and equals eight hundred thousand dollars (\$800,000).

“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.

“Master Ordinance” means the Borrower/Grantee’s Ordinance No. 2006-47, adopted August 9, 2006, as supplemented and amended from time to time.

“NMAC” means the New Mexico Administrative Code.

“NMFA” means the New Mexico Finance Authority.

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

“Pledged Revenues” means the revenues of the Borrower/Grantee pledged to the payment of the Loan Amount and to pay Administrative Fees pursuant to the Authorizing Ordinance and this Loan/Grant Agreement and described in the Term Sheet.

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

“Project Account” means the account in the name of the Borrower/Grantee established consistent with the Authorizing Ordinance and held by the NMFA for deposit of the portion of the Grant Amount and the Loan Amount shown in the Term Sheet to be disbursed to the Borrower/Grantee for payment of the costs of the Project.

“Qualifying Water Projects” means (i) storage, conveyance or delivery of water to end-users; (ii) implementation of 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 have been approved by the State legislature pursuant to Section 72-4A-9(B) of the Act, as amended and supplemented.

“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, 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 NMFA.

“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, the Authorizing Ordinance and the Master Ordinance 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 pursuant to the Act. Pursuant to the laws of the State or 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 the completion of the Project and 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 presently available or reasonably anticipated to become available to the Borrower/Grantee, is sufficient to complete the Project and to pay the Expenses.

(e) Payment of Loan Amount. The Borrower/Grantee shall promptly pay the Loan Amount as provided in this Agreement. The Loan shall be payable, as a third lien, solely from Pledged Revenues and nothing in this Agreement shall be construed as obligating the Borrower/Grantee to pay the Loan 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. The Project will consist of the construction of the Buckman Surface Water Direct Diversion Project, as more particularly described in the Term Sheet. The Project will be constructed and completed so as to comply with all applicable laws, ordinances, resolutions and regulations relating to the construction, completion, operation and maintenance 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 shall not be less than twenty (20) years as required by Section 72-4A-7 of the Act, as amended and supplemented.

(j) Benefit to Borrower/Grantee. During the Loan/Grant Agreement Term, the Project will at all times be used for the purpose of benefiting the Borrower/Grantee, the County and the constituent public they serve. 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 Agreement; 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 County or the BDD Board, 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 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 and the Loan Amount (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, resolutions, 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 Authorizing Ordinance, shall be irrevocable until the Project has been 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.

(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 New Mexico Department of Finance and Administration. The Borrower/Grantee anticipates that the Pledged Revenues will

be sufficient to pay for the Loan, as and when due. The Borrower/Grantee will adequately budget for the periodic payments of the Loan Amount and Administrative Fees and will submit such budget on an annual basis to the New Mexico Department of Finance and Administration (“DFA”) 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 and rights of the Borrower/Grantee without adversely affecting, to any substantial degree, the privileges and rights of the Lenders/Grantors. However, the Borrower/Grantee may annex or deannex land if the Borrower/Grantee complies with other applicable covenants contained in the Master Ordinance.

(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, 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 County or the BDD Board, 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. This paragraph shall not be construed to prohibit the operation and maintenance of the Project by the BDD Board, in accordance with the JPA.

(s) Maintenance of Separate Project Accounts. The Lenders/Grantors on behalf of the Borrower/Grantee shall maintain a separate Project Account in accordance with Generally Accepted Accounting Principles. The Borrower/Grantee shall maintain financial records relating to the use of the Loan/Grant Amount in accordance with Generally Accepted Accounting Principles during the construction 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, including the County, such other qualifying entity has title to such real property. As required by Section 72-4A-7(A)(3) of the Act, as a condition to any disbursement of the Loan/Grant Amount, 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 County or the BDD Board, 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.

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

(a) Authority of Water Trust Board. The Water Trust Board is a public body duly organized and existing pursuant to the Act, 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 NMFA. The NMFA is a public body politic and corporate, separate and apart from the State constituting a governmental instrumentality duly organized, existing and in good standing under the laws of the State, 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 NMFA is a party or by which the Water Trust Board or the NMFA 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 NMFA, or the property of either, and which conflict or violation will have a material adverse effect on the Water Trust Board, the NMFA or the financing of the Project.

(d) No Litigation. To the knowledge of the Water Trust Board and the NMFA, there is no litigation or proceeding pending or threatened against either the Water Trust Board or the NMFA or any other person affecting the right of the Water Trust Board or the NMFA 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 NMFA, nor compliance by the Water Trust Board or the NMFA 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 NMFA enforceable in accordance with its terms.

(f) Sufficiency of Funds. Based solely upon information provided by the Borrower/Grantee (which information the Borrower/Grantee expressly acknowledges has not been independently verified by the Water Trust Board or the NMFA), it appears that the Loan/Grant Amount, together with the Additional Funding Amount and other moneys reasonably expected to be available for the Project, is sufficient to complete the Project and pay the Expenses, and is cost-effective.

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

(h) Compliance with Policies. As related to this Agreement, the Water Trust Board and the NMFA have complied with all applicable policies and procedures as adopted and approved by the Water Trust Board and the NMFA Board of Directors, as applicable, or such policies and procedures have been waived by the Water Trust Board and the NMFA Board of Directors, 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 Section 72-4A-7 of the Act, as amended and supplemented.

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 shall be satisfied:

(a) The NMFA, on behalf of the Water Trust Board, shall have determined that the Borrower/Grantee has met the readiness to proceed requirements established for the Loan/Grant by the NMFA and the Water Trust Board; and

(b) The Borrower/Grantee shall have provided written assurance addressed to the Water Trust Board and the NMFA 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 County or the BDD Board, the Borrower/Grantee shall have provided written assurance addressed to the Water Trust Board and the NMFA 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) 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 or will be 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

(e) The Borrower/Grantee shall be in compliance with the provisions of this Agreement; and

(f) The NMFA and/or the Water Trust Board, as applicable, shall have determined that the Conditions set forth in the Term Sheet, if any, have been satisfied.

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 and Administrative Fee Obligation. The obligation of the Borrower/Grantee to repay the Loan and to pay Administrative Fees shall be subordinate to all other indebtedness now outstanding or hereafter issued which is secured by the Pledged Revenues of the Borrower/Grantee, including, but not limited to all indebtedness described in the Master Ordinance, as amended and supplemented from time to time; except, however, that the obligation of the Borrower/Grantee to repay the Loan and to pay Administrative Fees shall be on parity with any other obligation of the Borrower/Grantee now outstanding or hereafter issued which is secured by the Pledged Revenues and provided by the Lenders/Grantors pursuant to the Act.

(ii) Administrative Fee. The Borrower/Grantee shall, on an annual basis beginning June 1, 2011, 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. The 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 NMFA 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. Although such determination shall be made by the New Mexico Department of Finance and Administration ("DFA"), the Borrower/Grantee shall submit such application to DFA through the NMFA 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 NMFA and DFA) to make such determination, and the Borrower/Grantee shall promptly respond to additional requests for information from DFA or the NMFA. 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 NMFA 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 NMFA shall establish and maintain, on behalf of the Borrower/Grantee, a Project Account, which account shall be kept separate and apart from all other accounts of the NMFA. The Borrower/Grantee hereby pledges to the Lenders/Grantors all its rights, title and interest in the funds held in the Project Account for the purpose of securing the Borrower/Grantee's obligations under this Agreement. Funds in the Project Account shall be disbursed as provided in Section 7.3 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 NMFA, the BDD Board, 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 NMFA, as applicable, that the conditions precedent to the disbursement of the Loan/Grant Amount have been satisfied, the NMFA shall transfer the Loan/Grant Amount shown on the Term Sheet for deposit as follows:

(a) To the Expense Account in the amount necessary to pay the Expenses, as shown on the Term Sheet; and

(b) To the Project Account in the amount shown on the Term Sheet, to be disbursed by the NMFA at the request of the Borrower/Grantee as needed by it to acquire, construct and complete the Project, as provided in Section 7.3 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 NMFA 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 pay the Loan Amount and Administrative Fees as herein provided. The Borrower/Grantee does hereby convey, assign and pledge unto the NMFA and unto its successors in trust forever all right, title and interest of the Borrower/Grantee in and to (i) Pledged Revenues to the extent required to pay the Loan Amount and Administrative Fees as herein provided, subject to and subordinate to all other obligations secured by the Pledged Revenues now outstanding or hereafter issued (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 provided 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 and Administrative Fees 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, and the Administrative Fees 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 NMFA and the Water Trust Board acknowledge and agree that obligations of the Borrower/Grantee hereunder are limited to the Pledged Revenues;

and that this Agreement with respect to the Loan Amount and the Administrative Fees 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 payments made by the Borrower/Grantee to the NMFA to pay the Loan Amount 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 NMFA 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 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 NMFA, any vendor or any other person, the Borrower/Grantee shall make all deposits hereunder, from and to the extent of 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 pay the Loan Amount 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 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, Construct, Complete and Maintain the Project.

(a) The Borrower/Grantee hereby agrees that in order to effectuate the purposes of this Agreement and to acquire, construct and complete the Project it shall take such steps as are necessary and appropriate to complete and maintain the Project, or cause the Project to be completed and maintained by others, lawfully and efficiently. No Loan/Grant funds shall be used for items not constituting Eligible Items as defined in Section 72-4A-7(C) of the Act, as amended and supplemented, and the Board Rules.

(b) As provided by Section 72-4A-7(A)(1) of the Act, as amended and supplemented, the Borrower/Grantee and/or the BDD Board pursuant to the JPA 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 County or the BDD Board, 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 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 include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

Section 7.2 Availability of Additional Funding Amount Is Condition Precedent to Disbursement. Except as otherwise expressly provided in the Conditions, prior to the NMFA making the initial disbursement from the Project Account as provided below, the Borrower/Grantee shall certify to the Lenders/Grantors that the Additional Funding Amount is available for the Project. In addition to the Borrower/Grantee's certification, the Borrower/Grantee shall provide additional evidence reasonably acceptable to the Lenders/Grantors of the availability of the Additional Funding Amount. In the event that the Borrower/Grantee is unable to provide the Additional Funding Amount within six (6) months after the Closing Date, this Loan/Grant Agreement shall, at the option of the Board and the NMFA, terminate and be of no further force or effect.

Section 7.3 Disbursements from the Project Account. So long as no Event of Default shall occur and provided that all conditions precedent to the disbursement of the Loan/Grant Amount have been satisfied, the NMFA shall disburse moneys from the Project Account upon receipt by the NMFA 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. Such certification must be acceptable in form and substance to the NMFA and, at its request, the Water Trust Board. The Borrower/Grantee and the BDD Board shall provide such records or access to the Project as the NMFA, 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 7.4 Determination of Eligibility Is Condition Precedent to Disbursement. No disbursement shall be made from the Project Account except upon a determination by the NMFA 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 Water Trust Board policies governing the Water Project Fund. The NMFA, as a condition precedent to making any requested disbursement, may require submittal of such documentation as the NMFA 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 applicable Water Trust Board policies.

Section 7.5 No Disbursement for Prior Expenditures Except upon Approval. No disbursement shall be made from the Project Account without the approval of the NMFA and, at its request, the Water Trust Board, to reimburse any expenditures made prior to the Effective Date.

Section 7.6 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 NMFA and the Water Trust Board, substantially in the form of Exhibit "D" attached hereto, stating that, to his or her knowledge, the Project has been completed and Loan/Grant funds 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.

Section 7.7 Application of Project Account Subsequent to Disbursement of Loan/Grant Funds. 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 7.6 hereof; or (b) the date which is three (3) years from the Effective Date, the NMFA shall transfer the amounts remaining on deposit in the Project Account to the Water Project Fund or to such other fund permitted by law as may be established by the Water Trust Board and the NMFA.

ARTICLE VIII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

Section 8.1 Further Assurances and Corrective Instruments. The Lenders/Grantors, the Borrower/Grantee, and the Borrower/Grantee as fiscal agent for the BDD Board 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, Borrower/Grantee and BDD Board. Whenever under the provisions hereof the approval of the Lenders/Grantors, collectively or individually, the Borrower/Grantee or the BDD Board is required, or the Borrower/Grantee, the Lenders/Grantors or the BDD Board, 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 or for the BDD Board by an Authorized Officer or Authorized Officers of the Lenders/Grantors, collectively or individually, or of the Borrower/Grantee (For the Borrower/Grantee or the BDD Board), 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. 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 relating to the Project of all courts having jurisdiction over the Borrower/Grantee. The Borrower/Grantee, to the extent that it is in the Borrower/Grantee's power, shall ensure that the BDD Board likewise, during the Agreement Term, observes and complies promptly with all applicable federal, State and local laws and regulations affecting the Project, and all current and future court orders affecting 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, Sections 13-1-28 through 13-1-199 NMSA 1978, as amended and supplemented, 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 Section 13-4-18 NMSA 1978, as amended and supplemented.

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**

The Borrower/Grantee and the BDD Board 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, Sections 41-4-1 to 41-4-29 NMSA 1978, as amended and supplemented, 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, construction or completion 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. 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.

**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 or the BDD Board as operator of the Project 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 or the BDD Board is unable to carry out the agreements on its part therein contained, the Borrower/Grantee shall not be deemed in default under the preceding paragraph 10.1(a) 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 or the BDD Board 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 or the BDD Board may reach only the available Pledged Revenues.

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 or the BDD Board 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 thereunder; 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 such an 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 NMFA and the WTB. 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:

City of Santa Fe
Attn.: City Clerk
200 Lincoln Avenue
Santa Fe, New Mexico 87501

If to the Water Trust Board or to the NMFA, then to:

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

If to the BDD Board, then to:

Buckman Direct Diversion Board
c/o Director of the Sangre de Cristo Water Division
City of Santa Fe
P.O. Box 909
Santa Fe, New Mexico 87504-0909

The Borrower/Grantee, the Lenders/Grantors or the BDD Board 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 Water Trust Board, the NMFA and the Borrower/Grantee on the Closing Date constitute an entire agreement of the parties regarding the subject matter hereof as of the Closing Date. The Loan and Grant provided herein, which were approved by the Water Trust Board on May 21, 2009, approved by the NMFA Board of Directors on June 25, 2009 subject to reconfirmation by the Water Trust Board, and reconfirmed by the Water Trust Board on August 24, 2009, and the terms hereof supersede all prior understandings and agreements between the parties in connection with the Loan and Grant, to the extent inconsistent herewith.

Section 11.4 Amendments. This Agreement may be amended only with the written consent of all of the parties hereto.

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 NMFA or the Water Trust Board, or against any officer, employee, director or member of the Borrower/Grantee or the BDD Board, 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 BDD Board, the Water Trust Board or of the NMFA is hereby expressly waived and released by the Borrower/Grantee, the BDD Board, the Water Trust Board and the NMFA 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 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. For ease of reference, the Board Rules as of the Effective Date are attached hereto as Exhibit "E".

Section 11.11 Borrower/Grantee Reporting to Lenders/Grantors. The Borrower/Grantee or the BDD Board on behalf of the Borrower/Grantee shall provide the Lenders/Grantors with a written report in a form reasonably acceptable to the Lenders/Grantors and executed by the Authorized Officers of the Borrower/Grantee describing the status of the Project as of the report date, uses of Loan/Grant funds during the six (6) month period preceding the report date and anticipated requests for distributions of Loan/Grant funds to occur during the six (6) month period following the report date. The first report date shall be the date which is six (6) months after the Effective Date, the second report date shall be the first anniversary of the Effective date, and subsequent report dates shall be the dates upon which end each succeeding six (6) month period prior to complete 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 NMFA or the WTB. The description of the status of the Project in such reports 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 from those anticipated as of the Closing Date, and (c) a description of the percentage of completion of Project.

The Borrower/Grantee and the BDD Board may provide that the BDD Board shall perform any or all of the reporting requirements stated herein on behalf of the Borrower/Grantee, in which event the Lenders/Grantors shall deem the reports submitted by the BDD Board on behalf of the Borrower/Grantee to be the reports of the Borrower/Grantee. However, the Borrower/Grantee shall not thereby be relieved of its reporting requirements as set forth herein, and in the event of any insufficiency or default as to such reporting requirements, the Lenders/Grantors may require that the Borrower/Grantee remedy the insufficiency or default, regardless of any agreement between the Borrower/Grantee and the BDD Board.

[Remainder of page intentionally left blank.]

[Signature pages follow.]

IN WITNESS WHEREOF, the NMFA, 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 May 21, 2009, approved by the NMFA's Board of Directors on June 25, 2009 subject to reconfirmation by the Water Trust Board, and reconfirmed by the Water Trust Board on August 24, 2009, in their respective corporate names with their corporate seals affixed hereto and attested by their duly authorized officers; and the Borrower/Grantee has caused this Agreement to be executed and attested by duly authorized officers thereof. All of the above are effective as of the date first above written.

LENDERS/GRANTORS:

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

ATTEST:

By _____

NEW MEXICO WATER TRUST BOARD

By _____
Chairman or Co-Chairman

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

COPPLER LAW FIRM, P.C.
As Loan/Grant Counsel

By: _____
John L. Appel

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

By: _____
Reynold E. Romero
NMFA General Counsel

BORROWER/GRANTEE:

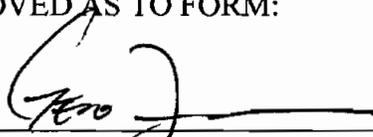
CITY OF SANTA FE

By _____
David Coss, Mayor

ATTEST:

By _____
Yolanda Y. Vigil, City Clerk

APPROVED AS TO FORM:

By  _____
Geno Zamora, City Attorney

APPROVED:

By _____
Kathryn Raveling, Director
Finance Department

EXHIBIT "A"

TERM SHEET

**\$4,000,000 WATER PROJECT LOAN/GRANT TO THE
CITY OF SANTA FE
[No. 170-WTB]**

Project Description:	The Project is construction of the Buckman Surface Water Direct Diversion Project, including an intake structure on the east bank of the Rio Grande near the western terminus of Buckman Road, low-head submersible pumps, a sediment removal facility, five booster pumps, a sediment removal station, two water treatment plants and the pipelines necessary to convey the water between system components, all as more specifically described in the Application and in the final plans and specifications for the Project approved by the Water Trust Board and the NMFA as provided by this Agreement.
Grant Amount:	\$3,200,000
Loan Amount:	\$800,000
Pledged Revenues:	Pledged Revenues as defined in City of Santa Fe Ordinance No. 2006-47, adopted August 9, 2006, as amended and supplemented.
Currently Outstanding Parity (Third Lien) Obligations for Pledged Revenues:	2007 Water Project Fund Loan/Grant No. 68-WTB, 2009 Water Project Fund Loan/Grants No. 93-WTB and No. 134-WTB, and 2010 Water Project Fund Loan/Grant No. 171-WTB
Revenues:	\$16,865,066 annually
Additional Funding Amount:	\$800,000
Effective Date:	May 7, 2010
Project Account Deposit:	\$4,000,000
Expense Account Deposit:	\$0

Conditions to be satisfied prior to first disbursement of Loan/Grant funds: Delivery to NMFA of (i) a copy of the agenda of the meeting of the Governing Body at which the Authorizing Ordinance was adopted and at which this Agreement, the Authorizing Ordinance and all other

Loan/Grant documents were authorized by the Governing Body (the "Meeting"), certified as a true and correct copy by the City Clerk of the Borrower/Grantee, (ii) a copy of the minutes of the Meeting, approved by the Governing Body, signed by the Mayor and attested to by the City Clerk of the Borrower/Grantee, and (iii) copy of the notice of meeting for the Meeting evidencing compliance with the Borrower/Grantee's Open Meetings standards presently in effect.

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

EXHIBIT "B"

FORM OF REQUISITION

RE: \$4,000,000 Loan/Grant Agreement by and between the City of Santa Fe, as Borrower/Grantee, the Water Trust Board and the NMFA, as Lenders/Grantors (the "Loan/Grant Agreement")

Loan/Grant No. 170-WTB

Closing Date: May 7, 2010

TO: NEW MEXICO FINANCE AUTHORITY

You are hereby authorized to disburse from the Project Account – City of Santa Fe 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 – City of Santa Fe. 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 are to 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, and (10) legal costs and fiscal agent fees, subject to limitations as set forth in the Loan/Grant Agreement.

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 twenty (20) annual installments of principal pursuant to the attached debt service schedule, beginning June 1, 2011 and ending June 1, 2030. The Loan Amount shall be prepayable at any time without penalty. The Administrative Fee shall be due and payable annually on the same dates as the annual installments of principal.

EXHIBIT "D"

FORM OF CERTIFICATE OF COMPLETION

RE: \$4,000,000 Loan/Grant Agreement by and between the Water Trust Board and the NMFA, as Lenders/Grantors, and the City of Santa Fe, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 170-WTB

Closing Date: May 7, 2010

TO: NEW MEXICO FINANCE AUTHORITY

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

the 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 by the Borrower/Grantee 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, to be transferred from the Project Account to the Water Project Fund, 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.

CITY OF SANTA FE

By: _____

Its: _____

EXHIBIT "E"

**RULES OF THE NEW MEXICO WATER TRUST BOARD
(TITLE 19, CHAPTER 25, PART 10 OF THE NEW MEXICO
ADMINISTRATIVE CODE) IN EFFECT AS OF THE
EFFECTIVE DATE**