

# CITY OF LAS VEGAS

1700 N. GRAND AVE. • LAS VEGAS, NEW MEXICO 87701-4731 • 505-454-1401 • FAX 505-425-7335

**ALFONSO E. ORTIZ, JR.**

Mayor

**CITY OF LAS VEGAS  
REGULAR CITY COUNCIL AGENDA  
April 15, 2015–Wednesday– 6:00 p.m.  
City Council Chambers  
1700 N. Grand Ave**

*(The City Council shall act as the Housing Authority Board of Commissioners on any matters on the Agenda concerning the Housing Department.)*

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. MOMENT OF SILENCE
- V. APPROVAL OF AGENDA
- VI. APPROVAL OF MINUTES (March 11<sup>th</sup> Special, March 11<sup>th</sup> Work Session, March 18<sup>th</sup>, March 25<sup>th</sup> Special, March 30<sup>th</sup> Special 2015)
- VII. MAYOR'S APPOINTMENTS/REPORTS
- VIII. MAYOR'S RECOGNITIONS/PROCLAMATIONS
- IX. PUBLIC INPUT (not to exceed 3 minutes per person)
- X. CITY MANAGER'S REPORT
- XI. PRESENTATIONS (Not to exceed 10 minutes per person)
  - Presentation by Amistad y Resolana
- XII. FINANCE REPORT
- XIII. BUSINESS ITEMS

1. Conduct a Public Hearing and Approval/Disapproval to adopt Ordinance No. 15-02 Rodriguez Park Effluent Project Water Trust Board funding.

***Ken Garcia, Utilities Director*** The City received funding from the Water Trust Board for the Rodriguez Park Effluent project. This is an amendment to the original agreement that will reduce the loan amount of the agreement from 40% to 10%. The new loan amount will be \$33,000 which is a reduction of \$99,000.00 and the new grant amount will be \$297,000.00 which is an increase of \$99,000.00. Ordinance 15-02 amending Ordinance 11-18 was published on March 30, 2015.

2. Conduct a Public Hearing and Approval/Disapproval to adopt Ordinance No. 15-03 Taylor Well No. 2 Replacement Project Water Trust Board funding.

***Ken Garcia, Utilities Director*** The City received funding from the Water Trust Board for the Taylor Well No. 2 replacement project (WTB-219). This is an amendment to the original agreement that will reduce the loan amount of the agreement from 40% to 10%. The new loan amount will be \$154,616.00 which is a reduction of \$463,849.00 and the new grant amount will be \$1,391,546.00 which is an increase of \$463,849.00. Ordinance 15-03 amending Ordinance 11-19 was published on March 30, 2015.

3. Approval/Disapproval to Publish Ordinance 15-05 amending Chapter 48 Labor Management Relations, § 48-14 Scope of Bargaining.

***Victoria Lovato, Personnel/Risk Management Coordinator*** Pursuant to the State Labor Board's review Chapter 48, it is their recommendation to amend Chapter 48, Labor Management Relations to allow the following language to be added to § 48-14. Scope of Bargaining; G. Fair Share is permissive subject of bargaining.

4. Approval/Disapproval to authorize staff to proceed with contract negotiations for Architectural/Engineering Services for the Las Vegas Senior Citizen Center Renovation and Expansion Project.

***Elmer Martinez, City Manager*** The City of Las Vegas solicited proposals for the architectural/engineering services for the Las Vegas Senior Citizens Center Renovation and Expansion Project. Two proposals were received and ranked, based on the Technical Review Committee's recommendations, Council is asked to authorize staff to enter into contract negotiations with the most qualified firm for referenced services.

**XIV. COUNCILORS' REPORTS**

**XV. EXECUTIVE SESSION**

**THE COUNCIL MAY CONVENE INTO EXECUTIVE SESSION IF SUBJECT MATTER OF ISSUES ARE EXEMPT FROM THE OPEN MEETINGS REQUIREMENT UNDER § (H) OF THE OPEN MEETINGS ACT.**

- A. Personnel matters, as permitted by Section 10-15-1 (H) (2) of the New Mexico Open Meetings Act, NMSA 1978.**
- B. Matters subject to the attorney client privilege pertaining to threatened or pending litigation in which the City of Las Vegas is or may become a participant, as permitted by Section 10-15-1 (H) (7) of the New Mexico Open Meetings Act, NMSA 1978.**
- C. Matters pertaining to the discussion of the sale and acquisition of real property, as permitted by Section 10-15-1 (H) (8) of the Open Meetings Act, NMSA 1978.**

**XVI. ADJOURN**

**ATTENTION PERSONS WITH DISABILITES:** The meeting room and facilities are accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office prior to the meeting so that arrangements may be made.

**ATTENTION PERSONS ATTENDING COUNCIL MEETING:** By entering the City Chambers, you consent to photography, audio recording, video recording and its/their use for inclusion on the City of Las Vegas Web-site, and to be televised on Comcast.

**NOTE:** A final agenda will be posted 72 hours prior to the meeting. Copies of the Agenda may be obtained from City Hall, Office of the City Clerk, 1700 N. Grand Avenue, Las Vegas, N.M 87701

**MINUTES OF THE CITY OF LAS VEGAS SPECIAL CITY COUNCIL MEETING HELD ON  
WEDNESDAY, MARCH 11, 2015 AT 5:00 P.M. IN THE CITY COUNCIL CHAMBERS**

**MAYOR:** Alfonso E. Ortiz, Jr.

**COUNCILORS:** Joey Herrera  
Tonita Gurule-Giroñ  
David L. Romero  
Vincent Howell

**ALSO PRESENT:** Elmer J. Martinez – City Manager  
Casandra Fresquez – City Clerk  
Dave Romero – City Attorney  
Juan Montano – Sergeant at Arms

**CALL TO ORDER**

Mayor Ortiz, Jr. called the meeting to order at 5:05 p.m.

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

Mayor Ortiz, Jr. asked to devote a moment of silence to reflect on positive thinking and how we can improve our services to the community, both professionally and personally.

**MAYOR'S APPOINTMENTS/REPORTS**

Mayor Ortiz, Jr. advised there were no appointments at this time, but wanted to recognize and wish the West Las Vegas Lady Dons, Mora and Pecos Schools good luck on the upcoming basketball tournament and praised students and sports minded individuals for their participation.

Mayor Ortiz, Jr. briefly reported on the success of Las Vegas Night considering the bad weather and thanked everyone who participated and those involved in the promotion of Las Vegas Night.

Mayor Ortiz, Jr. expressed his positive thoughts on Resolutions read in the House and Senate and gave a short overview of the timely process to approve Capital Outlay Projects regarding the request of 1.9 million dollars for the Recreation Center Project.

### **APPROVAL OF AGENDA**

Councilor Herrera made a motion to approve the agenda as is. Councilor Romero and Councilor Howell seconded the motion.

Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

David L. Romero	Yes	Joey Herrera	Yes
Tonita Gurule-Giroń	Yes	Vincent Howell	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

### **PUBLIC INPUT**

Mr. Bob Wessely briefly spoke on concerns relating to the Peterson Dam Project and also expressed his opinion on Council drinking bottled water during City Council meetings and thought it would send a negative message to the community about the quality of tap water that the City delivers.

Mayor Ortiz, Jr. recognized Mr. Wessely's concerns regarding Peterson Dam Project and also agreed with Mr. Wessely on the matter of drinking tap water instead of bottled water.

City Clerk Fresquez advised that Council had requested bottled water.

Councilor Gurule-Giroń clarified that bottled water had previously been requested.

**BUSINESS ITEMS**

1. Approval/Disapproval of Resolution #15-11, to apply for funding through the Municipal Cooperative Program (COOP) with the New Mexico Department of Transportation.

Public Works Director Martin Gonzales advised that the grant would be for the planning, engineering design, environmental certification, construction management, construction, reconstruction, drainage improvements and miscellaneous construction of South Pacific Street, from Tecolote Street to Bernal Street.

Mayor Ortiz, Jr. asked what the difference was between the Resolutions on Business Item #1 and Business Item #2.

Public Works Director Gonzales explained that one is a COOP with a \$50,000.00 request and the MAP was a higher request grant.

Councilor Gurule-Giroń made a motion to approve Resolution #15-11 to apply for funding through the Municipal Cooperative Program (COOP) with the New Mexico Department of Transportation. Councilor Romero seconded the motion.

Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

David L. Romero	Yes	Vincent Howell	Yes
Joey Herrera	Yes	Tonita Gurule-Giroń	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

2. Approval/Disapproval of Resolution #15-12 to apply for funding through the Municipal Arterial Program (MAP) with the New Mexico Department of Transportation.

Mayor Ortiz, Jr. stated that this was the second source of funding for the same project and advised that the second phase was to repair South Pacific Street to Perez Street and that eventually the goal of the City was major road improvements from Grand Avenue and South Pacific to Plaza Park area.

Public Works Director Gonzales advised that the grant will be for the planning, engineering design, environmental certification, construction management, construction, reconstruction, drainage improvements and miscellaneous construction of South Pacific Street, from Tecolote Street to Bernal Street.

Councilor Gurule-Giroñ wanted to commend City Manager Martinez and the Public Works staff for meeting the deadline for funding and also thanked them for working in the old town area.

Councilor Gurule-Giroñ made a motion to approve Resolution #15-12 to apply for funding through the Municipal Arterial Program (MAP) with the New Mexico Department of Transportation. Councilor Herrera, Councilor Romero and Councilor Howell seconded the motion.

Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Joey Herrera	Yes	David L. Romero	Yes
Tonita Gurule-Giroñ	Yes	Vincent Howell	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

Brief discussion took place on road conditions throughout the city and the upcoming pothole repairs.

3. Approval/Disapproval of Resolution #15-14 Adopting an Official Marketing Brand for the City of Las Vegas.

Community Development Director Lindsey Valdez advised that Event Planner Annette Velarde would present Resolution #15-14 and thanked Mayor and Council for allowing the presentation of the new Brand at the last meeting and added there has been a lot of positive response regarding the new Brand.

Event Planner Velarde advised that the City established a Marketing Committee for the purpose of overseeing citywide branding and marketing initiatives. North Star Destination Strategies was contracted to work alongside the Marketing Committee in the development of a marketing brand for Las Vegas. Over the last year, the involved parties reviewed city materials and conducted surveys, stakeholder interviews and focus groups, which resulted in a brand tagline (“New Adventures Down Old Trails”) a brand story and a number of creative deliverables (e.g. logo, website, merchandise, etc.).

Councilor Howell made a motion to approve Resolution #15-14 Adopting an Official Marketing Brand for the City of Las Vegas. Councilor Gurule-Giroñ seconded the motion.

Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroñ	Yes	Joey Herrera	Yes
Vincent Howell	Yes	David L. Romero	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

Mayor Ortiz, Jr. commended Event Planner Velarde on her vocal presentation at the last Council meeting regarding the Marketing of the new City Brand and also thanked her and Community Development Director Valdez for their hard work and dedication in that project.

Community Development Director Valdez advised that the Brand would be presented publicly the following evening at 5:00 p.m. as part of the Las Vegas Business Community Day Event held by Planning & Zoning Coordinator Lovato in collaboration with EDC and several other organizations.

Community Development Director Valdez also informed that from 4:00 to 5:00 p.m. would be for business registration and from 5:00 to 7:00 p.m. would be open house in the City Council Chamber.

City Manager Martinez advised that Business License Registrations were due on March 15<sup>th</sup> and this event was put together to attract businesses to come in and renew business licenses and noted that EDC was putting on a business event so it was ideal to collaborate.

Mayor Ortiz, Jr. recommended that a letter be sent to every merchant thanking and acknowledging them for doing business in Las Vegas and for their overall support in the community during periods of good and bad economy.

City Manager Martinez agreed with the Mayor's recommendation and advised that the letters would go out after the March 15<sup>th</sup> deadline.

**EXECUTIVE SESSION**

City Manager Martinez advised there was no need for Executive Session.

**ADJOURN**

Councilor Gurule-Giroñ made a motion to adjourn. Councilor Howell seconded the motion.

Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Vincent Howell	Yes	David L. Romero	Yes
Joey Herrera	Yes	Tonita Gurule-Giroñ	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

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Mayor Alfonso E. Ortiz, Jr.

ATTEST:

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Cassandra Fresquez, City Clerk

**MINUTES OF THE CITY OF LAS VEGAS CITY COUNCIL WORK SESSION  
HELD ON WEDNESDAY MARCH 11, 2015 AT 5:30 P.M. IN THE CITY  
COUNCIL CHAMBERS**

**MAYOR:** Alfonso E. Ortiz, Jr.

**COUNCILORS:** Tonita Gurule-Giroń  
Vince Howell  
Joey Herrera  
David L. Romero

**ALSO PRESENT:** Elmer J. Martinez, City Manager  
Casandra Fresquez, City Clerk  
Dave Romero, City Attorney  
Juan Montano, Sergeant at Arms

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

**APPROVAL OF AGENDA**

Councilor Gurule-Giroń made a motion to approve the agenda as presented.  
Councilor Romero seconded the motion.

Mayor Ortiz Jr. asked for a roll call. Roll call was taken and reflected the following.

Vince Howell	Yes	Joey Herrera	Yes
David L. Romero	Yes	Tonita Gurule-Giroń	Yes

City Clerk Casandra Fresquez re-read the motion and advised it carried.

**MAYOR'S APPOINTMENTS/REPORTS**

Mayor Ortiz Jr. gave a brief overview of the Legislative Session and the positive turnout for Las Vegas Night at the Legislature.

### **MAYOR'S RECOGNITION/PROCLAMATION**

Mayor Ortiz Jr. advised that recognition to the East Las Vegas Wrestlers and their performance at State would be forthcoming at a later meeting.

Councilor Gurule-Giroñ advised that a recognition for the Highlands University Women's Track Team who are ranked number one on the State.

### **PUBLIC INPUT**

Bruce McAllister spoke to the governing body regarding the shooting range and access to the public.

Bob Wessley spoke to the governing body about some of the bills that were introduced to the Legislature and their impact.

Doyle Daves spoke to the governing body regarding the history of Heritage Week and the events that are planned for the 2015 Heritage Week.

Brenda Ortega spoke to the governing body asking them to approve their event funding request.

Leroy G. Lucero spoke to the governing body regarding Las Vegas Musicians Re-United and their hope to hold another concert this year and is asking for funding from the City to help advertise the event.

### **CITY MANAGER'S INFORMATIONAL REPORT**

City Manager Martinez reported to the governing body that the City recently acquired a new street sweeper and the Streets Department has been out cleaning the streets of the salt and material that was used during the snow. City Manager advised that now with the weather warming up the Streets Department will begin patching potholes on the streets with hot mix.

Questions were asked about the amount of dust created by the street sweeper and if it had the capability of using water to lower the amount of dust.

Public Facilities Director Gonzales advised he would speak with the driver and make sure water is being put into the sweeper.

City Manager Martinez advised that the sweeper in question was actually the Department of Transportation's and the City's sweeper actually collects the debris and the staff dumps it.

## **PRESENTATIONS**

Water Conservation Specialist Marquez presented to the governing body information pertaining to the Fix-A-Leak Fair that she will be conducting at the Abe Montoya Recreation Center on March 19, 2015 from 8:00 am to 4:00 pm. Water Conservationist Marquez advised the fair is open to the public and will help educate customers on how to fix water leaks in their homes and how to better understand their utility bills.

Questions were asked about the fair and the tips that the departments give the customers.

## **DISCUSSION ITEMS**

1. Recommendation by Lodgers Tax Advisory Board to fund qualified applicants responding to the Request for Proposals (RFP #2015-19) for promotional funding of special events of fiscal year 2014-2015.

Event Planner Velarde advised the governing body that requests for promotional funding were reviewed by the Lodgers Tax Advisory Board on February 17, 2015. Total funding requested is \$107,750.00. The Lodgers Tax Advisory Board is recommending funding approval in the amount of \$70,570.00.

City Manager Martinez advised he is a member of the Rough Rider Motorcycle Rally and did not participate in the application. City Manager Martinez advised the governing body hear the recommendations presented by staff the governing body can offer adjustments as needed.

Questions were asked about the process of rating and ranking of each of the requests and if there was actual numbers that supported the financial impact.

Event Planner Veladre listed each entity that requested funding and the amount requested and the amount recommended by the Lodgers Tax Advisory Board.

Questions were asked about the funding decisions made and why were some requests not funded. It was requested that if additional funding was being provided by other organizations or grants, that it be included and looked into when determining amount funded by the Lodgers Tax Advisory Board.

Questions were asked if there had been any discussion on bringing in carnivals to the 4<sup>th</sup> of July fiestas and more youthful activities for the community. Questions were asked about a fireworks display.

Questions and discussion took place regarding the total amount available from Lodgers Tax Advisory Board.

The governing body agreed to not place the item as a consent agenda as more discussion needs to take place and a recommendation by City Manager Martinez to address the events that were not funded.

**2. Resolution #15-13 Budget Adjustment Resolution.**

Finance Director Gallegos advised the City of Las Vegas was is in need of increasing or decreasing the FY 2015 budgeted revenues or expenditures, transfers to or transfers from various funds. Finance Director Gallegos explained the line items that would be affected by the adjustments.

The governing body agreed to place the item as a consent agenda item.

**3. Acceptance of the E911 Grant from the Department of Finance Administration to upgrade the City's 911 system.**

Police Chief Montano advised the Las Vegas Police Department will receive a grant from the Department of Finance E911, to support 911 answering services. The department is asking for approval for DFA E911 to provide the Las Vegas Police Department pass through grant funds for the 911 upgrade in the amount of \$319,555.00.

Communications Supervisor Romero explained what a pass through grant was that DFA would be the fiscal agent of the grant.

The governing body agreed to place the item as a consent agenda item.

**4. Memorandum of Agreement between the San Miguel DWI Planning Council and the Las Vegas City Police Department.**

Police Chief Montano advised the governing body the Memorandum of Agreement is for the Las Vegas Police Department to conduct DWI operations reimbursable through Local DWI grant funds.

The governing body agreed to place the item as a consent agenda item.

**5. Grant Application for Law Enforcement Protection Fund.**

Police Chief Montano advised the application is for funds to purchase equipment and advanced training for officers and payment to the NMFA for police vehicles that were previously purchased.

The governing body agreed to place the item as a consent agenda item.

**6. Award bid #2015-22 for the North Grand Effluent Project Material.**

Project Manager Gilvarry advised the Water Division went out for competitive sealed bids for materials to complete the North Grand effluent project. The purchase of these materials will allow for completion of the project. The Utilities Department would like to award selected items to all three bidders as some each of the bidders had varying costs for the items and this would allow the department to get the lowest prices on materials. The three bidders were Baker Utility, Furgeson Waterworks and HD Waterworks.

The governing body agreed to place the item as a consent agenda item.

7. Recommendation preferred alternatives to ensure Peterson Dam meets the New Mexico Office of the State Engineer's dam safety requirements.

Project Manager Gilvarry advised the governing body URS Corporation prepared and evaluated several alternatives to rehabilitate the Peterson Dam to meet New Mexico Office of the State Engineers dam safety requirements. Alternate one was to repair the structure and the other two alternates were to replace the structure with new dam which would increase the dam's life span of 100 years versus a possible 50 year life span of repairing the dam.

Questions and discussion took place regarding the New Mexico Office of the State Engineer, what is the anticipated timeframe for the project to being and funding.

The governing body agreed to place the item as a consent agenda item.

8. Appointment of Mayor Pro Tem as per the City of Las Vegas Municipal Charter, Article III, Section 3.03 Mayor Pro Tempore and designating the month of April each year as the effective date.

Mayor Ortiz Jr. advised that the Municipal Charter states that the Mayor Pro Tem shall serve a one year term. In the past years, the Mayor Pro Tem has been appointed during different months. The City Clerk recommends that the month of April be designated each year for the appointment of Mayor Pro Tem so that during election years, the newly elected Mayor and Council may elect from its membership a Mayor Pro Tem to assume the role of Mayor during the temporary absence or disability of the Mayor.

City Attorney advised there are items for Executive Session regarding the status of pending litigation.

Mayor Ortiz Jr. advised there would be discussion regarding water litigation.

Councilor Gurule-Giroñ asked that Executive Session be held at the Regular Meeting.

Councilor Howell briefly gave an update on the food drive that is taking place throughout the community and the entities that are involved and the amount of food to date that has collected.

Councilor Gurule-Giroń made a motion to adjourn. Councilor Romero seconded the motion.

Mayor Ortiz Jr. asked for a roll call. Roll call was taken and reflected the following.

Vince Howell	Yes	Joey Herrera	Yes
David L. Romero	Yes	Tonita Gurule-Giroń	Yes

City Clerk Casandra Fresquez re-read the motion and advised the motion carried.

**ADJOURN**

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Mayor Alfonso E. Ortiz, Jr.

ATTEST:

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Casandra Fresquez, City Clerk

**MINUTES OF THE CITY OF LAS VEGAS REGULAR CITY COUNCIL MEETING HELD ON WEDNESDAY, MARCH 18, 2015 AT 6:00 P.M. IN THE CITY COUNCIL CHAMBERS**

**MAYOR:** Alfonso E. Ortiz, Jr.

**COUNCILORS:** Vincent Howell  
David L. Romero  
Tonita Gurule-Giroñ  
Joey Herrera

**ALSO PRESENT:** Elmer J. Martinez- City Manager  
Casandra Fresquez- City Clerk  
David Romero- City Attorney  
Juan Montano- Sergeant at Arms

**CALL TO ORDER**

Mayor Ortiz, Jr. called the meeting to order at 6:00 p.m.

**ROLL CALL**

Mayor Ortiz, Jr. took the opportunity to briefly thank the audience for their attendance as well as providing their support for Council and expressing their concerns.

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

Mayor Ortiz, Jr. asked for a moment of silence in appreciation for life, for the opportunities we have and for the hope of making positive decisions through our lifetime.

**APPROVAL OF AGENDA**

Councilor Howell made a motion to approve the agenda as is. Councilor Herrera seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Vincent Howell	Yes	David L. Romero	Yes
David L. Romero	Yes	Tonita Gurule-Giroń	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

**NOMINATION OF MAYOR PRO-TEM**

- Nomination and Appointment of Mayor Pro Tem as per the City of Las Vegas Municipal Charter, Article III, Section 3.03 and Designating the month of April each year as the effective date.

Councilor Romero declined the nomination of Appointment of Mayor Pro Tem for himself and made a motion to nominate Councilor Gurule-Giroń as Mayor Pro Tem, beginning April 2015 and ending March 2016. Councilor Howell seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

David L. Romero	Yes	Joey Herrera	Yes
Vincent Howell	Yes	Tonita Gurule-Giroń	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

**APPROVAL OF MINUTES**

Councilor Howell made a motion to approve the minutes for February 11<sup>th</sup> and February 18<sup>th</sup>, 2015. Councilor Romero seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroń	Yes	Joey Herrera	Yes
Vincent Howell	Yes	David L. Romero	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

### **MAYOR'S APPOINTMENTS/REPORTS**

Mayor Ortiz, Jr. informed he had no appointments at this time but advised he had a brief Legislative report regarding the 1.9 million dollars for the Recreation Center and reported that funding for Capital Outlay Bill became very limited but notified that a small appropriation was being made for \$96,000.00.

Mayor Ortiz, Jr. added that the City was aggressively pursuing the acquisition of the old State Police building on Mills Avenue that had been donated by the City in 1979 and advised the State Police no longer had use for it. Mayor Ortiz, Jr. explained the timely process of putting this issue on the Agenda at the House level and advised it was currently at the Senate level and informed there were seven to ten Senators diligently working on placing this item on the agenda.

Discussion took place regarding House Bill 554 and the speeding up process of the Sale of Bonds and also discussed was the grant requested from the Water Trust Board in the amount of \$670,000.00.

### **MAYOR'S RECOGNITIONS/PROCLAMATIONS**

Mayor Ortiz, Jr. recognized four retirees of the City of Las Vegas which were:

George Montano- Water Supervisor-Foreman – 22 years of service  
Larry Romero – Gas Utilities Superintendent – 22 years of service  
Gloria Medina – Executive Office Manager – 24 years of service

City Clerk Fresquez read a letter from Gloria Medina to Mayor Ortiz, Jr. and Council thanking them for the opportunity to work for the City of Las Vegas and acknowledged that it was a great pleasure to work in helping the community of Las Vegas.

Mayor Ortiz, Jr. presented Deputy Chief Eugene Garcia with a plaque in appreciation for his dedication and loyal service of 22 years with the City of Las Vegas Police Department and thanked the families for their sacrifice and support of a family member working in the line of danger.

Eugene Garcia took the opportunity to thank the Lord for keeping him safe, his friends & family, Mayor Ortiz, Jr., Council and co-workers for love and support throughout his 22 years in law enforcement.

City Clerk Fresquez read a Recognition of Las Vegas San Miguel County Chamber of Commerce and Industry observing their 90 years of continuous civic and professional service to the businesses and citizens of the City of Las Vegas and the County of San Miguel in the State of New Mexico.

Chamber of Commerce Executive Director, Lavinia Fenzi took the opportunity to acknowledge new members of the Chamber of Commerce and encouraged them to stand and receive the proclamation presented by Mayor Ortiz, Jr.

Mayor Ortiz, Jr. advised he had received an e-mail message from Senator Martin Heinrich which included passages about the importance of women in our country and the iniquities they experience and was impressed with it and asked City Clerk Fresquez to prepare a Proclamation honoring women.

City Clerk Fresquez read a Proclamation proclaiming March 2015 as "Women's History Month" in the City of Las Vegas and call upon all citizens to join in recognizing this special occasion.

Carla ---- with the General Federation of Women's Club and the Las Vegas Dollies gladly accepted the proclamation presented by Mayor Ortiz, Jr.

Mayor Ortiz, Jr. advised the audience member who spoke on behalf of the American Association of University Women that a proclamation would be prepared and presented to that association at a later time.

## **PUBLIC INPUT**

Mr. Lorenzo Flores expressed his thoughts on fair funding among all City of Las Vegas organizations regarding Lodger's Tax Fund.

## **CITY MANAGER'S REPORT**

City Manager Martinez advised that the Morrison Street Project was complete pertaining to the one way from Valencia Street to West National and added that the street sweeper was being used to clean off the material used during snow storms, and informed that no accidents had occurred. City Manager advised that the parks were already getting watered.

City Manager Martinez spoke briefly concerning the Macario Gonzales Development Project and advised that the City is working closely with HUD for a formal written approval on preliminary plans and added that the City of Las Vegas is forming a positive relationship with HUD.

City Manager Martinez gave a brief overview of the status of several on-going construction projects regarding the Museum, Library, E. Romero Fire Station and also added that work is continuing on South Pacific Street, Moreno and near the arroyo on Perez St.

Councilor Howell addressed City Manager Martinez on hazard concerns with the front stairwell at the Carnegie Library and questioned if KAB still existed. Councilor Howell also requested a plan for Council on how the City would be cleaned.

City Manager Martinez informed that the stairwell repair was part of the project and that other issues would be given the attention as soon as material was received and until weather would allow the project to be completed. City Manager Martinez informed Councilor Howell that the KAB program would be brought back.

Councilor Herrera had questions and concerns on bids regarding the purchase of hot mix.

City Manager Martinez addressed the questions Councilor Herrera asked pertaining to bids to purchase hot mix.

Discussion took place on the topic of minimum wage increase for the community of the City of Las Vegas and several ways on how it would impact the economy in the city.

Councilor Gurule-Giroñ expressed her concerns on local contractors meeting state level standards for hot mix because of previous contractors not meeting those requirements. Councilor Gurule-Giroñ also added that there are many considerations to take before considering a minimum wage increase.

## **PRESENTATIONS**

- Presentation by Las Vegas/San Miguel Chamber of Commerce on the status of the contract.

Chamber of Commerce Executive Director Lavinia Fenzi gave a detailed overview of the status of the contract during the months of January 2015, March 2015 and June 2015.

Mayor Ortiz, Jr. stated that he had been invited to several events but was not able to attend due to being out of town but advised that after this week he would be attending many more upcoming events.

City Manager Martinez advised that he made a recommendation to Community Development Department to prepare an analysis of the invoicing and the reporting from the Chamber of Commerce and added that Community Development Director Valdez would present it at the next meeting under the City Manager's Report.

Mayor Ortiz, Jr. stated that he was pleased with the fact of the Chamber of Commerce extending to the communities just outside the boundaries of the city of Las Vegas.

Chamber of Commerce Executive Director Fenzi added that Pecos and Mora were part of their collaboration and membership and advised they were also promoted on the website and encouraged their business community to shop in Las Vegas.

City Manager Martinez briefly stated that under the City Manager's Report, he forgot to mention the success of the business event previously held regarding business licensing and added that the EDC and Chamber of Commerce were also a part of the event. City Manager Martinez thanked Floyd Lovato and Community Development Department for their work on the event.

## **FINANCE REPORT**

Finance Director Ann Marie Gallegos presented the finance report ending February 28, 2015. General Fund Revenue was at sixty five percent and expenditures came in at sixty three percent and added that the Finance Department would continue to monitor revenue and expenditures for any adjustments.

Councilor Gurule-Giroń had questions on License & Fees, Local Fines on the General Fund and asked about the status of collections regarding Municipal Court.

City Manager Martinez clarified that Business Licenses were due on March 15<sup>th</sup> so it reflected on the percentage and informed Councilor Gurule-Giroń that due to the implementation of the Tyler System to Municipal Court resulted in the court having to close.

Councilor Gurule-Giroń had questions on the Tyler System, Administration percentage on the expenditure report and on several other department expenditures.

Finance Director Gallegos and City Manager Martinez briefly addressed the concerns on the Tyler System to Councilor Gurule-Giroń and explained expenditures in question.

Councilor Howell had a question regarding the Security for on-line bill pay process.

Finance Director Gallegos informed that it would be going through testing, beginning April 1<sup>st</sup> and they were working with Utilities Department to see how it will affect the department and advised that Municipal Court would also be offering credit card payments.

Finance Director Gallegos reported that Recreation Department revenue was at sixty three percent and expenditures were fifty four percent.

Brief discussion took place on the status of the roof repair on the Recreation Department.

Councilor Howell wanted to recognize and thank Recreation Department Manager, Loretta Martin for starting the program which allows the community to use Recreation Center fees at the Highlands University swimming pool.

Finance Director Gallegos advised that the Recreation Department had entered into an MOU with Highlands University regarding the swimming pool services.

Finance Director Gallegos reported the revenue for the Enterprise Fund was at sixty seven percent and that total expenditures were at sixty one percent.

Councilor Gurule-Giroñ had questions on the Waste Water and Natural Gas expenditure percentages.

Finance Director Gallegos clarified that Waste Water was using other Capital Outlay fund approved by Mayor Ortiz, Jr. and Council for equipment and system upgrades needed and added that one large natural gas bill from Zia would arrive in February and would increase the amount for Natural Gas on the Enterprise Fund.

## **CONSENT AGENDA**

Councilor Gurule-Giroñ had a question on the language regarding Business Item #3 on the Consent Agenda verses the Agenda Request.

City Clerk Fresquez addressed the issue of the language regarding Business Item #3.

Councilor Gurule-Giroñ made a motion to approve Consent Agenda as is. Councilor Howell seconded the motion.

City Clerk Fresquez read the Consent Agenda Business Items into the record.

1. Approval of Resolution #15-13 Budget Adjustment Resolution.

Resolution 15-13 was presented as follows:

STATE OF NEW MEXICO  
MUNICIPALITY OF CITY OF LAS VEGAS  
BUDGET ADJUSTMENT RESOLUTION NO. 15-13

**WHEREAS**, The Governing Body in and for the Municipality of Las Vegas, State of New Mexico has developed a budget for fiscal year 2015; and

**WHEREAS**, said budget adjustments were developed on the basis of an increase in revenues and expenditures, transfers in/or out in various funds; and

**WHEREAS**, increase/decrease in revenues, expenditures, transfer in, and transfers out to be funded by additional grant funding for purposes as identified, and;

**WHEREAS**, the City of Las Vegas is in need of making adjustments to the 2015 fiscal year budget;

**WHEREAS**, it is the majority opinion of this Council that the budget adjustments meet the requirements as currently determined for fiscal year 2015;

**NOW, THEREFORE**, the Governing Body of the City of Las Vegas passes this budget resolution for budget adjustments, **PASSED, APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF MARCH, 2015.**

\_\_\_\_\_  
Alfonso E. Ortiz, Jr. Mayor

ATTEST:

\_\_\_\_\_  
Cassandra Fresquez, City Clerk

REVIEWED AND APPROVED AS TO LEGAL SUFFICIENCY ONLY:

\_\_\_\_\_  
Dave Romero, City Attorney

2. Approval to accept pass through grant funds from the Department of Finance Administration for the E911, to support 911 answering services.
3. Approval of the Memorandum of Agreement between the San Miguel DWI Planning Council and the Las Vegas City Police Department.
4. Approval to submit Law Enforcement Protection Fund application.
5. Approval to Award bid #2015-22 for North Grand Effluent Project Material to all three bidders, Baker Utility Supply, Ferguson Waterworks and HD Waterworks.

6. Approval of Engineers recommended alternative for Peterson Dam, (Alternative C), Replacement with a mass concrete arch dam.

Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Joey Herrera	Yes	Vincent Howell	Yes
Tonita Gurule-Giroñ	Yes	David L. Romero	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

## **BUSINESS ITEMS**

1. Approval of 2014 Audit.

Finance Director Gallegos advised that the Office of the State Auditor had released the 2014 Audit for review and final approval by Mayor and Council.

Finance Director Gallegos advised that Moss Adams Representative Jaime Rumbaoa would give a presentation on the Audit for 2014.

Moss Adams Representative Jaime Rumbaoa advised that Moss Adams had been the auditor for the City of Las Vegas for the past six years and added that from the year 2009 a total of 32 audit findings were found.

Moss Adams Representative Rumbaoa reported that for FY 2014 there were only 6 audit findings, which showed a great deal of improvement and added that it was the most efficient audit in terms of control and recognized Finance Director Gallegos and City Manager Martinez for their part in managing the internal control.

Moss Adams Representative Rumbaoa added the importance of having a succession plan, and explained that implementation of the new system was a big improvement which included the application that was more user- friendly.

Councilor Gurule-Giroñ had questions and concerns on the Financial Statement Finding on the Annual Financial Report regarding Cash Internal Control at Municipal Court, stale dated checks and outstanding reconciliations.

Finance Director Gallegos explained the issues at Municipal Court are being addressed by staff and advised that they would be resolved by the end of this fiscal year.

Councilor Gurule-Giroñ inquired about findings regarding water overbilling at the Utilities Department on commercial accounts and several findings for Housing Department regarding Missing Time and Effort Certification and Lack of Review of Submitted Reports.

Finance Director Gallegos informed Council that the issues had been immediately resolved regarding the incorrect meter reader indexes and advised that the commercial accounts had been credited. Finance Director Gallegos stated that Housing Director Pamela Marrujo was working on resolving the findings for the Housing department.

Mayor Ortiz, Jr. advised how important it was to convey as much information on the audit to the public and recognized and thanked Moss Adams, all City Staff and City Manager Martinez for their efforts and added that working with a multi-million dollar budget is a great challenge. Mayor Ortiz, Jr. advised that the City of Las Vegas would continue to do its best for the community.

Discussion took place on the status regarding billing issues for Highlands University which had taken place several years back.

Councilor Howell asked what the City's goals were to reduce findings on future audits for the City of Las Vegas.

City Manager Martinez advised the goals of the City of Las Vegas are to do the best they can, follow statutes and regulations in order to have the least amount of findings.

Moss Adams Representative Rumbaoa commended the City of Las Vegas on the results of the audit.

Mayor Ortiz, Jr. entertained a motion to approve the 2014 Audit.

Councilor Herrera made a motion to approve the 2014 Audit. Councilor Howell seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroń	Yes	David L. Romero	Yes
Vincent Howell	Yes	Joey Herrera	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

2. Approval/Disapproval of Lodgers Tax Advisory Board recommendation to fund qualified applicants responding to Request Proposals (RFP) #2015-19 with further recommendation from the City Manager.

Community Development Director Lindsey Valdez advised that the request for Proposals #2015-19 for promotional funding of Special Events was reviewed by the Lodgers Tax Advisory Board (LTAB) on 2-17-15. Total funding requested is \$107,750.00. LTAB is recommending funding approval in the amount of \$70,570.00.

City Manager Martinez advised that on the Lodgers Tax Advisory Board Funding Recommendations Report, he reviewed each item individually with the organizations and indicated his recommendations by highlighting the area and informed that Community Development Director Valdez and Event Planner Annette Velarde would speak on Business Item #2.

Community Development Director Valdez informed they would be reporting on the highlighted items being: CCHP-Las Vegas Garden Tour, CCHP-Musicians Reunited, Friends of the City of Las Vegas Museum and Mainstreet de Las Vegas-Fred Heads (Harvey Girls) event.

City Manager Martinez gave a detailed overview of a prepared summary of the Lodgers Tax Ordinance adopted by the City according to state statute which explained the purpose of the Lodgers Tax, Imposition of Tax & Collection, Administration and Contracting for Services.

Community Development Director Valdez added there is a very strict process that the department goes through along with the Finance Department when receiving packets from organizations and stated that several invoices may be received within the period of when the contract was put into place for advertising.

Community Development Director Valdez explained that the Department ensures back-up documents are in place and it goes through Finance Department before any checks are released and added that there are many checks and balances in place when it comes to this money. Community Development Director Valdez also clarified there are no administrative costs going to advertising for various events that have been granted contracts.

City Manager Martinez explained under the Administration of the tax that the final authority on expenditures is the City Council and clarified that they are free to make any changes on any recommendations.

Mayor Ortiz, Jr. briefly expressed his opinion of the importance of the Lodgers Tax recommendations.

Community Development Director Valdez and City Manager Martinez gave a detailed overview of the Lodgers Tax Advisory Board Funding Recommendations regarding the entities and amounts requested as well as the marketing opportunities they bring to the City of Las Vegas.

City Manager Martinez clarified that the recommendations were based on his meeting with the individuals directly and speaking about their events and advised that City staff was in support of the recommendations.

Mayor Ortiz, Jr. had questions on Lodgers Tax projected revenue and last year's cash balance.

Community Development Director Valdez and City Manager Martinez addressed the questions on the Lodgers Tax revenue and cash balance.

Community Development Director Valdez advised that the department had been thinking of several ways to change the process of how the City can better support

special events, adding that in-house services would be provided for organizations in assistance with design and creating advertisements.

Community Development Director Valdez advised that there was hope of allocating a larger amount of money next year going towards special events design and added that the City would act as a liaison between the design firm and the organization in developing the advertising that would best suit the event.

Discussion took place regarding allocated funding amounts for contractual services and events as well as advertising requirements.

Councilor Herrera had questions and concerns on the 4<sup>th</sup> of July Fiestas budget.

City Manager Martinez explained the budget concerning the 4<sup>th</sup> of July Fiestas.

Councilor Herrera asked several questions regarding the postings, language, and requirements for applying for an RFP, and the process of submitting an RFP.

Event Planner Velarde advised the RFP was advertised in the Las Vegas Optic and posted on the City website. Event Planner Velarde added that there was no language in the RFP indicating restrictions to apply.

Community Development Director Valdez explained the procurement process of submitting an RFP.

Councilor Herrera asked about the funds requested for the Las Vegas Visitors Guide.

Community Development Director Valdez advised that the funds requested from Lodgers Tax Fund for the Visitors Guide was for additional copies of the guide.

City Manager Martinez clarified that he reviewed the RFP regarding the Visitor Guide and explained it was not to create a guide but specifically to print an additional 30,000 copies of the new guide.

Councilor Gurule-Giroń had questions pertaining to the language on the RFP Special Events Lodgers Tax.

Community Development Director Valdez informed Council that the funding is not to put on the event but strictly for promotion and advertising.

Councilor Gurule-Giroń made a recommendation for duplication of funding from the City and other sources of funding to the organization on the funding application and asked if organizations supplied a detailed cost breakdown when submitting the funding application.

Community Development Director Valdez advised that a detailed budget is required when submitting the fund application from the Special Events Lodgers Tax.

Discussion took place regarding Lodgers Tax reconciliation and clarification of rolling over funds to next year's expenditures.

Councilor Gurule-Giroń recommended more aggressive advertising in the future to the local businesses and also had questions on the Walking Tour Event not being funded.

City Manager Martinez explained the reason the Walking Tour Event was not being funded was due to a grant to match the \$8,500.00 requested, was being worked on regarding the Smart Phone Application.

Mayor Ortiz, Jr. advised that the presentation was very informative and recommended aggressive advertising by word of mouth, announcements on both radio stations and just reminding people that anyone is eligible to apply for funding through Special Events Lodgers Tax.

Councilor Howell made a motion to approve of Lodgers Tax Advisory Board recommendation to fund qualified applicants responding to Request for Proposals (RFP) #2015-19 with further recommendation from the City Manager. Councilor Romero seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroń	Yes	Joey Herrera	Yes
Vincent Howell	Yes	David L. Romero	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

Event Planner Velarde gave a brief update on upcoming movies being filmed in Las Vegas which included: Hell Bent, Gunslingers II, Longmire and an Environmental Film.

### **COUNCILORS' REPORTS**

None at this time.

### **EXECUTIVE SESSION**

City Attorney Dave Romero advised there would be a need for executive session to discuss pending and potential litigation and property negotiations.

Councilor Gurule-Giroń made a motion to go into executive session to discuss pending and potential litigation and property negotiations. Councilor Romero seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

David L. Romero	Yes	Vincent Howell	Yes
Joey Herrera	Yes	Tonita Gurule-Giroń	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

Councilor Herrera made a motion to exit executive session, no votes or actions were taken and only matters mentioned prior to meeting were discussed. Councilor Romero seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

David L. Romero	Yes	Joey Herrera	Yes
Tonita Gurule-Giroń	Stepped Out	Vincent Howell	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

### **ADJOURN**

Councilor Herrera made a motion to adjourn. Councilor Romero seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Vincent Howell	Yes	Joey Herrera	Yes
Tonita Gurule-Giroń	Stepped Out	David L. Romero	Yes

City Clerk Fresquez re-read the motion and advised the motion carried.

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Mayor Alfonso E. Ortiz, Jr.

ATTEST:

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Casandra Fresquez, City Clerk

**MINUTES OF THE CITY OF LAS VEGAS SPECIAL CITY COUNCIL MEETING HELD ON WEDNESDAY, MARCH 25, 2015 AT 5:00 P.M. IN THE CITY COUNCIL CHAMBERS**

**MAYOR:** Alfonso E. Ortiz, Jr.

**COUNCILORS:** Tonita Gurule-Giroñ  
David L. Romero  
Joey Herrera - Absent  
Vincent Howell

**ALSO PRESENT:** Elmer J. Martinez- City Manager  
Casandra Fresquez - City Clerk  
Dave Romero - City Attorney  
Juan Montano - Sergeant at Arms

**CALL TO ORDER**

Mayor Alfonso E. Ortiz, Jr. called the meeting to order at 5:00 p.m.

**ROLL CALL**

Mayor Ortiz, Jr. thanked everyone for attending the meeting and hoped for more attendance in the future. Mayor Ortiz, Jr. added that the meeting was being televised and hoped there would be many viewers tuning in, and also expressed how important it was for the community to be informed of issues that affect the City of Las Vegas.

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

Mayor Ortiz, Jr. asked for a moment of silence to reflect on life and on the opportunities we have to help others.

**MAYOR’S APPOINTMENTS/REPORTS**

Mayor Ortiz, Jr. advised that there were no appointments at this time but advised there would be a presentation by San Miguel County Manager Les Montoya and San Miguel County Finance Supervisor Melinda Gonzales.

Mayor Ortiz, Jr. reported on the Legislative Session regarding the no action taken on the Capital Outlay Bill and how it would negatively affect Highlands University, Mora, San Miguel County, Luna Community College, and Behavioral Health Institute.

Mayor Ortiz, Jr. expressed his concern on how it would affect the gross receipts tax and the economy as well.

Mayor Ortiz, Jr. wanted to publicly state that one democrat that had the authority to present the item regarding the old State Police Building on Mills Avenue, refused to present it as an agenda item.

**APPROVAL OF AGENDA**

City Manager Martinez advised there were no recommendations for amendments or changes on the agenda.

Councilor Howell made a motion to approve the agenda as is. Councilor Gurule-Giroñ seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

David L. Romero	Yes	Tonita Gurule-Giroñ	Yes
Vincent Howell	Yes	Joey Herrera	Absent

City Clerk Fresquez re-read the motion and advised the motion carried.

**PUBLIC INPUT**

Mr. Sanjay Bhakta briefly expressed his opinions regarding a possible tax increase and how it would affect job loss in the community as well as having a down turn for local businesses, and also spoke of the importance of businesses making a stronger effort in analyzing how to increase, and market business in the community.

## **PRESENTATIONS**

Mayor Ortiz, Jr. advised that County Manager Les Montoya would be making an important presentation and asked Council if they were no objections to his ruling regarding the ten minute time limit not applying to Mr. Montoya. Mayor Ortiz, Jr. thanked County Manager Montoya and County Finance Supervisor Melinda Gonzales for sharing the information regarding the proposed agenda item.

County Manager Les Montoya stated that he agreed with the Mayor's report on the outcome of the NM Legislative Session regarding the lack of Capital Outlay funding, which would affect Northern New Mexico and the rest of the region.

County Manager Montoya expressed that a message was being sent from Federal and State Government, of not being able to depend on them to continue to help in our community needs and added that Legislation was introduced regarding tax structure in NM and in his opinion was a clear indication of local governments to provide for themselves.

County Manager Montoya expressed the need to plan for the future of reinvestment in our community, instead of taxing ourselves and the importance of planning to create opportunity by asking people what economic development strategies can be created within both the city and county. County Manager Montoya added that San Miguel County had been working on a strategic plan for San Miguel County for 10 years and that it included the City of Las Vegas and the Village of Pecos.

County Manager Montoya added that the tendency is to plan regionally, and explained that funds are becoming less available and advised that it just as important to plan regionally as it is locally. County Manager Montoya informed that he would present a strategic plan for Northeastern Economic Development Organization, which had been approved by the Region and informed that the City

of Las Vegas was a member in that process and suggested that the city participate in continuing to invest in a regional approach and to reinvest in the community.

County Manager Montoya stated that this plan identified strategies and issues on a regional bases, regarding economic development in order to eliminate taxing and added that implementation would be the challenge but would result in economic development.

County Manager Montoya advised that the County Commissioners weren't able to attend the meeting and apologized to Council but informed if any communication was needed regarding the issue, an invitation was open to them to attend the Public Hearing scheduled on Monday at 11:00 a.m. in the San Miguel County Commission Chambers.

Mayor Ortiz, Jr. thanked County Manager Montoya for the invitation to attend the Public Hearing to be held on Monday.

County Manager Montoya advised he would summarize the document which had been presented to him and what he presented to the Board of County Commissioners, regarding the issue of an increase in gross receipts tax in San Miguel County and informed he would explain what the County Commission was doing.

County Manager Montoya added that he had received an invitation signed by Mayor Ortiz, Jr. and City Manager Martinez, inviting him and County Commissioners to attend the City Council Meeting to present the information to the public on the proposed tax increase.

County Manager Montoya informed that he had prepared a memorandum on his proposal regarding the issues and highlighted areas to the County Chairman, Arthur Padilla of the reasons for recommending taking advantage of an authorization to impose the tax increase in San Miguel County.

County Manager Montoya stated that one of the reasons was due to Legislation presenting in doing away with hold harmless payments to cities and counties as it was affecting the State Budget. County Manager Montoya advised that eliminating that payment would result in the County to lose \$350,000.00 a year

and added that the hold harmless payment came into effect to make up for the revenue of the result of the State of New Mexico not taxing food and medication.

County Manager Montoya advised that if the hold harmless payment is eliminated, the state is proposing to authorize a tax authority equal up to 1/16<sup>th</sup> and if authorized, that San Miguel County would only generate \$280,000.00 - \$300,000.00 a year, and added that the county relies on other sources of funding but expressed that they are not secure.

Another reason discussed by County Manager Montoya was Capital Outlay cuts and how that would affect planned road projects throughout the county.

Mayor Ortiz, Jr. advised that according to the Association of Counties and the Municipal League, the exemption was for municipalities of less than 10,000 in population and counties of less than 48,000 in population, therefore the hold harmless would continue benefiting San Miguel County if no action was taken.

Mayor Ortiz, Jr. informed if the tax increase would imposed, the \$290,000.00 would decrease in the first 8 years by 6% and the next 7 years, it would decrease by 7% so at the end of the 15 year period which will be 15 years from 2016 then the county would no longer receive any funding.

County Manager Montoya advised that the proposals would have impacted the County and limited them to 1/16<sup>th</sup>.

San Miguel County Finance Supervisor Gonzales advised that the proposal would have impacted the county to ½ of one percent and it wouldn't have allowed the county to enact anymore than what would have covered what would have been lost, and added that the county would only have been able to impose 1/16<sup>th</sup> and would have still had a loss.

Mayor Ortiz, Jr. advised that even the 1/16<sup>th</sup> would have covered the loss and stated if the county wouldn't take any action at all the county would not have lost anything and the \$290,000 wouldn't be affected.

County Manager Montoya clarified that the total was not \$290,000.00 and rather that it was \$308,000.00.

Mayor Ortiz, Jr. informed that the City of Las Vegas is more than 10,000 in population and added that the city will be affected and that the city is going to take a loss of 6% decrease for the first 8 yrs and a 7% decrease for the last 7 years and after the fifteen years the funds would stop.

County Manager Montoya stated that those were reasons for the proposing of the tax increase and added that there is a serious need to address issues regarding County road maintenance.

County Manager Montoya advised that the county did receive funding from FEMA from disaster declarations made at the time of the flooding for road repair. County Manager advised there are 526 miles of road that need to be addressed and added that there are other projects that have been on the county's ICIP plan.

County Manager Montoya informed he would bring the issues to County Commissioners and advise them that this is an opportunity to address needs of the county, to create a revenue stream that will provide a sustained revenue source and added whether the tax proposals are a negative impact or not, the County needs to look at creating that resource in order to serve citizens in keeping the roads and rural areas safe.

County Manager Montoya gave a brief overview of the summary which would be presented to County Commissioners regarding a list of prioritized Capital Projects from the ICIP plan, which totaled \$18 million worth of needs.

County Manager Montoya added that the County was working in collaboration with Paul Cassidy from RBC Capital Markets regarding proposals to look at leveraging capacity with the additional revenue which would be \$900,000.00 more a year for purposes that would be identified in the ordinance by the Commission and added that also provided in the summary was the Notice of the Special Meeting, FYI and a Copy of a draft ordinance that would be presented to the Board of County Commissioners at the meeting held on Monday at 11:00 a.m.

City Manager Elmer Martinez thanked County Manager Montoya for being there to present the information regarding the proposed tax increase and advised that the community had a lot of questions regarding the tax and how it would affect the City of Las Vegas, and how several citizens thought that they would have the opportunity to vote on the tax increase.

City Manager Martinez added that the importance of discussing the matter due to the fact that it would affect the residents of the City of Las Vegas on the gross receipts tax, and commented on the importance of not being able to plan in a vacuum and that it was a concern to the City of Las Vegas and hoped there would be communication between the City of Las Vegas and San Miguel County.

City Manager Martinez advised that the hold harmless payment process came into effect in 2004 when the legislature stopped taxing food and medical and added that cities and counties relied on that tax and the Legislature holds city and counties harmless and gives supplemental income equal to the amount of that tax and has recently been proposed at the Legislature do away with the hold harmless supplement.

City Manager Martinez informed that cities with population of more than 10,000 and counties with over 48,000 in population would be affected of reduction of hold harmless subsidy for a 15 year period and added that the other component given by Legislature given to counties and municipalities would be to implement a tax increase of up to 3/8<sup>th</sup> percent to help accommodate for the loss.

City Manager Martinez advised that they were notified about the issue regarding the hold harmless in July while attending the Municipal League Meeting and stated that Las Vegas was one of the twelve municipalities in the state that would be affected by the subsidy reduction.

City Manager Martinez advised he met with Finance Director Anne Marie Gallegos and Mayor Ortiz, Jr. to discuss how the tax increase would affect the City of Las Vegas and informed that it would reduce the subsidy from the state by \$84,000.00, every year for the next 15 years adding to a gradual reduction total of 1.2 million dollars.

City Manager Martinez stated it would affect the tax payers in the community regarding gross receipts tax and that tax was at 8.062% since July 2014 and added that the City of Las Vegas made the conscious decision to not impose the allowed 2/8<sup>th</sup> tax increase to accommodate the loss.

City Manager Martinez advised the City of Las Vegas would make the effort to hold back and tighten the budget for the next few years and that the needs would be addressed without having to go out to the taxpayers, considering the tax was already over 8% and added that knowing there were investments being made in economic development from the General Fund, knowing the investments being made in Main Street & Chamber of Commerce in trying to increase revenue.

City Manager Martinez advised that some initiatives taken regarding how to store and manage water would be affected with the tightened budget and that those situations were taken into consideration before bringing a recommendation to City Council.

City Manager Martinez stated that he wished there had been more discussion with the county regarding the opportunity for the city to express their views and proposed more discussion while moving forward, and added that the city and county have common constituents that they serve together and how the decisions impact the community. City Manager Martinez spoke of the importance of currently working together towards growth in community regarding the city and county and to work on the region in the future and advised that he thought that taking care of in-house housekeeping was needed before moving forward.

City Manager Martinez advised that the county had every right under the statutes to impose the tax and stated that it wasn't the issue being brought up, and advised that the city had the same right but it was the approach that the city wanted to work on regarding the tax increase.

County Manager Montoya asked City Manager Martinez what the recommendation was after discussion of investments and opportunity of tax increase.

City Manager Martinez advised County Manager Montoya the recommendation was to hold off a year and explained that the Finance Report is brought to

monthly Council Meetings and the General Fund is reviewed regarding the bottom line and review expenditures and revenue.

City Manager Martinez noted each month since July, expenditures had reduced based on projections and revenue had slightly dropped and added that the city is trying to hold the line and stated that the city understands that in two or three years revenue will need to increase and that this tax may possibly have to be imposed but the city is trying to find ways of not having to.

City Manager Martinez discussed the high tax rate was a concern regarding in bringing in new businesses and attracting investment in the community and expressed that a healthy economic development in our community is driven by management of resources.

Mayor Ortiz, Jr. advised that the city was going to take a loss of 1.2 million dollars at the end of the 15 years and asked City Manager Martinez what the amount needed was for Capital Outlay needs for the City.

City Manager Martinez advised the City would need a total of 160 million dollars for Capital Outlay projects.

Mayor Ortiz, Jr. made the point of everyone having needs for Capital Outlay projects, and added that the city had the opportunity to impose the tax increase and make a substantial amount of money but chose not to because of the concern of the community and how it would impact them.

Mayor Ortiz, Jr. explained that the tax rate in July 2014 was 8.0625% and in January 2015, San Miguel County passed a .0833% increase which brought the tax rate to 8.1458% and if the County would go through with the proposed 2/8<sup>th</sup> tax increase, it would bring it up to 8.3958%.

Mayor Ortiz, Jr. advised that if the city would impose their portion, the tax would increase to 8.80% and added that the city could use the money and stated "the city would make a killing" and it would be at the expense of the community tax payers. Mayor Ortiz, Jr. discussed how the economy is bad at the state level and that recovery time could take several years.

Mayor Ortiz, Jr. asked County Finance Supervisor Gonzales if the 1/16<sup>th</sup> would cover the total loss.

County Finance Supervisor Gonzales replied "it would cover almost all what they were going to lose".

Mayor Ortiz, Jr. clarified that the County was asking for 4/16<sup>th</sup> which is 3 times more of what was actually needed to cover the loss and how it would substantially help the county and their needs. Mayor Ortiz, Jr. discussed the significant needs of the city regarding roads and but suggested that the city and the county get together regarding the taxpayer needs at the county and city level, and added that the easy way would be to impose the maximum and noted that the county didn't impose the maximum but that the amount they did impose was substantial.

Mayor Ortiz, Jr. reported that the city would propose to City Council, not to impose any increase, even if there would be a loss of about \$250,000.00 at the end of a 3 years period.

Mayor Ortiz, Jr. stated for the record that he would recommend to the new Mayor, as well as the Governing body that when it came time to have to impose the tax increase that they would come up with the rate increase amount only to make up for the 1.2+ million dollar loss, in order to continue stability and added that the other financial needs would be worked on gradually and the city would do their best to make ends meet.

Mayor Ortiz, Jr. expressed his disappointment regarding the communities that had imposed the tax increase and stated that there were many counties that imposed the tax increase. Mayor Ortiz, Jr. added that these counties found a "loophole", because of the fact that these counties, including San Miguel County would not stand to lose anything and that it didn't make any sense to impose the tax just to make up the 1/16<sup>th</sup>, since imposing the 1/16<sup>th</sup> on tax payers would generate dollars equivalent to what the county would receive without the imposition.

Mayor Ortiz, Jr. asked for the county to take those factors into consideration and added that ultimately County Manager Martinez would recommend to the County Commission what is best for the County and its citizens.

County Manager Montoya stated that the needs of the County were similar to those of the city and advised that discussion with Finance, County Staff and Commissioners had been taking place regarding the tax increase and advised that the county chose not to impose the tax 6 years ago because of the impact on the community and since the current threats of the Legislative action to do away with the hold harmless said he could no longer wait to impose the tax and it would be irresponsible of him not to inform Commissioners of the trend, statewide and nationwide is for cities and counties to fend for themselves, and added that the Commissioners would make the decisions with the information County Manager presents.

County Manager Montoya advised it was important for the county and the city to communicate, but added that it was difficult and used an example of presenting an emergency tax two years ago that would have benefitted the city and the county and in his opinion failed because the city didn't put enough effort to get it passed. County Manager Montoya expressed the importance of trying to work together and advised that the county is open to work with the city as long as it is to benefit the taxpayer. County Manager Montoya stated that gross receipts tax is a tax looked at by businesses, whether it is an affordable place to do business and added that high water rates were another issue that affects businesses coming in.

Mayor Ortiz, Jr. added that water rates are high and will only go higher after the rate increase and that we should be concerned of the high rates and stated that another concern he had was that County Manager Montoya knew as well as himself that the intent of this piece of Legislation was not to allow communities that didn't qualify to apply for these dollars.

Mayor Ortiz, Jr. stated that it bothered him that cities and counties that didn't get affected by the hold harmless took advantage of a loophole that was not intended but available and took advantage of taxpayers.

Mayor Ortiz Jr. stated that it bordered on not being legal and cities and counties are getting away with it and that he thought it was unethical as well as morally wrong. Mayor Ortiz, Jr. expressed his thoughts on how the taxpayers were disregarded.

County Manager Montoya stated that he thought Mayors and Commissioners didn't work in the manner of taking advantage of situations but that they take action based on what is authorized under the law and disagreed that it would be unethical or illegal.

Mayor Ortiz, Jr. passionately asked County Manager Montoya to take the issues into consideration in reference to the taxpayers

Councilor Howell briefly spoke of the importance of the collaboration between the City of Las Vegas and San Miguel County particularly when it affects the community and added that the citizens are not happy with another tax increase. Councilor Howell stated that he feels the increase would only be beneficial if it went to county roads repair where it is desperately needed.

Councilor Gurule-Giroń had concerns of how the tax increase would impact the Enterprise Fund and how it would affect the on-going water projects that affect city residents and county residents as well.

Councilor Gurule-Giroń addressed City Manager Montoya and asked if the County would work with the city so we can meet the needs of the community regarding water and asked to take that into consideration.

## **DISCUSSION ITEMS**

1. Discussion on the proposed quarter cent Gross Receipts Tax increase by San Miguel County and its implication on the GRT changes.

Utilities Director Ken Garcia advised that the tax increase would affect the community on their gas bills and would impact them a second time due to potential increase on gas rates and added that water projects also fell under gross receipts tax. Utilities Director Garcia questioned how customers would benefit from this imposition of the tax increase on utility bills.

County Manager Montoya addressed Mr. Garcia's question by stating that he thought the increase would benefit the counties needs of road repair affecting utility gas customers and emergency services as well.

Mayor Ortiz, Jr. stated that he was concerned on the subject of the county benefiting a total of \$880,000.00 annually from the 2/8ths tax increase which will be paid by more than 50% of Las Vegas citizens and added that it was a significant amount.

County Manager Montoya stated that the authorization by the Legislature allows the County to tax within the corporate limits within the county which includes City of Las Vegas and the Village of Pecos.

Mr. Sanjay Bakta asked questions regarding the city being a home rule community, and under the Las Vegas City Charter asked if there were any definitions defining such taxation and under those definitions are there terms of flexibility to impose GRT or other taxes and fees that may be equal to or greater than those of the State New Mexico.

City Attorney Dave Romero advised that the City of Las Vegas is a home rule community which allows more power than the average municipality to do what is in the best interest of the city, and added as long as the city is not violating or contradicting a State law but stated in this case the city's authority is limited by what the Legislature has passed.

Sanjay Bakta asked if food and medication could be taxed under the City Charter since it was no longer being taxed by the State.

City Attorney Dave Romero advised that the city is pre-empted from acting in the area of State Taxation and Revenue and the Legislatures actions and added that there is not a clear definition of it but there is a general policy.

Mayor Ortiz, Jr. briefly discussed the example of clear definition regarding the language issues of the proposed tax increase.

Councilor Howell suggested that the County's Economic Leadership group and the City's Economic Development Corporation should work together in bringing in more gross receipts into the community regarding all the issues concerned.

County Manager Montoya advised Council there is an economic strategic plan in place that calls for collaborative effort from all entities, including the city, to work together with the help of Economic Development Executive Director Bill Henderickson but advised that better effort to collaborate needs to be exercised to benefit the taxpayer.

Councilor Gurule-Giroñ asked who the driving force was to plan regional economic development.

County Manager Montoya advised that the Region took part in a strategic planning process through New Mexico State University and advised that the County was certified to begin the planning process.

Mayor Ortiz, Jr. thanked County Manager Montoya and Melinda Gonzales for their presentation and advised he and City Manager would make the effort to attend the meeting and encouraged all who had interest on the issue to attend.

City Manager Martinez advised that Community Services Director Phillip Ortiz and staff had prepared a presentation but the items were addressed in the discussion but thanked them for preparing the presentation.

## **BUSINESS ITEMS**

### **1. Approval/Disapproval of Budget Adjustment Resolution 15-15.**

Finance Director Ann Marie Gallegos advised that the City of Las Vegas is in need of increasing or decreasing the FY 2015 budgeted revenues or expenditures, transfers to or transfer from within various funds and stated this was a budget adjustment request to increase expenditures in the water rights fund, transferring \$300,000.00 from the water operating fund to the water rights fund to increase line items for attorneys fees and other professional services.

Councilor Gurule-Giroń had concerns on negative amounts on the Schedule of Budget Adjustments and also on several questions on the revenue for Water and Gas Funds.

Finance Director Gallegos clarified the concerns on the Schedule of Budget Adjustments concerning negative amounts and the Water and Gas Fund totals.

Councilor Gurule-Giroń had questions on the Attorney Fees and Professional Services.

Utilities Director Garcia advised that there were several funds being funded which were, Negotiations with the Storrie Project, Brander Dam (regarding water rights), Remand and completing the Adjudication.

Councilor Gurule-Giroń asked how much has been spent within the last year in the four areas indicated.

City Attorney Romero advised that the specific amount that the City is spending on particular litigation is considered privileged but that it would be available to Council in Executive Session but advised that he objected the discussion at this time.

Councilor Gurule-Giroń advised that the expenditures of the City are public information.

City Attorney Romero advised that the city is in litigation concerning the remand so the specific amounts are not public but are available under Executive Session.

Councilor Gurule-Giroń disagreed with City Attorney and stated that the information is public record and specified that she wanted to know how much had been spent on litigation.

Finance Director Gallegos clarified from July 2014 through March 31, 2015, that \$250,000.00 had been spent and stated that the reason for the request of the additional \$300,000.00 was in order to meet the costs for Attorneys fees and other professional services.

Councilor Gurule-Giroñ had questions regarding the Enterprise Funds being in the red.

Finance Director Gallegos advised that the Enterprise Funds were not in the red.

Mayor Ortiz, Jr. advised that any concerns regarding the Enterprise Funds would be alerted by Finance Director Gallegos.

Finance Director Gallegos advised that Enterprise Funds are reviewed weekly to ensure the funds are within their budgets.

Councilor Gurule-Giroñ asked what the other professional services consisted of regarding the Attorneys fees.

Utilities Director Garcia informed Council that other professional services related to any experts regarding water rights, such as engineers or scientists.

Councilor Howell made a motion to approve of Budget Adjustment Resolution 15-15. Councilor Romero seconded the motion.

Resolution 15-15 was presented as follows:

STATE OF NEW MEXICO  
MUNICIPALITY OF CITY OF LAS VEGAS  
BUDGET ADJUSTMENT RESOLUTION NO. 15-15

**WHEREAS**, The Governing Body in and for the Municipality of Las Vegas, State of New Mexico has developed a budget for fiscal year 2015; and

**WHEREAS**, said budget adjustments were developed on the basis of an increase in revenues and expenditures, transfers in/or out in various funds; and

**WHEREAS**, increase/decrease in revenues, expenditures, transfer in, and transfers out to be funded by additional grant funding for purposes as identified, and;

**WHEREAS**, the City of Las Vegas is in need of making adjustments to the 2015 fiscal year budget;

**WHEREAS**, it is the majority opinion of this Council that the budget adjustments meet the requirements as currently determined for fiscal year 2015;

**NOW, THEREFORE**, the Governing Body of the City of Las Vegas passes this budget resolution for budget adjustments, **PASSED, APPROVED AND ADOPTED THIS** \_\_\_ DAY OF MARCH, 2015.

Alfonso E. Ortiz, Jr. Mayor

ATTEST:

\_\_\_\_\_  
Casandra Fresquez, City Clerk

REVIEWED AND APPROVED AS TO LEGAL SUFFICIENCY ONLY:

\_\_\_\_\_  
Dave Romero, City Attorney

Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroń	Yes	David L. Romero	Yes
Vincent Howell	Yes	Joey Herrera	Absent

City Clerk Fresquez re-read the motion and advised the motion carried.

2. Approval/Disapproval to Publish Ordinance #15-02 Amending Ordinance 11-18 for the Rodriguez Park Effluent Project Water Trust Board funding.

Utilities Water Project Manager Maria Gilvarry advised that the City received funding from the Water Trust Board for the Rodriguez Park Effluent project. This is an amendment to the original agreement that will reduce the loan amount of the agreement from 40% to 10%. This Ordinance will amend Ordinance 11-18 adopted October 19, 2011.

Utilities Water Project Manager Gilvarry informed that there was an error on the grant/ loan amounts and the proposed grant/ loan amounts and that the difference was incorrect due to the numbers being added instead of subtracted, and advised that the current grant amount is \$198,000 and the proposal is to increase the grant by \$99,000.00 to \$297,000.00, which will reduce the loan by the same amount of \$99,000.00.

Utilities Director Garcia advised that the net savings for the City by passing this ordinance would be close to \$100,000.00.

Councilor Gurule-Giroń made a motion to approve to Publish Ordinance #15-02 Amending Ordinance 11-18 for the Rodriguez Park Effluent Project Water Trust Board funding. Councilor Romero seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Vincent Howell	Yes	David L. Romero	Yes
Tonita Gurule-Giroń	Yes	Joey Herrera	Absent

City Clerk Fresquez re-read the motion and advised the motion carried.

3. Approval/Disapproval to Publish Ordinance #15-03 Amending Ordinance 11-19 for Taylor Well No. 2 Replacement Project Water Trust Board funding.

Utilities Water Project Manager Gilvarry advised that the City received funding from the Water Trust Board for the Taylor Well No. 2 replacement project (WTB-219). This is an amendment to the original agreement that will reduce the loan amount of the agreement from 40% to 10%. This Ordinance will amend Ordinance 11-19 adopted October 19, 2011 and informed that the current rate for the grant was \$927,697.00, the proposal is to increase the grant to \$,391,546.00, which is the difference of \$463,849.00, which would save the City over \$470,000.00.

Councilor Howell made a motion to approve to Publish Ordinance #15-03 Amending Ordinance 11-19 for Taylor Well No. 2 Replacement Project Water Trust Board funding. Councilor Romero seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroń	Yes	Vincent Howell	Yes
David L. Romero	Yes	Joey Herrera	Absent

City Clerk Fresquez re-read the motion and advised the motion carried.

4. Approval/Disapproval of Resolution 15-16 authorizing submission of an application for funding assistance to New Mexico Finance Authority Trust Board.

Utilities Water Project Manager Gilvarry advised that the Engineers Inc. is submitting an application for funding assistance on behalf of the City of Las Vegas

for the 8<sup>th</sup> Street and Chico Drive Water Line improvements. It is required by the Water Trust Board that a resolution approving the request accompany the application.

Discussion took place regarding the locations of 8<sup>th</sup> Street and Chico Drive, and as to where the water lines would be repaired.

Councilor Howell made a motion to approve of Resolution 15-16 authorizing submission of an application for funding assistance to New Mexico Finance Authority Water Trust Board. Councilor Romero seconded the motion.

Resolution 15-16 was presented as follows:

RESOLUTION No. 15-16

AUTHORIZING AND APPROVING THE SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY WATER TRUST BOARD.

**WHEREAS**, the City of Las Vegas (“Borrower”) is a qualified entity under the New Mexico Finance authority Act, Sections 6-21-1 through 6-21-31, NMSA 1978 (“Act”), and City of Las Vegas is authorized to apply for funds for financing of public projects for benefit of the community and its citizens; and

**WHEREAS**, the New Mexico Finance Authority (“Authority”) has instituted a program for financing of projects from the Water Trust Board and has developed an application procedure whereby the Governing Body may submit an application (“Application”) for financial assistance from the Authority for; and

**WHEREAS**, the Governing Body intends to undertake design, and construction improvements for the benefit of the community and its citizens; for the (“Project”) 8<sup>th</sup> and Chico Water System Improvements; and

**WHEREAS**, the Governing Body completed an Application to the Authority for its consideration.

**WHEREAS**, the Governing Body is committing the required match obligation of 15% for the project in addition to any loan component that may be requested.

**WHEREAS**, the Governing Body is committed to properly operate and maintain the proposed improvements as described by the proposed project that funding is being requested for.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAS VEGAS:**

Section 1. That all action (not consistent with the provision hereof) heretofore taken by the Governing Body and the officers and employees thereof directed toward the Application and the Projects, be hereby ratified, approved and confirmed.

Section 2. That the completed Application submitted to the Governing Body be hereby approved and confirmed.

Section 3. That the officers and employees of the Governing Body are hereby directed and requested to submit the completed Application to the Authority for its review and are further authorized to take such other action as may be requested by the Authority in its consideration and review of the Application and to further proceed with arrangements for financing the Project.

Section 4. All acts and resolutions in conflict with this resolution are hereby rescinded, annulled, and repealed.

Section 5. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor Alfonso E. Ortiz, Jr.

ATTEST:

\_\_\_\_\_  
Casandra Fresquez, City Clerk

APPROVED AS TO LEGAL SUFFICIENCY ONLY

\_\_\_\_\_  
Dave Romero Jr., City Attorney

Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

David L. Romero	Yes	Tonita Gurule-Giroń	Yes
Vincent Howell	Yes	Joey Herrera	Absent

City Clerk Fresquez re-read the motion and advised the motion carried.

Mayor Ortiz, Jr. thanked Las Vegas Optic Editor Martin Salazar for the editorial on the meeting and urged the public to attend the meeting on Monday at 11:00 a.m. at the San Miguel County Courthouse and advised that the amount of the increase was significant. Mayor Ortiz, Jr. added that the County had no need to impose the tax due to the fact that they didn't stand to lose anything and stated that he would never recommend taking advantage of a loophole at the expense of taxpayers.

### **EXECUTIVE SESSION**

City Attorney Romero advised there was a need for Executive Session to discuss negotiations and pending litigation.

Councilor Gurule-Giroń made a motion to go into Executive Session to discuss negotiations and pending litigation. Councilor Howell seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Vincent Howell	Yes	David L. Romero	Yes
Tonita Gurule-Giroń	Yes	Joey Herrera	Absent

City Clerk Fresquez re-read the motion and advised the motion carried.

Councilor Gurule-Giroń made a motion to reconvene into regular session, no action was taken and the only matters discussed in Executive Session, were those items allowed by the Open Meetings Act including, negotiations and actual potential litigation. Councilor Howell seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

David L. Romero	Yes	Tonita Gurule-Giroń	Yes
Vincent Howell	Yes	Joey Herrera	Absent

City Clerk Fresquez re-read the motion and advised the motion carried.

Mayor Ortiz, Jr. took the opportunity to thank the Governing Body for all their hard work and support on behalf of the residents of the City of Las Vegas as well as residents of San Miguel County and also thanked every city employee for their part in the success that has been made for the community.

**ADJOURN**

Councilor Gurule-Giroń made a motion to adjourn. Councilor Howell seconded the motion. Mayor Ortiz, Jr. asked for roll call. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroń	Yes	David L. Romero	Yes
Vincent Howell	Yes	Joey Herrera	Absent

City Clerk Fresquez re-read the motion and advised the motion carried.

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Mayor Alfonso E. Ortiz, Jr.

ATTEST:

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Casandra Fresquez, City Clerk



**MINUTES OF THE CITY OF LAS VEGAS CITY COUNCIL SPECIAL MEETING  
HELD ON MONDAY MARCH 30, 2015 AT 5:00 P.M. IN THE CITY COUNCIL  
CHAMBERS**

**MAYOR:** Alfonso E. Ortiz, Jr.

**COUNCILORS:** Tonita Gurule-Giroń  
Vince Howell  
Joey Herrera  
David L. Romero - Absent

**ALSO PRESENT:** Elmer J. Martinez, City Manager  
Maire Lopez, Deputy City Clerk  
Dave Romero, City Attorney  
Juan Montano, Sergeant at Arms

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

Mayor Ortiz Jr. asked for a moment of silence for each individual to reflect on how they can help improve the community.

**MAYOR'S APPOINTMENTS/REPORTS**

Mayor Ortiz Jr. advised he had been informed that County Commissioners had taken action and decided to pass the 2/8th increase to the Gross Receipt Tax.

Discussion took place on the increase adopted by the County Commission.

Mayor Ortiz Jr. asked Deputy City Clerk Lopez to read the proposed Resolution that was being considered for the agenda.

## **APPROVAL OF AGENDA**

Councilor Herrera made a motion to approve the agenda as presented. Councilor Howell seconded the motion.

Mayor Ortiz Jr. asked for a roll call. Roll call was taken and reflected the following.

Vince Howell	Yes	Joey Herrera	Yes
Tonita Gurule-Giroń	Yes	David L. Romero	Absent

Deputy City Clerk Maire Lopez re-read the motion and advised it carried.

## **PUBLIC INPUT**

Manuel Martinez spoke to the governing body regarding the Special Meeting and the item being proposed. Mr. Martinez stressed that the community cannot afford to be entering into agreements for the amount of money proposed in the resolution, that the community already is the highest in utility rates and one of the poorest. Twelve million is a lot of money for the community, there is no industry in the community and the burden of the twelve million falls on the members of the community. Mr. Martinez advised the City should have looked into leasing space from Storrie Lake while looking into the repair of the City's dam.

Mayor Ortiz Jr. advised there will be no additional rate increase in the utilities, that money has already been generated through the current rate increase to cover a portion of the cost of the proposed agreement and the additional will be state funding.

Bob Wessley spoke to the governing body about the plan to buy storage space at Storrie Lake to replace the some of the storage space that had been planned for Bradner Dam, possibly increasing the city's storage space. Mr. Wessley advised this plan has come up to quickly and the City needs to make sure it's a good thing to do.

Mike Estrada spoke to the governing body about his concern of the legality of the Storrie Lake Users Association and the City of Las Vegas having negotiations while in litigation. How does the City plan on getting the water into the lake and how will it affect the individuals that irrigate.

Gabe Estrada spoke to the governing body regarding the Storrie Lake and the City agreement. There are several other individuals and shareholders that have not been considered in this agreement and more thought needs to be taken.

City Manager Martinez asked that the governing body go into Executive Session to discuss some of the issues that were brought up and to brief them on some information.

Councilor Gurule-Giroń made a motion to go into Executive Session to discuss sale or acquisition of property, water and possible litigation. Councilor Howell seconded the motion.

Mayor Ortiz Jr. asked for a roll call. Roll call was taken and reflected the following.

Joey Herrera	Yes	Vince Howell	Yes
Tonita Gurule-Giroń	Yes	David L. Romero	Absent

Deputy Clerk Maire Lopez re-read the motion and advised the motion carried.

Councilor Herrera made a motion to reconvene, no action was taken. Councilor Howell seconded the motion.

Mayor Ortiz Jr. asked for a roll call. Roll call was taken and reflected the following.

Vince Howell	Yes	Joey Herrera	Yes
Tonita Gurule-Giroń	Yes	David L. Romero	Absent

Deputy City Clerk Maire Lopez re-read the motion and advised the motion carried.

## **BUSINESS ITEMS**

1. Approval/Disapproval of Resolution 15-17 authorizing the Mayor and City Manager to enter into an agreement with the Storrie Project Water Users Association.

Utilities Director Garcia advised after reviewing the terms and conditions he is recommending that the governing body disapprove the resolution. Utilities Director Garcia advised the department will continue to seek funding sources and maintain water as its top priority.

Councilor Gurule-Giroń made a motion to disapprove Resolution 15-17. Councilor Howell seconded the motion.

Mayor Ortiz Jr. asked for a roll call. Roll call was taken and reflected the following.

Vince Howell	Yes	Joey Herrera	Yes
Tonita Gurule-Giroń	Yes	David L. Romero	Absent

Deputy City Clerk Maire Lopez re-read the motion and advised the motion carried.

Councilor Gurule-Giroń made a motion to adjourn. Councilor Herrera seconded the motion.

Mayor Ortiz Jr. asked for a roll call. Roll call was taken and reflected the following.

Joey Herrera	Yes	Vince Howell	Yes
Tonita Gurule-Giroń	Yes	David L. Romero	Absent

Deputy City Clerk Maire Lopez re-read the motion and advised the motion carried.

**ADJOURN**

\_\_\_\_\_  
Mayor Alfonso E. Ortiz, Jr.

ATTEST:

\_\_\_\_\_  
Casandra Fresquez, City Clerk

**GENERAL FUND REVENUE COMPARISON**  
**THRU MARCH 31, 2015 - 75% OF YEAR LAPSED (9 of 12 months)**  
**FISCAL YEAR 2015**

Total Budget to Actual Comparison

	A	B	C	D	E	G (E/B)
	FY 2014 BUDGET	FY 2015 BUDGET	FY 2015 YTD - BUDGET	FY 2014 YTD - ACTUAL	FY 2015 YTD - ACTUAL	FY 2015 % REV
PROPERTY TAX	1,273,369	1,350,000	1,012,500	1,400,458	974,525	72%
GROSS RECEIPT TAX 1.225	3,525,000	3,550,000	2,662,500	3,637,191	2,481,009	70%
FRANCHISE TAX	800,000	800,000	600,000	824,764	621,442	78%
GROSS RECEIPT TAX .75	2,350,000	2,585,000	1,938,750	2,626,837	1,632,490	63%
1/8 INFRASTRUCTURE	340,000	350,000	262,500	366,007	248,607	71%
GRT .25 (JAN 2011)	670,000	680,000	510,000	722,647	488,438	72%
LICENSE & FEES	64,000	63,000	47,250	74,942	44,491	71%
INTERGOVERNMENTAL	65,000	65,000	48,750	59,284	53,002	82%
LOCAL-FINES	97,500	87,400	65,550	78,402	52,596	60%
LOCAL-MISC	1,646,080	1,657,930	1,243,448	1,730,613	1,206,910	73%
<b>TOTAL</b>	<b>10,830,949</b>	<b>11,188,330</b>	<b>8,391,248</b>	<b>11,521,145</b>	<b>7,803,510</b>	<b>70%</b>

(License & Fees-Business Licenses, Liquor Licenses and Building Permits)  
(Local Fines- Court Fines, Library Fines, Traffic Safety Fines)

**GENERAL FUND EXPENDITURE COMPARISON**  
**THRU MARCH 31, 2015 - 75% OF YEAR LAPSED (9 of 12 months)**

Total Budget to Actual Comparison

	A	B	C	D	E	F	H (E/B)
	FY 2014 BUDGET	FY 2015 BUDGET	FY 2015 YTD - BUDGET	FY 2014 YTD - ACTUAL	FY 2015 YTD - ACTUAL	FY 2015 AVAIL. BAL.	% BDGT
JUDICIAL	271,496	281,456	211,092	263,071	204,508	76,948	73%
EXECUTIVE	469,235	479,970	359,978	469,235	335,970	144,000	70%
ADMINISTRATION	258,329	253,986	190,490	217,378	161,355	92,631	64%
CITY ATTORNEY	205,319	206,938	155,204	205,319	157,524	49,414	76%
PERSONNEL/HR	257,303	253,741	190,306	240,176	201,994	51,747	80%
FINANCE	527,996	572,076	429,057	494,880	414,978	157,098	73%
COMMUNITY DEV.	583,040	466,064	349,548	545,116	294,883	171,181	63%
POLICE	3,872,014	4,074,107	3,055,580	3,671,476	2,729,509	1,344,598	67%
CODE ENFORCEMENT	188,647	167,755	125,816	157,926	96,052	71,703	57%
ANIMAL SHELTER	141,070	129,000	96,750	130,138	90,525	38,475	70%
FIRE	1,297,793	1,320,485	990,364	1,124,984	870,880	449,605	66%
PUBLIC WORKS/PARKS	674,812	755,474	566,606	649,274	460,587	294,887	61%
PARKS	222,394	0	0	222,394	0	0	0%
AIRPORT	0	130,476	97,857	0	68,231	62,245	52%
LIBRARY	203,023	198,041	148,531	200,858	146,496	51,545	74%
MUSEUM	123,937	168,204	126,153	108,928	101,880	66,324	61%
GENERAL SERVICES	1,768,760	1,560,180	1,170,135	1,677,593	1,292,188	267,992	83%
SALARY CONTINGENCY	88,000	80,000	60,000	53,562	0	80,000	0%
TRANSFERS	0	355,128	266,346	0	229,463	125,665	65%
<b>TOTAL</b>	<b>11,153,168</b>	<b>11,453,081</b>	<b>8,589,811</b>	<b>10,432,308</b>	<b>7,857,023</b>	<b>3,596,058</b>	<b>69%</b>

**RECREATION DEPARTMENT-REVENUE COMPARISON  
THRU MARCH 31, 2015 -75% OF YEAR LAPSED (9 OF 12 MONTHS)  
FISCAL YEAR 2015**

	A	B	C	D	E	G
	FY 2014	FY 2015	FY 2015	FY 2014	FY 2015	(E/B)
	BUDGET	BUDGET	YTD - BUDGET	ACTUAL	YTD - ACTUAL	% REV
WELLNESS CENTER	115,000	115,000	86,250	108,473	70,205	61%
OPEN SWIM	20,000	10,000	7,500	13,275	391	4%
YAFL	10,000	8,000	6,000	6,974	4,472	56%
YABL	16,000	18,000	13,500	20,172	21,121	117%
SUMMER FUN PROGRAM	30,000	30,000	22,500	19,907	2,220	7%
RECREATION-OTHER	37,300	45,300	33,975	40,322	43,141	95%
GEN FUND TRANSFER	450,000	450,000	337,500	450,000	337,500	75%
TOTAL	678,300	676,300	507,225	659,123	479,050	71%

**RECREATION DEPARTMENT- EXPENDITURE COMPARISON  
THRU MARCH 31, 2015 -75% OF YEAR LAPSED (9 OF 12 MONTHS)**

	A	B	C	D	E	F	H
	FY 2014	FY 2015	FY 2015	FY 2014	FY 2015	FY 2015	(E/B)
	BUDGET	BUDGET	YTD - BUDGET	ACTUAL	YTD - ACTUAL	AVAIL. BAL.	%
							BDG
EMPLOYEE EXP.	659,847	681,723	511,292	525,338	409,698	272,025	60%
YAFL	4,000	2,500	1,875	3,791	2,033	467	81%
YABL	4,000	4,500	3,375	2,853	3,736	764	83%
OTHER OPERATING EXP.	94,199	85,750	64,313	63,826	46,352	39,398	54%
CAPITAL OUTLAY	5,901	4,500	3,375	5,129	963	3,537	21%
TOTAL	767,947	778,973	584,230	600,937	462,782	316,191	59%

**ENTERPRISE FUNDS-REVENUE COMPARISON  
THRU MARCH 31, 2015 - 75% YEAR LAPSED (9 of 12 months)  
FISCAL YEAR 2015**

	<u>Total Budget to Actual Comparison</u>					
	A	B	C	D	E	G (E/B)
	FY 2014 BUDGET	FY 2015 BUDGET	FY 2015 YTD - BUDGET	FY 2014 YTD - ACTUAL	FY 2015 YTD - ACTUAL	% BUDGET
WASTE WATER (610)	3,125,000	2,761,000	2,070,750	2,635,469	2,055,534	74%
NATURAL GAS (620)	5,121,000	5,522,000	4,141,500	5,694,027	4,331,753	78%
SOLID WASTE (630)	3,270,050	3,133,500	2,350,125	3,167,292	2,361,659	75%
WATER (640)	4,527,131	4,602,850	3,452,138	4,633,602	3,454,952	75%
<b>Total of Enterprise Funds</b>	<b>16,043,181</b>	<b>16,019,350</b>	<b>12,014,513</b>	<b>16,130,390</b>	<b>12,203,898</b>	<b>76%</b>

**ENTERPRISE FUNDS-EXPENDITURES COMPARISON  
THRU MARCH 31, 2015 - 75% YEAR LAPSED (9 of 12 months)  
FISCAL YEAR 2015**

	<u>Budget to</u>						
	A	B	C	D	E	F	H (E/B)
	FY 2014 BUDGET	FY 2015 BUDGET	FY 2015 YTD - BUDGET	FY 2014 ACTUAL	FY 2015 YTD - ACTUAL	FY 2015 AVAIL. BAL.	% BUDGET
WASTE WATER(610)	3,309,206	2,761,000	2,070,750	2,624,480	1,936,389	824,611	70%
NATURAL GAS (620)	5,876,448	5,522,000	4,141,500	4,312,178	3,793,946	1,728,054	69%
SOLID WASTE (630)	3,401,769	3,091,854	2,318,891	2,529,004	2,038,757	1,053,097	66%
WATER (640)	3,755,816	4,409,514	3,307,136	3,075,750	3,281,483	1,128,031	74%
<b>Total of Enterprise Funds</b>	<b>16,343,239</b>	<b>15,784,368</b>	<b>11,838,276</b>	<b>12,541,412</b>	<b>11,050,575</b>	<b>4,733,793</b>	<b>70%</b>

**CITY COUNCIL MEETING AGENDA REQUEST**

**DATE:** 03/31/15

**DEPT:** Utilities

**MEETING DATE:** 04/15/15

**ITEM/TOPIC:** Conduct a public hearing and adopt Ordinance No. 15-02 Rodriguez Park Effluent Project Water Trust Board funding.

**ACTION REQUESTED OF COUNCIL:** Approval/Disapproval to conduct a public hearing and adopt Ordinance No. 15-02.

**BACKGROUND/RATIONALE:** The City received funding from the Water Trust Board for the Rodriguez Park Effluent project. This is an amendment to the original agreement that will reduce the loan amount of the agreement from 40% to 10%. The new loan amount will be \$33,000 which is a reduction of \$99,000.00 and the new grant amount will be \$297,000.00 which is an increase of \$99,000.00. This Ordinance will amend Ordinance 11-18 adopted on October 19, 2011.

	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
Grant Amount:	\$198,000.00	\$297,000.00	\$99,000.00+
Loan Amount:	\$132,000.00	\$33,000.00	\$99,000.00-
Additional Funding Amount:	\$ 33,000.00	\$33,000.00	
Project Account Amount:	\$330,000.00	\$330,000.00	
Administrative Fee:		0.25%	

**STAFF RECOMMENDATION:** Conduct a public hearing and adopt ordinance.

**COMMITTEE RECOMMENDATION:** This item will be discussed at the regular Utility Advisory Committee meeting on April 14, 2015.

**THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY MANAGER'S OFFICE NO LATER THAN 10:00 A.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.**

  
\_\_\_\_\_  
**SUBMITTER'S SIGNATURE**

**REVIEWED AND APPROVED BY:**



\_\_\_\_\_  
**ALFONSO E. ORTIZ, JR.**  
**MAYOR**

  
\_\_\_\_\_  
**ELMER J. MARTINEZ**  
**CITY MANAGER**

\_\_\_\_\_  
**PURCHASING AGENT**  
**(FOR BID/RFP AWARD)**

\_\_\_\_\_  
**ANN MARIE GALLEGOS**  
**FINANCE DIRECTOR**  
**(PROCUREMENT)**

\_\_\_\_\_  
**DAVE ROMERO**  
**CITY ATTORNEY**  
**(ALL CONTRACTS MUST BE REVIEWED)**



**UTILITIES DEPARTMENT PROJECT SUMMARY SHEET**

**PROJECT NAME:** Rodriquez Park Effluent Project  
**PROJECT NUMBER:** UT-WB-2013-1A  
**PROJECT MANAGER:** Esteban Medina

**ENGINEER:** Molzin Corbin  
**CONTRACT NUMBER:** 2678-13

**PROJECT DESCRIPTION:**

Installation of an effluent booster station at Rodriquez Park.

**TIMELINE:** 2014

**ORIGINAL FUNDING**  
 WTG Grant \$199,000  
 WTG Loan \$ 132,000  
Federal  
 Total Funds

**PRESENT PROPOSED FUNDING**  
 WTG Grant \$ 297,000  
 WTG Loan \$ 33,000  
Construction  
 Total Proposed Funds  
 \$330,000

**BUDGETED AMOUNT:** \$400,000      **LINE ITEM NUMBER:** \_\_\_\_\_

ACTION	DESCRIPTION	DATE
Funding Source	Water Trust Board - 218	12/02/11
Loan/Grant/City	City \$ Grant \$ 297,000 Loan \$ 33,000 Total \$ 330,000	03/25/15
Authorized Ordinance	15-02	03/25/15
Loan/Subsidy Agreement	NMFA - WTG	12/02/11
Engineering Services Agreement	Contract# _____ Task Order# _____ \$ _____	
Engineering Estimate	Total Engineer's Estimate \$ _____	
Bid Document Review	Bid # _____	
Advertisement		
Bid Opening	Date _____	
Bid Tabulation	Contractor _____ Amount _____	
	Contractor _____ Amount _____	
	Contractor _____ Amount _____	
	Contractor _____ Amount _____	
Construction Estimate	Contractor Share \$ _____ (Including NMGR)	
	City Share \$ _____	
Engineer's Recommendation	Contractor _____	
Staff Recommendation		
Committee Recommendation	Item will be discussed at Utility Committee Meeting.	04/14/15
Council Approval	Item taken to City Council for Approval	03/25/15
Notice To Proceed		

MARCH 2015						
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9	10	11	12	13	14	15
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23	24	25	26	27	28	29
30	31					

APRIL 2015						
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MAY 2015						
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**NEW MEXICO FINANCE AUTHORITY**  
**FINANCING SCHEDULE & DISTRIBUTION LIST**  
**CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO**  
**AMENDED AND RESTATED WATER PROJECT FUND**  
**LOAN/GRANT AGREEMENT 218-WTB,**  
**dated December 2, 2011**

**Prepared: March 11, 2015**

DATE	ACTION	PARTIES
Friday, September 25, 2014	Finance Authority Approval to Amend and Restate Water Project Fund Loans 218-WTB and 219-WTB	Finance Authority
Wednesday, March 11, 2015	Distribution of draft Financing Schedule, drafts of Ordinance, Notice of Public Hearing and Amended and Restated Loan/Grant Agreement for review and comment by all and City's first reading	VN
Wednesday, March 18, 2015	Comments due on draft Financing Schedule, drafts of Ordinance, Notice of Public Hearing and Amended and Restated Loan/Grant Agreement from all	Finance Authority, Borrower/Grantee
Friday, March 20, 2015	Re-distribution of draft Financing Schedule, drafts of Ordinance, Notice of Public Hearing, and Amended and Restated Loan/Grant Agreement for review and comment by all and City's first reading	VN
Wednesday, March 25, 2015	First reading of Ordinance, Governing Body Schedules Ordinance for Public Hearing and has first reading of Ordinance	Borrower/Grantee
Thursday, March 26, 2015	Notice of Public Hearing distributed to the <i>Las Vegas Optic</i> by 11:00 am	VN
Monday, March 30, 2015	Publication of Notice of Public Hearing Published in <i>Las Vegas Optic</i>	Newspaper
Wednesday, April 8, 2015	Distribution of all final documents to Borrower for signature. Copy Finance Authority	VN
<b>Wednesday, April 15, 2015</b>	<b>Borrower/Grantee's Governing Body meeting and adoption of Ordinance</b>	<b>Borrower/Grantee</b>

DATE	ACTION	PARTIES
Thursday, April 16, 2015	Submit Notice of Adoption of Ordinance to <i>Las Vegas Optic</i> by 11:00 a.m.	VN
Monday, April 20, 2015	Publish Notice of Adoption of Ordinance in the <i>Las Vegas Optic</i>	Newspaper
Wednesday, April 22, 2015	Delivery of fully executed documents to Loan Counsel	Borrower/Grantee
Monday, May 18, 2015	Distribution of signed Ordinance, Loan Agreement and Closing Documents to the Finance Authority for signature with complete set copy to Gloria and LaRain for Accounting.	VN
Wednesday, May 20, 2015	Expiration of 30-day limitation of action period.	
Wednesday, May 20, 2015	Finance Authority signatures due	Finance Authority
<b>Friday, May 22, 2015</b>	<b>Effective Date of Amendment</b>	<b>All</b>
Two weeks after receipt of all transcript documents	Transcripts Distributed	VN

#### DISTRIBUTION LIST

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**NEWSPAPER:**

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(Deadline: Published Monday's, Wednesday's and Friday's. Deadline: for Monday publication, Notice must be received the Thursday prior before 11:00 a.m.; for Wednesday publication, Notice must be received the Monday prior before 11:00 a.m.; and for Friday publication, Notice must be received the Wednesday prior before 11:00 a.m.)



CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO  
ORDINANCE NO. 15-02

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY"), AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE ("LENDERS/GRANTORS") AND THE CITY OF LAS VEGAS (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF THREE HUNDRED THIRTY THOUSAND DOLLARS (\$330,000), REDUCING THE LOAN AMOUNT OF THE LOAN/GRANT FROM FORTY PERCENT (40%) TO TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE LOAN/GRANT; EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF REPLACING EXISTING, POTABLE IRRIGATION SERVICE LINES AT THE RODRIGUEZ PARK BASEBALL FIELDS WITH NEW REUSE/EFFLUENT IRRIGATION LINES TO CONSERVE DRINKING WATER THAT IS CURRENTLY BEING USED EXCLUSIVELY FOR IRRIGATION PURPOSES; CONSTRUCTING A NEW 50,000-GALLON WATER TANK AT RODRIGUEZ PARK TO PROVIDE AN IMMEDIATE SOURCE OF ADEQUATE REUSE/EFFLUENT WATER SUPPLY; AND INSTALLING TWO NEW BOOSTER PUMPS ADJACENT TO THE TANK LOCATION TO PROVIDE ADEQUATE WATER PRESSURE FOR IRRIGATION, AND SOLELY IN THE MANNER DESCRIBED IN THE AMENDED AND RESTATED LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND AN ADMINISTRATIVE FEE SOLELY FROM THE NET SYSTEM REVENUES OF THE WATER SYSTEM OF THE BORROWER/GRANTEE; 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 AMENDED AND RESTATED LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE, INCLUDING PROVISIONS OF ORDINANCE NO. 11-18 THAT ARE INCONSISTENT WITH THE ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF AMENDED AND RESTATED THE LOAN/GRANT AGREEMENT (THE "AGREEMENT" OR "LOAN/GRANT AGREEMENT").

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

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing incorporated municipality under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS the parties entered into a water project fund loan/grant agreement dated December 2, 2011 concerning the Project described in the original application (the "Original Loan/Grant Agreement"); and

WHEREAS, the Borrower/Grantee requested the Loan Amount in the Original Loan/Grant Agreement be converted from forty percent (40%) to ten percent (10%) of the total amount of the Loan/Grant; and

WHEREAS, the Water Trust Board was informed of the proposed amendment of the Original Loan/Grant Agreement at its September 24, 2014 regularly scheduled Water Trust Board meeting; and

WHEREAS, the New Mexico Finance Authority Board approved amendment and restatement of the Original Loan/Grant Agreement at its regularly scheduled September 25, 2014 Board meeting; 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, there have been presented to the Governing Body and there presently are on file with the City Clerk this Ordinance and the form of the Loan/Grant Agreement which is incorporated by reference and considered to be a part hereof; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF CITY OF LAS VEGAS, NEW MEXICO:

Section 1. Definitions. As used in this 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):

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

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which includes the total value of the Soft Match or Hard Match (each as defined in Section 2.5 of the Policies), which, in combination with the Loan/Grant Amount and other amounts available to the Borrower/Grantee, is sufficient to complete the Project. The Additional Funding Amount is thirty three thousand dollars (\$33,000).

“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 pursuant to Section 5.1(a)(iii) of the Loan/Grant Agreement.

“Authorized Officers” means any one or more of the Mayor, the Finance Manager, the Interim City Manager and the City Clerk and City Clerk of the Borrower/Grantee.

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

“Borrower/Grantee” means the City of Las Vegas in San Miguel County, New Mexico.

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

“Colonias Infrastructure Act” means NMSA 1978, §§ 6-30-1 through 6-30-8, as amended.

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

“Conditions” has the meaning given to that term in the Loan/Grant Agreement.

“Eligible Legal Cost” has the meaning given to that term in the Loan/Grant Agreement.

“Eligible Fiscal Agent Fees” has the meaning given to that term in the Loan/Grant Agreement.

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

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

“Finance Authority” means the New Mexico Finance Authority.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Borrower/Grantee consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial

Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the Lenders/Grantors establishing accounting principles applicable to the Borrower/Grantee.

“Governing Body” means the 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 equals two hundred ninety-seven thousand dollars (\$297,000).

“Gross Revenues” means all income and revenues directly or indirectly derived by the Borrower/Grantee from the operation and use of the System, or any part of the System, for any particular Fiscal Year period to which term is applicable, and includes, without limitation, all revenues received by the Borrower/Grantee, or any municipal corporation or agency succeeding to the rights of the Borrower/Grantee, from the System and from the sale and use of water services or facilities, or any other service, commodity or facility or any combination thereof furnished by the System.

Gross Revenues do not include:

(a) Any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefor or other capital contributions from any source which are restricted as to use;

(b) Gross receipts taxes, other taxes and/or fees collected by the Borrower/Grantee and remitted to other governmental agencies; and

(c) Condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

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

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

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and equals thirty-three thousand dollars (\$33,000).

“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 for the purpose of funding the Project, and equals three hundred thirty thousand dollars (\$330,000).

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

“Net System Revenues” means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacement and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water utility system.

“NMAC” means the New Mexico Administrative Code.

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

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

- (a) Legal and overhead expenses of the Borrower/Grantee directly related and reasonably allocable to the administration of the System;
- (b) Insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen’s compensation insurance, whether or not self-funded;
- (c) Premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay debt service requirements on System bonds) for credit facilities;
- (d) Any expenses described in this definition other than expenses paid from the proceeds of System bonds;
- (e) The costs of audits of the books and accounts of the System;
- (f) Amounts required to be deposited in any rebate fund;
- (g) Salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and
- (h) Any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the Borrower/Grantee’s general fund, liabilities incurred by the Borrower/Grantee as a result of its negligence or other

misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

“Ordinance” means this Ordinance as it may be supplemented or amended from time to time.

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

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

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

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

“State” means the State of New Mexico.

“System” means the water utility system for which current rates were established by Ordinance No. 12-13 of the Borrower/Grantee, owned and operated by the Borrower/Grantee, and of which the Project, when completed, will form part.

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

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

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

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

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Borrower/Grantee and officers of the Borrower/Grantee directed toward the acquisition and completion of the Project, the pledge of the Pledged Revenues to payment of amounts due under the Loan/Grant Agreement, and the execution and

delivery of the Loan/Grant Agreement shall be, and the same hereby is, ratified, approved and confirmed.

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

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

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

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

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

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

E. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now available to the Borrower/Grantee, in combination with the Loan/Grant Amount, the Additional Funding Amount and other amounts available to the Borrower/Grantee, will be sufficient to complete the Project and pay Expenses. If the Borrower/Grantee 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 Finance Authority, terminate and be of no further force or effect.

F. The Borrower/Grantee has met the requirements of Executive Order 2013-006 and has represented that it has met or will meet prior to the first disbursement of any portion of the Loan/Grant Amount, the Conditions and the readiness to proceed requirements established for the Loan/Grant.

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

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

A. Authorization. This Ordinance has been adopted by the affirmative vote of a three-fourths majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of two hundred ninety-seven thousand dollars (\$297,000) and borrowing the Loan Amount of thirty-three thousand dollars (\$33,000) 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 is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project and to pay Expenses.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Grant shall be in the amount of two hundred ninety-seven thousand dollars (\$297,000) and the Loan shall be in the amount of thirty-three thousand dollars (\$33,000). Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

Section 6. Approval of Loan/Grant Agreement. The form of the Loan/Grant Agreement as presented at the meeting of the Governing Body at which this 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. The Loan Amount and Administrative Fee shall be solely secured by the pledge of the Pledged Revenues herein made and as set forth in the Loan/Grant Agreement.

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

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the Finance Authority and further approves of the deposit or crediting of a portion of the Loan/Grant Amount in the Expense Account. Until the Completion Date, the amount of the Loan/Grant credited to the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement or to pay Expenses.

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

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

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

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

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this 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 Ordinance and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this 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 Ordinance after its adoption may be amended without receipt by the Borrower/Grantee of any additional consideration, but only with the prior written consent of the Water Trust Board and the Finance Authority.

Section 13. Ordinance Irrepealable. After the Loan/Grant Agreement has been executed and delivered, this 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 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 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. Closing Date. Upon due adoption of this 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 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 Ordinance, this Ordinance shall be effective upon adoption of this Ordinance by the Governing Body.

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

*[Remainder of page intentionally left blank.]*

*[Form of Notice of Adoption of Resolution for Publication]*

CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO  
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. 15-02, duly adopted and approved by the City Council of City of Las Vegas on April 15, 2015. A complete copy of the Ordinance is available for public inspection during normal and regular business hours in the office of the City Clerk located at 1700 North Grand Ave., Las Vegas, New Mexico 87701.

The title of the Ordinance is:

CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO  
ORDINANCE NO. 15-02

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY"), AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE ("LENDERS/GRANTORS") AND THE CITY OF LAS VEGAS (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF THREE HUNDRED THIRTY THOUSAND DOLLARS (\$330,000), REDUCING THE LOAN AMOUNT OF THE LOAN/GRANT FROM FORTY PERCENT (40%) TO TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE LOAN/GRANT; EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF REPLACING EXISTING, POTABLE IRRIGATION SERVICE LINES AT THE RODRIGUEZ PARK BASEBALL FIELDS WITH NEW REUSE/EFFLUENT IRRIGATION LINES TO CONSERVE DRINKING WATER THAT IS CURRENTLY BEING USED EXCLUSIVELY FOR IRRIGATION PURPOSES; CONSTRUCTING A NEW 50,000-GALLON WATER TANK AT RODRIGUEZ PARK TO PROVIDE AN IMMEDIATE SOURCE OF ADEQUATE REUSE/EFFLUENT WATER SUPPLY; AND INSTALLING TWO NEW BOOSTER PUMPS ADJACENT TO THE TANK LOCATION TO PROVIDE ADEQUATE WATER PRESSURE FOR IRRIGATION, AND SOLELY IN THE MANNER DESCRIBED IN THE AMENDED AND RESTATED LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND AN ADMINISTRATIVE FEE SOLELY FROM THE NET SYSTEM REVENUES OF THE WATER SYSTEM OF THE BORROWER/GRANTEE; 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

AMENDED AND RESTATED LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE, INCLUDING PROVISIONS OF ORDINANCE NO. 11-18 THAT ARE INCONSISTENT WITH THE ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF AMENDED AND RESTATED THE LOAN/GRANT AGREEMENT (THE "AGREEMENT" OR "LOAN/GRANT AGREEMENT").

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

*[End of Form of Notice of Adoption for Publication]*

PASSED, APPROVED AND ADOPTED THIS 15TH DAY OF APRIL, 2015.

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By \_\_\_\_\_  
Alfonso E. Ortiz, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Casandra Fresquez, City Clerk

*[Remainder of page intentionally left blank.]*

Governing Body Member \_\_\_\_\_ then moved adoption of the foregoing Ordinance, duly seconded by Governing Body Member \_\_\_\_\_.

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

Those Voting Aye:

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Those Voting Nay:

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Those Absent:

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

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

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By \_\_\_\_\_  
Alfonso E. Ortiz, Jr., Mayor

ATTEST:

By \_\_\_\_\_  
Casandra Fresquez, City Clerk

*[Remainder of page intentionally left blank.]*

STATE OF NEW MEXICO

)

) ss.

COUNTY OF SAN MIGUEL

)

I, Casandra Fresquez, the duly qualified and acting City Clerk of the City of Las Vegas (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Council of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held at 1700 North Grand Ave., Las Vegas, on April 15, 2015 at the hour of 6:00 p.m., insofar as the same relate to the adoption of Ordinance No. 15-02 and the execution and delivery of the proposed Amended and Restated Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1, as amended, including the Borrower/Grantee's open meetings Resolution No. 15-01, adopted and approved on January 21, 2015 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of May, 2015.

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By \_\_\_\_\_  
Casandra Fresquez, City Clerk

**EXHIBIT "A"**

**Notice of Meeting and Meeting Agenda**

**\$330,000**

**AMENDED AND RESTATED WATER PROJECT FUND  
LOAN/GRANT AGREEMENT**

**Dated**

**May 22, 2015**

**By and Among the**

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

**and the**

**CITY OF LAS VEGAS,  
San Miguel County, New Mexico,  
as Borrower/Grantee.**

**WATER PROJECT FUND  
LOAN/GRANT AGREEMENT**

THIS AMENDED AND RESTATED LOAN/GRANT AGREEMENT (the "Agreement" or "Loan/Grant Agreement") dated May 22, 2015, is entered into by and among the **NEW MEXICO WATER TRUST BOARD** (the "Water Trust Board") and the **NEW MEXICO FINANCE AUTHORITY** (the "Finance Authority") (collectively, the "Lenders/Grantors"), and the **CITY OF LAS VEGAS** in San Miguel County, New Mexico (the "Borrower/Grantee").

WITNESSETH:

Capitalized terms used in the following preambles of this Agreement have the same meaning as defined in the preceding paragraph or 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, particularly NMSA 1978, §§ 72-4A-1 through 72-4A-10, as amended; and

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

WHEREAS, the Act provides that the Finance Authority may make loans and grants from the Water Project Fund to qualifying entities for Qualifying Water Projects; and

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

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

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing incorporated municipality under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended, is a qualifying entity under the Act and is qualified for financial assistance as determined by the Finance Authority and approved by the Water Trust Board pursuant to the Board Rules and the Policies; and

WHEREAS, the Borrower/Grantee has determined that it is in the best interests of the Borrower/Grantee and the constituent public it serves that the Borrower/Grantee enter into this

Agreement with the Lenders/Grantors amending and restating the Original Loan/Grant Agreement to borrow thirty-three thousand dollars (\$33,000) from the Lenders/Grantors and to accept a grant in the amount of two hundred ninety-seven thousand dollars (\$297,000) from the Lenders/Grantors to finance the costs of the Project, this Project being more particularly described in the Term Sheet; and

WHEREAS, based upon the Finance Authority's evaluation of the Application dated September 29, 2010 of the Borrower/Grantee and dealing with the Project, the Finance Authority staff has recommended to the Water Trust Board that the Borrower/Grantee receive financial assistance in the form of the Loan/Grant, and the Water Trust Board authorized the Finance Authority to enter into and administer the Original Loan/Grant Agreement (as defined below); and

WHEREAS the parties entered into a water project fund loan/grant agreement dated December 2, 2011 concerning the Project described in the original application (the "Original Loan/Grant Agreement"); and

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

WHEREAS, the Borrower/Grantee requested the Loan Amount in the Original Loan/Grant Agreement be converted from forty percent (40%) to ten percent (10%) of the total amount of the Loan/Grant; and

WHEREAS, 2011 N.M. Laws Ch. 24, being House Bill 143 of the 2011 Regular New Mexico Legislative Session, authorized the funding of the Project from the Water Project Fund; and

WHEREAS, the Water Trust Board was informed of the proposed amendment of the Original Loan/Grant Agreement at its September 24, 2014 regularly scheduled Water Trust Board meeting; and

WHEREAS, the New Mexico Finance Authority Board approved amendment and restatement of the Original Loan/Grant Agreement at its regularly scheduled September 25, 2014 Board meeting; and

WHEREAS, the Chairman of the Water Trust Board, on behalf of the Water Trust Board, has executed this Agreement thereby acknowledging the consent of the Water Trust Board to the Finance Authority entering into and administering this Agreement; and

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

WHEREAS, this Agreement amends and restates the Original Loan/Grant Agreement to convert the remaining payment of the Loan Amount to a ten percent (10%) loan component and convert the remaining Loan Amount to a grant as provided in this Agreement; and

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

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

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

## **ARTICLE I DEFINITIONS**

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

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

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which includes the total value of the Soft Match or Hard Match (each as defined in Section 2.5 of the Policies) which, in combination with the Loan/Grant Amount and other moneys available to the Borrower/Grantee, is sufficient to complete the Project or to provide matching funds needed to complete the Project. The Additional Funding Amount is thirty-three thousand dollars (\$33,000).

“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 pursuant to Section 5.1(a)(iii) of this Agreement.

“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 September 29, 2010 of the Borrower/Grantee and pursuant to which the Borrower/Grantee requested funding for the Project.

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

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

“Closing Date” means the date of execution of this Agreement by the Borrower/Grantee and the Finance Authority.

“Colonias Infrastructure Act” means NMSA 1978, §§ 6-30-1 through 6-30-8, as amended.

“Conditions” means the conditions to be satisfied prior either (1) to the submission of a Draw Request by the Finance Authority to the State Board of Finance on behalf of the Borrower/Grantee, or (2) to disbursement of the Loan/Grant Amount, or any portion thereof, from the Water Project Fund, or which otherwise apply to the performance of this Agreement, including those set forth in the Term Sheet.

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

“Draw Request” means a request for payment of eligible costs from Severance Tax Bond Funds made by the Finance Authority to the State Board of Finance on behalf of the Borrower/Grantee.

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

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

“Eligible Legal Costs” means legal fees and costs for services rendered by legal counsel on behalf of the Borrower/Grantee for transaction of the Project, in an amount not exceeding ten

(10) percent of the Loan/Grant Amount, but does not include adjudication services. The total amount of the combined Eligible Fiscal Agent Fees and Eligible Legal Fees may not exceed ten (10) percent of the total Loan/Grant Amount.

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

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

“Fiscal Year” means the period commencing on July 1 of each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Borrower/Grantee as its fiscal year.

“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 two hundred ninety-seven thousand dollars (\$297,000).

“Gross Revenues” means all income and revenues directly or indirectly derived by the Borrower/Grantee from the operation and use of the System, or any part of the System, for any particular Fiscal Year period to which term is applicable, and includes, without limitation, all revenues received by the Borrower/Grantee, or any municipal corporation or agency succeeding to the rights of the Borrower/Grantee, from the System and from the sale and use of water services or facilities, or any other service, commodity or facility or any combination thereof furnished by the System.

Gross Revenues do not include:

(a) Any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefor or other capital contributions from any source which are restricted as to use;

(b) Gross receipts taxes, other taxes and/or fees collected by the Borrower/Grantee and remitted to other governmental agencies; and

(c) Condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

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

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

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

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to this Agreement for the purpose of funding the Project and equals thirty-three thousand dollars (\$33,000).

“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 and equals three hundred thirty thousand dollars (\$330,000).

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

“Net System Revenues” means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacements and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water utility system.

“NMAC” means the New Mexico Administrative Code.

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

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) Legal and overhead expenses of the Borrower/Grantee directly related and reasonably allocable to the administration of the System;

(b) Insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen's compensation insurance, whether or not self-funded;

(c) Premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay debt service requirements on System bonds) for credit facilities;

(d) Any expenses described in this definition other than expenses paid from the proceeds of System bonds;

(e) The costs of audits of the books and accounts of the System;

(f) Amounts required to be deposited in any rebate fund;

(g) Salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) Any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the Borrower/Grantee's general fund, liabilities incurred by the Borrower/Grantee as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

"Ordinance" means the Borrower/Grantee's Ordinance No. 11-18 adopted October 19, 2011 authorizing the acceptance and execution of the Original Loan/Grant (the "Original Ordinance") and the Borrower/Grantee's Ordinance No. 15-02, adopted April 15, 2015, authorizing the acceptance of the amended Loan/Grant and the execution of this Agreement.

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

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

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

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

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

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

“Severance Tax Bond Funds” means that portion of the proceeds of the severance tax bonds issued annually by the State Board of Finance pursuant to NMSA 1978, § 7-27-10.1, as amended, and which are appropriated to the Water Project Fund.

“State” means the State of New Mexico.

“State Board of Finance” means the State board of finance created pursuant to NMSA 1978, §§ 6-1-1 through 6-1-13, as amended.

“System” means the water utility system for which current rates were established by Ordinance No. 12-13 of the Borrower/Grantee, owned and operated by the Borrower/Grantee, and of which the Project, when completed, will form part.

“Term Sheet” means Exhibit “A” attached to this Agreement.

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

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

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

## **ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES**

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

(a) Binding Nature of Covenants; Enforceability. 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 enforceable in accordance with their terms, and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations, and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Agreement, all rights, powers, and privileges conferred and duties and liabilities imposed upon the Borrower/Grantee by the provisions of this Agreement and the 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) Authorization of Agreement. The Borrower/Grantee is a qualifying entity as defined in the Act and the Board Rules. Pursuant to the laws of the State and in particular, the 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 its acceptance of the Loan/Grant and the execution and delivery of this Agreement and the other documents related to the transaction described in this Agreement.

(c) Nature and Use of Agreement Proceeds. The Borrower/Grantee acknowledges that the distribution of the Loan/Grant Amount shall be deemed to be a distribution to the Borrower/Grantee first of the Loan Amount and then, once an amount equal to the Loan Amount has been distributed, of the Grant Amount. The Borrower/Grantee shall apply the proceeds of the Loan/Grant solely to Eligible Items that will facilitate the completion of the Project as well as the payment of the Expenses, and shall not use the Loan/Grant proceeds for any other purpose. The Loan/Grant Amount, together with the Additional Funding Amount and other moneys reasonably expected to be available to the Borrower/Grantee, is sufficient to complete the Project in its entirety and to pay the Expenses.

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

(e) Scope of Project; Completion of Project; Compliance with Laws. The Project is for water conservation or recycling, treatment or reuse of water as provided by law. The Loan/Grant Amount will be used only for Eligible Items necessary to complete the Project. In particular, the Project will consist of replacing existing, potable irrigation service lines at the Rodriguez Park Baseball Fields with new reuse/effluent irrigation lines to conserve drinking water that is currently being used exclusively for irrigation purposes; constructing a new 50,000-gallon water tank at Rodriguez Park to provide an immediate source of adequate reuse/effluent water supply; and installing two new booster pumps adjacent to the tank location to provide

adequate water pressure for irrigation, and shall include such other related work and revisions necessary to complete the Project. The Project is more particularly described in the Term Sheet. The Project will be completed with all practical dispatch and will be completed, operated and maintained so as to comply with all applicable federal, state and local laws, ordinances, resolutions and regulations and all current and future orders of all courts having jurisdiction over the Borrower/Grantee relating to the acquisition, operation, maintenance and completion of the Project and to the use of the Loan/Grant proceeds.

(f) 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 public it serves.

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

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

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

(j) Irrevocability of Enactments. While this Agreement remains outstanding, any ordinance, resolution or other enactment of the Governing Body accepting the terms hereof, pledging the Pledged Revenues, or in any way relating to the Loan/Grant or this Agreement, including the Ordinance, shall be irrevocable until the Project has been fully acquired and completed, and the Loan Amount, including all principal and interest has been repaid, or provision made for payment thereof, and shall not be subject to amendment or modification in any manner which would result in any use of the proceeds of this Agreement in a manner not permitted or contemplated by the terms hereof. The Borrower/Grantee shall not impair the rights of the Finance Authority or of any holders of bonds or other obligations payable from the Pledged Revenues while this Agreement is outstanding.

(k) 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.

(l) No 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.

(m) Expected Coverage Ratio. The Pledged Revenues from the Fiscal Year in which the Closing Date occurs are reasonably expected to equal or exceed and, on an ongoing basis during each Fiscal year during the Agreement Term are reasonably expected to equal or exceed, one hundred percent (100%) of the maximum annual principal and interest due on all outstanding obligations of the Borrower/Grantee payable from the Pledged Revenues.

(n) Financial Capability; Budgeting of Pledged Revenues; Approval by Department of Finance and Administration. The Borrower/Grantee meets and will meet during the Agreement Term the requirements of financial capability set by the Water Trust Board and the Finance Authority. The Pledged Revenues will be sufficient to make the Loan Payments, as and when due. The Borrower/Grantee will adequately budget for the Loan Payments and other amounts payable by the Borrower/Grantee under this Agreement and will submit such budget on an annual basis to the Department of Finance and Administration for review and verification of compliance with this requirement.

(o) Rate Covenant. The Borrower/Grantee covenants that it will at all times fix, charge and collect such rates and charges shall be required in order that in each Fiscal year in which the Loan is outstanding the Gross Revenues shall at least equal the Operation and Maintenance Expenses of the System for the Fiscal year, plus one hundred percent (100%) of the maximum annual principal and interest payments due on all outstanding obligations payable from the Pledged Revenues.

(p) 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, State agency or other entity by operation of law succeeds to the liabilities, rights and duties of the Borrower/Grantee under this Agreement without adversely affecting to any substantial degree the privileges and rights of the Lenders/Grantors.

(q) Use of Project; Continuing Covenant. During the Agreement Term, the Borrower/Grantee will at all times use the Project for the benefit of the Borrower/Grantee and the public it serves. 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 the Useful Life of the System, or any part of the System during the Agreement Term; provided, however, that if the Project is a joint project of the Borrower/Grantee and other qualifying entities (as defined by the Act), the Borrower/Grantee and the other qualifying entities may, with the express written approval of the Lenders/Grantors and not otherwise, enter into an agreement allocating ownership and operational and maintenance responsibilities for the Project during its Useful Life. Any, such agreement shall provide that the Lenders/Grantors, or either of them, shall have the power to enforce the terms of this Agreement, without qualification, as to each and every

qualifying entity (as defined by the Act) owning or operating any portion of the Project during its Useful Life. If any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee shall, prior to any use of the Loan/Grant funds for the Project on such real property, obtain the written agreement of such other qualifying entity to abide by these restrictions with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement. The Borrower/Grantee will operate and maintain the Project, so that it will function properly over its Useful Life. The provisions of this Section shall remain effective and enforceable by the Lenders/Grantors for the duration of the Useful Life of the Project.

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

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

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

(u) Conservation Plan. The Borrower/Grantee has submitted a water conservation plan or one is on file with the State engineer, as required by NMSA 1978, § 72-4A-7, as amended.

(v) Efficient Operation. The Borrower/Grantee will operate the System so long as this Loan/Grant Agreement is outstanding, will maintain the System in efficient operating condition and make such improvements, extensions, enlargements, repairs and betterments to the System as may be necessary or advisable for its economical and efficient operation at all times and sufficient to supply reasonable demands for System services.

(w) Records. So long as the Loan/Grant Agreement remains outstanding, proper books of record and account will be kept by the Borrower/Grantee in accordance with General Accepted Accounting Principles, separate from all other records and accounts, showing complete and correct entries of all transactions relating to the System. Such books shall include, but not necessarily be limited to, monthly records showing: (i) the number of customers for the water system; (ii) the revenues separately received from charges by classes of customers, including but not necessarily limited to classification by facilities; and (iii) a detailed statement of the expenses of the System.

(x) Billing Procedure. Bills for water service or facilities, furnished by or through the System, shall be rendered to customers on a regular basis each month following the month in which the service was rendered and shall be due as required by the applicable ordinance of the Borrower/Grantee. If permitted by law, if a bill is not paid within the period of time required by such ordinance or regulation, water service shall be discontinued as required by such ordinance or regulation, and the rates and charges due shall be collected in a lawful manner, including, but not limited to, the cost of disconnection and reconnection. Water and sanitary sewer utility services may be billed jointly with each other, provided that each such joint bill shall show separately the water and sanitary sewer utility charges.

(y) Competent Management. The Borrower/Grantee shall employ or contract for experienced and competent personnel to manage the System.

(z) the Borrower/Grantee has met the requirements of Executive Order 2013-006 and it has met or will meet prior to the first disbursement of any portion of the Loan/Grant Amount, the Conditions and the readiness to proceed requirements established for the Loan/Grant by the Finance Authority and the Water Trust Board; and

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

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

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

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

### **ARTICLE III AGREEMENT TERM**

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

### **ARTICLE IV LOAN/GRANT AMOUNT DISBURSEMENT CONDITIONS**

Section 4.1 Conditions Precedent to Disbursement of Loan/Grant. Prior to either (1) the submission of any Draw Request by the Finance Authority to the State Board of Finance on behalf of the Borrower/Grantee for payment of any requisition of the Loan/Grant Amount or any portion thereof, or (2) the disbursement of the Loan/Grant Amount or any portion thereof by the Finance Authority from the Water Project Fund, the following Conditions and readiness to proceed items shall be satisfied:

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

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

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

(d) Prior to the disbursement of any portion of the Loan/Grant Amount for purposes of construction of the Project, the plans and specifications funded with the proceeds of this Agreement will be approved on behalf of the Finance Authority as required by NMSA 1978, § 72-4A-7(B), as amended, by the New Mexico Environment Department, [OR if applicable use: the Office of the State of Engineer, OR if applicable, insert other agent of the Finance Authority] and the Borrower/Grantee shall have provided written evidence of such approval to the Finance Authority; and

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

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

Section 4.2 Determination of Eligibility Is Condition Precedent to Disbursement. No Draw Request shall be made to the State Board of Finance by the Finance Authority on behalf of the Borrower/Grantee, nor shall any disbursement be made from the Water Project Fund, for any requisition of any portion of the Loan/Grant Amount, except upon a determination by the Finance Authority that such disbursement is for payment of Eligible Items, and that the Draw Request or disbursement does not exceed any limitation upon the amount payable for any Eligible Item pursuant to the Act, the Board Rules, and the Policies governing the Water Project Fund. The Finance Authority, as a condition precedent to submitting any Draw Request to the State Board of Finance or making any requested disbursement from the Water Project Fund, may require submittal of such documentation as the Finance Authority deems necessary, in its sole and absolute discretion, for a determination whether any requested disbursement is for payment of Eligible Items and is fully consistent with the Act, the Board Rules, and the Policies, as applicable.

## 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 Article VI and Exhibit "C" of this Agreement.

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

(ii) Administrative Fee. The Borrower/Grantee shall, on an annual basis beginning June 1, 2012, pay to the Lenders/Grantors an administrative fee equal to one-

quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee as provided by this Agreement. Any such Administrative Fee payment shall be due irrespective of whether or not a hardship waiver of payment is granted to the Borrower/Grantee for the principal payment otherwise due on June 1 of the applicable year or any other year.

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

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

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

(d) Constitutional and Statutory Debt Limitations. No provision of this Agreement shall be construed or interpreted as creating a general obligation or other

indebtedness of the Water Trust Board, the Finance Authority, the State or the Borrower/Grantee within the meaning of any constitutional or statutory debt limitation.

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

(a) request from the State Board of Finance the transfer of Severance Tax Bond Funds and/or itself transfer from the Water Project Fund to the Expense Account amounts which together are sufficient to pay the Expenses of the Lenders/Grantors, as shown on the Term Sheet, the amount requested or disbursed from each Fund being in the sole discretion of the Finance Authority; and

(b) make an entry in its accounts, and in particular in the Project Account, reflecting the proceeds of the Loan/Grant Amount requested from the State Board of Finance pursuant to a Draw Request or made available for disbursement from the Water Project Fund to the Borrower/Grantee at its request, and as needed by it to acquire and complete the Project, as provided in Section 7.2 of this Agreement.

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

## **ARTICLE VI LOAN PAYMENTS BY THE BORROWER/GRANTEE**

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

created thereby with respect to the Loan Amount shall terminate and the Lenders/Grantors shall give a written release or such other confirmation as may be necessary to remove any encumbrances upon the Pledged Revenues; otherwise, such provisions of this Agreement shall remain in full force and effect.

The pledge of the Pledged Revenues, the security interest in and the lien thereon shall be effective upon the Closing Date. The Borrower/Grantee, the Finance Authority, and the Water Trust Board acknowledge and agree that the obligations of the Borrower/Grantee hereunder are limited to the Pledged Revenues; and that this Agreement with respect to the Loan Amount, the Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided shall constitute a special, limited obligation of the Borrower/Grantee. No provision of this Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Borrower/Grantee within the meaning of any constitutional or statutory debt limitation. No provision of this Agreement shall be construed to pledge or to create a lien on or security interest in 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 not required to meet the obligation of the Borrower/Grantee under this Agreement may be utilized by the Borrower/Grantee for any other purposes permitted by law.

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

Section 6.3 Manner of Payment. The Loan Amount shall be payable by the Borrower/Grantee to the Lenders/Grantors in annual installments of principal payable on June 1 beginning in the year 2012 and continuing through the year 2031 as set forth more fully in Exhibit "C" to this Agreement. All payments of the Borrower/Grantee hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 of this Agreement. The obligation of the Borrower/Grantee to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Borrower/Grantee and the Finance Authority, any vendor or any other person, the Borrower/Grantee shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Borrower/Grantee assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

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

Section 6.5 No Penalty for Prepayment of the Loan Amount. The Loan Amount shall be pre-payable by the Borrower/Grantee at anytime, without penalty.

Section 6.6 Lenders/Grantors' Release of Lien and Further Assurances. Upon payment in full of the Loan Amount, Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided in this Agreement and upon written request from the Borrower/Grantee the Lenders/Grantors agree to execute a release of lien and to give such further assurances as are reasonably necessary to ensure that the Lenders/Grantors no longer hold or maintain any lien or claim against the Pledged Revenues.

## **ARTICLE VII THE PROJECT**

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

(a) The Borrower/Grantee hereby agrees that in order to effectuate the purposes of this Agreement and to acquire and complete the Project it shall take such steps as are necessary and appropriate to acquire, complete, operate and maintain the Project lawfully and efficiently. The Project shall be constructed and completed substantially in accordance with the approved plans and specifications, and shall fully incorporate the available technologies and operational design for water use efficiency described in the approved plans and specifications. No Loan/Grant funds shall be used for items not constituting Eligible Items.

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

Section 7.2 Accounting for Amounts Credited to the Project Account. So long as no Event of Default shall occur and provided that all Conditions to the disbursement of the Loan/Grant Amount have been satisfied (including approval of the plans and specifications), upon receipt by the Finance Authority of a requisition substantially in the form of Exhibit "B" attached hereto signed by an Authorized Officer of the Borrower/Grantee, supported by certification by the Borrower/Grantee's project architect, engineer, or such other authorized representative of the Borrower/Grantee that the amount of the disbursement request represents the progress of design, construction, acquisition or other Project-related activities accomplished as of the date of the disbursement request, the Finance Authority shall, in its sole and absolute

discretion: (1) submit a Draw Request to the State Board of Finance for payment; and/or (2) disburse from the Water Project Fund, amounts which together are sufficient to pay the requisition in full. The Finance Authority shall make the appropriate entry in the Project Account reflecting the amount of the payment. The certification provided pursuant to this Section 7.2 in support of the requisition must be acceptable in form and substance to the Finance Authority and, at its request, the Water Trust Board. The Borrower/Grantee shall provide such records or access to the Project as the Finance Authority, and, at its request, the Water Trust Board, in the discretion of each, may request in connection with the approval of the Borrower/Grantee's requisition requests made hereunder.

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

Section 7.4 Borrower/Grantee Reporting to Lenders/Grantors. During the acquisition implementation, installation and construction of the Project, the Borrower/Grantee shall provide the Lenders/Grantors with a quarterly written report executed by an Authorized Officer of the Borrower/Grantee, in the form attached as Exhibit "D" hereto or in another form reasonably acceptable to the Lenders/Grantors, describing the status of the Project as of the report date, uses of Loan/Grant funds during the quarterly period ending on the report date, and requests for distributions of Loan/Grant funds anticipated to occur during the quarterly period immediately following the report date. The first quarterly report shall be due on March 31, 2012, and subsequent reports shall be due on each March 31, June 30, September 30 and December 31 thereafter until the report date next following final distribution of the Loan/Grant funds. No reports shall be required after the report date next following final distribution of the Loan/Grant Funds, unless specifically required by the Finance Authority or the Water Trust Board. The description of the status of the Project in each quarterly report shall include, among other information, (a) a comparison of actual and anticipated requests for distributions of Loan/Grant funds as of the report date with those anticipated as of the Closing Date, (b) a description of actual and anticipated changes in the cost estimates for the Project as of the report date compared with those anticipated as of the Closing Date, and (c) a description of the percentage of completion of the Project.

Section 7.5 Completion of Disbursement of Loan/Grant Funds. Upon the earlier of (1) the completion of the Project, or (2) the expenditure of the whole Loan/Grant Amount, an Authorized Officer of the Borrower/Grantee shall deliver a certificate to the Finance Authority and the Water Trust Board, substantially in the form of Exhibit "E" attached hereto, stating that, to his or her knowledge, either (1) the Project has been completed, or (2) that the portion of the Loan/Grant Amount needed to complete the Project has been disbursed in accordance with the terms of this Agreement. No portion of the Loan/Grant Amount shall be disbursed after the date which is three (3) years from the Closing Date, unless a later date is approved in writing by an Authorized Officer of the Water Trust Board and an Authorized Officer of the Finance Authority.

Section 7.6 Application of Project Account Subsequent to Disbursement of Loan/Grant Funds; Termination of Pledge. (a) Upon the completion of the Project as signified by delivery of the completion certificate required by Section 7.5 hereof, the Finance Authority shall determine, by reference to the Project Account, whether any portion of the authorized Loan/Grant Amount remains unexpended. The Finance Authority shall further determine, in its sole discretion, whether any portion of such unexpended Loan/Grant Amount consists of Severance Tax Bond Funds and, if so, shall, within six (6) months of receipt of the completion certificate required by Section 7.5 hereof, cause such portion of the unexpended Loan/Grant Amount to be returned to the severance tax bond fund pursuant to NMSA 1978, § 7-27-10.1, as amended; (b) In the event that a portion of the Loan/Grant Amount remains unexpended after the date which is three (3) years from the Closing Date, and no later date has been approved by an Authorized Officer of each of the Finance Authority and the Water Trust Board, pursuant to Section 7.5 hereof, the Finance Authority shall further determine, in its sole discretion, whether any portion of such unexpended Loan/Grant Amount consists of Severance Tax Bond Funds and, if so, shall, within six (6) months of the date which is three (3) years after the Closing Date, cause such portion of the unexpended Loan/Grant Amount to be returned to the severance tax bond fund. Upon the occurrence of either event described in (a) or (b) above, the Finance Authority shall make the appropriate entry in the Project Account and, upon such entry, the pledge of the Loan/Grant Amount established in this Loan/Grant Agreement shall terminate.

## **ARTICLE VIII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS**

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

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

Section 8.3 Selection of Contractors. All contractors providing services or materials in connection with the Project shall be selected in accordance with applicable provisions of the New Mexico Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199, as amended, 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 8.4 Required Contract Provisions. The Borrower/Grantee shall require the following provisions in any contract or subcontract executed in connection with the Project to which the Borrower/Grantee is a party:

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

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

Section 8.5 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 Board Rules are incorporated into this Agreement by reference.

## **ARTICLE IX INSURANCE; NON-LIABILITY OF LENDERS/GRANTORS**

Section 9.1 Insurance. The Borrower/Grantee shall carry general liability insurance or participate in the State's risk-management program and, to the extent allowed by the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 through 41-4-30, as amended, shall and hereby agrees to name the Lenders/Grantors as additional insureds with respect to all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition, completion or implementation of the Project or otherwise during the Agreement Term; provided, that if any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee may obtain the written agreement of such other qualifying entity to perform these insurance/risk-management program requirements for Borrower/Grantee with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

### Section 9.2 Non-Liability of Lenders/Grantors.

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

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

(c) From and to the extent of the Pledged Revenues, and to the extent permitted by law, the Borrower/Grantee shall and hereby agrees to indemnify and save the Finance Authority and the Water Trust Board harmless against and from all claims, by or on behalf of any person, firm, corporation, or other legal entity, arising from the acquisition or operation of the Project during the Agreement Term, from: (i) any act of negligence or other misconduct of the Borrower/Grantee, or breach of any covenant or warranty by the Borrower/Grantee hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan/Grant Agreement proceeds and interest on the investment thereof. The Borrower/Grantee shall indemnify and save the Finance Authority and the Water Trust Board harmless, from and to the extent of the available Pledged Revenues, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or the Water Trust Board, shall defend the Finance Authority or the Water Trust Board, as applicable, in any such action or proceeding.

## **ARTICLE X EVENTS OF DEFAULT AND REMEDIES**

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

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

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

(c) Any warranty, representation or other statement by or on behalf of the Borrower/Grantee contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement is determined to be false or misleading in any material respect.

(d) A petition is filed against the Borrower/Grantee under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or

liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests;

(e) The Borrower/Grantee files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(f) The Borrower/Grantee admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Borrower/Grantee for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests.

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

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

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

(b) Terminate this Agreement;

(c) Cease disbursing any further amounts from the Project Account;

(d) Demand that the Borrower/Grantee immediately repay the Loan/Grant Amount or any portion thereof if such funds were not utilized in accordance with this Agreement;

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

(f) By intervention in judicial proceedings that affect this Agreement or the Pledged Revenues; or

(g) Take whatever other action at law or in equity may appear necessary or desirable to enforce any other of its rights hereunder; or

(h) The Borrower/Grantee shall be responsible for reimbursing the Lenders/Grantors for any and all fees and costs incurred in enforcing the terms of this Agreement.

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

Section 10.5 Waivers of Events of Default. The Lenders/Grantors, collectively or individually, may, in the respective discretion of each, waive any Event of Default hereunder and the consequences of any such Event of Default; provided, however, all expenses of the Lenders/Grantors, collectively or individually, in connection with such Event of Default shall have been paid or provided for. Such waiver shall be effective only if made by a written statement of waiver issued by the Finance Authority and the Water Trust Board. In case of any such waiver or rescission, or in case any proceeding taken by the Lenders/Grantors, collectively or individually, on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Lenders/Grantors shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

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

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Borrower/Grantee shall default under any of the provisions hereof, and the Finance Authority or the Water Trust Board shall employ attorneys or incur other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower/Grantee herein contained, the Borrower/Grantee agrees that it shall, on demand therefor, pay to the Finance Authority or the Water Trust Board, as applicable, the fees of such attorneys and such other expenses so incurred, to the extent such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Borrower/Grantee under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

**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 Las Vegas  
Attn.: City Manager  
1700 N. Grand Ave.  
Las Vegas, New Mexico 87701

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

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

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

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

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

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

Section 11.5 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the

Lenders/Grantors, either directly or through the Finance Authority or the Water Trust Board, or against any officer, employee, director or member of the Borrower/Grantee, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director or member of the Borrower/Grantee, the Water Trust Board or of the Finance Authority is hereby expressly waived and released by the Borrower/Grantee, the Water Trust Board and the Finance Authority as a condition of and in consideration for the execution of this Agreement.

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

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

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

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

*[Remainder of page intentionally left blank.]*

*[Signature pages follow.]*

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, the terms of which were presented to the Water Trust Board on September 24, 2014 and approved by the Finance Authority's Board of Directors on September 25, 2014, 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 \_\_\_\_\_

CONSENTED TO:

NEW MEXICO WATER TRUST BOARD

By \_\_\_\_\_  
Chairman or Co-Chairman

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

VIRTUE & NAJJAR, PC  
As Loan/Grant Counsel

By \_\_\_\_\_  
Richard L. C. Virtue

Approved for Execution by Officers of the  
New Mexico Finance Authority:

By \_\_\_\_\_  
Daniel C. Opperman  
Finance Authority General Counsel

**BORROWER/GRANTEE:**

**CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO**

By \_\_\_\_\_  
Alfonso E. Ortiz, Jr., Mayor

**ATTEST:**

By \_\_\_\_\_  
Casandra Fresquez, City Clerk

**EXHIBIT "A"**

**TERM SHEET**

**\$330,000 WATER PROJECT LOAN/GRANT TO THE  
CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO**

**Project Description:** The Project is for or water conservation or recycling, treatment or reuse of water as provided by law. The Loan/Grant Amount will be used only for Eligible Items necessary to complete the Project. In particular, the Project will consist of replacing existing, potable irrigation service lines at the Rodriguez Park Baseball Fields with new reuse/effluent irrigation lines to conserve drinking water that is currently being used exclusively for irrigation purposes; constructing a new 50,000-gallon water tank at Rodriguez Park to provide an immediate source of adequate reuse/effluent water supply; and installing two new booster pumps adjacent to the tank location to provide adequate water pressure for irrigation, and shall include such other related work and revisions necessary to complete the Project. The Project may be further described in the Application and in the final plans and specifications for the Project approved by the Water Trust Board and the Finance Authority as provided by this Agreement. However, in the event of any inconsistency, the description of the Project as stated in this Term Sheet shall control.

**Grant Amount:** \$297,000

**Loan Amount:** \$33,000

**Pledged Revenues:** "Net System Revenues" means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacements and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water utility system.

**Outstanding  
Senior Obligations for  
Pledged Revenues:**

2013 NMFA DW Loan (2727-DW), Matures 6/2034;  
2013 NMFA DW Loan (2878-DW), Matures 6/2035;  
2013 NMFA DW Loan (2910-DW), Matures 6/2035;  
2013 NMFA DW Loan (2911-DW), Matures 6/2035;  
2014 NMFA DW Loan (3043-DW), Matures 6/2036; and

2014 NMFA DW Loan (3046-DW), Matures 6/2036.

**Outstanding Parity  
Obligations:**

NMFA WTB Loan (061WTB), Matures 6/2027;  
2011 NMFA WTB Loan (0197-WTB), Matures 6/2031;  
2011 NMFA WTB Loan (0218-WTB), Matures 6/2031;  
2012 NMFA WTB Loan (0251-WTB), Matures 6/2032;  
and 2014 NMFA WTB Loan (0286-WTB), Matures  
6/2034.

**Authorizing Legislation:** Borrower/Grantee Ordinance No. 15-02,  
adopted April 15, 2015

**Additional Funding Amount:** \$33,000

**Closing Date:** May 22, 2015

**Project Account Amount:** \$330,000

**Expense Account Deposit:** \$0

**Administrative Fee:** 0.25%

Conditions to be satisfied prior to first disbursement of Loan/Grant funds: Delivery to Finance Authority of (i) a copy of the agenda of the meeting of the Governing Body at which the Ordinance was adopted and at which this Agreement, the 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 or record of proceedings of the Meeting, approved and signed by the Mayor and attested to by the City Clerk of the Borrower/Grantee, and (iii) a copy of the notice of meeting for the Meeting evidencing compliance with the Borrower/Grantee's Open Meetings standards in effect on the date of the Meeting.

Other Conditions applicable to the Loan/Grant: All Conditions defined in the Agreement.

**EXHIBIT "B"**

**FORM OF REQUISITION**

RE: \$330,000 Loan/Grant Agreement by and between the Water Trust Board and the Finance Authority, as Lenders/Grantors, and the City of Las Vegas, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 218-WTB

Closing Date: May 22, 2015

TO: NEW MEXICO FINANCE AUTHORITY

You are hereby authorized to disburse from the Project Account – City of Las Vegas 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:	_____

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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 Las Vegas. All representations contained in the Loan/Grant Agreement and the related closing documents remain true and correct and the Borrower/Grantee is not in breach of any of the covenants contained therein.

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

All construction and all installation of equipment with proceeds of the Loan/Grant has or will be used in accordance with plans and/or specifications approved on behalf of the Finance Authority the New Mexico Environment Department and/or the Office of the State Engineer, has or will be acquired in compliance with applicable procurement laws and regulations and has or will be inspected and approved in accordance with applicable laws and regulations.

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

**EXHIBIT "C"**

**PAYMENT PROVISIONS OF THE LOAN**

The Loan Amount shall be payable by the Borrower/Grantee to the Lenders/Grantors in twenty (20) annual installments of principal pursuant to the attached debt service schedule, beginning June 1, 2012 and ending June 1, 2031. The Loan Amount shall be prepayable at any time without penalty. The Administrative Fee shall be due and payable annually on June 1 of each year while the Loan, or any portion thereof, remains outstanding.



**EXHIBIT "E"**

**FORM OF CERTIFICATE OF COMPLETION**

RE: \$330,000 Loan/Grant Agreement by and between the Water Trust Board and the Finance Authority, as Lenders/Grantors, and the City of Las Vegas, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 218-WTB

Closing Date: May 22, 2015

TO: NEW MEXICO FINANCE AUTHORITY

I, \_\_\_\_\_, the \_\_\_\_\_ of the  
[Name] [Title or position]

Borrower/Grantee, hereby certify as follows:

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

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

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

4. Cost of the Project paid from the Additional Funding Amount was \$ \_\_\_\_\_.

5. The portion of the Loan/Grant Amount unexpended for the Project is \$ \_\_\_\_\_.

6. 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 LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By: \_\_\_\_\_

Its: \_\_\_\_\_

SOURCES AND USES OF FUNDS

City of Las Vegas  
0218-WTB: Water Project (10% Loan Component)

Sources:

---

Bond Proceeds:	
Par Amount	33,000.00
	<hr/>
	33,000.00
	<hr/>

Uses:

---

Project Fund Deposits:	
Project Fund	33,000.00
	<hr/>
	33,000.00
	<hr/>

BOND SUMMARY STATISTICS

City of Las Vegas  
0218-WTB: Water Project (10% Loan Component)

Dated Date	12/02/2011
Delivery Date	12/02/2011
Last Maturity	06/01/2031
Arbitrage Yield	0.250011%
True Interest Cost (TIC)	0.250011%
Net Interest Cost (NIC)	0.250011%
All-In TIC	0.250011%
Average Coupon	0.250011%
Average Life (years)	10.321
Duration of Issue (years)	10.157
Par Amount	33,000.00
Bond Proceeds	33,000.00
Total Interest	851.54
Net Interest	851.54
Total Debt Service	33,851.54
Maximum Annual Debt Service	1,736.66
Average Annual Debt Service	1,736.22
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	
Total Underwriter's Discount	
Bid Price	100.000000

Bond Component	Par Value	Price	Average Coupon	Average Life
Bond Component	33,000.00	100.000	0.250%	10.321
	33,000.00			10.321

	TIC	All-In TIC	Arbitrage Yield
Par Value	33,000.00	33,000.00	33,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense			
- Other Amounts			
Target Value	33,000.00	33,000.00	33,000.00
Target Date	12/02/2011	12/02/2011	12/02/2011
Yield	0.250011%	0.250011%	0.250011%

## BOND DEBT SERVICE

City of Las Vegas  
0218-WTB: Water Project (10% Loan Component)

Period Ending	Principal	Coupon	Interest	Debt Service
06/01/2012	822	0.250%	41.02	863.02
06/01/2013	1,656	0.250%	80.44	1,736.44
06/01/2014	1,660	0.250%	76.30	1,736.30
06/01/2015	1,664	0.250%	72.16	1,736.16
06/01/2016	1,668	0.250%	68.00	1,736.00
06/01/2017	1,672	0.250%	63.82	1,735.82
06/01/2018	1,677	0.250%	59.64	1,736.64
06/01/2019	1,681	0.250%	55.46	1,736.46
06/01/2020	1,685	0.250%	51.26	1,736.26
06/01/2021	1,689	0.250%	47.04	1,736.04
06/01/2022	1,693	0.250%	42.82	1,735.82
06/01/2023	1,698	0.250%	38.58	1,736.58
06/01/2024	1,702	0.250%	34.34	1,736.34
06/01/2025	1,706	0.250%	30.08	1,736.08
06/01/2026	1,710	0.250%	25.82	1,735.82
06/01/2027	1,715	0.250%	21.54	1,736.54
06/01/2028	1,719	0.250%	17.26	1,736.26
06/01/2029	1,723	0.250%	12.96	1,735.96
06/01/2030	1,728	0.250%	8.66	1,736.66
06/01/2031	1,732	0.250%	4.34	1,736.34
	33,000		851.54	33,851.54

**\$330,000**  
**CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO**  
**WATER PROJECT FUND LOAN/GRANT**  
**NO. 218-WTB**

STATE OF NEW MEXICO	)	<b><u>GENERAL AND</u></b> <b><u>NO LITIGATION</u></b> <b><u>CERTIFICATE</u></b>
	) ss.	
COUNTY OF SAN MIGUEL	)	

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Mayor and City Clerk for the City of Las Vegas (the "Borrower/Grantee") in San Miguel County and in the State of New Mexico (the "State"):

Capitalized terms used in this Certificate have the same meaning as defined in Ordinance No. 15-02 adopted by the Governing Body of the Borrower/Grantee on April 15, 2015 (the "Ordinance") unless otherwise defined in this Certificate or the context requires otherwise.

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

2. From at least September 25, 2014 to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers of the Borrower/Grantee:

Mayor:	Alfonso E. Ortiz, Jr.
Councilors:	Tonita Gurule Giron Vincent Howell Joseph Herrera David Romero
City Clerk:	Casandra Fresquez
Finance Director:	Ann Marie Gallegos
Interim City Manager:	Elmer Martinez
Attorney:	Dave Romero

3. Based on data collected during the 2010 Census, the population of the City of Las Vegas is less than 75% English speaking and less than 75% Spanish speaking.

4. Notice of the public hearing on the Ordinance and of the adoption of the Ordinance was published in English in the *Las Vegas Optic*, a newspaper of general circulation in the City of Las Vegas, which is published in English.

5. There is no reason within our knowledge and belief after due investigation, why the Borrower/Grantee may not enter into the Amended and Restated Loan/Grant Agreement (the "Agreement or Loan/Grant Agreement") with the New Mexico Finance Authority and the Water Trust Board, as authorized by the Ordinance.

6. The Borrower/Grantee has duly authorized the execution, delivery and performance of its obligations under the Agreement. The Agreement has been duly authorized, executed and delivered by the Borrower/Grantee.

7. The Ordinance has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Ordinance. The Ordinance constitutes valid and sufficient legal authority for the Borrower/Grantee to carry out and enforce the provisions of the Agreement. No referendum petition has been filed with respect to the Ordinance under the provisions of the laws, bylaws or regulations of the Borrower/Grantee or the State.

8. No event will result from the execution and delivery of the Agreement that constitutes a default or an event of default under the Agreement or the Ordinance, and no event of default and no default under the Agreement or the Ordinance have occurred and are continuing on the date of this Certificate.

9. The Borrower/Grantee has duly authorized and approved the consummation by it of all transactions and has complied with all requirements and satisfied all conditions, which are required by the Agreement to have been authorized, approved, performed or consummated by the Borrower/Grantee at or prior to the date of this Certificate. The Borrower/Grantee has full legal right, power and authority to carry out and consummate the transactions contemplated by the Ordinance and the Agreement.

10. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the financing of the Project, the enforceability of the Agreement or any of the actions required to be taken by the Ordinance or the Agreement on or prior to the date of this Certificate have been obtained and are in full force and effect.

11. To the best of the Borrower/Grantee's knowledge after due investigation, neither the Borrower/Grantee's adoption of the Ordinance nor any action contemplated by or pursuant to the Ordinance or the Agreement does or will conflict with, or constitute a breach by the Borrower/Grantee of, or default by the Borrower/Grantee under, any law, court decree or order, governmental regulation, rule or order, resolution, agreement, indenture, mortgage or other instrument to which the Borrower/Grantee is subject or by which it is bound.

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

13. To the best of our knowledge and belief after due investigation, none of the events of default referred to in Article X of the Loan/Grant Agreement has occurred.

14. Subsequent to the adoption of the Ordinance, the Borrower/Grantee has not pledged or otherwise encumbered the Pledged Revenues.

15. The Agreement permits the Borrower/Grantee to issue additional bonds or other obligations with a lien on the Pledged Revenues, superior to, on parity with or subordinate to the lien of the Loan/Grant Agreement on the Pledged Revenues.

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

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

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

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

20. Regular meetings of the Borrower/Grantee's Governing Body and the meeting at which the Ordinance was adopted have been held at 1700 North Grand Avenue, Las Vegas, New Mexico 87701, the principal meeting place of the Borrower/Grantee.

21. The Borrower/Grantee's Governing Body has no rules of procedure which would invalidate or make ineffective the Ordinance or other action taken by the Borrower/Grantee's Governing Body in connection with the Loan/Grant Agreement. The Open Meetings Act Resolution ("Open Meeting Act Resolution") adopted and approved by the Governing Body on

January 21, 2015 establishes notice standards for meetings of the Governing Body. The Open Meetings Act Resolution No. 15-01 has not been amended or repealed. All action of the Governing Body with respect to the Ordinance and the Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution No. 15-01 and has not been amended, repealed or rescinded.

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

23. Nothing has occurred that would adversely affect the Final Opinion of Counsel signed by Dave Romero, as attorney for the Borrower/Grantee on December 2, 2011. The December 2, 2011, Final Opinion of Counsel remains in full force and effect.

24. Nothing has occurred that would adversely affect the Right of Way Certificate signed by Dave Romero as attorney for the Borrower/Grantee on December 2, 2011. The December 2, 2011, Right of Way Certificate remains in full force and effect.

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

26. This Certificate may be executed in counterparts.

*[Signature page follows.]*

WITNESS our signatures and the seal of the Borrower/Grantee this 22nd day of May, 2015.

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

(SEAL)

By \_\_\_\_\_  
Alfonso E. Ortiz, Jr., Mayor

By \_\_\_\_\_  
Casandra Fresquez, City Clerk

Paragraphs 7,9,16, 23 & 24 are approved and confirmed.

By \_\_\_\_\_  
Dave Romero,  
Attorney for Borrower/Grantee

**CITY COUNCIL MEETING AGENDA REQUEST**

**DATE:** 03/31/15

**DEPT:** Utilities

**MEETING DATE:** 04/15/15

**ITEM/TOPIC:** Conduct a public hearing and adopt Ordinance No. 15-03 Taylor Well No. 2 Replacement Project Water Trust Board funding.

**ACTION REQUESTED OF COUNCIL:** Approval/Disapproval to conduct a public hearing and adopt Ordinance No. 15-03.

**BACKGROUND/RATIONALE:** The City received funding from the Water Trust Board for the Taylor Well No. 2 replacement project (WTB-219). This is an amendment to the original agreement that will reduce the loan amount of the agreement from 40% to 10%. The new loan amount will be \$154,616.00 which is a reduction of \$463,849.00 and the new grant amount will be \$1,391,546.00 which is an increase of \$463,849.00. This Ordinance will amend Ordinance 11-19 adopted October 19, 2011.

	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
Grant Amount:	\$927,697.00	\$1,391,546.00	\$463,849.00+
Loan Amount:	\$618,465.00	\$154,616.00	\$463,849.00-
Additional Funding Amount:	\$309,232.00	\$309,232.00	
Project Account Amount:	\$1,546,162.00	\$1,546,162.00	
Administrative Fee:	0.25%	0.25%	

**STAFF RECOMMENDATION:** Conduct a public hearing and adopt ordinance.

**COMMITTEE RECOMMENDATION:** This item will be discussed at the regular Utility Advisory Committee meeting on April 14, 2015.

**THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY MANAGER'S OFFICE NO LATER THAN 10:00 A.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.**

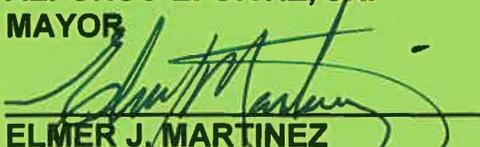


\_\_\_\_\_  
**SUBMITTER'S SIGNATURE**

**REVIEWED AND APPROVED BY:**



\_\_\_\_\_  
**ALFONSO E. ORTIZ, JR.  
MAYOR**

  
\_\_\_\_\_  
**ELMER J. MARTINEZ  
CITY MANAGER**

\_\_\_\_\_  
**PURCHASING AGENT  
(FOR BID/RFP AWARD)**

\_\_\_\_\_  
**ANN MARIE GALLEGOS  
FINANCE DIRECTOR  
(PROCUREMENT)**

\_\_\_\_\_  
**DAVE ROMERO  
CITY ATTORNEY  
(ALL CONTRACTS MUST BE  
REVIEWED)**

Approved to form 1-26-15



**UTILITIES DEPARTMENT PROJECT SUMMARY SHEET**

**PROJECT NAME:** Taylor Well 2 Replacement  
**PROJECT NUMBER:** UT-WGW-2013-1  
**PROJECT MANAGER:** Esteban Medina

**ENGINEER:** Molzin Corbin  
**CONTRACT NUMBER:** 2678-13

**PROJECT DESCRIPTION:**

To drill a new well adjacent to old Taylor Well 2 for additional Ground Water supply.

**TIMELINE:** 2011

**ORIGINAL FUNDING**  
 WTB Grant \$ 927,697  
 WTB Loan \$ 618,465  
 Federal \_\_\_\_\_  
 Total Funds \_\_\_\_\_

**PRESENT PROPOSED FUNDING**  
 WTB Grant \$ 1,391,546  
 WTB Loan \$ 154,616  
 Construction \_\_\_\_\_  
 Total Funds \_\_\_\_\_

**BUDGETED AMOUNT:** \$1,855,394      **LINE ITEM NUMBER:** \_\_\_\_\_

ACTION	DESCRIPTION	DATE
Funding Source	Water Trust Board -219	12/02/11
Loan/Grant/City	City \$ _____ Grant \$ 1,391,546 Loan \$ 154,616 Total \$ _____	03/25/15
Authorized Ordinance	15-03	03/25/15
Loan/Subsidy Agreement	NMFA - WTB	12/02/11
Engineering Services Agreement	Contract# _____ Task Order# _____ \$ _____	
Engineering Estimate	Total Engineer's Estimate \$ _____	
Bid Document Review	Bid # _____	
Advertisement		
Bid Opening	Date _____	
Bid Tabulation	Contractor _____ Amount _____	
	Contractor _____ Amount _____	
	Contractor _____ Amount _____	
	Contractor _____ Amount _____	
Construction Estimate	Contractor Share \$ _____ (Including NMGRT)	
	City Share \$ _____	
Engineer's Recommendation	Contractor _____	
Staff Recommendation		
Committee Recommendation	Item will be discussed at Utility Committee Meeting.	04/14/15
Council Approval	Item taken to City Council for Approval	03/25/15
Notice To Proceed		

MARCH 2015						
M	T	W	T	F	S	S
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2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

APRIL 2015						
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MAY 2015						
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**NEW MEXICO FINANCE AUTHORITY**  
**FINANCING SCHEDULE & DISTRIBUTION LIST**  
**CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO**  
**AMENDED AND RESTATED WATER PROJECT FUND**  
**LOAN/GRANT AGREEMENT 219-WTB,**  
**dated December 2, 2011**

**Prepared: March 11, 2015**

DATE	ACTION	PARTIES
Friday, September 25, 2014	Finance Authority Approval to Amend and Restate Water Project Fund Loans 218-WTB and 219-WTB	Finance Authority
Wednesday, March 11, 2015	Distribution of draft Financing Schedule, drafts of Ordinance, Notice of Public Hearing and Amended and Restated Loan/Grant Agreement for review and comment by all and City's first reading	VN
Wednesday, March 18, 2015	Comments due on draft Financing Schedule, drafts of Ordinance, Notice of Public Hearing and Amended and Restated Loan/Grant Agreement from all	Finance Authority, Borrower/Grantee
Friday, March 20, 2015	Re-distribution of draft Financing Schedule, drafts of Ordinance, Notice of Public Hearing, and Amended and Restated Loan/Grant Agreement for review and comment by all and City's first reading	VN
Wednesday, March 25, 2015	First reading of Ordinance, Governing Body Schedules Ordinance for Public Hearing and has first reading of Ordinance	Borrower/Grantee
Thursday, March 26, 2015	Notice of Public Hearing distributed to the <i>Las Vegas Optic</i> by 11:00 am	VN
Monday, March 30, 2015	Publication of Notice of Public Hearing Published in <i>Las Vegas Optic</i>	Newspaper
Wednesday, April 8, 2015	Distribution of all final documents to Borrower for signature. Copy Finance Authority	VN

DATE	ACTION	PARTIES
<b>Wednesday, April 15, 2015</b>	<b>Borrower/Grantee's Governing Body meeting and adoption of Ordinance</b>	<b>Borrower/Grantee</b>
Thursday, April 16, 2015	Submit Notice of Adoption of Ordinance to <i>Las Vegas Optic</i> by 11:00 a.m.	VN
Monday, April 20, 2015	Publish Notice of Adoption of Ordinance in the <i>Las Vegas Optic</i>	Newspaper
Wednesday, April 22, 2015	Delivery of fully executed documents to Loan Counsel	Borrower/Grantee
Monday, May 18, 2015	Distribution of signed Ordinance, Loan Agreement and Closing Documents to the Finance Authority for signature with complete set copy to Gloria and LaRain for Accounting.	VN
Wednesday, May 20, 2015	Expiration of 30-day limitation of action period.	
Wednesday, May 20, 2015	Finance Authority signatures due	Finance Authority
<b>Friday, May 22, 2015</b>	<b>Effective Date of Amendment</b>	<b>All</b>
Two weeks after receipt of all transcript documents	Transcripts Distributed	VN

### DISTRIBUTION LIST

**BORROWER/GRANTEE**

City of Las Vegas  
1700 North Grand Ave  
Las Vegas, NM 87701  
Phone: (505) 454-1401

Contact(s): Kenneth L. Garcia  
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Ann Marie Gallegos, Finance Director  
Email: [amgallegos@ci.las-vegas.nm.us](mailto:amgallegos@ci.las-vegas.nm.us)

Maria Gilvarry, Project Manager  
City of Las Vegas, New Mexico  
Email: [Gilvarrym@gmail.com](mailto:Gilvarrym@gmail.com)

**BORROWER/GRANTEE'S FINANCIAL ADVISOR**

Paul J. Cassidy

**NEW MEXICO FINANCE AUTHORITY**

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Santa Fe, NM 87501

Water Trust Board  
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Yolanda Valenzuela, Sr. Administrative Assistant  
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Phone: (505) 992-9663

**NEWSPAPER:**

The Las Vegas Optic  
614 Lincoln Street  
Las Vegas, NM 87701  
Contact: Rey Baca

RBC Capital Markets  
6301 uptown Blvd. N.E. Ste. 110  
Albuquerque, New Mexico 87110  
Phone: (505) 872-5991 (office direct)  
Email: [Paul.Cassidy@rbccm.com](mailto:Paul.Cassidy@rbccm.com)

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Andrew Stricklin, Associate  
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**BORROWER/GRANTEE'S COUNSEL**

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Victoria Lovato, Paralegal  
Email: [vlovato@ci.las-vegas.nm.us](mailto:vlovato@ci.las-vegas.nm.us)

**LOAN/GRANT COUNSEL**

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Jamie Futral, Legal Assistant  
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Phone: (505) 983-6101 ext. 58

Phone: (505) 425-6796  
Email: [rbaca@lasvegasoptic.com](mailto:rbaca@lasvegasoptic.com)

(Deadline: Published Monday's, Wednesday's and Friday's. Deadline: for Monday publication, Notice must be received the Thursday prior before 11:00 a.m.; for Wednesday publication, Notice must be received the Monday prior before 11:00 a.m.; and for Friday publication, Notice must be received the Wednesday prior before 11:00 a.m.)



CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO  
ORDINANCE NO. 15-03

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY"), AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE ("LENDERS/GRANTORS") AND THE CITY OF LAS VEGAS (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF ONE MILLION FIVE HUNDRED FORTY-SIX THOUSAND ONE HUNDRED SIXTY-TWO DOLLARS (\$1,546,162), REDUCING THE LOAN AMOUNT OF THE LOAN/GRANT FROM FORTY PERCENT (40%) TO TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE LOAN/GRANT; EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION OF A GROUNDWATER WELL TO REPLACE THE BORROWER/GRANTEE'S TAYLOR WELL NO. 2 IN THE TAYLOR WELL FIELD, AND SOLELY IN THE MANNER DESCRIBED IN THE AMENDED AND RESTATED LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND AN ADMINISTRATIVE FEE SOLELY FROM THE NET SYSTEM REVENUES OF THE WATER SYSTEM OF THE BORROWER/GRANTEE ; 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 AMENDED AND RESTATED LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE, INCLUDING PROVISIONS OF ORDINANCE NO. 11-19 THAT ARE INCONSISTENT WITH THE ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF AMENDED AND RESTATED THE LOAN/GRANT AGREEMENT (THE "AGREEMENT" OR "LOAN/GRANT AGREEMENT").

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

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing incorporated municipality under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS the parties entered into a water project fund loan/grant agreement dated December 2, 2011 concerning the Project described in the original application (the "Original Loan/Grant Agreement"); and

WHEREAS, the Borrower/Grantee requested the Loan Amount in the Original Loan/Grant Agreement be converted from forty percent (40%) to ten percent (10%) of the total amount of the Loan/Grant; and

WHEREAS, the Water Trust Board was informed of the proposed amendment of the Original Loan/Grant Agreement at its September 24, 2014 regularly scheduled Water Trust Board meeting; and

WHEREAS, the New Mexico Finance Authority Board approved amendment and restatement of the Original Loan/Grant Agreement at its regularly scheduled September 25, 2014 Board meeting; 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, there have been presented to the Governing Body and there presently are on file with the City Clerk this Ordinance and the form of the Loan/Grant Agreement which is incorporated by reference and considered to be a part hereof; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF CITY OF LAS VEGAS, NEW MEXICO:

Section 1. Definitions. As used in this 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):

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

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which includes the total value of the Soft Match or Hard Match (each as defined in Section 2.5 of the Policies), which, in combination with the Loan/Grant Amount and other amounts available to the Borrower/Grantee, is sufficient to complete the Project. The Additional Funding Amount is three hundred nine thousand two hundred thirty-two dollars (\$309,232).

“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 pursuant to Section 5.1(a)(iii) of the Loan/Grant Agreement.

“Authorized Officers” means any one or more of the Mayor, the Finance Manager, the Interim City Manager and the City Clerk and City Clerk of the Borrower/Grantee.

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

“Borrower/Grantee” means the City of Las Vegas in San Miguel County, New Mexico.

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

“Colonias Infrastructure Act” means NMSA 1978, §§ 6-30-1 through 6-30-8, as amended.

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

“Conditions” has the meaning given to that term in the Loan/Grant Agreement.

“Eligible Legal Cost” has the meaning given to that term in the Loan/Grant Agreement.

“Eligible Fiscal Agent Fees” has the meaning given to that term in the Loan/Grant Agreement.

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

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

“Finance Authority” means the New Mexico Finance Authority.

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

“Governing Body” means the 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 equals one million three hundred ninety-one thousand five hundred forty-six dollars (\$1,391,546).

“Gross Revenues” means all income and revenues directly or indirectly derived by the Borrower/Grantee from the operation and use of the System, or any part of the System, for any particular Fiscal Year period to which term is applicable, and includes, without limitation, all revenues received by the Borrower/Grantee, or any municipal corporation or agency succeeding to the rights of the Borrower/Grantee, from the System and from the sale and use of water services or facilities, or any other service, commodity or facility or any combination thereof furnished by the System.

Gross Revenues do not include:

(a) Any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefor or other capital contributions from any source which are restricted as to use;

(b) Gross receipts taxes, other taxes and/or fees collected by the Borrower/Grantee and remitted to other governmental agencies; and

(c) Condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

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

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

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and equals one hundred fifty-four thousand six hundred sixteen dollars (\$154,616).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and equals one million five hundred forty-six thousand one hundred sixty-two dollars (\$1,546,162).

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

“Net System Revenues” means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacement and repairs,

required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water utility system.

“NMAC” means the New Mexico Administrative Code.

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

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) Legal and overhead expenses of the Borrower/Grantee directly related and reasonably allocable to the administration of the System;

(b) Insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen’s compensation insurance, whether or not self-funded;

(c) Premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay debt service requirements on System bonds) for credit facilities;

(d) Any expenses described in this definition other than expenses paid from the proceeds of System bonds;

(e) The costs of audits of the books and accounts of the System;

(f) Amounts required to be deposited in any rebate fund;

(g) Salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) Any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the Borrower/Grantee’s general fund, liabilities incurred by the Borrower/Grantee as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

“Ordinance” means this Ordinance as it may be supplemented or amended from time to time.

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

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

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

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

“State” means the State of New Mexico.

“System” means the water utility system for which current rates were established by Ordinance No. 12-13 of the Borrower/Grantee, owned and operated by the Borrower/Grantee, and of which the Project, when completed, will form part.

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

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

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

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

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

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

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

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

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

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

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

E. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now available to the Borrower/Grantee, in combination with the Loan/Grant Amount, the Additional Funding Amount and other amounts available to the Borrower/Grantee, will be sufficient to complete the Project and pay Expenses. If the Borrower/Grantee 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 Finance Authority, terminate and be of no further force or effect.

F. The Borrower/Grantee has met the requirements of Executive Order 2013-006 and has represented that it has met or will meet prior to the first disbursement of any portion of the Loan/Grant Amount, the Conditions and the readiness to proceed requirements established for the Loan/Grant.

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

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

A. Authorization. This Ordinance has been adopted by the affirmative vote of a three-fourths majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of one million three hundred ninety-one thousand five hundred forty-six dollars (\$1,391,546) and borrowing the Loan Amount of one hundred fifty-four thousand six hundred sixteen dollars

(\$154,616) to be utilized solely for the purpose of completing the Project and paying Expenses, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project and to pay Expenses.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Grant shall be in the amount of one million three hundred ninety-one thousand five hundred forty-six dollars (\$1,391,546) and the Loan shall be in the amount of one hundred fifty-four thousand six hundred sixteen dollars (\$154,616). Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

Section 6. Approval of Loan/Grant Agreement. The form of the Loan/Grant Agreement as presented at the meeting of the Governing Body at which this 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. The Loan Amount and Administrative Fee shall be solely secured by the pledge of the Pledged Revenues herein made and as set forth in the Loan/Grant Agreement.

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

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the Finance Authority and further approves of the deposit or crediting of a portion of the Loan/Grant Amount in the Expense Account. Until the Completion Date, the amount of the Loan/Grant credited to the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement or to pay Expenses.

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

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

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

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

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this 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 Ordinance and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this 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 Ordinance after its adoption may be amended without receipt by the Borrower/Grantee of any additional consideration, but only with the prior written consent of the Water Trust Board and the Finance Authority.

Section 13. Ordinance Irrepealable. After the Loan/Grant Agreement has been executed and delivered, this 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 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 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. Closing Date. Upon due adoption of this 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 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 Ordinance, this Ordinance shall be effective upon adoption of this Ordinance by the Governing Body.

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

*[Remainder of page intentionally left blank.]*

*[Form of Notice of Adoption of Resolution for Publication]*

CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO  
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. 15-03, duly adopted and approved by the City Council of City of Las Vegas on April 15, 2015. A complete copy of the Ordinance is available for public inspection during normal and regular business hours in the office of the City Clerk located at 1700 North Grand Ave., Las Vegas, New Mexico 87701.

The title of the Ordinance is:

CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO  
ORDINANCE NO. 15-03

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY"), AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE ("LENDERS/GRANTORS") AND THE CITY OF LAS VEGAS (THE "BORROWER/GRANTEE"), IN THE TOTAL AMOUNT OF ONE MILLION FIVE HUNDRED FORTY-SIX THOUSAND ONE HUNDRED SIXTY-TWO DOLLARS (\$1,546,162), REDUCING THE LOAN AMOUNT OF THE LOAN/GRANT FROM FORTY PERCENT (40%) TO TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE LOAN/GRANT; EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION OF A GROUNDWATER WELL TO REPLACE THE BORROWER/GRANTEE'S TAYLOR WELL NO. 2 IN THE TAYLOR WELL FIELD, AND SOLELY IN THE MANNER DESCRIBED IN THE AMENDED AND RESTATED LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND AN ADMINISTRATIVE FEE SOLELY FROM THE NET SYSTEM REVENUES OF THE WATER SYSTEM OF THE BORROWER/GRANTEE ; 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 AMENDED AND RESTATED LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE, INCLUDING PROVISIONS OF ORDINANCE NO. 11-19 THAT ARE INCONSISTENT WITH THE ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF AMENDED

AND RESTATED THE LOAN/GRANT AGREEMENT (THE "AGREEMENT"  
OR "LOAN/GRANT AGREEMENT").

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

*[End of Form of Notice of Adoption for Publication]*

PASSED, APPROVED AND ADOPTED THIS 15TH DAY OF APRIL, 2015.

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By \_\_\_\_\_  
Alfonso E. Ortiz, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Casandra Fresquez, City Clerk

*[Remainder of page intentionally left blank.]*

Governing Body Member \_\_\_\_\_ then moved adoption of the foregoing Ordinance, duly seconded by Governing Body Member \_\_\_\_\_.

The motion to adopt the 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 Ordinance adopted, whereupon the Mayor and City Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

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

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By \_\_\_\_\_  
Alfonso E. Ortiz, Jr., Mayor

ATTEST:

By \_\_\_\_\_  
Casandra Fresquez, City Clerk

*[Remainder of page intentionally left blank.]*

STATE OF NEW MEXICO

)

) ss.

COUNTY OF SAN MIGUEL

)

I, Casandra Fresquez, the duly qualified and acting City Clerk of the City of Las Vegas (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Council of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held at 1700 North Grand Ave., Las Vegas, on April 15, 2015 at the hour of 6:00 p.m., insofar as the same relate to the adoption of Ordinance No. 15-03 and the execution and delivery of the proposed Amended and Restated Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1, as amended, including the Borrower/Grantee's open meetings Resolution No. 15-01, adopted and approved on January 21, 2015 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of May, 2015.

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By \_\_\_\_\_  
Casandra Fresquez, City Clerk

**EXHIBIT "A"**

**Notice of Meeting and Meeting Agenda**

**\$1,546,162**

**AMENDED AND RESTATED WATER PROJECT FUND  
LOAN/GRANT AGREEMENT**

**Dated**

**May 22, 2015**

**By and Among the**

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

**and the**

**CITY OF LAS VEGAS,  
San Miguel County, New Mexico,  
as Borrower/Grantee.**

**WATER PROJECT FUND  
LOAN/GRANT AGREEMENT**

THIS AMENDED AND RESTATED LOAN/GRANT AGREEMENT (the "Agreement" or "Loan/Grant Agreement") dated May 22, 2015, is entered into by and among the **NEW MEXICO WATER TRUST BOARD** (the "Water Trust Board") and the **NEW MEXICO FINANCE AUTHORITY** (the "Finance Authority") (collectively, the "Lenders/Grantors"), and the **CITY OF LAS VEGAS** in San Miguel County, New Mexico (the "Borrower/Grantee").

WITNESSETH:

Capitalized terms used in the following preambles of this Agreement have the same meaning as defined in the preceding paragraph or 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, particularly NMSA 1978, §§ 72-4A-1 through 72-4A-10, as amended; and

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

WHEREAS, the Act provides that the Finance Authority may make loans and grants from the Water Project Fund to qualifying entities for Qualifying Water Projects; and

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

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

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing incorporated municipality under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended, is a qualifying entity under the Act and is qualified for financial assistance as determined by the Finance Authority and approved by the Water Trust Board pursuant to the Board Rules and the Policies; and

WHEREAS, the Borrower/Grantee has determined that it is in the best interests of the Borrower/Grantee and the constituent public it serves that the Borrower/Grantee enter into this

Agreement with the Lenders/Grantors amending and restating the Original Loan/Grant Agreement to borrow one hundred fifty-four thousand six hundred sixteen dollars (\$154,616) from the Lenders/Grantors and to accept a grant in the amount of one million three hundred ninety-one thousand five hundred forty-six dollars (\$1,391,546) from the Lenders/Grantors to finance the costs of the Project, this Project being more particularly described in the Term Sheet; and

WHEREAS, based upon the Finance Authority's evaluation of the Application dated September 28, 2010 of the Borrower/Grantee and dealing with the Project, the Finance Authority staff has recommended to the Water Trust Board that the Borrower/Grantee receive financial assistance in the form of the Loan/Grant, and the Water Trust Board authorized the Finance Authority to enter into and administer the Original Loan/Grant Agreement (as defined below); and

WHEREAS the parties entered into a water project fund loan/grant agreement dated December 2, 2011 concerning the Project described in the original application (the "Original Loan/Grant Agreement"); and

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

WHEREAS, the Borrower/Grantee requested the Loan Amount in the Original Loan/Grant Agreement be converted from forty percent (40%) to ten percent (10%) of the total amount of the Loan/Grant; and

WHEREAS, 2011 N.M. Laws Ch. 24, being House Bill 143 of the 2011 Regular New Mexico Legislative Session, authorized the funding of the Project from the Water Project Fund; and

WHEREAS, the Water Trust Board was informed of the proposed amendment of the Original Loan/Grant Agreement at its September 24, 2014 regularly scheduled Water Trust Board meeting; and

WHEREAS, the New Mexico Finance Authority Board approved amendment and restatement of the Original Loan/Grant Agreement at its regularly scheduled September 25, 2014 Board meeting; and

WHEREAS, the Chairman of the Water Trust Board, on behalf of the Water Trust Board, has executed this Agreement thereby acknowledging the consent of the Water Trust Board to the Finance Authority entering into and administering this Agreement; and

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

WHEREAS, this Agreement amends and restates the Original Loan/Grant Agreement to convert the remaining payment of the Loan Amount to a ten percent (10%) loan component and convert the remaining Loan Amount to a grant as provided in this Agreement; and

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

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

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

## **ARTICLE I DEFINITIONS**

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

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

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which includes the total value of the Soft Match or Hard Match (each as defined in Section 2.5 of the Policies) which, in combination with the Loan/Grant Amount and other moneys available to the Borrower/Grantee, is sufficient to complete the Project or to provide matching funds needed to complete the Project. The Additional Funding Amount is three hundred nine thousand two hundred thirty-two dollars (\$309,232).

“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 pursuant to Section 5.1(a)(iii) of this Agreement.

“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 September 28, 2010 of the Borrower/Grantee and pursuant to which the Borrower/Grantee requested funding for the Project.

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

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

“Closing Date” means the date of execution of this Agreement by the Borrower/Grantee and the Finance Authority.

“Colonias Infrastructure Act” means NMSA 1978, §§ 6-30-1 through 6-30-8, as amended.

“Conditions” means the conditions to be satisfied prior either (1) to the submission of a Draw Request by the Finance Authority to the State Board of Finance on behalf of the Borrower/Grantee, or (2) to disbursement of the Loan/Grant Amount, or any portion thereof, from the Water Project Fund, or which otherwise apply to the performance of this Agreement, including those set forth in the Term Sheet.

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

“Draw Request” means a request for payment of eligible costs from Severance Tax Bond Funds made by the Finance Authority to the State Board of Finance on behalf of the Borrower/Grantee.

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

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

“Eligible Legal Costs” means legal fees and costs for services rendered by legal counsel on behalf of the Borrower/Grantee for transaction of the Project, in an amount not exceeding ten

(10) percent of the Loan/Grant Amount, but does not include adjudication services. The total amount of the combined Eligible Fiscal Agent Fees and Eligible Legal Fees may not exceed ten (10) percent of the total Loan/Grant Amount.

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

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

“Fiscal Year” means the period commencing on July 1 of each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Borrower/Grantee as its fiscal year.

“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 one million three hundred ninety-one thousand five hundred forty-six dollars (\$1,391,546).

“Gross Revenues” means all income and revenues directly or indirectly derived by the Borrower/Grantee from the operation and use of the System, or any part of the System, for any particular Fiscal Year period to which term is applicable, and includes, without limitation, all revenues received by the Borrower/Grantee, or any municipal corporation or agency succeeding to the rights of the Borrower/Grantee, from the System and from the sale and use of water services or facilities, or any other service, commodity or facility or any combination thereof furnished by the System.

Gross Revenues do not include:

(a) Any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefor or other capital contributions from any source which are restricted as to use;

(b) Gross receipts taxes, other taxes and/or fees collected by the Borrower/Grantee and remitted to other governmental agencies; and

(c) Condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

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

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

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

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to this Agreement for the purpose of funding the Project and equals one hundred fifty-four thousand six hundred sixteen dollars (\$154,616).

“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 and equals one million five hundred forty-six thousand one hundred sixty-two dollars (\$1,546,162).

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

“Net System Revenues” means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacements and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water utility system.

“NMAC” means the New Mexico Administrative Code.

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

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) Legal and overhead expenses of the Borrower/Grantee directly related and reasonably allocable to the administration of the System;

(b) Insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen's compensation insurance, whether or not self-funded;

(c) Premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay debt service requirements on System bonds) for credit facilities;

(d) Any expenses described in this definition other than expenses paid from the proceeds of System bonds;

(e) The costs of audits of the books and accounts of the System;

(f) Amounts required to be deposited in any rebate fund;

(g) Salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) Any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the Borrower/Grantee's general fund, liabilities incurred by the Borrower/Grantee as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

"Ordinance" means the Borrower/Grantee's Ordinance No. 11-18 adopted October 19, 2011 authorizing the acceptance and execution of the Original Loan/Grant (the "Original Ordinance") and the Borrower/Grantee's Ordinance No. 15-03, adopted April 15, 2015, authorizing the acceptance of the amended Loan/Grant and the execution of this Agreement.

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

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

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

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

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

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

“Severance Tax Bond Funds” means that portion of the proceeds of the severance tax bonds issued annually by the State Board of Finance pursuant to NMSA 1978, § 7-27-10.1, as amended, and which are appropriated to the Water Project Fund.

“State” means the State of New Mexico.

“State Board of Finance” means the State board of finance created pursuant to NMSA 1978, §§ 6-1-1 through 6-1-13, as amended.

“System” means the water utility system for which current rates were established by Ordinance No. 12-13 of the Borrower/Grantee, owned and operated by the Borrower/Grantee, and of which the Project, when completed, will form part.

“Term Sheet” means Exhibit “A” attached to this Agreement.

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

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

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

## **ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES**

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

(a) Binding Nature of Covenants; Enforceability. 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 enforceable in accordance with their terms, and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations, and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Agreement, all rights, powers, and privileges conferred and duties and liabilities imposed upon the Borrower/Grantee by the provisions of this Agreement and the 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) Authorization of Agreement. The Borrower/Grantee is a qualifying entity as defined in the Act and the Board Rules. Pursuant to the laws of the State and in particular, the 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 its acceptance of the Loan/Grant and the execution and delivery of this Agreement and the other documents related to the transaction described in this Agreement.

(c) Nature and Use of Agreement Proceeds. The Borrower/Grantee acknowledges that the distribution of the Loan/Grant Amount shall be deemed to be a distribution to the Borrower/Grantee first of the Loan Amount and then, once an amount equal to the Loan Amount has been distributed, of the Grant Amount. The Borrower/Grantee shall apply the proceeds of the Loan/Grant solely to Eligible Items that will facilitate the completion of the Project as well as the payment of the Expenses, and shall not use the Loan/Grant proceeds for any other purpose. The Loan/Grant Amount, together with the Additional Funding Amount and other moneys reasonably expected to be available to the Borrower/Grantee, is sufficient to complete the Project in its entirety and to pay the Expenses.

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

(e) Scope of Project; Completion of Project; Compliance with Laws. The Project is for storage, conveyance or delivery of water to end users. The Loan/Grant Amount will be used only for Eligible Items necessary to complete the Project. In particular, the Project will consist of construction of a groundwater well to replace the Borrower/Grantee's Taylor Well No. 2 in the Taylor Well field, and shall include such other related work and revisions necessary to complete the Project. The Project is more particularly described in the Term Sheet. The Project will be completed with all practical dispatch and will be completed, operated and maintained so as to comply with all applicable federal, state and local laws, ordinances, resolutions and

regulations and all current and future orders of all courts having jurisdiction over the Borrower/Grantee relating to the acquisition, operation, maintenance and completion of the Project and to the use of the Loan/Grant proceeds.

(f) 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 public it serves.

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

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

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

(j) Irrevocability of Enactments. While this Agreement remains outstanding, any ordinance, resolution or other enactment of the Governing Body accepting the terms hereof, pledging the Pledged Revenues, or in any way relating to the Loan/Grant or this Agreement, including the Ordinance, shall be irrevocable until the Project has been fully acquired and completed, and the Loan Amount, including all principal and interest has been repaid, or provision made for payment thereof, and shall not be subject to amendment or modification in any manner which would result in any use of the proceeds of this Agreement in a manner not permitted or contemplated by the terms hereof. The Borrower/Grantee shall not impair the rights of the Finance Authority or of any holders of bonds or other obligations payable from the Pledged Revenues while this Agreement is outstanding.

(k) 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.

(l) No 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.

(m) Expected Coverage Ratio. The Pledged Revenues from the Fiscal Year in which the Closing Date occurs are reasonably expected to equal or exceed and, on an ongoing basis during each Fiscal year during the Agreement Term are reasonably expected to equal or exceed, one hundred percent (100%) of the maximum annual principal and interest due on all outstanding obligations of the Borrower/Grantee payable from the Pledged Revenues.

(n) Financial Capability; Budgeting of Pledged Revenues; Approval by Department of Finance and Administration. The Borrower/Grantee meets and will meet during the Agreement Term the requirements of financial capability set by the Water Trust Board and the Finance Authority. The Pledged Revenues will be sufficient to make the Loan Payments, as and when due. The Borrower/Grantee will adequately budget for the Loan Payments and other amounts payable by the Borrower/Grantee under this Agreement and will submit such budget on an annual basis to the Department of Finance and Administration for review and verification of compliance with this requirement.

(o) Rate Covenant. The Borrower/Grantee covenants that it will at all times fix, charge and collect such rates and charges shall be required in order that in each Fiscal year in which the Loan is outstanding the Gross Revenues shall at least equal the Operation and Maintenance Expenses of the System for the Fiscal year, plus one hundred percent (100%) of the maximum annual principal and interest payments due on all outstanding obligations payable from the Pledged Revenues.

(p) 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, State agency or other entity by operation of law succeeds to the liabilities, rights and duties of the Borrower/Grantee under this Agreement without adversely affecting to any substantial degree the privileges and rights of the Lenders/Grantors.

(q) Use of Project; Continuing Covenant. During the Agreement Term, the Borrower/Grantee will at all times use the Project for the benefit of the Borrower/Grantee and the public it serves. 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 the Useful Life of the System, or any part of the System during the Agreement Term; provided, however, that if the Project is a joint project of the Borrower/Grantee and other qualifying entities (as defined by the Act), the Borrower/Grantee and the other qualifying entities may, with the express written approval of the Lenders/Grantors and not otherwise, enter into an agreement allocating ownership and operational and maintenance responsibilities for the Project during its Useful Life. Any, such agreement shall provide that the Lenders/Grantors, or either of them, shall have the power to enforce the terms of this Agreement, without qualification, as to each and every qualifying entity (as defined by the Act) owning or operating any portion of the Project during its Useful Life. If any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the

Borrower/Grantee, the Borrower/Grantee shall, prior to any use of the Loan/Grant funds for the Project on such real property, obtain the written agreement of such other qualifying entity to abide by these restrictions with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement. The Borrower/Grantee will operate and maintain the Project, so that it will function properly over its Useful Life. The provisions of this Section shall remain effective and enforceable by the Lenders/Grantors for the duration of the Useful Life of the Project.

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

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

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

(u) Conservation Plan. The Borrower/Grantee has submitted a water conservation plan or one is on file with the State engineer, as required by NMSA 1978, § 72-4A-7, as amended.

(v) Efficient Operation. The Borrower/Grantee will operate the System so long as this Loan/Grant Agreement is outstanding, will maintain the System in efficient operating condition and make such improvements, extensions, enlargements, repairs and

betterments to the System as may be necessary or advisable for its economical and efficient operation at all times and sufficient to supply reasonable demands for System services.

(w) Records. So long as the Loan/Grant Agreement remains outstanding, proper books of record and account will be kept by the Borrower/Grantee in accordance with General Accepted Accounting Principles, separate from all other records and accounts, showing complete and correct entries of all transactions relating to the System. Such books shall include, but not necessarily be limited to, monthly records showing: (i) the number of customers for the water system; (ii) the revenues separately received from charges by classes of customers, including but not necessarily limited to classification by facilities; and (iii) a detailed statement of the expenses of the System.

(x) Billing Procedure. Bills for water service or facilities, furnished by or through the System, shall be rendered to customers on a regular basis each month following the month in which the service was rendered and shall be due as required by the applicable ordinance of the Borrower/Grantee. If permitted by law, if a bill is not paid within the period of time required by such ordinance or regulation, water service shall be discontinued as required by such ordinance or regulation, and the rates and charges due shall be collected in a lawful manner, including, but not limited to, the cost of disconnection and reconnection. Water and sanitary sewer utility services may be billed jointly with each other, provided that each such joint bill shall show separately the water and sanitary sewer utility charges.

(y) Competent Management. The Borrower/Grantee shall employ or contract for experienced and competent personnel to manage the System.

(z) the Borrower/Grantee has met the requirements of Executive Order 2013-006 and it has met or will meet prior to the first disbursement of any portion of the Loan/Grant Amount, the Conditions and the readiness to proceed requirements established for the Loan/Grant by the Finance Authority and the Water Trust Board; and

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

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

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

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

### **ARTICLE III AGREEMENT TERM**

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

### **ARTICLE IV LOAN/GRANT AMOUNT DISBURSEMENT CONDITIONS**

Section 4.1 Conditions Precedent to Disbursement of Loan/Grant. Prior to either (1) the submission of any Draw Request by the Finance Authority to the State Board of Finance on behalf of the Borrower/Grantee for payment of any requisition of the Loan/Grant Amount or any portion thereof, or (2) the disbursement of the Loan/Grant Amount or any portion thereof by the Finance Authority from the Water Project Fund, the following Conditions and readiness to proceed items shall be satisfied:

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

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

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

(d) Prior to the disbursement of any portion of the Loan/Grant Amount for purposes of construction of the Project, the plans and specifications funded with the proceeds of this Agreement will be approved on behalf of the Finance Authority as required by NMSA 1978, § 72-4A-7(B), as amended, by the New Mexico Environment Department, and the Borrower/Grantee shall have provided written evidence of such approval to the Finance Authority; and

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

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

Section 4.2 Determination of Eligibility Is Condition Precedent to Disbursement. No Draw Request shall be made to the State Board of Finance by the Finance Authority on behalf of the Borrower/Grantee, nor shall any disbursement be made from the Water Project Fund, for any requisition of any portion of the Loan/Grant Amount, except upon a determination by the Finance Authority that such disbursement is for payment of Eligible Items, and that the Draw Request or disbursement does not exceed any limitation upon the amount payable for any Eligible Item pursuant to the Act, the Board Rules, and the Policies governing the Water Project Fund. The Finance Authority, as a condition precedent to submitting any Draw Request to the State Board of Finance or making any requested disbursement from the Water Project Fund, may require submittal of such documentation as the Finance Authority deems necessary, in its sole and absolute discretion, for a determination whether any requested disbursement is for payment of Eligible Items and is fully consistent with the Act, the Board Rules, and the Policies, as applicable.

**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 Article VI and Exhibit "C" of this Agreement.

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

(ii) Administrative Fee. The Borrower/Grantee shall, on an annual basis beginning June 1, 2012, pay to the Lenders/Grantors an administrative fee equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee as provided by this Agreement. Any such Administrative Fee payment shall be due irrespective of whether or not a hardship waiver of payment is granted to the Borrower/Grantee for the principal payment otherwise due on June 1 of the applicable year or any other year.

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

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

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

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

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

(a) request from the State Board of Finance the transfer of Severance Tax Bond Funds and/or itself transfer from the Water Project Fund to the Expense Account amounts which together are sufficient to pay the Expenses of the Lenders/Grantors, as shown on the Term Sheet, the amount requested or disbursed from each Fund being in the sole discretion of the Finance Authority; and

(b) make an entry in its accounts, and in particular in the Project Account, reflecting the proceeds of the Loan/Grant Amount requested from the State Board of Finance pursuant to a Draw Request or made available for disbursement from the Water Project Fund to the Borrower/Grantee at its request, and as needed by it to acquire and complete the Project, as provided in Section 7.2 of this Agreement.

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

## **ARTICLE VI LOAN PAYMENTS BY THE BORROWER/GRANTEE**

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

The pledge of the Pledged Revenues, the security interest in and the lien thereon shall be effective upon the Closing Date. The Borrower/Grantee, the Finance Authority, and the Water

Trust Board acknowledge and agree that the obligations of the Borrower/Grantee hereunder are limited to the Pledged Revenues; and that this Agreement with respect to the Loan Amount, the Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided shall constitute a special, limited obligation of the Borrower/Grantee. No provision of this Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Borrower/Grantee within the meaning of any constitutional or statutory debt limitation. No provision of this Agreement shall be construed to pledge or to create a lien on or security interest in 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 not required to meet the obligation of the Borrower/Grantee under this Agreement may be utilized by the Borrower/Grantee for any other purposes permitted by law.

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

Section 6.3 Manner of Payment. The Loan Amount shall be payable by the Borrower/Grantee to the Lenders/Grantors in annual installments of principal payable on June 1 beginning in the year 2012 and continuing through the year 2031 as set forth more fully in Exhibit "C" to this Agreement. All payments of the Borrower/Grantee hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 of this Agreement. The obligation of the Borrower/Grantee to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Borrower/Grantee and the Finance Authority, any vendor or any other person, the Borrower/Grantee shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Borrower/Grantee assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

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

Section 6.5 No Penalty for Prepayment of the Loan Amount. The Loan Amount shall be pre-payable by the Borrower/Grantee at anytime, without penalty.

Section 6.6 Lenders/Grantors' Release of Lien and Further Assurances. Upon payment in full of the Loan Amount, Administrative Fees and other amounts owed by the Borrower/Grantee as herein provided in this Agreement and upon written request from the

Borrower/Grantee the Lenders/Grantors agree to execute a release of lien and to give such further assurances as are reasonably necessary to ensure that the Lenders/Grantors no longer hold or maintain any lien or claim against the Pledged Revenues.

## **ARTICLE VII THE PROJECT**

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

(a) The Borrower/Grantee hereby agrees that in order to effectuate the purposes of this Agreement and to acquire and complete the Project it shall take such steps as are necessary and appropriate to acquire, complete, operate and maintain the Project lawfully and efficiently. The Project shall be constructed and completed substantially in accordance with the approved plans and specifications, and shall fully incorporate the available technologies and operational design for water use efficiency described in the approved plans and specifications. No Loan/Grant funds shall be used for items not constituting Eligible Items.

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

Section 7.2 Accounting for Amounts Credited to the Project Account. So long as no Event of Default shall occur and provided that all Conditions to the disbursement of the Loan/Grant Amount have been satisfied (including approval of the plans and specifications), upon receipt by the Finance Authority of a requisition substantially in the form of Exhibit "B" attached hereto signed by an Authorized Officer of the Borrower/Grantee, supported by certification by the Borrower/Grantee's project architect, engineer, or such other authorized representative of the Borrower/Grantee that the amount of the disbursement request represents the progress of design, construction, acquisition or other Project-related activities accomplished as of the date of the disbursement request, the Finance Authority shall, in its sole and absolute discretion: (1) submit a Draw Request to the State Board of Finance for payment; and/or (2) disburse from the Water Project Fund, amounts which together are sufficient to pay the requisition in full. The Finance Authority shall make the appropriate entry in the Project Account reflecting the amount of the payment. The certification provided pursuant to this Section 7.2 in support of the requisition must be acceptable in form and substance to the Finance Authority and, at its request, the Water Trust Board. The Borrower/Grantee shall provide such

records or access to the Project as the Finance Authority, and, at its request, the Water Trust Board, in the discretion of each, may request in connection with the approval of the Borrower/Grantee's requisition requests made hereunder.

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

Section 7.4 Borrower/Grantee Reporting to Lenders/Grantors. During the acquisition implementation, installation and construction of the Project, the Borrower/Grantee shall provide the Lenders/Grantors with a quarterly written report executed by an Authorized Officer of the Borrower/Grantee, in the form attached as Exhibit "D" hereto or in another form reasonably acceptable to the Lenders/Grantors, describing the status of the Project as of the report date, uses of Loan/Grant funds during the quarterly period ending on the report date, and requests for distributions of Loan/Grant funds anticipated to occur during the quarterly period immediately following the report date. The first quarterly report shall be due on March 31, 2012, and subsequent reports shall be due on each March 31, June 30, September 30 and December 31 thereafter until the report date next following final distribution of the Loan/Grant funds. No reports shall be required after the report date next following final distribution of the Loan/Grant Funds, unless specifically required by the Finance Authority or the Water Trust Board. The description of the status of the Project in each quarterly report shall include, among other information, (a) a comparison of actual and anticipated requests for distributions of Loan/Grant funds as of the report date with those anticipated as of the Closing Date, (b) a description of actual and anticipated changes in the cost estimates for the Project as of the report date compared with those anticipated as of the Closing Date, and (c) a description of the percentage of completion of the Project.

Section 7.5 Completion of Disbursement of Loan/Grant Funds. Upon the earlier of (1) the completion of the Project, or (2) the expenditure of the whole Loan/Grant Amount, an Authorized Officer of the Borrower/Grantee shall deliver a certificate to the Finance Authority and the Water Trust Board, substantially in the form of Exhibit "E" attached hereto, stating that, to his or her knowledge, either (1) the Project has been completed, or (2) that the portion of the Loan/Grant Amount needed to complete the Project has been disbursed in accordance with the terms of this Agreement. No portion of the Loan/Grant Amount shall be disbursed after the date which is three (3) years from the Closing Date, unless a later date is approved in writing by an Authorized Officer of the Water Trust Board and an Authorized Officer of the Finance Authority.

Section 7.6 Application of Project Account Subsequent to Disbursement of Loan/Grant Funds; Termination of Pledge. (a) Upon the completion of the Project as signified by delivery of the completion certificate required by Section 7.5 hereof, the Finance Authority shall determine, by reference to the Project Account, whether any portion of the authorized Loan/Grant Amount remains unexpended. The Finance Authority shall further determine, in its sole discretion, whether any portion of such unexpended Loan/Grant Amount consists of

Severance Tax Bond Funds and, if so, shall, within six (6) months of receipt of the completion certificate required by Section 7.5 hereof, cause such portion of the unexpended Loan/Grant Amount to be returned to the severance tax bond fund pursuant to NMSA 1978, § 7-27-10.1, as amended; (b) In the event that a portion of the Loan/Grant Amount remains unexpended after the date which is three (3) years from the Closing Date, and no later date has been approved by an Authorized Officer of each of the Finance Authority and the Water Trust Board, pursuant to Section 7.5 hereof, the Finance Authority shall further determine, in its sole discretion, whether any portion of such unexpended Loan/Grant Amount consists of Severance Tax Bond Funds and, if so, shall, within six (6) months of the date which is three (3) years after the Closing Date, cause such portion of the unexpended Loan/Grant Amount to be returned to the severance tax bond fund. Upon the occurrence of either event described in (a) or (b) above, the Finance Authority shall make the appropriate entry in the Project Account and, upon such entry, the pledge of the Loan/Grant Amount established in this Loan/Grant Agreement shall terminate.

## **ARTICLE VIII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS**

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

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

Section 8.3 Selection of Contractors. All contractors providing services or materials in connection with the Project shall be selected in accordance with applicable provisions of the New Mexico Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199, as amended, 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 8.4 Required Contract Provisions. The Borrower/Grantee shall require the following provisions in any contract or subcontract executed in connection with the Project to which the Borrower/Grantee is a party:

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

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

Section 8.5 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 Board Rules are incorporated into this Agreement by reference.

## **ARTICLE IX INSURANCE; NON-LIABILITY OF LENDERS/GRANTORS**

Section 9.1 Insurance. The Borrower/Grantee shall carry general liability insurance or participate in the State's risk-management program and, to the extent allowed by the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 through 41-4-30, as amended, shall and hereby agrees to name the Lenders/Grantors as additional insureds with respect to all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition, completion or implementation of the Project or otherwise during the Agreement Term; provided, that if any portion of the Project will be constructed, located, completed or extended on real property owned by a qualifying entity (as defined by the Act) other than the Borrower/Grantee, the Borrower/Grantee may obtain the written agreement of such other qualifying entity to perform these insurance/risk-management program requirements for Borrower/Grantee with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by such other qualifying entity that the Lenders/Grantors are third party beneficiaries of such written agreement.

### Section 9.2 Non-Liability of Lenders/Grantors.

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

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

(c) From and to the extent of the Pledged Revenues, and to the extent permitted by law, the Borrower/Grantee shall and hereby agrees to indemnify and save the Finance Authority and the Water Trust Board harmless against and from all claims, by or on behalf of any person, firm, corporation, or other legal entity, arising from the acquisition or operation of the Project during the Agreement Term, from: (i) any act of negligence or other misconduct of the Borrower/Grantee, or breach of any covenant or warranty by the

Borrower/Grantee hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan/Grant Agreement proceeds and interest on the investment thereof. The Borrower/Grantee shall indemnify and save the Finance Authority and the Water Trust Board harmless, from and to the extent of the available Pledged Revenues, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or the Water Trust Board, shall defend the Finance Authority or the Water Trust Board, as applicable, in any such action or proceeding.

## **ARTICLE X EVENTS OF DEFAULT AND REMEDIES**

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

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

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

(c) Any warranty, representation or other statement by or on behalf of the Borrower/Grantee contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement is determined to be false or misleading in any material respect.

(d) A petition is filed against the Borrower/Grantee under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests;

(e) The Borrower/Grantee files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(f) The Borrower/Grantee admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Borrower/Grantee for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests.

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

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

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

(b) Terminate this Agreement;

(c) Cease disbursing any further amounts from the Project Account;

(d) Demand that the Borrower/Grantee immediately repay the Loan/Grant Amount or any portion thereof if such funds were not utilized in accordance with this Agreement;

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

(f) By intervention in judicial proceedings that affect this Agreement or the Pledged Revenues; or

(g) Take whatever other action at law or in equity may appear necessary or desirable to enforce any other of its rights hereunder; or

(h) The Borrower/Grantee shall be responsible for reimbursing the Lenders/Grantors for any and all fees and costs incurred in enforcing the terms of this Agreement.

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

Section 10.5 Waivers of Events of Default. The Lenders/Grantors, collectively or individually, may, in the respective discretion of each, waive any Event of Default hereunder and the consequences of any such Event of Default; provided, however, all expenses of the Lenders/Grantors, collectively or individually, in connection with such Event of Default shall have been paid or provided for. Such waiver shall be effective only if made by a written statement of waiver issued by the Finance Authority and the Water Trust Board. In case of any such waiver or rescission, or in case any proceeding taken by the Lenders/Grantors, collectively or individually, on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Lenders/Grantors shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

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

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Borrower/Grantee shall default under any of the provisions hereof, and the Finance Authority or the Water Trust Board shall employ attorneys or incur other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower/Grantee herein contained, the Borrower/Grantee agrees that it shall, on demand therefor, pay to the Finance Authority or the Water Trust Board, as applicable, the fees of such attorneys and such other expenses so incurred, to the extent such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Borrower/Grantee under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

## 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 Las Vegas  
Attn.: City Manager  
1700 N. Grand Ave.  
Las Vegas, New Mexico 87701

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

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

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

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

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

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

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

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

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

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

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

*[Remainder of page intentionally left blank.]*

*[Signature pages follow.]*

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and the Water Trust Board, on behalf of itself, each have executed this Agreement, the terms of which were presented to the Water Trust Board on September 24, 2014 and approved by the Finance Authority's Board of Directors on September 25, 2014, 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 \_\_\_\_\_

CONSENTED TO:

NEW MEXICO WATER TRUST BOARD

By \_\_\_\_\_  
Chairman or Co-Chairman

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

VIRTUE & NAJJAR, PC  
As Loan/Grant Counsel

By \_\_\_\_\_  
Richard L. C. Virtue

Approved for Execution by Officers of the  
New Mexico Finance Authority:

By \_\_\_\_\_  
Daniel C. Opperman  
Finance Authority General Counsel

BORROWER/GRANTEE:

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By \_\_\_\_\_  
Alfonso E. Ortiz, Jr., Mayor

ATTEST:

By \_\_\_\_\_  
Casandra Fresquez, City Clerk

**EXHIBIT "A"**

**TERM SHEET**

**\$1,546,162 WATER PROJECT LOAN/GRANT TO THE  
CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO**

**Project Description:** The Project is for storage, conveyance or delivery of water to end users. The Loan/Grant Amount will be used only for Eligible Items necessary to complete the Project. In particular, the Project will consist of construction of a groundwater well to replace the Borrower/Grantee's Taylor Well No. 2 in the Taylor Well field, and shall include such other related work and revisions necessary to complete the Project. The Project may be further described in the Application and in the final plans and specifications for the Project approved by the Water Trust Board and the Finance Authority as provided by this Agreement. However, in the event of any inconsistency, the description of the Project as stated in this Term Sheet shall control.

**Grant Amount:** \$1,391,546

**Loan Amount:** \$154,616

**Pledged Revenues:** "Net System Revenues" means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacements and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water utility system.

**Outstanding  
Senior Obligations for  
Pledged Revenues:**

2013 NMFA DW Loan (2727-DW), Matures 6/2034;  
2013 NMFA DW Loan (2878-DW), Matures 6/2035;  
2013 NMFA DW Loan (2910-DW), Matures 6/2035;  
2013 NMFA DW Loan (2911-DW), Matures 6/2035;  
2014 NMFA DW Loan (3043-DW), Matures 6/2036; and  
2014 NMFA DW Loan (3046-DW), Matures 6/2036.

**Outstanding Parity  
Obligations:**

NMFA WTB Loan (061 WTB), Matures 6/2027;  
2011 NMFA WTB Loan (0197-WTB), Matures 6/2031;  
2011 NMFA WTB Loan (0218-WTB), Matures 6/2031;

2012 NMFA WTB Loan (0251-WTB), Matures 6/2032;  
and 2014 NMFA WTB Loan (0286-WTB), Matures  
6/2034.

**Authorizing Legislation:** Borrower/Grantee Ordinance No. 15-03,  
adopted April 15, 2015

**Additional Funding Amount:** \$309,232

**Closing Date:** May 22, 2015

**Project Account Amount:** \$1,546,162

**Expense Account Deposit:** \$0

**Administrative Fee:** 0.25%

Conditions to be satisfied prior to first disbursement of Loan/Grant funds: Delivery to Finance Authority of (i) a copy of the agenda of the meeting of the Governing Body at which the Ordinance was adopted and at which this Agreement, the 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 or record of proceedings of the Meeting, approved and signed by the Mayor and attested to by the City Clerk of the Borrower/Grantee, and (iii) a copy of the notice of meeting for the Meeting evidencing compliance with the Borrower/Grantee's Open Meetings standards in effect on the date of the Meeting.

Other Conditions applicable to the Loan/Grant: All Conditions defined in the Agreement.

**EXHIBIT "B"**

**FORM OF REQUISITION**

RE: \$1,546,162 Loan/Grant Agreement by and between the Water Trust Board and the Finance Authority, as Lenders/Grantors, and the City of Las Vegas, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 219-WTB

Closing Date: May 22, 2015

TO: NEW MEXICO FINANCE AUTHORITY

You are hereby authorized to disburse from the Project Account – City of Las Vegas 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:	_____

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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 Las Vegas. All representations contained in the Loan/Grant Agreement and the related closing documents remain true and correct and the Borrower/Grantee is not in breach of any of the covenants contained therein.

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

All construction and all installation of equipment with proceeds of the Loan/Grant has or will be used in accordance with plans and/or specifications approved on behalf of the Finance Authority the New Mexico Environment Department and/or the Office of the State Engineer, has or will be acquired in compliance with applicable procurement laws and regulations and has or will be inspected and approved in accordance with applicable laws and regulations.

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

**EXHIBIT "C"**

**PAYMENT PROVISIONS OF THE LOAN**

The Loan Amount shall be payable by the Borrower/Grantee to the Lenders/Grantors in twenty (20) annual installments of principal pursuant to the attached debt service schedule, beginning June 1, 2012 and ending June 1, 2031. The Loan Amount shall be prepayable at any time without penalty. The Administrative Fee shall be due and payable annually on June 1 of each year while the Loan, or any portion thereof, remains outstanding.

**EXHIBIT "D"**

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

Fund Recipient Names: <b>City of Las Vegas</b>		WTB Project Number: <b>219-WTB</b>	
Recipient Contact:		WTB Project Name: <b>Taylor Well #2 Replacement</b>	
Phone Number:		Project Type: <b>Water Storage, Conveyance &amp; Delivery</b>	
Quarterly Project Report <input type="checkbox"/>		Final <input type="checkbox"/>	Other <input type="checkbox"/>
Report Period: From - ___ / ___ / ___		To - ___ / ___ / ___	
Contract Expiration: _____			
Total WTB Award: \$ _____ Current Balance: \$ _____			
Loan % <b>10</b> Grant % <b>90</b> Match % <b>20</b>			
Expected WTB Award Expenditure Next Quarter: \$ _____			
Amount of Local Match Expended to Date: \$ _____			
Expected Local Match Expenditure Next Quarter: \$ _____			
Project Phase: Planning <input type="checkbox"/> Design <input type="checkbox"/> Construction <input type="checkbox"/>			
PROJECT TIME: Original Completion Date: _____			
Current Completion Date: _____			
Days Remaining for Completion _____			
Percent Project is Complete _____ % On Schedule? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Briefly Describe Project Progress During This Reporting Period:			
Issues Addressed During This Period (Indicate any current and/or anticipated issues that remain unresolved):			
Goals/Milestones With Timeline or Dates For The Next Reporting Period:			
Name and Title of Authorized Representative: (Print)		Authorized Representative Signature:	
Date: _____			

**EXHIBIT "E"**

**FORM OF CERTIFICATE OF COMPLETION**

RE: \$1,546,162 Loan/Grant Agreement by and between the Water Trust Board and the Finance Authority, as Lenders/Grantors, and the City of Las Vegas, as Borrower/Grantee (the "Loan/Grant Agreement")

Loan/Grant No. 219-WTB

Closing Date: May 22, 2015

TO: NEW MEXICO FINANCE AUTHORITY

I, \_\_\_\_\_, the \_\_\_\_\_ of the  
[Name] [Title or position]

Borrower/Grantee, hereby certify as follows:

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

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

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

4. Cost of the Project paid from the Additional Funding Amount was \$ \_\_\_\_\_.

5. The portion of the Loan/Grant Amount unexpended for the Project is \$ \_\_\_\_\_.

6. 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 LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

By: \_\_\_\_\_

Its: \_\_\_\_\_

SOURCES AND USES OF FUNDS

City of Las Vegas  
0218-WTB: Water Project (10% Loan Component)

Sources:

---

<b>Bond Proceeds:</b>	
Par Amount	33,000.00
	<hr/>
	33,000.00

---

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Uses:

---

<b>Project Fund Deposits:</b>	
Project Fund	33,000.00
	<hr/>
	33,000.00

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BOND SUMMARY STATISTICS

City of Las Vegas  
0218-WTB: Water Project (10% Loan Component)

Dated Date	12/02/2011
Delivery Date	12/02/2011
Last Maturity	06/01/2031
Arbitrage Yield	0.250011%
True Interest Cost (TIC)	0.250011%
Net Interest Cost (NIC)	0.250011%
All-In TIC	0.250011%
Average Coupon	0.250011%
Average Life (years)	10.321
Duration of Issue (years)	10.157
Par Amount	33,000.00
Bond Proceeds	33,000.00
Total Interest	851.54
Net Interest	851.54
Total Debt Service	33,851.54
Maximum Annual Debt Service	1,736.66
Average Annual Debt Service	1,736.22
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	
<hr/>	
Total Underwriter's Discount	
Bid Price	100.000000

Bond Component	Par Value	Price	Average Coupon	Average Life
Bond Component	33,000.00	100.000	0.250%	10.321
	33,000.00			10.321

	TIC	All-In TIC	Arbitrage Yield
Par Value	33,000.00	33,000.00	33,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense			
- Other Amounts			
Target Value	33,000.00	33,000.00	33,000.00
Target Date	12/02/2011	12/02/2011	12/02/2011
Yield	0.250011%	0.250011%	0.250011%

## BOND DEBT SERVICE

City of Las Vegas  
0218-WTB: Water Project (10% Loan Component)

Period Ending	Principal	Coupon	Interest	Debt Service
06/01/2012	822	0.250%	41.02	863.02
06/01/2013	1,656	0.250%	80.44	1,736.44
06/01/2014	1,660	0.250%	76.30	1,736.30
06/01/2015	1,664	0.250%	72.16	1,736.16
06/01/2016	1,668	0.250%	68.00	1,736.00
06/01/2017	1,672	0.250%	63.82	1,735.82
06/01/2018	1,677	0.250%	59.64	1,736.64
06/01/2019	1,681	0.250%	55.46	1,736.46
06/01/2020	1,685	0.250%	51.26	1,736.26
06/01/2021	1,689	0.250%	47.04	1,736.04
06/01/2022	1,693	0.250%	42.82	1,735.82
06/01/2023	1,698	0.250%	38.58	1,736.58
06/01/2024	1,702	0.250%	34.34	1,736.34
06/01/2025	1,706	0.250%	30.08	1,736.08
06/01/2026	1,710	0.250%	25.82	1,735.82
06/01/2027	1,715	0.250%	21.54	1,736.54
06/01/2028	1,719	0.250%	17.26	1,736.26
06/01/2029	1,723	0.250%	12.96	1,735.96
06/01/2030	1,728	0.250%	8.66	1,736.66
06/01/2031	1,732	0.250%	4.34	1,736.34
	33,000		851.54	33,851.54

**\$1,546,162**  
**CITY OF LAS VEGAS, SAN MIGUEL COUNTY, NEW MEXICO**  
**WATER PROJECT FUND LOAN/GRANT**  
**NO. 219-WTB**

STATE OF NEW MEXICO            )  
  ) ss.  
COUNTY OF SAN MIGUEL        )

**GENERAL AND**  
**NO LITIGATION**  
**CERTIFICATE**

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Mayor and City Clerk for the City of Las Vegas (the "Borrower/Grantee") in San Miguel County and in the State of New Mexico (the "State"):

Capitalized terms used in this Certificate have the same meaning as defined in Ordinance No. 15-03 adopted by the Governing Body of the Borrower/Grantee on April 15, 2015 (the "Ordinance") unless otherwise defined in this Certificate or the context requires otherwise.

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

2. From at least September 25, 2014 to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers of the Borrower/Grantee:

Mayor:	Alfonso E. Ortiz, Jr.
Councilors:	Tonita Gurule Giron Vincent Howell Joseph Herrera David Romero
City Clerk:	Cassandra Fresquez
Finance Director:	Ann Marie Gallegos
Interim City Manager:	Elmer Martinez
Attorney:	David Romero

3. Based on data collected during the 2010 Census, the population of the City of Las Vegas is less than 75% English speaking and less than 75% Spanish speaking.

4. Notice of the public hearing on the Ordinance and of the adoption of the Ordinance was published in English in the *Las Vegas Optic*, a newspaper of general circulation in the City of Las Vegas, which is published in English.

5. There is no reason within our knowledge and belief after due investigation, why the Borrower/Grantee may not enter into the Amended and Restated Loan/Grant Agreement (the "Agreement or Loan/Grant Agreement") with the New Mexico Finance Authority and the Water Trust Board, as authorized by the Ordinance.

6. The Borrower/Grantee has duly authorized the execution, delivery and performance of its obligations under the Agreement. The Agreement has been duly authorized, executed and delivered by the Borrower/Grantee.

7. The Ordinance has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Ordinance. The Ordinance constitutes valid and sufficient legal authority for the Borrower/Grantee to carry out and enforce the provisions of the Agreement. No referendum petition has been filed with respect to the Ordinance under the provisions of the laws, bylaws or regulations of the Borrower/Grantee or the State.

8. No event will result from the execution and delivery of the Agreement that constitutes a default or an event of default under the Agreement or the Ordinance, and no event of default and no default under the Agreement or the Ordinance have occurred and are continuing on the date of this Certificate.

9. The Borrower/Grantee has duly authorized and approved the consummation by it of all transactions and has complied with all requirements and satisfied all conditions, which are required by the Agreement to have been authorized, approved, performed or consummated by the Borrower/Grantee at or prior to the date of this Certificate. The Borrower/Grantee has full legal right, power and authority to carry out and consummate the transactions contemplated by the Ordinance and the Agreement.

10. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the financing of the Project, the enforceability of the Agreement or any of the actions required to be taken by the Ordinance or the Agreement on or prior to the date of this Certificate have been obtained and are in full force and effect.

11. To the best of the Borrower/Grantee's knowledge after due investigation, neither the Borrower/Grantee's adoption of the Ordinance nor any action contemplated by or pursuant to the Ordinance or the Agreement does or will conflict with, or constitute a breach by the Borrower/Grantee of, or default by the Borrower/Grantee under, any law, court decree or order, governmental regulation, rule or order, resolution, agreement, indenture, mortgage or other instrument to which the Borrower/Grantee is subject or by which it is bound.

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

13. To the best of our knowledge and belief after due investigation, none of the events of default referred to in Article X of the Loan/Grant Agreement has occurred.

14. Subsequent to the adoption of the Ordinance, the Borrower/Grantee has not pledged or otherwise encumbered the Pledged Revenues.

15. The Agreement permits the Borrower/Grantee to issue additional bonds or other obligations with a lien on the Pledged Revenues, superior to, on parity with or subordinate to the lien of the Loan/Grant Agreement on the Pledged Revenues.

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

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

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

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

20. Regular meetings of the Borrower/Grantee's Governing Body and the meeting at which the Ordinance was adopted have been held at 1700 North Grand Avenue, Las Vegas, New Mexico 87701, the principal meeting place of the Borrower/Grantee.

21. The Borrower/Grantee's Governing Body has no rules of procedure which would invalidate or make ineffective the Ordinance or other action taken by the Borrower/Grantee's Governing Body in connection with the Loan/Grant Agreement. The Open Meetings Act Resolution ("Open Meeting Act Resolution") adopted and approved by the Governing Body on

January 21, 2015 establishes notice standards for meetings of the Governing Body. The Open Meetings Act Resolution No. 15-01 has not been amended or repealed. All action of the Governing Body with respect to the Ordinance and the Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution No. 15-01 and has not been amended, repealed or rescinded.

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

23. Nothing has occurred that would adversely affect the Final Opinion of Counsel signed by Dave Romero, as attorney for the Borrower/Grantee on December 2, 2011. The December 2, 2011, Final Opinion of Counsel remains in full force and effect.

24. Nothing has occurred that would adversely affect the Right of Way Certificate signed by Dave Romero as attorney for the Borrower/Grantee on December 2, 2011. The December 2, 2011, Right of Way Certificate remains in full force and effect.

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

26. This Certificate may be executed in counterparts.

*[Signature page follows.]*

WITNESS our signatures and the seal of the Borrower/Grantee this 22nd day of May, 2015.

CITY OF LAS VEGAS,  
SAN MIGUEL COUNTY, NEW MEXICO

(SEAL)

By \_\_\_\_\_  
Alfonso E. Ortiz, Jr., Mayor

By \_\_\_\_\_  
Casandra Fresquez, City Clerk

Paragraphs 7,9,16, 23 & 24 are approved and confirmed.

By \_\_\_\_\_  
Dave Romero,  
Attorney for Borrower/Grantee

**CITY COUNCIL MEETING AGENDA REQUEST**

**DATE:** 04/06/2015    **DEPT:** Human Resource    **MEETING DATE:** 04/15/15

**ITEM/TOPIC:** Ordinance 15-05 Amending Chapter 48. Labor Management Relations

**ACTION REQUESTED OF COUNCIL:** Approval/Disapproval to Publish Ordinance 15-05 amending Chapter 48 Labor management Relations, §48-14. Scope of Bargaining.

**BACKGROUND/RATIONALE:** Pursuant to the State Labor Board's review of Chapter 48, it is their recommendation to amend Chapter 48, Labor Management Relations to allow the following language to be added to §48-14, Scope of Bargaining; **G. Fair Share is a permissive subject of bargaining.**

**STAFF RECOMMENDATION:** Approve

**COMMITTEE RECOMMENDATION:**

**THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY MANAGER'S OFFICE NO LATER THAN 10:00 A.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.**



\_\_\_\_\_  
**SUBMITTER'S SIGNATURE**

**REVIEWED AND APPROVED BY:**



\_\_\_\_\_  
**ALFONSO E. ORTIZ, JR.**  
**MAYOR**



\_\_\_\_\_  
**ELMER J. MARTINEZ**  
**CITY MANAGER**

\_\_\_\_\_  
**ANN MARIE GALLEGOS**  
**FINANCE DIRECTOR**

\_\_\_\_\_  
**PURCHASING AGENT**  
**(FOR BID AWARD ONLY)**

\_\_\_\_\_  
**DAVE ROMERO, JR**  
**CITY ATTORNEY**

Approved as to Legal Sufficiency Only

**(If Box is Initialed by City Mngr., Review and Sign)**

**CITY OF LAS VEGAS**

**ORDINANCE NO. 15-05 AMENDING**

**CHAPTER 48. LABOR MANAGEMENT RELATIONS**

**AN ORDINANCE AMENDING § 48-14. SCOPE OF BARGAINING.**

**BE IT ORDERED BY THE CITY COUNCIL, THE GOVERNING BODY OF THE CITY OF LAS VEGAS, THAT §48-14. SCOPE OF BARGAINING WILL BE AS FOLLOWS:**

**§48-14. Scope of Bargaining**

G. Fair share is a permissive subject of bargaining.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF LAS VEGAS:

\_\_\_\_\_  
Alfonso E. Ortiz Jr., Mayor

ATTEST:

\_\_\_\_\_  
Casandra Fresquez, City Clerk

REVIEWED AND APPROVED AS TO FORM:

\_\_\_\_\_  
Dave Romero, Jr., City Attorney

**CITY COUNCIL MEETING AGENDA REQUEST**

**DATE:** April 10, 2015    **DEPT:** Executive    **MEETING DATE:** April 15, 2015

**ITEM/TOPIC:** Architectural/ engineering services for the Las Vegas Senior Citizen Center Renovation and Expansion Project

**ACTION REQUESTED OF COUNCIL:** Approval/disapproval to authorize staff to proceed with contract negotiations.

**BACKGROUND/RATIONALE:** The City of Las Vegas solicited proposals for the architectural/engineering services for the Las Vegas Senior Citizen Center Renovation and Expansion Project. Two proposals were received and ranked, based on the Technical Review Committee's recommendations, Council is asked to authorize staff to enter in to contract negotiations with the most qualified firm for referenced services.

**STAFF RECOMMENDATION:** Approval

**COMMITTEE RECOMMENDATION:**

**THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY MANAGER'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.**

**REVIEWED AND APPROVED BY:**



**ALFONSO E. ORTIZ, JR.**  
MAYOR



**ELMER J. MARTINEZ**  
CITY MANAGER

**SUBMITTER'S SIGNATURE**



**ANN MARIE GALLEGOS**  
FINANCE DIRECTOR  
(PROCUREMENT)

**PURCHASING AGENT**  
(FOR BID/RFP AWARD)

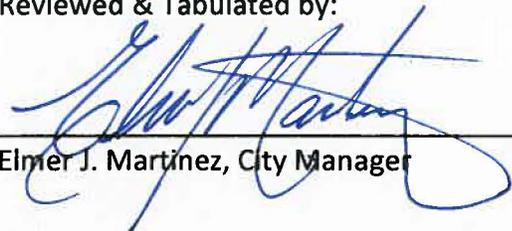
**DAVE ROMERO**  
CITY ATTORNEY  
(ALL CONTRACTS MUST BE  
REVIEWED)

RFP Technical Evaluation Team Tabulation Sheet

RFP #2015-27 Professional Design Services for the Renovation and  
Expansion of the Las Vegas Senior Center

FIRM	Soliel West	WH Pacific
Reviewer #1	144	138
Reviewer # 2	165	146
Reviewer #3	165	153
<b>TOTAL</b>	<b>474</b>	<b>437</b>

Reviewed & Tabulated by:

  
Elmer J. Martinez, City Manager

  
Date