



# Albuquerque Bernalillo County Water Utility Authority

Albuquerque/Bernalillo  
County  
Government Center  
One Civic Plaza  
Albuquerque, NM 87102

## Agenda

*Councilor Trudy E. Jones, Chair*  
*Commissioner Debbie O'Malley, Vice-Chair*  
*Councilor Pat Davis*  
*Mayor Timothy M. Keller*  
*Councilor Klarissa J. Peña*  
*Commissioner Steven Michael Quezada*  
*Commissioner Lonnie C. Talbert*  
*Trustee Pablo Rael*

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Wednesday, May 23, 2018

5:00 PM

Vincent E. Griego Chambers

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1. **CALL TO ORDER**
2. **INVOCATION/PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF MINUTES - April 18, 2018**
4. **PROCLAMATIONS AND AWARDS**
5. **PUBLIC COMMENT**
6. **ANNOUNCEMENTS/COMMUNICATIONS**
- A. **Next Scheduled Meeting - June 20, 2018 at 5:00 PM**
7. **INTRODUCTION (FIRST READING) OF LEGISLATION**
- A. [O-18-6](#) Amending the Cross Connection Prevention and Control Ordinance
8. **CONSENT AGENDA**

*(Any Board Member may request that a Consent Agenda item be placed under Approvals)*

- A. [O-18-5](#) Authorizing the Execution and Delivery of a Loan and Subsidy Agreement ("Loan Agreement") By and Between the Albuquerque Bernalillo County Water Utility Authority ("Water Authority") and the New Mexico Finance Authority, Evidencing a Special Limited Obligation of the Water Authority to Pay a Principal Amount of No More Than Two Hundred Fifty Thousand Dollars (\$250,000), Together With Interest, Costs of Issuance and Administrative Fees Thereon, and to Accept a Loan Subsidy of No More Than Seven Hundred Fifty Thousand Dollars (\$750,000), For the Purpose of Financing the Cost of Extending and Improving the Water Infrastructure

System to the Carnuel Community, Including, Acquisition and Installation of Water Distribution Lines; Providing for the Pledge and Payment of the Principal, Interest and Administrative Fees Due Under the Loan Agreement Solely From Net Revenues; Setting a Maximum Interest Rate for the Loan; Approving the Form of and Other Details Concerning the Loan Agreement; Ratifying Actions Heretofore Taken; Repealing All Action Inconsistent With This Ordinance; and Authorizing the Taking of Other Actions In Connection With the Execution and Delivery of the Loan Agreement

- B. [R-18-11](#) Approval of the Execution and Delivery of a Loan and Subsidy Agreement (the "Loan Agreement") by and Between the Albuquerque Bernalillo County Water Utility Authority (the "Water Authority") and the New Mexico Finance Authority Evidencing a Special Limited Obligation of the Water Authority to Pay a Principal Amount of No More than Two Hundred Fifty Thousand Dollars (\$250,000), Together with Interest, Costs of Issuance and Administrative Fees Thereon, and to Accept a Loan Subsidy of No More than Seven Hundred Fifty Thousand Dollar (\$750,000); and Ratifying Action Previously Taken in Connection Therewith
- C. [R-18-15](#) Authorizing the Removal of Certain Uncollectable Accounts from the Albuquerque Bernalillo County Water Utility Authority Accounts Receivable Records FY2013 and Prior
- D. [R-18-16](#) Delegation of Authority for Declaration of Surplus and the Disposition of Surplus from the Albuquerque Bernalillo County Water Utility Authority Public Property
- E. [C-18-13](#) Service Connection Agreement for Water and Sewer Service with Rappaport Family, LLC for Perfection Honda Storage
- F. [C-18-14](#) Recommendation of Award, Lockbox Services P2018000007
- G. [C-18-15](#) FY18 3rd Quarter Operating Financial Reports
- H. [C-18-16](#) Purchase Order Increase for Intera Incorporated Third-Party Technical Review of Documents, Analyses and Data produced for the Kirtland Air Force Base Bulk Fuels Facility Leak Site
- I. [C-18-17](#) FY2018 Third Quarter Performance Indicator Report

**9. APPROVALS**

- A. [O-18-3](#) Repealing Section Six, the Albuquerque Bernalillo County Water Utility Authority Selection Advisory Committee Ordinance, to Coincide with the Adoption of the County of Bernalillo Procurement Ordinance
- B. [O-18-4](#) Amending the Albuquerque Bernalillo County Water Utility Authority Water

and Sewer Rate Ordinance to Update the Utility Financial Policy to Establish a Water 2120 Fund (R-16-12); Update the Minimum Committed Expenditures to \$40 Million in the Water and Sewer Rehabilitation Fund; Update the Utility Expansion Charge, Water Supply Charge, Septic Tank, and Chemical Toilet Charge by 2.60% Based on the Engineering News Report Index; and Update Appendix C Post Issuance Compliance Policy

- C. [R-18-12](#) Appropriating Funds for Operating the Albuquerque Bernalillo County Water Utility Authority for Fiscal Year Beginning July 1, 2018 and Ending June 30, 2019
- D. [R-18-13](#) Appropriating Funds for the Capital Implementation of the Albuquerque Bernalillo County Water Utility Authority for the Fiscal Year Beginning July 1, 2018 and Ending June 30, 2019
- E. [R-18-14](#) Adopting the County of Bernalillo Purchasing Ordinance for the Albuquerque Bernalillo County Water Utility Authority

**10. OTHER BUSINESS**

- A. [OB-18-8](#) Water Report
- B. [OB-18-9](#) Annual Operating Plan

**11. ADJOURNMENT**

*Visit Our Website at [www.abcwua.org](http://www.abcwua.org)*

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Authority Office as soon as possible before the meeting date at 289-3100 or by the TTY at 1-800-659-8331.



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Meeting Date: May 23, 2018

Staff Contact: Mark Kelly, Compliance Division Manager

**TITLE: O-18-6 - Amendment to the Cross Connection Prevention and Control Ordinance of the Albuquerque Bernalillo County Water Utility Authority.**

**ACTION: First Reading May 23, 2018; Final Action June 20, 2018**

**BACKGROUND:**

The Water Authority last updated the Cross Connection Prevention and Control Ordinance in 2008. The ordinance protects the public water supply from actual or potential contamination hazards. The New Mexico Environment Department, which administers the Safe Drinking Water Act in New Mexico requires the prevention of cross connections in the drinking water regulations.

**SUMMARY:**

The Cross Connection Prevention and Control Ordinance is being changed to provide clarity and options for contractors and installers. The ordinance is now clear that backflow prevention devices may be installed inside of a building as long as there are no tees or branches between a device and the service connection. The ordinance is now in compliance with the Construction Industries Licensing Act and allows devices that are independently certified by organizations accredited by the American National Standards Institute (ANSI). Fees for late test reports and not having a backflow preventer were added for non-compliance with the ordinance. Previously the only recourse for the Water Authority was to terminate service.

**FISCAL IMPACT:**

An increase in revenue may be seen from the collection of additional fees. It is the goal of the Cross Connection Program to work with customers to bring them into compliance before fees are needed.



**BILL NO. 0-18-6**

1                   (2)     Establish and maintain a Cross Connection control program that will  
2 systematically and effectively prevent the contamination or pollution of all potable water  
3 systems under the jurisdiction of the Water Authority.

4                   (D)     This Ordinance provides for monitoring, compliance and enforcement  
5 activities; establishes administrative and judicial review procedures; requires submission  
6 of test reports; and provides for the setting of fees for inspection and administration.

7     8-1-4. DEFINITIONS.

8                   For the purpose of this Ordinance, the following definitions shall apply unless the  
9 context clearly indicates or requires a different meaning.

10                  APPROVED BACKFLOW PREVENTION ASSEMBLY. An assembly or other  
11 means designed to prevent backflow. The assembly shall either be listed by the  
12 Foundation for Cross Connection Control and Hydraulic Research of the University of  
13 Southern California or listed by an ANSI Accredited Listing Agency. All devices must be  
14 in compliance with the State of New Mexico Drinking Water Regulations. The device shall  
15 be limited to the following method and four (4) types of assemblies unless otherwise  
16 stated:

17                  (1)     AIR-GAP. The unobstructed vertical distance through the free atmosphere  
18 between the lowest opening from any pipe or faucet conveying potable water into a tank,  
19 plumbing fixture, receptor and the flood level rim of the receptacle. An approved air gap  
20 shall be at least double the effective opening of the supply pipe or faucet and in no case  
21 less than one (1) inch above the flood level. An Air-Gap is the only Backflow Prevention  
22 method approved between potable water and sewage, and between reclaimed water and  
23 sewage.

24                  (2)     PRESSURE VACUUM BREAKER. Shall consist of one independently  
25 operating spring-loaded check valve and an independently operating spring-loaded air  
26 inlet valve located on the discharge side of the check valve, two full-ported, resilient  
27 seated shut-off valves and equipped with two (2) properly located resilient seated test  
28 cocks.

29                  (3)     REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION  
30 ASSEMBLY. Shall consist of two independently acting check valves together with a

1 hydraulically operating, mechanically independent pressure differential relief valve  
2 located between the check valves, including two full-ported, resilient seated shut-off  
3 valves at each end of the assembly, and equipped with four (4) properly located resilient  
4 seated test cocks. A reduced pressure principle backflow prevention assembly is  
5 approved for containment backflow prevention assembly.

6 (4) SPILL-RESISTANT PRESSURE VACUUM BREAKER. Shall consist of one  
7 independently operating spring-loaded check valve and an independently operating  
8 spring-loaded air inlet valve located on the discharge side of the check valve, two full-  
9 ported, resilient seated shut-off valves and equipped with properly located resilient seated  
10 test cock and vent valve.

11 (5) DOUBLE CHECK VALVE ASSEMBLY. Shall consist of two independently  
12 acting, approved check valves, including two full-ported, resilient seated shut-off valves  
13 at each end of the assembly and equipped with four properly located resilient seated test  
14 cocks.

15 ALTERNATE WATER SOURCE. Non-potable source of water that includes, but  
16 not limited to gray water, on-site treated non-potable water, rainwater, and reclaimed  
17 (recycled) water.

18 AUXILIARY WATER SUPPLY. Any water source on or available to a premise other  
19 than potable water from the Water Authority. Auxiliary water supply may include water  
20 from another purveyor's public potable water supply or any natural source such as a well.

21 BACKFLOW PREVENTION ASSEMBLY, CONTAINMENT. An approved  
22 assembly installed in a customer's water system to protect the public water system from  
23 an actual or potential threat of contamination or pollution of the public water system.

24 BACKFLOW PREVENTION ASSEMBLY, ISOLATION. An assembly installed  
25 within the customer's water system at the point of each cross connection to protect the  
26 customer's potable water system from other non-potable water sources within the  
27 customer's water system.

28 BACKFLOW. The undesirable reversal of water flow.

29 BUILDING SUPPLY. The pipe carrying water from the public system or other  
30 source of water supply to a building or other point of use or distribution on the premises.

1 CERTIFIED BACKFLOW PREVENTION ASSEMBLY TESTER. A person who is  
2 currently certified by the Water Authority to test backflow prevention assemblies.

3 CERTIFIED BACKFLOW PREVENTION ASSEMBLY REPAIRMAN. A person  
4 who is a certified backflow prevention assembly tester and licensed by the appropriate  
5 mechanical classification to repair or replace backflow prevention devices in accordance  
6 with the New Mexico Construction Industries Licensing Act, NMSA 1978, §§60-13-1  
7 through 60-13-59 , and is a current certified backflow prevention assembly tester by the  
8 Water Authority.

9 CONTAMINATION. Contamination is any hazardous substance that may cause  
10 death, illness, injury, or the spread of disease if introduced into a potable water system.  
11 Contamination includes, but is not limited to: corrosion inhibitors, anti-freeze solutions,  
12 chemical water treatment for boilers and cooling systems; fertilizers, herbicides and  
13 pesticides used in irrigation systems; heavy metals and total coliform bacteria found in  
14 fire systems; and other hazardous substances.

15 CROSS CONNECTION. An actual or potential connection between a potable  
16 water system and a non-potable water source.

17 CROSS CONNECTION CONTROL CONTAINMENT. The protection of the public  
18 water system by the installation of an approved backflow prevention assembly after each  
19 service connection to a customer's water system from the public water system with no  
20 tees, branches or possible connection fittings or openings are allowed between the  
21 containment backflow prevention assembly and the service connection, unless protected  
22 by a Backflow Prevention Assembly.

23 CROSS CONNECTION ENGINEER. The person designated by the Executive  
24 Director of the Water Authority as a technical expert in cross connection matters  
25 responsible for enforcing the cross connection control ordinance. The Cross Connection  
26 Engineer shall be a registered professional engineer in accordance with the State of New  
27 Mexico Board of Licensure for Professional Engineers and Surveyors, pursuant to the  
28 Engineering and Surveying Practice Act, NMSA 1978, §§ 61-23-1 through 61-23-32, and  
29 meet all the requirements of the job description approved by the Executive Director, and  
30 be a certified backflow prevention assembly tester.

1 CROSS CONNECTION OPERATIONS AND MAINTENANCE SUPERVISOR/  
2 INSPECTOR. The person(s) designated by the Water Authority to assist the Cross  
3 Connection Manager in the enforcement of the Ordinance and who is charged with certain  
4 duties and responsibilities by this Ordinance. The Cross Connection Operations and  
5 Maintenance Supervisor/Inspector shall be a certified Water Operator Level IV and be a  
6 certified backflow prevention assembly tester.

7 CROSS CONNECTION MANAGER. The person designated by the Water  
8 Authority to enforce the Ordinance and who is charged with certain duties and  
9 responsibilities by this Ordinance. The Cross Connection Program shall be a certified  
10 Water Operator Level IV and be a certified backflow prevention assembly tester.

11 CUSTOMER. Any person, association, corporation, or entity receiving Water Utility  
12 service, related products or services in the Service Area.

13 CUSTOMER'S WATER SYSTEM. The water system on a customer's premises  
14 beginning at the service connection.

15 DOMESTIC SERVICE. Service line for potable drinking water.

16 EXECUTIVE DIRECTOR. The Executive Director of the Water Authority or his/her  
17 designee.

18 NON-RESIDENTIAL WATER CUSTOMER. Any water customer who is served by  
19 the public water system and is classified in the Water Authority Water and Sewer Rate  
20 Ordinance as follows:

21 (1) Commercial. Retail, offices, hotels, motels, shopping centers, none of which  
22 use process water in the conduct of business.

23 (2) Industrial. Manufacturing or process facility, which is engaged in producing  
24 a product.

25 (3) Institutional. Government buildings, hospitals, schools, and other facilities  
26 that provide public and quasi-public services.

27 (4) Multifamily dwelling of three or more stories.

28 POLLUTION. A low hazard substance that will degrade the taste, color, odor or  
29 other aesthetic quality of the water if introduced into a potable water system, but will not  
30 cause death, injury or spread of disease. Pollution includes, but is not limited to, backflow

1 of domestic water from tall buildings; backflow of domestic hot water from water heaters;  
2 and other similar low hazard substances.

3 PREMISES. A building, a tract of land with buildings, or parts of buildings thereon.

4 PRIVATE FIRE PROTECTION SYSTEM. A Private Fire Protection System begins  
5 at the property boundary or at the water utility easement boundary to a customer's  
6 premises. The Private Fire Protection System includes sprinkler, hose connections,  
7 hydrants, reservoirs, tanks, standpipes, pumps, distribution pipes, and other  
8 appurtenances within a premises that are owned, operated and maintained by the  
9 customer for the purpose of fire suppression.

10 PUBLIC WATER SYSTEM. The potable water system that supplies water service  
11 to residential and non-residential water customers within the service area of the Water  
12 Authority.

13 RESIDENTIAL WATER CUSTOMER. Any water customer who is served by the  
14 public water system and classified in the Water Authority Water and Sewer Rate  
15 Ordinance as follows:

- 16 (1) single-family detached,
- 17 (2) condominiums served by individual meters
- 18 (3) townhouses served by individual meters,
- 19 (4) duplexes served by individual meters,
- 20 (5) mobile homes served by individual meters,
- 21 or, for the purpose of the Cross Connection Ordinance
- 22 (6) multi-family dwelling of less than three (3) stories.

23 SERVICE AREA. Those parts of Bernalillo County and contiguous territory served  
24 by the Water Authority.

25 SERVICE CONNECTION. The terminal end of the water service from the public  
26 water system and point of delivery to the customer's water system, more particularly  
27 defined as follows:

- 28 (1) The service connection for a metered water service is the downstream end  
29 of the water meter or meter setter,

(2) The service connection for un-metered water services and private fire protection systems located at the property boundary or at the water utility easement boundary to a customer's premises; or

(3) The service connection for a fire hydrant and all other temporary or emergency water services that is located at the point of connection to the public water system.

SEWAGE. Wastewater and excrement conveyed in sewers.

WATER AUTHORITY. The Albuquerque Bernalillo County Water Utility Authority.

WATER, POTABLE. Water delivered by the public water system intended for human consumption and meeting Federal and State drinking water standards.

WATER, NON-POTABLE. Water that does not meet Federal and State drinking water standards. Water that is not safe for human consumption or that is of questionable quality. Any water delivered by the non-potable water system and intended for irrigation, industrial or used for other allowable non-potable applications.

WATER, USED. Any water delivered by the public water system to a customer's water system after it has passed the service connection.

#### 8-1-5. ADOPTION OF TECHNICAL SPECIFICATIONS.

The Water Authority may adopt technical specifications to define backflow prevention assembly installation standards from, but not limited to, the International Association of Plumbing and Mechanical Officials (IAPMO) Uniform Plumbing Code (UPC), and the University of Southern California Manual of Cross Connection Control. The Water Authority shall update the Water Authority's portion of the City of Albuquerque Standards and Specifications for Public Works Construction to incorporate the provisions of this Ordinance.

#### 8-1-6. RESPONSIBILITY.

It shall be the responsibility of the Water Authority to administer and enforce the provisions of this Ordinance. This Ordinance also assigns responsibilities to customers, certified backflow prevention assembly testers, and repairmen as described in this section.

1           (A)     Water Authority. The Water Authority shall be responsible for the protection  
2 of the public water system from contamination or pollution due to the backflow of  
3 contaminants or pollutants through the water service connection. The Water Authority  
4 shall enforce all provisions of this Ordinance that relate to cross connection control by  
5 containment; shall approve all cross connection containment control backflow prevention  
6 assemblies; shall administer a continuing cross connection control program; maintain a  
7 customer and current backflow prevention assembly data base; and shall not knowingly  
8 install, maintain, or approve installation of a water service connection unless the public  
9 water system is protected, as required by this Ordinance.

10          (B)     Customer. All customers shall be responsible, without further notice, for the  
11 prevention of contaminants, pollutants, water from alternate sources, or water from  
12 auxiliary water supplies from entering the public water system. Customers shall provide  
13 approved backflow prevention assemblies as required by local plumbing codes and this  
14 Ordinance. Regardless of the location of the containment backflow prevention assembly,  
15 the customer's responsibility begins at the service connection and extends throughout the  
16 entire length of the water system within the premises. No tees, branches or possible  
17 connection fittings or openings are allowed between the containment backflow prevention  
18 assembly and the service connection. Customers shall install, have tested, and maintain,  
19 at their own expense, backflow prevention assemblies as directed by the Water Authority.

20          (C)     Certified backflow prevention assembly tester. Only certified backflow  
21 prevention assembly testers are permitted to inspect and test backflow prevention  
22 assemblies. They shall complete and provide accurate test reports to the Cross  
23 Connection Manager and Customer. They shall submit test gauge calibration test reports  
24 annually to the Cross Connection Manager. They shall report to the Customer and the  
25 Cross Connection Manager any discovered discrepancies or violations that the tester may  
26 have observed during the course of testing a backflow prevention assembly.

27          (D)     Certified backflow prevention assembly repairman. Only certified backflow  
28 prevention assembly repairmen are permitted to inspect, repair, replace, and test  
29 backflow prevention assemblies. They shall complete and provide accurate test reports  
30 to the Cross Connection Manager and Customer. They shall submit test gauge calibration



certification annually to the Cross Connection Manager. They shall report to the Customer and the Cross Connection Manager any discovered discrepancies or violations which the repairman may have observed during the course of testing and or repairing a backflow prevention assembly. Such repairman shall not change the design, material or operational characteristics of a backflow prevention assembly without prior approval of the Cross Connection Manager.

#### 8-1-7. REQUIREMENTS.

(A) Mandatory cross connection control by containment:

(1) Effective February 15, 2009, all new non-residential premises shall have a containment reduced pressure principle backflow prevention assembly approved by the Water Authority installed after the domestic service connection, as set forth in the UPC and this Ordinance. No tees, branches or possible connection fittings or openings are allowed between the containment backflow prevention assembly and the service connection unless protected by a Backflow Prevention Assembly .

(2) Effective February 15, 2009, all remodeled non-residential premises, when the work area of the building undergoing repairs, alterations or rehabilitation, as defined in the International Existing Building Code, exceeds 50 percent of the aggregate area of the building regardless of the costs of repairs, alteration, or rehabilitation, shall have a containment reduced pressure principle backflow prevention assembly approved by the Water Authority installed after the domestic service connection, as set forth in the UPC and this Ordinance. No tees, branches or possible connection fittings or openings are allowed between the containment backflow prevention assembly and the service connection unless protected by a Backflow Prevention Assembly.

(3) All construction premises with temporary service connection shall have a containment reduced pressure principle backflow prevention assembly approved by the Water Authority installed at each temporary service connection to the construction site, as set forth in the UPC and this Ordinance.

(4) All non-residential irrigation water systems connected to the public water system shall have a pressure vacuum breaker, spill-resistant pressure vacuum breaker or a reduced pressure principle backflow prevention assembly installed after the

1 service connection. Such devices shall be approved by the Water Authority. No tees,  
2 branches or possible connection fittings or openings are allowed between the  
3 containment backflow prevention assembly and the service connection.

4 (5) All non-residential customers connected via piping to an alternative  
5 water source or an auxiliary water supply and the public water system shall install a  
6 containment reduced pressure principle backflow prevention assembly approved by the  
7 Water Authority after the potable service connection.

8 (6) All fire hydrants used for drawing water for filling tanks and tank  
9 trucks and for temporary irrigation systems must have an air-gap or approved  
10 containment reduced pressure principle backflow prevention assembly approved by the  
11 Water Authority, as set forth in the UPC and this Ordinance.

12 (7) Any residential premises having existing private wells, and who  
13 desire to connect to the public water system, shall have two options as follows:

14 (a) Customers shall permanently abandon the use of private  
15 wells by plugging the wells as accepted by the Water Authority prior to connecting to the  
16 public water system; or

17 (b) Customers who choose to maintain their private wells shall  
18 completely sever the private well from the premises' potable plumbing system.

19 (8) Effective February 15, 2009, all new services to private fire  
20 protection systems shall be equipped with a containment reduced pressure principal  
21 backflow prevention assembly approved by the Water Authority and Fire Marshal having  
22 jurisdiction installed after the service connection. No tees, branches or possible  
23 connection fittings or openings are allowed between the containment backflow prevention  
24 assembly and the service connection. A double check valve assembly approved by the  
25 Water Authority and Fire Marshal having jurisdiction may be installed instead of a reduced  
26 pressure backflow prevention assembly provided the private fire protection system meets  
27 or exceeds ANSI/NSF Standard 60 and 61 throughout the entire private fire protection  
28 system, the fire sprinkler drain discharges into atmosphere, and there are no reservoirs,  
29 fire department connections nor connections from auxiliary water supplies.

1           (9) Premises with existing private fire protection systems containing  
2 double check valve assemblies installed and approved by the Water Authority prior to  
3 2009 are approved to continue in service as long as the device tests and functions  
4 properly.

5           (10) Effective February 15, 2009, all remodeled non-residential premises,  
6 when the work area of the building undergoing repairs, alterations or rehabilitation, as  
7 defined in the International Existing Building Code, exceeds 50 percent of the aggregate  
8 area of the building regardless of the costs of repairs, alteration, or rehabilitation with  
9 existing private fire protection systems without a containment backflow prevention  
10 assemblies shall be retrofitted with an approved reduced pressure principle backflow  
11 prevention assembly approved by the Water Authority and Fire Marshal having  
12 jurisdiction. Assemblies shall be installed at each private fire protection after the service  
13 connection to the customer's water system. Approved reduced pressure principle  
14 backflow prevention assembly shall be installed by a person who is licensed by the  
15 appropriate mechanical classification in accordance with the New Mexico Construction  
16 Industries Licensing Act. Fire sprinkler system hydraulic performance shall be verified by  
17 an engineer registered in accordance with the State of New Mexico Board of Licensure  
18 for Professional Engineers and Surveyors, pursuant to the Engineering and Surveying  
19 Practice Act, NMSA 1978, §§ 61-23-1 through 61-23-32.

20           (11) Once an approved backflow prevention assembly is installed at a  
21 premise as a cross connection control containment assembly, the assembly shall not be  
22 removed without prior approval from the Water Authority. Containment backflow  
23 prevention assemblies that cannot be repaired must be replaced in kind per the terms of  
24 this Ordinance.

25           (12) Once an approved backflow prevention assembly for containment  
26 has been properly installed at a premises, the assembly shall not be modified.

27           (B) Inspection of premises.

28           (1) Right of entry. Whenever necessary to make an inspection to enforce  
29 any of the provisions of this Ordinance, or whenever the Water Authority or its authorized  
30 representative has reasonable cause to believe that there exists in any building or upon

1 any premises, any condition which may endanger the public water supply the Water  
2 Authority or its authorized representative may enter such building or premises at  
3 reasonable times to inspect the same or to perform any duty imposed upon the Water  
4 Authority by this Ordinance; provided that if such building or premises be occupied, the  
5 Water Authority representative will first present proper credentials and demand entry; and  
6 if such building or premises be unoccupied, the Water Authority representative will first  
7 make a reasonable effort to locate the owner or other persons having charge or control  
8 of the building or premises and demand entry. If entry and/or inspection is refused, the  
9 Water Authority may immediately terminate water service to the premises.

10 (2) Inspection of premises. The purpose and authority to conduct such  
11 an inspection shall be disclosed to the customer. If actual or potential cross connections,  
12 which could result in backflow of contaminants, pollutants, water from auxiliary water  
13 supplies, or water from non-potable water systems are determined to exist during the  
14 premises inspection, the Water Authority shall proceed as follows:

15 (a) In the event contamination of the public water supply is  
16 determined to exist, the Water Authority shall immediately terminate water service to the  
17 premises. The Water Authority shall restore water service to the premises once the  
18 contamination hazard has been controlled or eliminated.

19 (b) In the event no contamination is determined to exist, but actual  
20 or potential cross connections require control by containment, the Water Authority shall  
21 give the customer written notice to install an approved backflow prevention assembly as  
22 a cross connection control containment assembly after the service connection, at the  
23 customer's own expense. The backflow assembly shall be installed, inspected and tested  
24 within 15 calendar days from the date of the notice. For good cause, the Water Authority  
25 may extend the time to comply with the requirements of this Ordinance.

26 (C) Re-inspection. Re-inspection of premises shall be conducted by the Water  
27 Authority to verify corrective action has been implemented as required by this Ordinance.

28 (D) Installation of backflow prevention assemblies. Any contractor licensed by  
29 the appropriate mechanical classification in accordance with the New Mexico  
30 Construction Industries Licensing Act may install backflow prevention assemblies in

1 accordance with the UPC and this Ordinance. The contractor shall be responsible for  
2 obtaining all required approvals, such as approved plans, permits and inspections. Such  
3 contractor shall not change the design, material or operational characteristics of a  
4 backflow prevention assembly without prior approval of the Water Authority.

5 (E) Tests and maintenance of backflow prevention assemblies. Customers  
6 shall have their existing containment and isolation backflow prevention assemblies tested  
7 at least once a year by a certified backflow prevention assembly tester. Assemblies that  
8 fail a test shall be repaired or replaced by a certified backflow prevention assembly  
9 repairman and immediately retested by a certified backflow prevention assembly tester.  
10 A test report shall be submitted to the customer and the Water Authority within seven (7)  
11 calendar days of test, or the test will be void, and retesting will be required. Tests and  
12 repairs shall be at the expense of the customer.

13 All new installations of backflow prevention assemblies shall be tested immediately  
14 upon installation (if/when water service is available), and test reports submitted to the  
15 Water Authority within seven (7) calendar days, or the test will become void, and retesting  
16 would be required. Once the backflow prevention assembly is tested and operating  
17 properly, water service to the premises may continue. Water Authority shall inspect all  
18 newly installed containment backflow prevention assemblies.

19 The repairman and tester shall use separate tools and gauges for testing backflow  
20 prevention assemblies on potable water systems, such tools and gauges are never to be  
21 used on non-potable water, including alternate water sources. They shall submit all test  
22 reports to the Water Authority and customer with seven (7) calendar days of the test, or  
23 the test becomes void, and retesting of assembly would be required. Water Authority  
24 shall provide the test report form to customers, certified backflow prevention assembly  
25 testers, and repairmen upon request. They shall submit test gauge calibration test report  
26 annually to the Cross Connection Manager. Tests performed with a test gauge that has  
27 not had a yearly calibration certification are void. Accurate records of all inspections,  
28 tests, repairs, and replacement of backflow prevention assemblies shall be maintained by  
29 the customer for a period of three (3) years.

1 (F) Existing, previously approved, backflow prevention assemblies. Any  
2 existing backflow prevention assemblies that were previously approved may be approved  
3 to continue in service provided that the assemblies test and function properly. When  
4 required, obsolete assemblies shall be replaced with current, approved, backflow  
5 prevention assemblies.

6 (G) Certification of testers and repairmen. To be certified as a backflow  
7 prevention assembly tester, a person shall attend a training course that has been  
8 approved by the Water Authority and successfully complete the written and practical  
9 examinations administered as part of the approved training course. A person who is  
10 licensed by the appropriate mechanical classification in accordance with the New Mexico  
11 Construction Industries Licensing Act and attends and successfully completes the  
12 approved training course may be certified as a backflow prevention assembly repairman.

13 (H) Re-certification of testers and repairmen. A certified tester or repairman  
14 who wishes to remain active as a backflow assembly tester or repairman shall renew their  
15 certification every three (3) years. To re-certify prior to existing certification expiring,  
16 testers and repairmen must complete an approved eight- (8) hour training course and  
17 accrue 16 hours of approved continuing education credits. Otherwise, the certified tester  
18 or repairman must complete an approved 40-hour training course. Testers or repairmen  
19 with non-expired certifications shall provide proof of training credits earned, and training  
20 course attended, prior to re-certification.

21 (I) Approved training courses. The Water Authority shall approve training  
22 courses. The approved course shall be conducted by an instructor who is a certified tester  
23 and repairman; duration of the course shall be at least 40 hours; and the minimum  
24 material covered shall either be based on the University of Southern California's  
25 Foundation for Cross Connection Control and Hydraulic Research training course or an  
26 ANSI Accredited Listing Agency.

27 The approved re-certification training course shall be conducted by an instructor  
28 who is a certified tester and repairman; duration of the course shall be at least eight (8)  
29 hours, and the course shall include rules, regulations, the Cross Connection Ordinance,  
30 practical training, and practical examinations.

1 The instructor conducting the certification and re-certification courses shall  
2 administer the written and practical examinations. A performance of over 70% on the  
3 written examination, and satisfactory completion of the practical examination, constitutes  
4 successful completion of the course.

5 Administrator of the approved training course or approved re-certification training  
6 course shall submit the course syllabus once a year, or upon any changes to the syllabus  
7 for approval by the Water Authority.

8 8-1-8. FEES.

9 The Water Authority shall assess fees associated with the implementation of this  
10 Ordinance as determined and set by the Water Authority Water and Sewer Rate  
11 Ordinance. The fees imposed by this Ordinance are as follows:

12 (A) Inspection fees. An inspection fee plus applicable gross receipts tax may  
13 be assessed for an inspection conducted on the customer's premises. The fee shall be  
14 assessed only to those customers whose premises are not in compliance with this  
15 Ordinance at the time of inspection and to recover the expenses incurred by the Water  
16 Authority to inspect the premises.

17 (B) Administrative fees. All customers shall be assessed an annual  
18 administrative fee plus applicable gross receipts tax for each backflow prevention  
19 assembly located at the premises. The fee shall recover the expenses incurred by the  
20 Water Authority to maintain records, process notices, enter test results and maintain the  
21 database.

22 (C) Late report fees. If a passing test report is not submitted by the due date,  
23 a late report fee may be assessed, beginning 30 days after the due date. (Per the  
24 Requirement Section above, the test report is only valid for seven (7) days after testing.

25 (D) Non-existent containment backflow preventer assembly fee. Non-exempt  
26 service connections, which do not have a containment backflow preventer assembly, or  
27 have an unapproved backflow preventer assembly, may be assessed a containment  
28 backflow preventer assembly fee when the second notice of violation is issued for lack of  
29 an approved containment backflow preventer assembly.

1 (E) Unauthorized connection fee. Unauthorized tees, branches, connection  
2 fittings, or openings between the containment backflow prevention assembly and the  
3 service connection, may be assessed an unauthorized connection fee when the second  
4 notice of violation is issued for an unauthorized connection.

5 (F) Ordinance documents. Copies of this Ordinance may be obtained at the  
6 Water Authority web site.

7 (G) Payment. All fees shall be payable to the office of the Water Authority  
8 Customer Services Division, Albuquerque/Bernalillo County Government Center,  
9 Albuquerque, New Mexico, and will become delinquent fifteen (15) days following the due  
10 date on the customer's statement.

11 (H) Penalty. A penalty of 1.5 percent per month shall be imposed on all  
12 delinquent accounts.

13 (I) Responsibility of payment, liens and deposit. The persons responsible for  
14 payment of the fees included in this Ordinance shall be the customer upon whom charges  
15 are imposed under with the Water Utility Authority Water and Sewer Rate Ordinance as  
16 it may be amended.

#### 17 8-1-9. PENALTIES AND VIOLATIONS

18 (A) Notice of Violation. When the Cross Connection Manager finds that a  
19 customer has violated, or continues to violate, any provision of this Ordinance or order  
20 issued by the Cross Connection Manager or Engineer, the Cross Connection Engineer  
21 may serve upon the customer a written notice of violation. Within fifteen (15) days after  
22 receipt of the notice of violation, the customer shall give the Cross Connection Engineer  
23 an explanation of the violation and a plan for correcting and preventing the violation,  
24 including the specific actions that may be required. Submission of a plan shall not relieve  
25 the customer of liability for any violations occurring before or after receipt of the notice of  
26 violation.

27 (B) Customers issued a third notice of violation may be required to relocate the  
28 containment backflow prevention assembly next to the water meter, property line or  
29 easement line.



1 (C) Revocation. The Water Authority may suspend or revoke a tester's  
2 certification for any of the following:

- 3 (1) falsification of tests, records or reports;
- 4 (2) failure to properly maintain test equipment;
- 5 (3) failure to submit test gauge calibration test report annually;
- 6 (4) recurrent submittal of inaccurate or incomplete test reports;
- 7 (5) alterations or removal of an existing backflow prevention assembly  
8 without the approval of the Water Authority;
- 9 (6) failure to inform the Water Authority of an observed cross connection;

10 or

- 11 (7) certified backflow prevention assembly tester/repairman is working  
12 outside of his/her certification.

13 8-1-10. GROUNDS FOR TERMINATION OF WATER SERVICE UNDER THIS  
14 ORDINANCE.

15 (A) Any person who willfully removes, modifies or bypasses any approved  
16 backflow prevention assembly without prior approval of the Water Authority, falsifies tests  
17 records or reports, obtains water from a fire hydrant in violation of cross connection control  
18 requirements, connects an alternate water source to potable water service, connects an  
19 auxiliary water supply to potable water service, or connects Water Authority reclaimed  
20 water to non-potable water without approved backflow protection, thus creating a cross  
21 connection, or otherwise violates any provision of this Ordinance may have water service  
22 terminated.

23 (B) In the event the Cross Connection Engineer or Cross Connection Manager  
24 determines that a potential contamination exists and may be a threat to the public water  
25 system, water service to the premises shall be terminated immediately. The Water  
26 Authority shall restore water service to the premises once the customer has controlled or  
27 eliminated the contamination hazard.

28 (C) Failure to install required backflow prevention assemblies as directed by the  
29 Water Authority, failure to conduct required tests, failure to submit accurate test reports  
30 within seven (7) calendar days of the test, failure to perform testing and maintenance of

1 backflow prevention assemblies, or failure to allow the Water Authority entry into a  
2 premises shall constitute grounds for termination of water service to the premises. Service  
3 shall not be restored until such conditions or defects are corrected. If water service is  
4 terminated for any of these reasons, a turn-off and turn-on water service fee will be  
5 assessed to the customer as per the Water Utility Authority Water and Sewer Rate  
6 Ordinance.

7 (D) The Water Authority may terminate water service for non-payment of the  
8 fees included in this Ordinance and in accordance with the Water Utility Authority Water  
9 and Sewer Rate Ordinance as it may be amended.

10 8-1-11. TERMINATION OF WATER SERVICE; HEARING.

11 (A) The Cross Connection Engineer or the Cross Connection Manager may  
12 terminate the water service to the property for failure on the part of the customer to comply  
13 with any provision of this Ordinance.

14 (B) In order to terminate service, a written notice shall be sent to the customer  
15 giving him/her at least ten (10) calendar day notice of the proposed termination of water  
16 service and notice of his/her right to protest the Cross Connection Engineer's or Cross  
17 Connection Manager's action at a hearing.

18 (C) In the event a hearing is requested, the water service shall not be  
19 terminated until and in accordance with the decision of the hearing officer. However, the  
20 Cross Connection Engineer or Cross Connection Manager shall immediately terminate  
21 water service to the premises in the event that contamination is determined to exist or  
22 entry for an inspection to a premises is denied.

23 (D) The customer must request that a hearing be held by delivering such  
24 request in writing to the Executive Director on or before the date the water services are  
25 to be terminated. In the case of immediate termination, such written request shall be  
26 delivered within ten (10) calendar days after the date of termination.

27 (E) At such hearing, the customer may present evidence as the Hearing Officer  
28 finds relevant. The Hearing Officer shall make findings, conclusions and  
29 recommendations to the Executive Director. The Executive Director may affirm, overrule  
30 or modify the decision to terminate the services. The decision shall be final.

1           (F)     A non-refundable hearing fee of \$50.00 shall accompany each request for  
2     hearing pursuant to this Section.

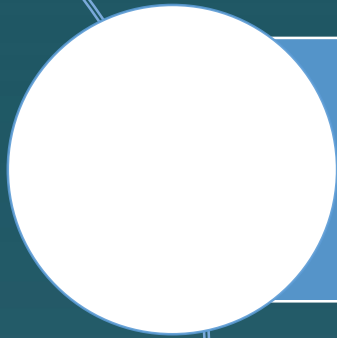
# **Revisions/Updates to the Cross Connection Prevention and Control Ordinance**

Mark Kelly, PE  
Compliance Division Manager

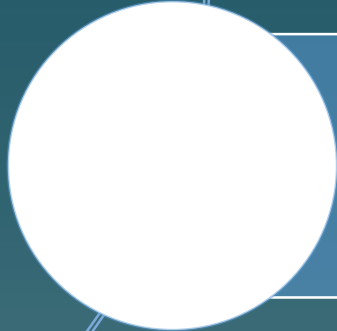


Albuquerque Bernalillo County  
Water Utility Authority

# Why have a Cross Connection Ordinance?



Required by NMED Drinking Water Bureau



Protect the Public Water Supply from Actual or Potential Hazards



# Requirements

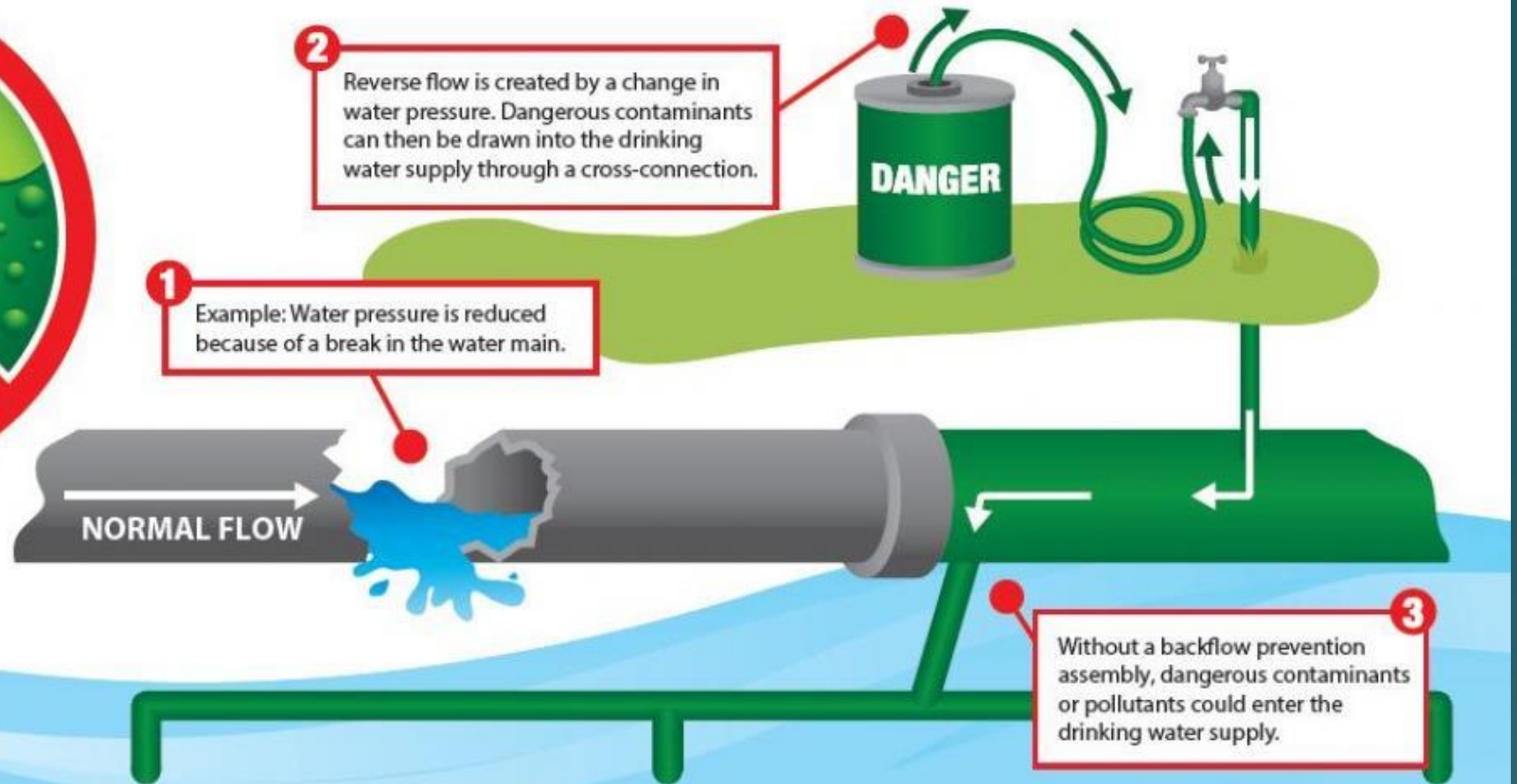
## Installation of Devices

- All non-residential premises

## Testing of Devices

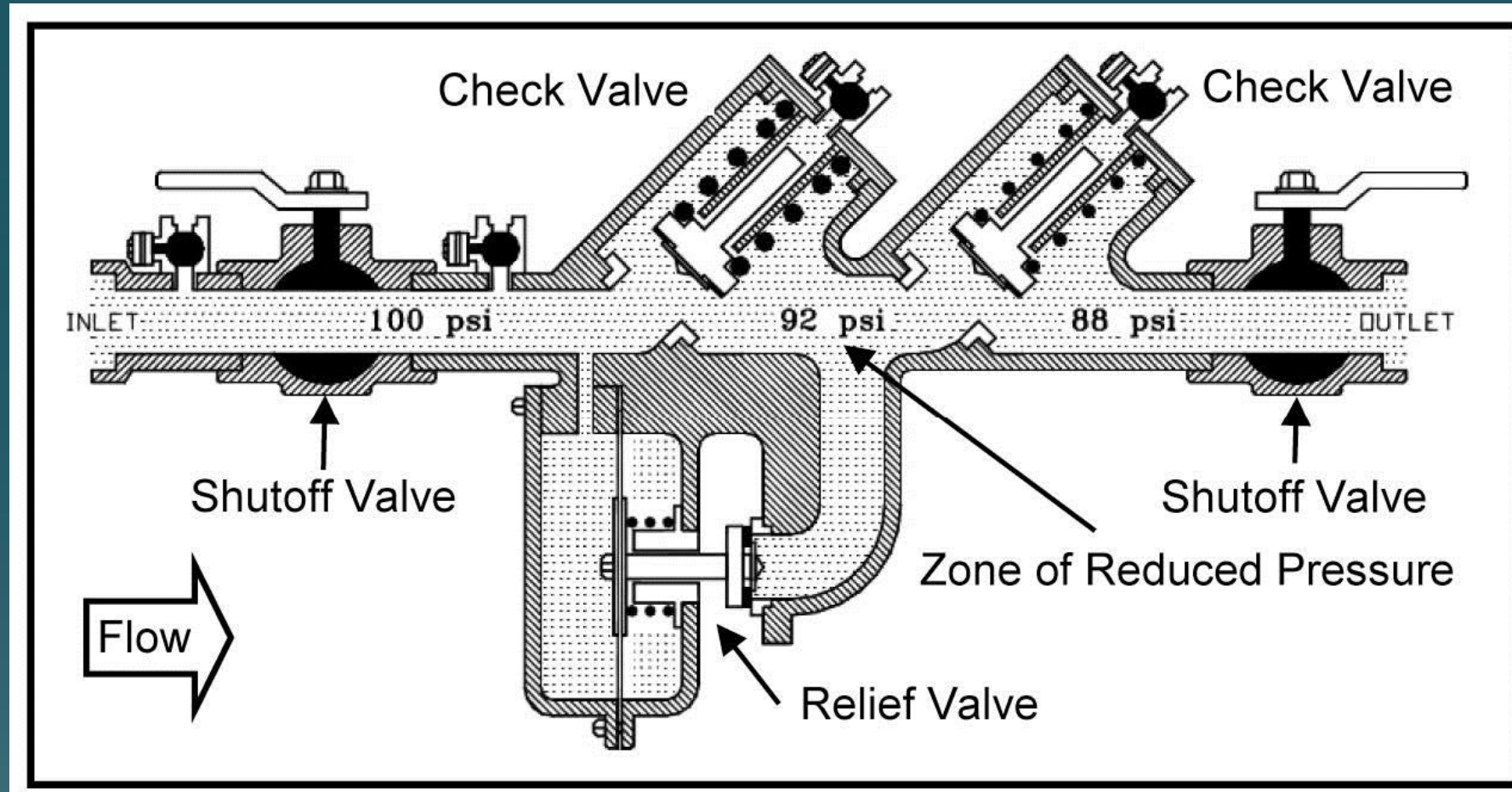
- Certification of Testers





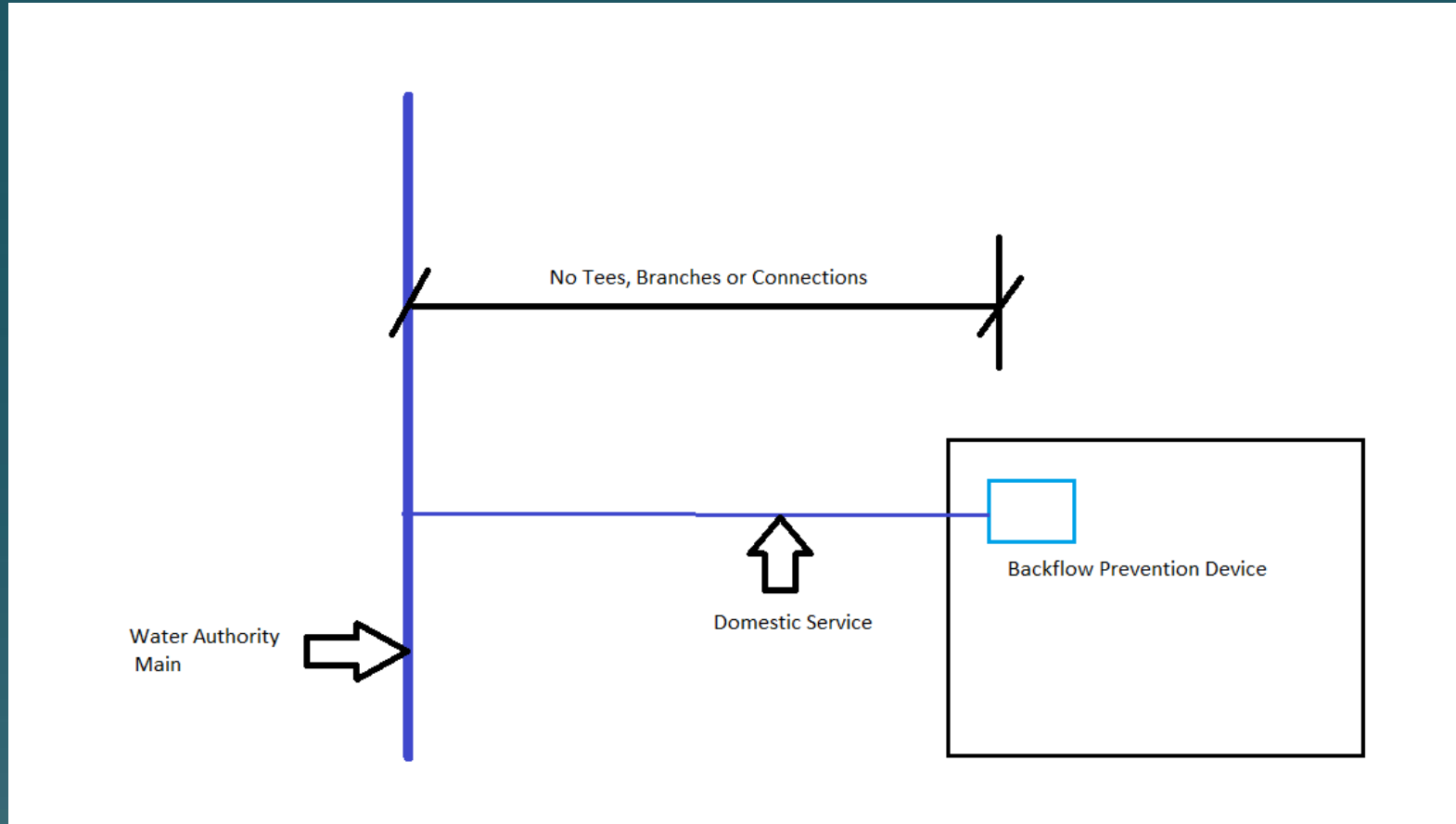


# Reduced Pressure Backflow Preventer

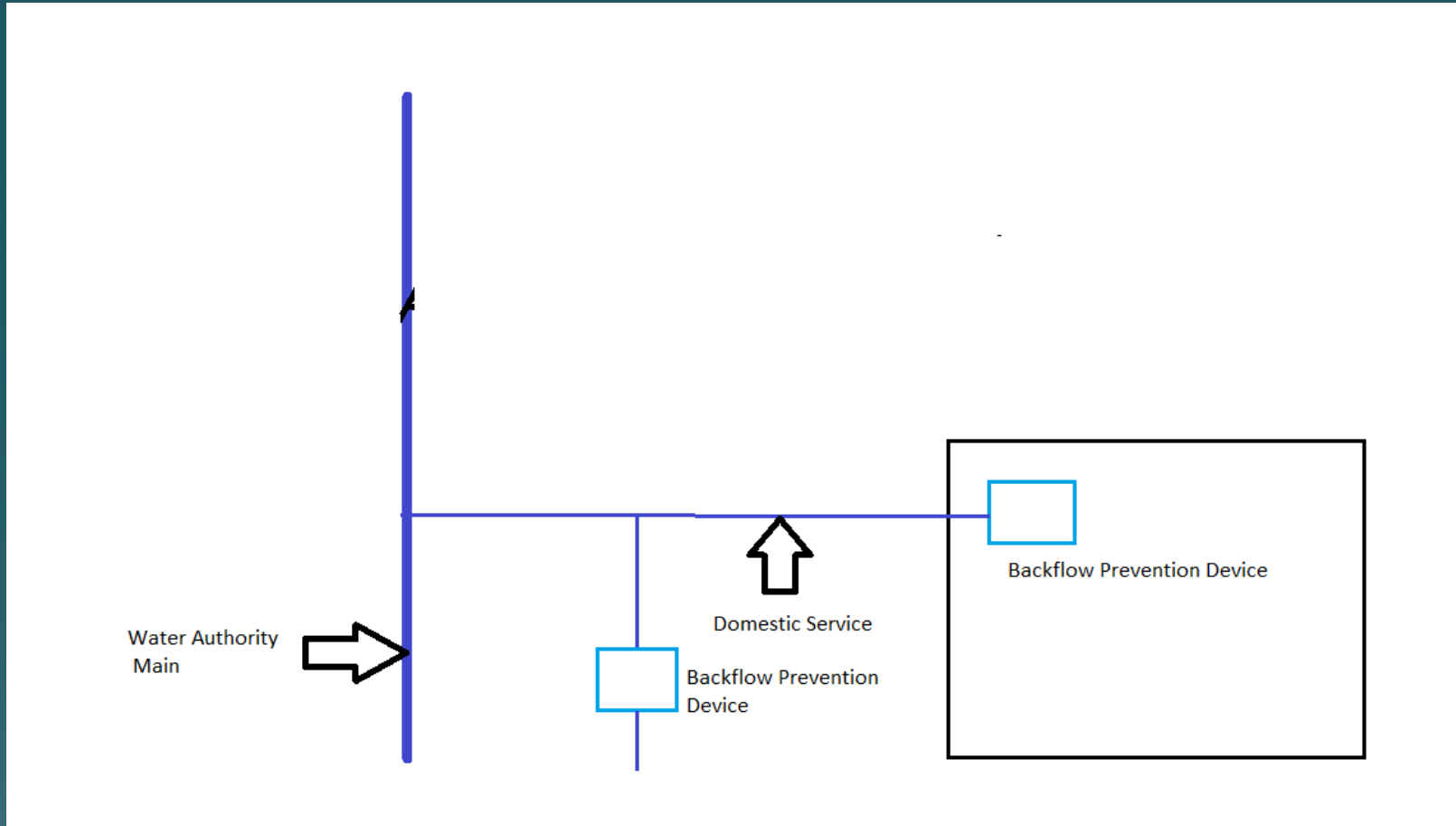




# Revisions/Updates to the Ordinance



# Revisions/Updates to the Ordinance



# Revisions/Updates to the Ordinance



**USC**  
**Foundation**  
for Cross-Connection  
Control and  
Hydraulic Research



Albuquerque Bernalillo County  
Water Utility Authority

# Revisions/Updates to the Ordinance

- Temporary Connections
- Fees
  - Late Reports
  - No Backflow



Albuquerque Bernalillo County  
Water Utility Authority

# Questions?



Albuquerque Bernalillo County  
Water Utility Authority



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Meeting Date: May 23, 2018

Staff Contact: Stan Allred, Chief Financial Officer; Frank Roth, Senior Policy Manager

**TITLE: O-18-5 – Authorizing the Execution and Delivery of a Loan and Subsidy Agreement (“Loan Agreement”) by and Between the Albuquerque Bernalillo County Water Utility Authority and the New Mexico Finance Authority for the Carnuel Phase 2b Project**

**ACTION: Recommend Approval**

**SUMMARY:**

Ordinance O-18-5 authorizes the execution and delivery of a loan and subsidy agreement in the amount of \$1,000,000 between the New Mexico Finance Authority (NMFA) and the Water Authority for Phase 2b of the Carnuel Water System Improvements Project. This is a special limited obligation of the Water Authority to pay a principal amount of no more than \$250,000 together with interest, costs of issuance and administrative fees and to accept a loan subsidy (Grant) of no more than \$750,000.

**FISCAL IMPACT:**

This loan portion of the agreement is for 22 years with an effective interest rate of 0.25%. Gross Revenues, all income and revenues directly or indirectly derived by the Water Authority from the operation and use of the System, are pledged as security for these loans. The annual Debt Service for the loan portion of this agreement is \$12,831.

**ALBUQUERQUE BERNALILLO COUNTY  
WATER UTILITY AUTHORITY**

**BILL NO. 0-18-5**

# ORDINANCE

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY (THE "WATER AUTHORITY") AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE WATER AUTHORITY TO PAY A PRINCIPAL AMOUNT OF NO MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000), TOGETHER WITH INTEREST, COSTS OF ISSUANCE AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000), FOR THE PURPOSE OF FINANCING THE COSTS OF EXTENDING AND IMPROVING THE WATER INFRASTRUCTURE SYSTEM TO THE CARNUEL COMMUNITY, INCLUDING, ACQUISITION AND INSTALLATION OF WATER DISTRIBUTION LINES; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, INTEREST AND ADMINISTRATIVE FEES DUE UNDER THE LOAN AGREEMENT SOLELY FROM NET REVENUES; SETTING A MAXIMUM INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

Capitalized terms used in the following preambles are defined in Section 1 of this Ordinance, unless the context requires otherwise.

1 WHEREAS, the Water Authority is a legally and regularly created,  
2 established, organized and existing public body politic and corporate, separate and  
3 apart from the City and the County, under the general laws of the State; and

4 WHEREAS, the Water Authority owns, operates and maintains the System as  
5 a joint public utility water and sanitary sewer system; and

6 WHEREAS, the Water Authority is obligated on the following Senior  
7 Obligations, payable from Net Revenues, Outstanding on the date of the adoption of  
8 this Ordinance in the following principal amounts:

|   | Amount             |
|---|--------------------|
| <u>Senior Obligations</u>                                 | <u>Outstanding</u> |
| Series 2009A-1 Bonds                                      | \$ 31,925,000      |
| Series 2013A&B Bonds                                      | \$ 83,620,000      |
| Series 2014A Bonds  | \$ 88,270,000      |
| Series 2015 Bonds   | \$208,730,000      |
| Series 2017 Bonds   | \$ 87,970,000      |
| Drinking Water State Revolving Fund Loan Agreement (2009) | \$ 766,470         |
| Public Project Revolving Fund Loan Agreement (2011)       | \$ 35,855,000      |
| Drinking Water State Revolving Fund Loan Agreement (2018) | \$ 1,010,000       |

19 and

20 WHEREAS, the Water Authority is obligated on the following Subordinate  
21 Obligations, payable from Net Revenues with a lien on the Net Revenues  
22 subordinated to the Senior Obligations, and superior to the lien of the Super  
23 Subordinate Obligations, Outstanding on the date of the adoption of this Ordinance  
24 in the following principal amounts:

|   | Amount             |
|---|--------------------|
| <u>Subordinate Obligations</u>                            | <u>Outstanding</u> |
| Series 2014B Bonds  | \$ 66,950,000      |
| Drinking Water State Revolving Fund Loan Agreement (2008) | \$ 7,370,187       |

29 and



1 WHEREAS, the Water Authority currently has no Super Subordinate  
2 Obligations outstanding payable from Net Revenues with a lien on the Net  
3 Revenues subordinated to the Senior Obligations and Subordinate Obligations; and

4 WHEREAS, except as stated in these preambles, the Net Revenues have not  
5 been pledged or hypothecated to the payment of any Outstanding obligations and no  
6 other obligations are payable from the Net Revenues on the date of this Ordinance;  
7 and

8 WHEREAS, there are no obligations which have a lien on the Net Revenues  
9 superior to the lien thereon of the Senior Obligations;

10 WHEREAS, funds may be provided from the Drinking Water State Revolving  
11 Loan Fund to finance infrastructure projects in the State; and

12 WHEREAS, the Board has determined that the Project may be financed with  
13 amounts borrowed under the Loan Agreement and that it is in the best interest of the  
14 Water Authority and its customers that the Loan Agreement be executed and  
15 delivered and that the financing of the construction of the Project take place by  
16 executing and delivering the Loan Agreement; and

17 WHEREAS, the Board has determined that it may lawfully pledge the Net  
18 Revenues for repayment of the Loan Agreement; and

19 WHEREAS, the Water Authority intends to use a portion of the proceeds of  
20 the Loan Agreement for the purpose of acquiring and installing additional System  
21 assets and improving the System; and

22 WHEREAS, all required authorizations, consents and approvals in  
23 connection with (i) the use and pledge of the Net Revenues to the Finance Authority  
24 (or its assigns) for the payment of amounts due under the Loan Agreement, (ii) the  
25 use of the proceeds of the Loan Agreement to finance the Project, and (iii) the  
26 authorization, execution and delivery of the Loan Agreement, which are required to  
27 have been obtained by the date of the Ordinance have been obtained or are  
28 reasonably expected to be obtained prior to the Closing Date.

29 BE IT ORDAINED BY THE BOARD OF THE WATER AUTHORITY:

30 Section 1. DEFINITIONS AND RULES OF CONSTRUCTION.

31 (A) DEFINITIONS. As used in this Ordinance, the following terms

1 have the meanings specified, unless the context clearly requires otherwise:

2 ACT. The DWSRLF Act, and the general laws of the State, including  
3 Section 72-1-10 NMSA 1978, Sections 3-31-1 through 3-31-12 NMSA 1978,  
4 Sections 4-62-1 to 4-62-10 NMSA 1978, as amended, and enactments of the Board  
5 relating to the Loan Agreement, including this Ordinance.

6 ADMINISTRATIVE FEE or ADMINISTRATIVE FEE COMPONENT.  
7 The 0.25% annual fee payable to the Finance Authority as 0.125% of the Loan  
8 Agreement Principal Amount then outstanding as a part of each Loan Agreement  
9 Payment for the costs of originating and servicing the Loan.

10 AGGREGATE DISBURSEMENTS. At any time after the Closing Date,  
11 the sum of all Disbursements.

12 AGGREGATE FORGIVEN DISBURSEMENTS. The amount of  
13 Subsidy provided in the form of principal forgiveness, and shall at any time after the  
14 Closing Date be equal to seventy-five percent (75%) of the Aggregate  
15 Disbursements, up to a maximum of seven hundred fifty thousand dollars  
16 (\$750,000).

17 AGGREGATE REPAYABLE DISBURSEMENTS. At any time after the  
18 Closing Date, the Aggregate Disbursements less the Aggregate Forgiven  
19 Disbursements.

20 APPROVED REQUISITION. A requisition in the form of Exhibit "C" to  
21 the Loan Agreement, together with supporting documentation submitted to and  
22 approved by the Finance Authority pursuant to Section 4.2 of the Loan Agreement.

23 AUTHORIZED OFFICER. The Chair, the Executive Director of the  
24 Water Authority, or other officer or employee of the Water Authority when designated  
25 by a certificate signed by the Chair from time to time.

26 BOARD. The governing body in which is vested the legislative power  
27 of the Water Authority.

28 CHAIR. The duly elected Chair of the Board or the Vice Chair of the  
29 Board acting in the absence of the Chair.

30 CITY. The City of Albuquerque, in the County of Bernalillo and State  
31 of New Mexico.

1 CLOSING DATE. The date of execution, delivery and funding of the  
2 Loan Agreement authorized by this Ordinance.

3 COMPLETION DATE. The date of completion of the Project.

4 COUNTY. Bernalillo County, New Mexico.

5 CREDIT FACILITY. A letter of credit, line of credit, bond insurance  
6 policy or reserve account surety bond, guaranty or similar agreement provided by a  
7 Credit Source to provide support to pay the purchase price of, or the payment when  
8 due of the principal of and interest on, System Obligations.

9 CREDIT SOURCE. Any bank, insurance company or other financial  
10 institution which provides a Credit Facility for a series of System Obligations.

11 DEBT SERVICE ACCOUNT. The debt service account established in  
12 the name of the Water Authority and administered by the Finance Authority to pay  
13 principal and interest on the Loan Agreement as the same become due.

14 DEBT SERVICE FUND. The Debt Service Fund previously established  
15 by the Water Authority and continued in Section 13 of this Ordinance.

16 DEBT SERVICE REQUIREMENTS. With respect to System  
17 Obligations and for any given period, the sum of: (1) the amount required to pay the  
18 interest, or to make reimbursements for payments of interest, becoming due on  
19 System Obligations during that period, plus (2) the amount required to pay the  
20 principal or to make reimbursements for the payment of principal becoming due on  
21 System Obligations during that period, whether at maturity or upon mandatory  
22 sinking fund redemption dates, plus (3) the periodic payments required to be made  
23 by the Water Authority pursuant to a Qualified Exchange Agreement minus (4) the  
24 periodic payments to be received by the Water Authority pursuant to a Qualified  
25 Exchange Agreement. No payments required for any System Obligations which may  
26 be tendered or otherwise presented for payment at the option or demand of the  
27 owners of System Obligations, or which may occur because of the exercise of an  
28 option by the Water Authority, or which may otherwise become due by reason of any  
29 other circumstance or contingency, including acceleration or early termination  
30 payments, which constitute other than regularly scheduled payments of principal,

1 interest or other regularly scheduled payments on System Obligations shall be  
2 included in any computation of Debt Service Requirements for that period.

3 Unless, at the time of computation of Debt Service Requirements, payments  
4 on System Obligations are owed to, or System Obligations are owned or held by, the  
5 provider of a Credit Facility pursuant to the provisions of that Credit Facility, the  
6 computation of interest for the purposes of this definition shall be made without  
7 considering the interest rate payable pursuant to a Credit Facility.

8 In any computation of Debt Service Requirements relating to the issuance of  
9 additional System Obligations, there shall be excluded from the computation of the  
10 Debt Service Requirements amounts and investments which are irrevocably  
11 committed to make designated payments on System Obligations during the  
12 applicable period, including, without limitation, money on deposit in any Debt Service  
13 Account and amounts on deposit in an escrow account irrevocably committed to  
14 make designated payments on System Obligations during the applicable period and  
15 earnings on such investments which are payable and committed to the payment of  
16 such System Obligations during the applicable period.

17 Unless otherwise required by a Water Authority ordinance or resolution  
18 relating to a series of System Obligations, to determine Debt Service Requirements  
19 of Variable Rate Obligations, the Water Authority shall use the procedures set forth  
20 in the following paragraphs to determine the amount of interest or other payments to  
21 be paid by the Water Authority on Variable Rate Obligations.

22 (1) During any historical period for which the actual variable  
23 interest rate or rates are determinable, the actual variable interest rate shall be used.  
24 During any historical period when the actual variable interest rate is not  
25 determinable, the variable interest rate shall, for the purpose of determining Debt  
26 Service Requirements, be deemed to be the higher of:

27 (a) the actual variable interest rate, if any, at the time  
28 of computation; or

29 (b) a fixed annual rate equal to the prevailing rate on  
30 the Variable Rate Obligations on the date of computation (which, for the purpose of  
31 determining the Debt Service Requirements, shall be a date which is no more than

1 60 days prior to the date of issuance of the applicable System Obligations) as  
2 certified by the Water Authority's financial advisor, the underwriters of the System  
3 Obligations, an investment banker designated by the Water Authority from time to  
4 time or a counterparty with respect to a Qualified Exchange Agreement.

5 (2) Prospective computations of interest payable on Variable  
6 Rate Obligations, including those relating to the issuance of additional System  
7 Obligations or required by the Rate Covenant, shall be made on the assumption that  
8 such obligations bear interest at a fixed annual rate equal to:

9 (a) the average of the daily rates of such System  
10 Obligations during the 365 consecutive days (or any lesser period such System  
11 Obligations have been Outstanding) next preceding a date which is no more than 60  
12 days prior to the date of the issuance of the additional System Obligations; or

13 (b) with respect to System Obligations initially issued  
14 or incurred as or being converted to Variable Rate Obligations, the estimated initial  
15 rate of interest of such System Obligations upon the date of issuance, exchange or  
16 conversion as certified by the Water Authority's financial advisor, another investment  
17 banker, as designated by the Water Authority from time to time, or a counterparty  
18 with respect to a Qualified Exchange Agreement.

19 DISBURSEMENT. An amount caused to be paid by the Finance  
20 Authority for an Approved Requisition for costs of the Project, including the Expense  
21 Fund Component.

22 DRINKING WATER STATE REVOLVING FUND LOAN AGREEMENT  
23 (2008). The loan agreement dated November 7, 2008 between the Finance  
24 Authority and the Water Authority in the original principal amount of \$9,627,877,  
25 authorized and approved by Water Authority Ordinance Enactment No. F/S O-08-4  
26 and Resolution Enactment No. F/S R-08-13 as amended by Ordinance No. F/S O-  
27 14-2 and the Amendment to the Loan Agreement dated July 24, 2014 constituting a  
28 subordinate lien on the Net Revenues.

29 DRINKING WATER STATE REVOLVING FUND LOAN AGREEMENT  
30 (2009). The loan agreement between the Finance Authority and the Water Authority  
31 in the original principal amount of \$1,010,000, authorized and approved by Water

1 Authority Ordinance Enactment No. O-09-9 and Resolution Enactment No. R-09-24  
2 constituting a senior lien on the Net Revenues.

3 DRINKING WATER STATE REVOLVING FUND LOAN AGREEMENT  
4 (2018). The loan agreement between the Finance Authority and the Water Authority  
5 in the original principal amount of \$1,010,000, authorized and approved by Water  
6 Authority Ordinance Enactment No. O-18-2 and Resolution Enactment No. R-18-7  
7 constituting a senior lien on the Net Revenues.

8 DRINKING WATER STATE REVOLVING LOAN FUND. The drinking  
9 water state revolving loan fund established by the DWSRLF Act.

10 DWSRLF ACT. The general laws of the State, particularly the Drinking  
11 Water State Revolving Loan Fund Act, NMSA 1978 §§ 6-21A-1 through 6-21A-9, as  
12 amended.

13 EXPENSE FUND. The expense fund hereby created to be held and  
14 administered by the Finance Authority to pay Expenses.

15 EXPENSE FUND COMPONENT. An amount equal to one percent  
16 (1%) of each Disbursement for the Project, minus any amount forgiven under the  
17 Loan Agreement, simultaneously withdrawn and deposited in the Expense Fund to  
18 pay Expenses.

19 EXPENSES. The reasonable and necessary fees, costs and  
20 expenses incurred by the Water Authority and the Finance Authority with respect to  
21 the execution and delivery of the Loan Agreement, including, without limitation,  
22 attorneys' fees and costs, financial advisor's fees and costs, costs of advertising and  
23 publication, and all reasonable and necessary fees and administrative costs of the  
24 Water Authority and Finance Authority relating to the foregoing.

25 FINAL LOAN AGREEMENT PAYMENT SCHEDULE. The schedule of  
26 Loan Agreement Payments due on the Loan Agreement following the Final  
27 Requisition, as determined on the basis of the Aggregate Repayable Disbursements.

28 FINAL REQUISITION. The final requisition of moneys to be submitted  
29 by the Water Authority, which shall be submitted by the Water Authority on or before  
30 the date provided for in Section 4.1(b) of the Loan Agreement.

1 FINANCE AUTHORITY. The New Mexico Finance Authority, created  
2 by the New Mexico Finance Authority Act, NMSA 1978, §§ 6-21-1 through 6-21-31,  
3 as amended.

4 GROSS REVENUES. All income and revenues directly or indirectly  
5 derived by the Water Authority from the operation and use of the System, or any part  
6 of the System, and includes, without limitation, all revenues received by the Water  
7 Authority, or any municipal corporation or agency succeeding to the rights of the  
8 Water Authority, from the System and from the sale and use of water, water services  
9 or facilities, sewer service or facilities or any other service, commodity or facility or  
10 any combination thereof furnished to the inhabitants of the geographic area served  
11 by the Water Authority by means of the System as the same may at any time exist to  
12 serve customers outside the Water Authority's geographical limits as well as  
13 customers within the Water Authority's geographical limits. Such term also includes:

14 (1) All income derived from the investment of any money in  
15 the Joint Water and Sewer Fund, Debt Service Account, Program Account and Rate  
16 Stabilization Fund and income derived from surplus Net Revenues;

17 (2) Money released from a rebate fund to the Water  
18 Authority;

19 (3) Money released from the Rate Stabilization Fund to the  
20 Water Authority to the extent that the amount released is used to pay Operation and  
21 Maintenance Expenses or Debt Service Requirements on System Obligations in the  
22 year released; provided that withdrawals from the Rate Stabilization Fund shall not  
23 be included in Gross Revenues for the purposes of the Rate Covenant in any two  
24 consecutive calendar years;

25 (4) Property insurance proceeds which are not necessary to  
26 restore or replace the property lost or damaged and the proceeds of the sale or  
27 other disposition of any part of the System; and

28 (5) Funds received from users of the System as a  
29 reimbursement of, or otherwise in connection with, franchise fees to be paid by the  
30 Water Authority.

31 Gross Revenues do not include:

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

5                   (2) condemnation proceeds or the proceeds of any  
6 insurance policy, except any property insurance proceeds described above in clause  
7 (4) of this definition or derived in respect of loss of use or business interruption.

8                   INTEREST COMPONENT. The portion of each Loan Agreement  
9 Payment paid as interest accruing on the Aggregate Repayable Disbursements then  
10 outstanding, calculated from the date of each Disbursement.

11                   INTEREST RATE. The rate of interest on the Loan Agreement as  
12 shown on the Term Sheet.

13                   JOINT WATER AND SEWER FUND. The “City of Albuquerque, New  
14 Mexico, Joint Water and Sewer Fund” originally established in Section 16 of City  
15 Ordinance No. 18-1984 and continued in Section 13 of this Ordinance as the  
16 “Albuquerque Bernalillo County Water Utility Authority Joint Water and Sewer Fund.”

17                   LOAN. The funds to be loaned to the Water Authority by the Finance  
18 Authority pursuant to the Loan Agreement, up to the Maximum Principal Amount.

19                   LOAN AGREEMENT. The loan and subsidy agreement and any  
20 amendments or supplements thereto, including the exhibits attached to the loan  
21 agreement.

22                   LOAN AGREEMENT PAYMENT. Collectively, the Principal  
23 Component, the Interest Component, Expense Fund Component, and the  
24 Administrative Fee Component to be paid by the Water Authority as payment on the  
25 Aggregate Repayable Disbursements under the Loan Agreement, as shown on  
26 Exhibit “B” thereto.

27                   LOAN AGREEMENT PRINCIPAL AMOUNT. As of any date of  
28 calculation, the Aggregate Repayable Disbursements (including the Expense Fund  
29 Component) then outstanding.

30                   MAXIMUM PRINCIPAL AMOUNT. One million dollars (\$1,000,000).



1 NMSA 1978. New Mexico Statutes Annotated, 1978 Compilation, as  
2 amended and supplemented.

3 NET REVENUES. The Gross Revenues after deducting Operation  
4 and Maintenance Expenses.

5 OPERATION AND MAINTENANCE EXPENSES. All reasonable and  
6 necessary current expenses of the System, paid or accrued, related to operating,  
7 maintaining and repairing the System including, without limiting the generality of the  
8 foregoing:

9 (1) legal and overhead expenses directly related and  
10 reasonably allocable to the administration of the System;

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

14 (3) premiums, expenses and other costs (other than required  
15 reimbursements of insurance proceeds and other amounts advanced to pay Debt  
16 Service Requirements on System Obligations) for Credit Facilities;

17 (4) Expenses other than expenses paid from the proceeds of  
18 System Obligations;

19 (5) the costs of audits of the books and accounts of the  
20 Water Authority and the System;

21 (6) amounts required to be deposited in a rebate fund or  
22 otherwise required to make rebate payments to the United States Government;

23 (7) salaries, administrative expenses, labor costs, surety  
24 bonds and the cost of materials and supplies used for or in connection with the  
25 current operation of the System; and

26 (8) franchise tax payments to the City, County or any other  
27 local government.

28 Operation and Maintenance Expenses do not include any allowance for  
29 depreciation, payments in lieu of taxes, liabilities incurred by the Water Authority as  
30 a result of its negligence or other misconduct in the operation of the System or any  
31 charges or costs allocable to capital improvements or replacements. Operation and

1 Maintenance Expenses do not include any payment of or reimbursement for the  
2 payment of Debt Service Requirements on the Loan Agreement.

3 ORDINANCE. This Ordinance, as amended or supplemented from  
4 time to time.

5 OUTSTANDING. When used in reference to System Obligations, on  
6 any particular date, the aggregate of all System Obligations issued and delivered  
7 under the applicable Water Authority ordinance authorizing the issuance of, System  
8 Obligations except:

9 (1) those canceled at or prior to such date or delivered to or  
10 acquired by the Water Authority at or prior to such date for cancellation;

11 (2) those which have been paid or are deemed to be paid in  
12 accordance with the Water Authority ordinance or resolution authorizing the  
13 issuance of the applicable System Obligations or otherwise relating thereto, provided  
14 that the payment of insured Obligations with the proceeds of a bond insurance policy  
15 shall not result in those insured obligations ceasing to be Outstanding;

16 (3) in the case of Variable Rate Obligations, System  
17 Obligations deemed tendered but not yet presented for payment;

18 (4) any System Obligation which has been refunded in  
19 accordance with this Ordinance or other ordinances of the Water Authority  
20 authorizing the defeasance of such designated System Obligations; and

21 (5) those in lieu of or in exchange or substitution for which  
22 other System Obligations shall have been delivered, unless proof satisfactory to the  
23 Water Authority and the paying agent for the applicable System Obligations is  
24 presented that any System Obligation for which a new System Obligation was  
25 issued or exchanged is held by a bona fide holder in due course.

26 PROGRAM ACCOUNT. The book account established by the Finance  
27 Authority in the name of the Water Authority for purposes of tracking expenditure of  
28 the Loan by the Water Authority to pay for the costs of the Project, as shown in the  
29 Term Sheet, which account shall be kept separate and apart from all other accounts  
30 of the Finance Authority.

1 PROJECT. Acquiring additional System assets, extending, repairing,  
2 replacing and improving the Water Authority's System, including, acquisition and  
3 installation of water distribution lines for the Carnuel, New Mexico community and  
4 the payment of Expenses associated with the execution and delivery of the Loan  
5 Agreement.

6 PUBLIC PROJECT REVOLVING FUND LOAN AGREEMENT (2011).  
7 The loan agreement dated December 15, 2011 between the Finance Authority and  
8 the Water Authority in the principal amount of \$53,400,000 and approved by  
9 Ordinance No. O-11-5 and Resolution No. R-11-17 constituting a senior lien on the  
10 Net Revenues.

11 QUALIFIED EXCHANGE AGREEMENT. Any interest rate exchange  
12 between the Water Authority and a counterparty which, when entered into by the  
13 Water Authority, satisfies the requirements of Section 6-18-8.1 NMSA 1978.

14 RATE COVENANT. The covenants in the Loan Agreement relating to  
15 charging rates for use of the System to pay Debt Service Requirements.

16 RATE STABILIZATION FUND. The Rate Stabilization Fund for  
17 System Obligations previously established by the Water Authority and continued in  
18 Section 13 of this Ordinance.

19 SENIOR OBLIGATIONS. The Series 2009A-1 Bonds, the Drinking  
20 Water State Revolving Fund Loan Agreement (2009), the Public Project Revolving  
21 Fund Loan Agreement (2011), the Series 2013A&B Bonds, the Series 2014A Bonds,  
22 the Series 2015 Bonds, the Series 2017 Bonds, the Drinking Water State Revolving  
23 Fund Loan Agreement (2018), the Loan Agreement and obligations related thereto  
24 designated as Senior Obligations, in any ordinance or resolution of the Water  
25 Authority relating to those Senior Obligations, and any other System Obligations  
26 issued with a lien on the Net Revenues on parity with the lien of the Outstanding  
27 Senior Obligations on Net Revenues.

28 SERIES 2009A-1 BONDS. The Senior Obligations designated as  
29 "Albuquerque Bernalillo County Water Utility Authority Joint Water and Sewer  
30 System Improvement Revenue Bonds, Series 2009A-1" in the original principal

1 amount of \$135,990,000, authorized and issued pursuant to Ordinance No. O-09-1  
2 and Resolution No. R-09-7 constituting a senior lien on the Net Revenues.

3               SERIES 2013A&B BONDS. The Senior Obligations designated as the  
4 “Albuquerque Bernalillo County Water Utility Authority Joint Water and Sewer  
5 System Improvement Revenue Bonds, Series 2013A” and the “Albuquerque  
6 Bernalillo County Water Utility Authority Joint Water and Sewer System Refunding  
7 Revenue Bonds, Series 2013B” in the combined original principal amount of  
8 \$118,215,000, authorized and issued pursuant to Ordinance No. O-13-2 and  
9 Resolution R-13-13 constituting a senior lien on the Net Revenues.

10              SERIES 2014A BONDS. The Senior Obligations designated as the  
11 “Albuquerque Bernalillo County Water Utility Authority Senior Lien Joint Water and  
12 Sewer System Refunding Revenue Bonds, Series 2014A” in the original principal  
13 amount of \$97,270,000, authorized and issued pursuant to Ordinance No. F/S O-14-  
14 2 and Resolution F/S R-14-10 constituting a senior lien on the Net Revenues.

15              SERIES 2014B BONDS. The Subordinate Obligations designated as  
16 the “Albuquerque Bernalillo County Water Utility Authority Subordinate Lien Joint  
17 Water and Sewer System Refunding Revenue Bonds, Series 2014B” in the original  
18 principal amount of \$87,005,000, authorized and issued pursuant to Ordinance No.  
19 F/S O-14-2 and Resolution F/S R-14-10 constituting a subordinate lien on the Net  
20 Revenues.

21              SERIES 2015 BONDS. The Senior Obligations designated as the  
22 “Albuquerque Bernalillo County Water Utility Authority Senior Lien Joint Water and  
23 Sewer System Refunding and Improvement Revenue Bonds, Series 2015” in the  
24 original principal amount of \$211,940,000, authorized and issued pursuant to  
25 Ordinance No. O-15-2 and Resolution F/S R-15-6 constituting a senior lien on the  
26 Net Revenues.

27              SERIES 2017 BONDS. The Senior Obligations designated as the  
28 “Albuquerque Bernalillo County Water Utility Authority Senior Lien Joint Water and  
29 Sewer System Refunding and Improvement Revenue Bonds, Series 2017” in the  
30 original principal amount of \$87,970,000, authorized and issued pursuant to

1 Ordinance No. WUA O-16-2 and Resolution WUA R-16-13 constituting a senior lien  
2 on the Net Revenues.

3 STATE. The State of New Mexico.

4 SUBORDINATE OBLIGATIONS. The Drinking Water State Revolving  
5 Fund Loan Agreement (2008), the Series 2014B Bonds, and all other bonds and  
6 other obligations of the Water Authority now or hereafter issued with a lien on the  
7 Net Revenues subordinate to the lien of Senior Obligations and superior to the lien  
8 of the Super Subordinate Obligations on the Net Revenues.

9 SUBSIDY. The subsidy in the form of principal forgiveness for the  
10 Water Authority, to be applied proportionally at the time of each disbursement of  
11 moneys from the Program Account to the Water Authority, being fifty percent (50%)  
12 of such disbursements.

13 SUPER SUBORDINATE OBLIGATIONS. All bonds and other  
14 obligations of the Water Authority now or hereafter issued with a lien on the Net  
15 Revenues subordinate to the liens of the Senior Obligations and the Subordinate  
16 Obligations on the Net Revenues.

17 SYSTEM. The public utility owned by the Water Authority and  
18 designated as the Water Authority's water system and sanitary sewer system  
19 (continued as a joint utility system in Section 4 of this Ordinance) consisting of all  
20 properties, real, personal, mixed or otherwise, now owned or hereafter acquired by  
21 the Water Authority, through purchase, construction or otherwise, including all  
22 extensions, enlargements and improvements of or to the water and sanitary sewer  
23 system and used in connection therewith or relating thereto, and any other related  
24 activity or enterprise of the Water Authority designated by the Board as part of the  
25 water and sanitary sewer system, whether situated within or without the  
26 geographical limits of the Water Authority.

27 SYSTEM OBLIGATIONS. All bonds and other similar indebtedness  
28 payable solely or primarily from Net Revenues, including, without limitation, the  
29 Senior Obligations, the Subordinate Obligations and the Super Subordinate  
30 Obligations.

31 TERM SHEET. Exhibit "A" to the Loan Agreement.

1 VARIABLE RATE OBLIGATIONS. System Obligations, including  
2 reimbursement obligations pursuant to a Credit Facility, the interest rate on which is  
3 subject to change from time to time.

4 WATER AUTHORITY. The Albuquerque Bernalillo County Water  
5 Utility Authority created by Section 72-1-10 NMSA 1978 as a joint agency of the City  
6 and the County and operating under the name Albuquerque Bernalillo County Water  
7 Utility Authority.

8 RULES OF CONSTRUCTION. For purposes of this Ordinance, unless  
9 otherwise expressly provided or unless the context requires otherwise:

10 (1) Unless otherwise stated in this Ordinance, all references  
11 in this Ordinance to designated Sections and other subdivisions are to the  
12 designated Section and other subdivisions of this Ordinance.

13 (2) The words “herein”, “hereof”, “hereunder”, and “herewith”  
14 and other words of similar import in this Ordinance refer to this Ordinance, as a  
15 whole, and not to any particular Section or other subdivision.

16 (3) All accounting terms not otherwise defined in this  
17 Ordinance have the meanings assigned to them in accordance with generally  
18 accepted accounting principles.

19 (4) Words of the masculine gender shall be deemed and  
20 construed to include correlative words of the feminine and neuter genders.

21 (5) The headings used in this Ordinance are for convenience  
22 of reference only and shall not define or limit the provisions of this Ordinance.

23 (6) Terms in the singular include the plural and vice versa.

24 Section 2. RATIFICATION. All actions previously taken (not inconsistent  
25 with the provisions of this Ordinance) by the Board and the officers of the Water  
26 Authority, directed toward the authorization, pledge, collection and distribution of the  
27 Net Revenues, the Project, and the authorization, execution and delivery of the Loan  
28 Agreement are ratified, approved and confirmed.

29 Section 3. FINDINGS.

30 (A) The Water Authority declares that it has considered all relevant  
31 information and data and finds that the execution and delivery of the Loan

1 Agreement under the Act in the Maximum Principal Amount to finance the Project is  
2 necessary and in the interest of the public health, safety and welfare of the residents  
3 of the geographic area served by the Water Authority.

4 (B) The Water Authority will finance the Project with the proceeds of  
5 the Loan Agreement, together with other funds of the Water Authority, if necessary.

6 (C) It is economically feasible to accomplish the Project by the  
7 execution and delivery of the Loan Agreement.

8 (D) The Net Revenues may lawfully be pledged to secure the  
9 payment of amounts due under the Loan Agreement.

10 Section 4. JOINT UTILITY. The System shall continue to be operated and  
11 maintained as a joint public utility.

12 Section 5. LOAN AGREEMENT – AUTHORIZATION AND DETAIL.

13 (A) AUTHORIZATION. This Ordinance has been adopted by the  
14 affirmative vote of at least a majority of all of the members of the Board. For the  
15 purpose of protecting the public health, conserving the property, and protecting the  
16 general welfare and prosperity of the public served by the Water Authority and  
17 acquiring and constructing the Project, it is hereby declared necessary that the  
18 Water Authority, pursuant to the Act, execute and deliver the Loan Agreement  
19 evidencing a special limited obligation of the Water Authority to pay a principal  
20 amount of two hundred fifty thousand dollars (\$250,000) and interest thereon, and to  
21 accept a loan subsidy in the amount of seven hundred fifty thousand dollars  
22 (\$750,000) and the execution and delivery of the Loan Agreement is hereby  
23 authorized. The Water Authority shall use the proceeds of the Loan and Subsidy (i)  
24 to finance the acquisition and construction of the Project and (ii) to pay Expenses.  
25 The Project will be owned by the Water Authority.

26 (B) DETAIL. The Loan Agreement shall be in substantially the form  
27 of the Loan Agreement presented at the meeting of the Board at which this  
28 Ordinance was adopted. The Loan shall be in an amount not to exceed the  
29 Maximum Principal Amount of one million dollars (\$1,000,000). The Loan  
30 Agreement Principal Amount shall be payable in installments of principal due on May  
31 1 of the years designated in the Final Loan Agreement Payment Schedule and bear

1 interest payable on May 1 and November 1 of each year, commencing on November  
2 1, 2018, at the rates designated in the Loan Agreement, including Exhibit "A"  
3 thereto, which rates include the Administrative Fee. Interest on Loan Agreement will  
4 be computed on the basis of a 360-day year consisting of twelve 30-day months.

5 Section 6. AUTHORIZATION OF PROJECT AND EXPENSES.

6 (A) PROJECT. The Project is hereby authorized and approved.

7 (B) EXPENSES. The payment of Expenses is authorized and  
8 approved.

9 (C) PROCEEDS. The proceeds of the Loan Agreement will be  
10 used exclusively to finance the Project including the payment of Expenses.

11 Section 7. APPROVAL OF THE LOAN AGREEMENT. The form of the  
12 Loan Agreement as presented at the meeting of the Board at which this Ordinance  
13 was adopted is hereby approved. Authorized Officers are hereby individually  
14 authorized to execute, acknowledge and deliver the Loan Agreement with such  
15 changes, insertions and omissions as may be approved by such individual  
16 Authorized Officers, and the Executive Director is hereby authorized to affix the seal  
17 of the Water Authority on the Loan Agreement and attest the same. The execution  
18 of the Loan Agreement by an Authorized Officer shall be conclusive evidence of  
19 such approval.

20 Section 8. SPECIAL LIMITED OBLIGATIONS. The Loan Agreement shall  
21 be secured by the pledge of the Net Revenues as set forth in the Loan Agreement  
22 and shall be payable solely from the Net Revenues. The Loan Agreement, together  
23 with interest thereon and other obligations of the Water Authority thereunder, shall  
24 be a special, limited obligation of the Water Authority, payable solely from the Net  
25 Revenues as provided in this Ordinance, and the Loan Agreement shall not  
26 constitute a general obligation of the Water Authority, the City, the County, or the  
27 State, and the holders of the Loan Agreement may not look to any general or other  
28 fund of the Water Authority for payment of the obligations thereunder. Nothing  
29 contained in this Ordinance nor in the Loan Agreement, nor any other instruments,  
30 shall be construed as obligating the Water Authority (except with respect to the  
31 application of the Net Revenues) or as imposing a pecuniary liability or a charge



1 upon the general credit of the Water Authority, nor shall a breach of any agreement  
2 contained in this Ordinance, the Loan Agreement, or any other instrument impose  
3 any pecuniary liability upon the Water Authority or any charge upon its general  
4 credit. The Loan Agreement shall never constitute an indebtedness of the Water  
5 Authority within the meaning of any State constitutional provision or statutory  
6 limitation and shall never constitute or give rise to a pecuniary liability of the Water  
7 Authority or a charge against its general credit. Nothing herein shall prevent the  
8 Water Authority from applying other funds of the Water Authority legally available  
9 therefor to payments required by the Loan Agreement, in its sole and absolute  
10 discretion.

11 Section 9. DISPOSITION OF PROCEEDS; COMPLETION OF  
12 ACQUISITION AND CONSTRUCTION OF THE PROJECT.

13 (A) ACCOUNTS. The Water Authority hereby consents to creation  
14 of the Program Account, Expense Fund and Debt Service Account to be held and  
15 maintained by the Finance Authority as provided in the Loan Agreement. The Water  
16 Authority hereby approves of the deposit of a portion of the proceeds of the Loan  
17 Agreement in the Program Account and Expense Fund. The proceeds derived from  
18 the execution and delivery of the Loan Agreement shall be deposited promptly upon  
19 receipt thereof in the Expense Fund and the Program Account, as provided in the  
20 Loan Agreement. Until the Completion Date or the date of the Final Disbursement,  
21 the money in the Program Account shall be used and paid out solely for the purpose  
22 of acquiring and constructing the Project and to pay Expenses in compliance with  
23 applicable law and the provisions of the Loan Agreement.

24 (B) PROMPT COMPLETION OF THE PROJECT. The Water  
25 Authority will acquire, construct and complete the Project with all due diligence.  
26 Upon the acquisition and completion of the Project, the Water Authority shall  
27 execute and send to the Finance Authority a certificate stating that the completion of  
28 and payment for the Project has been completed.

29 (C) FINANCE AUTHORITY NOT RESPONSIBLE FOR  
30 APPLICATION OF LOAN PROCEEDS. The Finance Authority shall in no manner  
31 be responsible for the application or disposal by the Water Authority or by its officers

1 of the net proceeds derived from the Loan Agreement.

2 Section 10. DEPOSIT OF NET REVENUES; DISTRIBUTIONS OF NET  
3 REVENUES AND FLOW OF FUNDS.

4 (A) DEPOSIT OF NET REVENUES. Net Revenues shall be paid  
5 directly by the Water Authority to the Finance Authority in an amount sufficient to pay  
6 principal and interest due under the Loan Agreement, as provided in Section 5.2 of  
7 the Loan Agreement.

8 (B) TERMINATION OF DEPOSITS TO MATURITY. No payment  
9 shall be made into the Debt Service Account if the amount in the Debt Service  
10 Account totals a sum at least equal to the entire aggregate amount of Loan  
11 Agreement Payments to become due as to principal and interest due under the Loan  
12 Agreement, in which case moneys in such account in an amount at least equal to  
13 such principal and interest requirements shall be used solely to pay such obligations  
14 as the same become due, and any moneys in excess thereof in such accounts shall  
15 be transferred to the Water Authority and used as provided in Section 10(C) below.

16 (C) USE OF SURPLUS REVENUES. After making all the  
17 payments hereinabove required to be made by this Section, any moneys remaining  
18 in the Debt Service Account shall be transferred to the Water Authority on a timely  
19 basis and applied to any other lawful purpose, including, but not limited to, the  
20 payment of any Senior Obligations, Subordinate Obligations or Super Subordinate  
21 Obligations, or purposes authorized by the Water Authority, the Constitution and  
22 laws of the State, as the Water Authority may from time to time determine.

23 Section 11. LIEN ON NET REVENUES. The Loan Agreement shall be  
24 issued with a lien on the Net Revenues on parity with the lien of the Senior  
25 Obligations on the Net Revenues and a lien superior to the liens of the Subordinate  
26 Obligations and the Super Subordinate Obligations on the Net Revenues. The Net  
27 Revenues are hereby authorized to be pledged, and are hereby pledged, and the  
28 Water Authority grants a security interest therein, for the payment of the principal  
29 and interest due under the Loan Agreement, subject to the uses thereof permitted by  
30 and the priorities set forth in this Ordinance and the Loan Agreement. The Loan  
31 Agreement constitutes an irrevocable first lien, but not necessarily an exclusive first

1 lien, on the Net Revenues as set forth herein and therein, and the Water Authority  
2 shall not create a lien on the Net Revenues superior to that of the Loan Agreement  
3 without the express prior written approval of the Finance Authority.

4 Section 12. AUTHORIZED OFFICERS; DELEGATED POWERS.

5 Authorized Officers are hereby individually authorized and directed to execute and  
6 deliver any and all papers, instruments, opinions, affidavits and other documents  
7 and to do and cause to be done any and all acts and things necessary or proper for  
8 carrying out this Ordinance, the Loan Agreement and all other transactions  
9 contemplated hereby and thereby. Authorized Officers are hereby individually  
10 authorized to do all acts and things required of them by this Ordinance and the Loan  
11 Agreement for the full, punctual and complete performance of all the terms,  
12 covenants and agreements contained in this Ordinance and the Loan Agreement  
13 including, but not limited to, the execution and delivery of closing documents,  
14 additional agreements and reports required in connection with the execution and  
15 delivery of the Loan Agreement, and the publication of the summary of this  
16 Ordinance set out in Section 19 of this Ordinance (with such changes, additions and  
17 deletions as may be necessary).

18 Section 13. FUNDS AND ACCOUNTS.

19 (A) JOINT WATER AND SEWER FUND. The Water Authority shall  
20 continue the Joint Water and Sewer Fund as a separate, distinct and segregated  
21 fund. As long as the Loan Agreement is outstanding, all Gross Revenues shall  
22 continue to be set aside and credited to the Joint Water and Sewer Fund.

23 (B) DEBT SERVICE FUND AND ACCOUNTS. The Water Authority  
24 shall continue the Debt Service Fund as a separate, distinct and segregated fund for  
25 the deposit of Net Revenues for the payment of System Obligations, including the  
26 Loan Agreement. The Water Authority shall continue the Expense Account as part  
27 of the Debt Service Fund. Money on deposit or credited to the Expense Account  
28 shall be used for the purpose of payment of Expenses.

29 (C) RATE STABILIZATION FUND. The Water Authority shall  
30 continue the Rate Stabilization Fund as a separate, distinct and segregated fund.

31 Section 14. AMENDMENT OF ORDINANCE. Prior to the Closing Date, the

1 provisions of this Ordinance may be supplemented or amended by ordinance of the  
2 Board with respect to any changes which are not inconsistent with the substantive  
3 provisions of this Ordinance. After the Closing Date, this Ordinance may be  
4 amended without receipt by the Water Authority of any additional consideration, but  
5 only with the prior written consent of the Finance Authority.

6 Section 15. LIMITATION OF RIGHTS. Nothing in this Ordinance expressed  
7 or implied is intended or shall be construed to give to any person other than the  
8 Water Authority, the Finance Authority and the parties to which such right, remedy or  
9 claim is expressly granted by this Ordinance any legal or equitable right, remedy or  
10 claim under or in respect to the Ordinance.

11 Section 16. ORDINANCE IRREPEALABLE. After the Closing Date, this  
12 Ordinance shall be and remain irrevocable until all obligations due under the Loan  
13 Agreement shall be fully paid, canceled and discharged, as herein provided.

14 Section 17. SEVERABILITY CLAUSE. If any section, paragraph, clause or  
15 provision of this Ordinance shall for any reason be held to be invalid or  
16 unenforceable, the invalidity or unenforceability of that section, paragraph, clause or  
17 provision shall not affect any of the remaining provisions of this Ordinance.

18 Section 18. REPEALER CLAUSE. All bylaws, orders, resolutions and  
19 ordinances, or parts thereof, inconsistent with this Ordinance are repealed to the  
20 extent only of such inconsistency. This repealer shall not be construed to revive any  
21 bylaw, order, resolution or ordinance, or part thereof, previously repealed.

22 Section 19. GENERAL SUMMARY FOR PUBLICATION. The title and a  
23 general summary of the subject matter contained in this Ordinance shall be  
24 published in substantially the following form:

25 (Form of Summary of Ordinance for Publication)

26 Albuquerque Bernalillo County Water Utility Authority

27 Notice of Adoption of Ordinance

28 NOTICE IS HEREBY GIVEN, pursuant to the provisions of Section 6-14-6  
29 NMSA 1978, that on May 23, 2018, the Board of Albuquerque Bernalillo County  
30 Water Utility Authority (the "Water Authority") adopted Water Authority Ordinance  
31 No. O-18-\_\_\_\_\_, an ordinance which authorizes the execution and delivery of a loan

1 agreement with the New Mexico Finance Authority in an aggregate principal amount  
2 of \$1,000,000 to make improvements to the Water Authority's Joint Water and  
3 Sanitary Sewer System.

4 The title of the Ordinance is:

5 **ORDINANCE**

6 **AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN**  
7 **AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE**  
8 **ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY (THE**  
9 **"WATER AUTHORITY") AND THE NEW MEXICO FINANCE AUTHORITY,**  
10 **EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE WATER AUTHORITY**  
11 **TO PAY A PRINCIPAL AMOUNT OF NO MORE THAN TWO HUNDRED FIFTY**  
12 **THOUSAND DOLLARS (\$250,000), TOGETHER WITH INTEREST, COSTS OF**  
13 **ISSUANCE AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN**  
14 **SUBSIDY OF NO MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS**  
15 **(\$750,000), FOR THE PURPOSE OF FINANCING THE COSTS OF EXTENDING**  
16 **AND IMPROVING THE WATER INFRASTRUCTURE SYSTEM TO THE CARNUEL**  
17 **COMMUNITY, INCLUDING, ACQUISITION AND INSTALLATION OF WATER**  
18 **DISTRIBUTION LINES; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE**  
19 **PRINCIPAL, INTEREST AND ADMINISTRATIVE FEES DUE UNDER THE LOAN**  
20 **AGREEMENT SOLELY FROM NET REVENUES; SETTING A MAXIMUM**  
21 **INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER**  
22 **DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS**  
23 **HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS**  
24 **ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN**  
25 **CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN**  
26 **AGREEMENT.**

27 The title contains a general summary of the subject matter contained in the  
28 Ordinance.

29 This notice constitutes compliance with § 6-14-6 NMSA 1978.

30 (End of Summary of Ordinance for Publication)

31

1 PASSED AND ADOPTED THIS 23<sup>rd</sup> DAY OF MAY, 2018.  
2 BY A VOTE OF \_\_\_\_ FOR AND \_\_\_\_ AGAINST.

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\_\_\_\_\_  
Chair

7 ATTEST:

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10 Secretary

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## SOURCES AND USES OF FUNDS

Albuquerque Bernalillo County Water Utility Authority  
 4202-DW Carnuel Water System Improvements/4200-DW Albuquerque Advanced Meter Infrastructure Upgrade

| Sources:                                   | 4202-DW<br>Carnuel Water<br>System<br>Improvements<br>Phase 2B | 4200-DW<br>Albuquerque<br>Metro Area<br>Advanced Meter<br>Infrastructure<br>Upgrade | Total        |
|--|--|---|--------------|
| Bond Proceeds:                             |  |   |              |
| Par Amount                                 | 250,000.00   | 505,000.00  | 755,000.00   |
| Other Sources of Funds:                    |  |   |              |
| DWSRLF Subsidy (75% Principal Forgiveness) | 750,000.00   |   | 750,000.00   |
| COI Subsidy (50% Forgiveness)              |  | 5,000.00  | 5,000.00     |
| DWSRLF Subsidy (50% Principal Forgiveness) |  | 500,000.00  | 500,000.00   |
|  | 750,000.00   | 505,000.00  | 1,255,000.00 |
|  | 1,000,000.00   | 1,010,000.00  | 2,010,000.00 |

| Uses:                   | 4202-DW<br>Carnuel Water<br>System<br>Improvements<br>Phase 2B | 4200-DW<br>Albuquerque<br>Metro Area<br>Advanced Meter<br>Infrastructure<br>Upgrade | Total        |
|-------------------------|--|---|--------------|
| Project Fund Deposits:  |  |   |              |
| Project Fund            | 1,000,000.00   | 1,000,000.00  | 2,000,000.00 |
| Delivery Date Expenses: |  |   |              |
| Cost of Issuance        |  | 10,000.00   | 10,000.00    |
|                         | 1,000,000.00   | 1,010,000.00  | 2,010,000.00 |

BOND SUMMARY STATISTICS

Albuquerque Bernalillo County Water Utility Authority  
4202-DW Carmuel Water System Improvements Phase 2B

|                                 |            |
|---------------------------------|------------|
| Dated Date                      | 06/01/2018 |
| Delivery Date                   | 06/01/2018 |
| Last Maturity                   | 05/01/2040 |
| Arbitrage Yield                 | 1.436653%  |
| True Interest Cost (TIC)        | 0.250003%  |
| Net Interest Cost (NIC)         | 0.250002%  |
| All-In TIC                      | 0.250003%  |
| Average Coupon                  | 0.250002%  |
| Average Life (years)            | 12.500     |
| Duration of Issue (years)       | 12.274     |
| Par Amount                      | 250,000.00 |
| Bond Proceeds                   | 250,000.00 |
| Total Interest                  | 7,812.38   |
| Net Interest                    | 7,812.38   |
| Total Debt Service              | 257,812.38 |
| Maximum Annual Debt Service     | 12,831.20  |
| Average Annual Debt Service     | 11,763.30  |
| 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 |
|------------------------------|------------|---------|----------------|--------------|
| Disadvantaged Loan Component | 250,000.00 | 100.000 | 0.250%         | 12.500       |
|                              | 250,000.00 |         |                | 12.500       |

|                            | TIC        | All-In TIC | Arbitrage Yield |
|----------------------------|------------|------------|-----------------|
| Par Value                  | 250,000.00 | 250,000.00 | 250,000.00      |
| + Accrued Interest         |            |            |                 |
| + Premium (Discount)       |            |            |                 |
| - Underwriter's Discount   |            |            |                 |
| - Cost of Issuance Expense |            |            |                 |
| - Other Amounts            |            |            |                 |
| Target Value               | 250,000.00 | 250,000.00 | 250,000.00      |
| Target Date                | 06/01/2018 | 06/01/2018 | 06/01/2018      |
| Yield                      | 0.250003%  | 0.250003%  | 1.436653%       |



BOND DEBT SERVICE BREAKDOWN

Albuquerque Bernalillo County Water Utility Authority  
4202-DW Carnuel Water System Improvements/4200-DW Albuquerque Advanced Meter Infrastructure Upgrade

| Period<br>Ending | 4202-DW Carnuel<br>Water System<br>Improvements<br>Phase 2B | 4200-DW<br>Albuquerque<br>Metro Area<br>Advanced Meter<br>Infrastructure<br>Upgrade | Total      | Annual<br>Total |
|------------------|---|---|------------|-----------------|
| 11/01/2018       | 260.42  | 4,208.33  | 4,468.75   |                 |
| 05/01/2019       | 312.50  | 5,050.00  | 5,362.50   | 9,831.25        |
| 11/01/2019       | 312.50  | 5,050.00  | 5,362.50   |                 |
| 05/01/2020       | 312.50  | 5,050.00  | 5,362.50   | 10,725.00       |
| 11/01/2020       | 312.50  | 5,050.00  | 5,362.50   |                 |
| 05/01/2021       | 12,518.50   | 25,834.00   | 38,352.50  | 43,715.00       |
| 11/01/2021       | 297.24  | 4,842.16  | 5,139.40   |                 |
| 05/01/2022       | 12,533.24   | 26,042.16   | 38,575.40  | 43,714.80       |
| 11/01/2022       | 281.95  | 4,630.16  | 4,912.11   |                 |
| 05/01/2023       | 12,548.95   | 26,254.16   | 38,803.11  | 43,715.22       |
| 11/01/2023       | 266.61  | 4,413.92  | 4,680.53   |                 |
| 05/01/2024       | 12,563.61   | 26,469.92   | 39,033.53  | 43,714.06       |
| 11/01/2024       | 251.24  | 4,193.36  | 4,444.60   |                 |
| 05/01/2025       | 12,579.24   | 26,690.36   | 39,269.60  | 43,714.20       |
| 11/01/2025       | 235.83  | 3,968.39  | 4,204.22   |                 |
| 05/01/2026       | 12,594.83   | 26,915.39   | 39,510.22  | 43,714.44       |
| 11/01/2026       | 220.38  | 3,738.92  | 3,959.30   |                 |
| 05/01/2027       | 12,610.38   | 27,144.92   | 39,755.30  | 43,714.60       |
| 11/01/2027       | 204.90  | 3,504.86  | 3,709.76   |                 |
| 05/01/2028       | 12,625.90   | 27,378.86   | 40,004.76  | 43,714.52       |
| 11/01/2028       | 189.37  | 3,266.12  | 3,455.49   |                 |
| 05/01/2029       | 12,641.37   | 27,618.12   | 40,259.49  | 43,714.98       |
| 11/01/2029       | 173.81  | 3,022.60  | 3,196.41   |                 |
| 05/01/2030       | 12,656.81   | 27,861.60   | 40,518.41  | 43,714.82       |
| 11/01/2030       | 158.20  | 2,774.21  | 2,932.41   |                 |
| 05/01/2031       | 12,672.20   | 28,110.21   | 40,782.41  | 43,714.82       |
| 11/01/2031       | 142.56  | 2,520.85  | 2,663.41   |                 |
| 05/01/2032       | 12,688.56   | 28,363.85   | 41,052.41  | 43,715.82       |
| 11/01/2032       | 126.88  | 2,262.42  | 2,389.30   |                 |
| 05/01/2033       | 12,703.88   | 28,621.42   | 41,325.30  | 43,714.60       |
| 11/01/2033       | 111.16  | 1,998.83  | 2,109.99   |                 |
| 05/01/2034       | 12,719.16   | 28,885.83   | 41,604.99  | 43,714.98       |
| 11/01/2034       | 95.40   | 1,729.96  | 1,825.36   |                 |
| 05/01/2035       | 12,735.40   | 29,153.96   | 41,889.36  | 43,714.72       |
| 11/01/2035       | 79.60   | 1,455.72  | 1,535.32   |                 |
| 05/01/2036       | 12,751.60   | 29,428.72   | 42,180.32  | 43,715.64       |
| 11/01/2036       | 63.76   | 1,175.99  | 1,239.75   |                 |
| 05/01/2037       | 12,766.76   | 29,707.99   | 42,474.75  | 43,714.50       |
| 11/01/2037       | 47.88   | 890.67  | 938.55     |                 |
| 05/01/2038       | 12,782.88   | 29,993.67   | 42,776.55  | 43,715.10       |
| 11/01/2038       | 31.96   | 599.64  | 631.60     |                 |
| 05/01/2039       | 12,798.96   | 30,284.64   | 43,083.60  | 43,715.20       |
| 11/01/2039       | 16.00   | 302.79  | 318.79     |                 |
| 05/01/2040       | 12,815.00   | 30,581.79   | 43,396.79  | 43,715.58       |
|                  | 257,812.38  | 637,041.47  | 894,853.85 | 894,853.85      |

## DETAILED BOND DEBT SERVICE

Albuquerque Bernalillo County Water Utility Authority  
4202-DW Carnuel Water System Improvements Phase 2B

Disadvantaged Loan Component (DISADVANT)

| Period<br>Ending | Principal | Coupon | Interest | Debt Service | Annual<br>Debt Service |
|------------------|-----------|--------|----------|--------------|------------------------|
| 11/01/2018       |           |        | 260.42   | 260.42       |                        |
| 05/01/2019       |           |        | 312.50   | 312.50       | 572.92                 |
| 11/01/2019       |           |        | 312.50   | 312.50       |                        |
| 05/01/2020       |           |        | 312.50   | 312.50       | 625.00                 |
| 11/01/2020       |           |        | 312.50   | 312.50       |                        |
| 05/01/2021       | 12,206    | 0.250% | 312.50   | 12,518.50    | 12,831.00              |
| 11/01/2021       |           |        | 297.24   | 297.24       |                        |
| 05/01/2022       | 12,236    | 0.250% | 297.24   | 12,533.24    | 12,830.48              |
| 11/01/2022       |           |        | 281.95   | 281.95       |                        |
| 05/01/2023       | 12,267    | 0.250% | 281.95   | 12,548.95    | 12,830.90              |
| 11/01/2023       |           |        | 266.61   | 266.61       |                        |
| 05/01/2024       | 12,297    | 0.250% | 266.61   | 12,563.61    | 12,830.22              |
| 11/01/2024       |           |        | 251.24   | 251.24       |                        |
| 05/01/2025       | 12,328    | 0.250% | 251.24   | 12,579.24    | 12,830.48              |
| 11/01/2025       |           |        | 235.83   | 235.83       |                        |
| 05/01/2026       | 12,359    | 0.250% | 235.83   | 12,594.83    | 12,830.66              |
| 11/01/2026       |           |        | 220.38   | 220.38       |                        |
| 05/01/2027       | 12,390    | 0.250% | 220.38   | 12,610.38    | 12,830.76              |
| 11/01/2027       |           |        | 204.90   | 204.90       |                        |
| 05/01/2028       | 12,421    | 0.250% | 204.90   | 12,625.90    | 12,830.80              |
| 11/01/2028       |           |        | 189.37   | 189.37       |                        |
| 05/01/2029       | 12,452    | 0.250% | 189.37   | 12,641.37    | 12,830.74              |
| 11/01/2029       |           |        | 173.81   | 173.81       |                        |
| 05/01/2030       | 12,483    | 0.250% | 173.81   | 12,656.81    | 12,830.62              |
| 11/01/2030       |           |        | 158.20   | 158.20       |                        |
| 05/01/2031       | 12,514    | 0.250% | 158.20   | 12,672.20    | 12,830.40              |
| 11/01/2031       |           |        | 142.56   | 142.56       |                        |
| 05/01/2032       | 12,546    | 0.250% | 142.56   | 12,688.56    | 12,831.12              |
| 11/01/2032       |           |        | 126.88   | 126.88       |                        |
| 05/01/2033       | 12,577    | 0.250% | 126.88   | 12,703.88    | 12,830.76              |
| 11/01/2033       |           |        | 111.16   | 111.16       |                        |
| 05/01/2034       | 12,608    | 0.250% | 111.16   | 12,719.16    | 12,830.32              |
| 11/01/2034       |           |        | 95.40    | 95.40        |                        |
| 05/01/2035       | 12,640    | 0.250% | 95.40    | 12,735.40    | 12,830.80              |
| 11/01/2035       |           |        | 79.60    | 79.60        |                        |
| 05/01/2036       | 12,672    | 0.250% | 79.60    | 12,751.60    | 12,831.20              |
| 11/01/2036       |           |        | 63.76    | 63.76        |                        |
| 05/01/2037       | 12,703    | 0.250% | 63.76    | 12,766.76    | 12,830.52              |
| 11/01/2037       |           |        | 47.88    | 47.88        |                        |
| 05/01/2038       | 12,735    | 0.250% | 47.88    | 12,782.88    | 12,830.76              |
| 11/01/2038       |           |        | 31.96    | 31.96        |                        |
| 05/01/2039       | 12,767    | 0.250% | 31.96    | 12,798.96    | 12,830.92              |
| 11/01/2039       |           |        | 16.00    | 16.00        |                        |
| 05/01/2040       | 12,799    | 0.250% | 16.00    | 12,815.00    | 12,831.00              |
|                  | 250,000   |        | 7,812.38 | 257,812.38   | 257,812.38             |

## UNIVERSAL BOND SOLUTION

Albuquerque Bernalillo County Water Utility Authority  
 4202-DW Carnuel Water System Improvements/4200-DW Albuquerque Advanced Meter Infrastructure Upgrade  
 Universal Bond Solution Component

| Period Ending | Proposed Principal | Proposed Debt Service | Existing Debt Service | Total Adj Debt Service | Revenue Constraints | Unused Revenues | Debt Serv Coverage |
|---------------|--------------------|-----------------------|-----------------------|------------------------|---------------------|-----------------|--------------------|
| 05/01/2019    |                    | 9,831                 | 85,371,699            | 85,381,530             | 118,399,994         | 33,018,464      | 138.67167%         |
| 05/01/2020    |                    | 10,725                | 75,192,733            | 75,203,458             | 118,399,994         | 43,196,536      | 157.43956%         |
| 05/01/2021    | 32,990             | 43,715                | 75,199,808            | 75,243,523             | 118,399,994         | 43,156,471      | 157.35573%         |
| 05/01/2022    | 33,436             | 43,715                | 68,663,333            | 68,707,048             | 118,399,994         | 49,692,946      | 172.32584%         |
| 05/01/2023    | 33,891             | 43,715                | 68,657,944            | 68,701,660             | 118,399,994         | 49,698,335      | 172.33935%         |
| 05/01/2024    | 34,353             | 43,714                | 63,234,469            | 63,278,183             | 118,399,994         | 55,121,811      | 187.11029%         |
| 05/01/2025    | 34,825             | 43,714                | 57,629,746            | 57,673,460             | 118,399,994         | 60,726,534      | 205.29372%         |
| 05/01/2026    | 35,306             | 43,714                | 43,374,773            | 43,418,487             | 118,399,994         | 74,981,507      | 272.69488%         |
| 05/01/2027    | 35,796             | 43,715                | 32,704,852            | 32,748,566             | 118,399,994         | 85,651,428      | 361.54253%         |
| 05/01/2028    | 36,295             | 43,715                | 24,554,324            | 24,598,038             | 118,399,994         | 93,801,956      | 481.33917%         |
| 05/01/2029    | 36,804             | 43,715                | 24,561,469            | 24,605,184             | 118,399,994         | 93,794,810      | 481.19939%         |
| 05/01/2030    | 37,322             | 43,715                | 17,664,911            | 17,708,626             | 118,399,994         | 100,691,368     | 668.60069%         |
| 05/01/2031    | 37,850             | 43,715                | 17,005,859            | 17,049,574             | 118,399,994         | 101,350,420     | 694.44547%         |
| 05/01/2032    | 38,389             | 43,716                | 16,889,219            | 16,932,935             | 118,399,994         | 101,467,059     | 699.22903%         |
| 05/01/2033    | 38,936             | 43,715                | 16,883,968            | 16,927,682             | 118,399,994         | 101,472,312     | 699.44598%         |
| 05/01/2034    | 39,495             | 43,715                | 8,519,143             | 8,562,858              | 118,399,994         | 109,837,136     | 1382.71588%        |
| 05/01/2035    | 40,064             | 43,715                | 2,462,105             | 2,505,820              | 118,399,994         | 115,894,174     | 4725.00049%        |
| 05/01/2036    | 40,645             | 43,716                | 2,459,293             | 2,503,008              | 118,399,994         | 115,896,986     | 4730.30799%        |
| 05/01/2037    | 41,235             | 43,715                | 1,384,980             | 1,428,695              | 118,399,994         | 116,971,300     | 8287.28563%        |
| 05/01/2038    | 41,838             | 43,715                | 1,383,730             | 1,427,445              | 118,399,994         | 116,972,549     | 8294.53924%        |
| 05/01/2039    | 42,452             | 43,715                |                       | 43,715                 | 118,399,994         | 118,356,279     | 270843.995%        |
| 05/01/2040    | 43,078             | 43,716                |                       | 43,716                 | 118,399,994         | 118,356,278     | 270841.640%        |
|               | 755,000            | 894,854               | 703,798,356           | 704,693,210            | 2,604,799,868       | 1,900,106,658   |                    |

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Meeting Date: May 23, 2018

Staff Contact: Stan Allred, Chief Financial Officer; Frank Roth, Senior Policy Manager

**TITLE: R-18-11 – Confirming Approval of the Execution and Delivery of a Loan and Subsidy Agreement by and Between the Albuquerque Bernalillo County Water Utility Authority and the New Mexico Finance Authority for the Carnuel Phase 2b Project**

**ACTION: Recommend Approval**

**SUMMARY:**

This legislation is the ratification, approval and confirmation of the actions taken by the Board and the officers of the Water Authority toward the financing of a loan/grant with the New Mexico Finance Authority (NMFA) in the amount of \$1,000,000 (\$250,000 loan/\$750,000 grant). The ratification, approval and confirmation include the execution of a Loan Agreement, the pledge of the Pledged Revenues and the adoption of Ordinance O-18-5. All capitalized terms shall have the same meaning as such terms have in Ordinance O-18-5.

This funding would construct waterlines for Phase 2b of the Carnuel Water System Improvements Project. This project is ready to bid and could be completed in approximately one year. The community of Carnuel mostly obtains their water from private wells and disposal through septic systems and is in urgent need of a central public water and wastewater system. In addition, the Carnuel community's private wells are shallow and often co-exist in the same areas with poorly functioning, aging septic systems which have led to nitrate contamination in many of the wells. Moreover, the Carnuel community has seen a serious decline in the quality of water coming from private wells and in some areas it does not meet the mandates of the Safe Drinking Water Act.

In November 2008, the Water Authority and the Carnuel Mutual Domestic Water Consumer Association entered into an agreement for the Water Authority to act as fiscal agent and extend water infrastructure using federal and state grants and loans.

The extension of the water system to the Carnuel community is an eight-phase project which will connect about 800 existing households. Phase 1 extended water service from an existing Water Authority reservoir to the High Priority area; the project was completed in November 2010. Phase 2a, which includes a 387,000 gallon water tank, was completed in September 2015. The water tank provides water storage capacity, fire flow protection, and redundancy to the project area. Phase 3a continued the

extension of the water distribution lines through the High Priority area; this project was completed in September 2016.

The Water Authority will own and operate the system. Residents who connect to the system will pay Water Authority Ordinance rates and fees. System expansion is guided by the Bernalillo County Tijeras Canyon/Carnuel Plan which identifies priority areas for water and wastewater service.

**FISCAL IMPACT:**

There is no fiscal impact associated with this legislation.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-18-11

1 **RESOLUTION**

2 **CONFIRMING APPROVAL OF THE EXECUTION AND DELIVERY OF A LOAN AND**  
3 **SUBSIDY AGREEMENT (THE "LOAN AGREEMENT") BY AND BETWEEN THE**  
4 **ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY (THE**  
5 **"WATER AUTHORITY") AND THE NEW MEXICO FINANCE AUTHORITY**  
6 **EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE WATER AUTHORITY TO**  
7 **PAY A PRINCIPAL AMOUNT OF NO MORE THAN TWO HUNDRED FIFTY**  
8 **THOUSAND DOLLARS (\$250,000), TOGETHER WITH INTEREST, COSTS OF**  
9 **ISSUANCE AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN**  
10 **SUBSIDY OF NO MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS**  
11 **(\$750,000); AND RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION**  
12 **THEREWITH.**

13 WHEREAS, pursuant to Section 72-1-10 NMSA 1978, the Board (the "Board") of  
14 the Water Authority adopted Ordinance No. O-18-5 on May 23, 2018 (the "Ordinance")  
15 authorizing the execution and delivery of the Loan Agreement to finance improvements  
16 to the Water Authority's joint water and sanitary sewer system as described therein;  
17 BE IT RESOLVED BY THE WATER AUTHORITY:

18 SECTION 1. The execution and delivery of the Loan Agreement in an aggregate  
19 principal amount of \$1,000,000 is authorized. All action heretofore taken by the Board  
20 and the officers of the Water Authority directed toward the financing of the Project, the  
21 execution and delivery of the Loan Agreement, the pledge of the Net Revenues and the  
22 adoption of the Ordinance be, and the same hereby are, authorized, ratified, approved  
23 and confirmed. All capitalized terms shall have the same meaning as such terms have  
24 in the Ordinance.

25 SECTION 2. If any section, paragraph, clause or provision of this Confirming  
26 Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or  
27 unenforceability of such section, paragraph, clause or provision shall not affect any of  
28 the remaining provisions of this Confirming Resolution.

SECTION 3. This Confirming Resolution shall be in full force and effect immediately upon adoption.

SECTION 4. Pursuant to the general laws of the State, the title and general summary of the subject matter contained in this Confirming Resolution shall be published in substantially the following form:

**ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY**

## LEGAL NOTICE

Notice is hereby given that the Board of Directors of Albuquerque Bernalillo County Water Utility Authority did on the 23<sup>rd</sup> day of May, 2018, adopt a resolution entitled:

**CONFIRMING APPROVAL OF THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT (THE "LOAN AGREEMENT") BY AND BETWEEN THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY (THE "WATER AUTHORITY") AND THE NEW MEXICO FINANCE AUTHORITY EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE WATER AUTHORITY TO PAY A PRINCIPAL AMOUNT OF NO MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000), TOGETHER WITH INTEREST, COSTS OF ISSUANCE AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000); AND RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH.**

The Confirming Resolution authorizes the execution and delivery of the Loan Agreement. Complete copies of the Confirming Resolution are available for public inspection during normal and regular business hours at the offices of the Water Authority, One Civic Plaza, NW, Albuquerque, New Mexico.

Dated this 23<sup>rd</sup> day of May, 2018.

1 PASSED AND ADOPTED THIS 23<sup>rd</sup> DAY OF MAY, 2018. BY A VOTE OF  
2 \_\_\_\_\_ FOR AND \_\_\_\_\_ AGAINST.

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\_\_\_\_\_  
CHAIR

7 ATTEST:

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10 SECRETARY

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Meeting Date: May 23, 2018  
Staff Contact: Stan Allred, Chief Financial Officer

**TITLE:** R-18-15 – Authorizing the Removal of Certain Uncollectable Accounts from the Albuquerque Bernalillo County Water Utility Authority Accounts Receivable Records FY2013 and Prior

**ACTION:** Recommend Approval

**SUMMARY:**

This legislation provides information to support a request to the Board authorizing the removal of uncollectable accounts greater than four years old totaling \$138,560.49.

**FISCAL IMPACT:**

Since 1965, pursuant to NMSA 1978, § 3-37-7, New Mexico municipalities have been expressly permitted to write off uncollectable debt. Counties and political subdivisions like the Albuquerque Bernalillo County Water Authority (Water Authority) may use the same process as a municipality to write off uncollectable debt through the procedure set forth in state law. This process will avoid an excessive accrual of accounts receivable while also accurately report the financial position of the Water Authority and comply with state debt-collection law. Further, the Water Authority should not represent to its customers, either in invoices or in any demand, that the customer owes any amount that was accrued more than four years prior to the demand.

The Chief Financial Officer (CFO) of the Water Authority states that:

- a) a utility account or any unsecured account services have been incurred;
- b) diligent efforts were made to collect the utility account or unsecured account and to locate a debtor;
- c) that the utility account or unsecured account has been uncollectable for a period of more than four years; and
- d) that in his opinion the utility account or unsecured account is uncollectable.

Staff recommends authorization to remove the uncollectable accounts as shown in Exhibit A.

Attachments:

Resolution  
Exhibit A

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-18-15

1 **RESOLUTION**

2 **AUTHORIZING THE REMOVAL OF CERTAIN UNCOLLECTABLE ACCOUNTS FROM**  
3 **THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY**  
4 **ACCOUNTS RECEIVABLE RECORDS FY2013 AND PRIOR**

5 WHEREAS, pursuant to NMSA 1978 § 3-37-7, pertaining to the determinations of  
6 uncollectable accounts and their removal from accounts receivable, the Chief Financial  
7 Officer (CFO) has submitted herewith a list of accounts receivable which were incurred in  
8 providing water and wastewater services and are owed to the Albuquerque Bernalillo  
9 County Water Utility Authority (Water Authority); and

10 WHEREAS, the CFO states that diligent efforts have been made to collect these  
11 accounts receivable and the respective amounts due; and

12 WHEREAS, the CFO has determined that these accounts receivable are  
13 uncollectable and have been uncollectable for more than four years; and

14 WHEREAS, the uncollectable accounts receivable has been deemed “time barred  
15 debt”, defined as any debt that is not enforceable in a judicial proceeding because the  
16 applicable statute of limitations has run; and

17 WHEREAS, because this debt is legally uncollectable, it is not a “donation” to a  
18 private party in violation of the anti-donation clause of the New Mexico Constitution, N.M.  
19 Const. Art. IX, Section 14; and

20 WHEREAS, an allowance for doubtful accounts has been recorded on the Water  
21 Authority financial records which is more than sufficient to cover the uncollectable  
22 accounts; therefore, there will be no impact on the current fund balances.

23 **BE IT RESOLVED BY THE WATER AUTHORITY:**

24 The Water Authority Board finds that the Water Authority’s uncollectable accounts  
25 receivable in the amount of \$138,560.49 as shown in Exhibit A which is attached hereto  
26 and by this reference made part hereof shall be removed from the Water Authority’s  
27 accounts receivable records as uncollectable in accordance with the provisions of NMSA  
28 1978 § Section 3-37-7.

[+Bracketed Material+] - New  
[-Bracketed Material-] - Deletion

## Exhibit A

## WRITE OFFS FOR APRIL 2018

| ACT NUMBER | ADDRESS                  | AMOUNT       |
|------------|--------------------------|--------------|
| 7083389560 | 2500 KELLEY RD SW        | \$1,526.71   |
| 8093189560 | 510 SANDIA VIEW RD NW    | \$1,582.16   |
| 7021969560 | 509 60TH ST NW           | \$1,678.80   |
| 3303589560 | 314 MITCHELL AVE SE      | \$7,573.79   |
| 7477349560 | 321 SAN PABLO ST NE      | \$1,913.09   |
| 7013589560 | 4504 AXTELL ST SE        | \$1,886.26   |
| 7487829560 | 609 GARFIELD AVE SE      | \$1,761.28   |
| 7153049560 | 345 CHARLESTON ST SE     | \$1,863.06   |
| 7920389560 | 3501 ISLETA BLVD SW      | \$1,664.16   |
| 5704289560 | 1400 NEETSIE DR SW       | \$1,971.63   |
| 6934289560 | 900 PEREZ RD SW          | \$1,999.29   |
| 4982189560 | 209 RANCHITOS RD NW      | \$3,147.24   |
| 5813757351 | 9827 PINOT NOIR AVE SW   | \$2,488.04   |
| 8091929560 | 302 THAXTON AVE SE       | \$2,537.45   |
| 6431829560 | 508 ASPEN AVE NE         | \$2,287.87   |
| 5894189560 | 6428 COMMERCIAL ST NE    | \$9,741.31   |
| 7442929560 | 240 SMITH AVE SE         | \$4,765.32   |
| 6086289560 | 1750 ISLETA BLVD SW      | \$3,641.13   |
| 7220389560 | 2545 CUATRO MILPAS RD SW | \$3,479.45   |
| 3377289560 | 850 ARTHUR DR SW         | \$3,895.66   |
| 1615289560 | 1218 MONTROSE PL SW      | \$5,724.93   |
| 3915389560 | 2402 SALVADOR RD SW      | \$13,406.37  |
| 5837289560 | 2047 MINNIE ST SW        | \$9,001.52   |
| 5280189560 | 117 EL ENSUENO CIR NE    | \$4,246.30   |
| 2779829560 | 409 LEWIS AVE SE         | \$5,202.65   |
| 7681739560 | 902 SAN LORENZO AVE NW   | \$1,739.40   |
| 5573929560 | 311 ATLANTIC AVE SW      | \$1,301.77   |
| 2617829560 | 1804 HIGH ST SE          | \$2,724.92   |
| 1510489560 | 2010 TEESFOR DR SW       | \$1,664.98   |
| 1916049560 | 9412 SUSAN AVE SE        | \$1,753.64   |
| 1237489560 | 7034 ISLETA BLVD SW      | \$2,081.34   |
| 1515939560 | 834 SAN MATEO BLVD SE    | \$1,625.15   |
| 4403739560 | 4310 12TH ST NW          | \$2,922.78   |
| 7388769560 | 1404 55TH ST NW          | \$4,259.04   |
| 7226389560 | 1326 BLAKE RD SW         | \$4,301.79   |
| 1659389560 | 1319 LA VEGA DR SW       | \$1,540.23   |
| 1594149560 | 1105 STUTZ DR NE         | \$1,852.94   |
| 4888539560 | 3014 4th ST NW           | \$595.30     |
| 1318539560 | 425 LOS ARBOLES AVE NW   | \$2,296.16   |
| 1205539560 | 1317 6TH ST NW           | \$2,364.69   |
| 5622589560 | 513 GRAPE CIR SE         | \$3,150.15   |
| 5817359560 | 6816 INA DR NE           | \$1,695.79   |
| 2365729560 | 1716 GERALD AVE SE       | \$1,704.95   |
|            |                          | \$138,560.49 |

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Meeting Date: May 23, 2018  
Staff Contact: Mark Sanchez, Executive Director

**TITLE: R-18-16 – Delegation of Authority for Declaration of Surplus and the Disposition of Surplus from the Albuquerque Bernalillo County Water Utility Authority Public Property**

**ACTION: Recommend Approval**

**SUMMARY:**

According to 2.2.2.10(U) New Mexico Administrative Code (NMAC), section 13-6-1 to 13-6-2 NMSA 1978 governs the disposition of obsolete, worn-out or unusable tangible personal property owned by state agencies. The Water Authority's governing board shall designate a committee of at least three officials to recommend and oversee dispositions, at least 30-days prior to any disposition of property, written notification of the proposed disposition must be sent to the New Mexico Office of the State Auditor (OSA). Furthermore, the disposition of property with a resale value greater than \$5,000 requires the approval from the Department of Finance and Administration (DFA).

A request is now made to allow the Standing Committee determined by the Executive Director the authority to:

- 1) Declare capital assets that are considered to be obsolete, worn-out or no longer usable, and to delete such items from its public inventory.
- 2) To dispose of equipment to local governmental agencies, who have requested the equipment.

Once the Standing Committee has declared the official findings, the Financial/Business Services Division will, as a prerequisite to the disposition of any surplus item, give at least 30-days notification, by sending a copy of the official findings to the OSA, for items \$5,000 or less, but over \$500, and notification to DFA for items having a resale value of more than \$5,000.

Official findings will be duly notarized and will be provided to the State as soon as property has been turned into the Water Authority Warehouse. Time of final disposition will occur after the 30-day notification by State.

**FISCAL IMPACT:**

None.

**COMMENTS:**

The current procedure under the City of Albuquerque's Procurement Code § 5-5-16 DISPOSITION OF CITY-OWNED SURPLUS, SALVAGE AND SCRAP PROPERTY is not in compliance with 2.2.2.10(U) New Mexico Administrative Code (NMAC), sections 13-6-1 and 13-6-2 NMSA 1978 as "Municipalities" are exempt from this statute.

As a political subdivision of the State of New Mexico, the Water Authority is required to comply with State Statute and written Water Authority's Property Disposition Procedures.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-18-16

1 **RESOLUTION**  
2 **DELEGATION OF AUTHORITY FOR DECLARATION OF SURPLUS AND THE**  
3 **DISPOSITION OF SURPLUS FROM THE ALBUQUERQUE BERNALILLO COUNTY**  
4 **WATER UTILITY AUTHORITY PUBLIC PROPERTY**

5 WHEREAS, the Albuquerque Bernalillo County Water Utility Authority (Water  
6 Authority) governing board must from time to time dispose of used public property in  
7 accordance with NMSA 1978 § 13-6-1 *et. seq.*; and

8 WHEREAS, to promote efficiency and stability in the process of disposing of used  
9 public property, pursuant to NMSA § 13-6-1 *et seq.*, a permanent standing committee  
10 composed of the Executive Director or his designee and two appointed members by the  
11 Executive Director should be created to identify, recommend and oversee the periodic  
12 disposition of items that are worn-out, unusable or obsolete.

13 BE IT RESOLVED BY THE WATER AUTHORITY:

14 That the Board of the Water Authority hereby creates the Standing Committee for  
15 Disposition of Used Public Property and appoints the Executive Director or his designee  
16 and two additional Water Authority employees, to be designated in writing by the  
17 Executive Director as ex-officio members of the three-person standing committee to  
18 identify, recommend, and oversee the disposition of public property that is worn-out,  
19 unusable, or obsolete.

[+Bracketed Material+] - New  
[-Bracketed Material-] - Deletion

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Meeting Date: May 23, 2018

Staff Contact: Kristopher Cadena, Principal Engineer, Utility Development

**TITLE: C-18-13 – Service Connection Agreement for Water and Sewer Service with Rappaport Family, LLC for Perfection Honda Storage**

**ACTION: Recommend Approval**

**SUMMARY:**

Rappaport Family, LLC desires to connect to existing water infrastructure located along The American Rd., adjacent to the existing Perfection Honda dealership. The property does not currently have an address. The property is currently an undeveloped lot that will be developed for vehicle storage only. No structures are proposed for the development. The property is seeking water service for irrigation only, and sanitary sewer service will not be provided. The development is located outside of the Water Authority's Service Area and within the City of Rio Rancho, in an area currently being served. No additional infrastructure requirements are needed to provide water service to this property other than a service agreement approved by the Water Authority Board.

As a condition of service, the owner will be required to:

- Comply with the ordinances, resolutions, plans, and regulations of the Water Authority;
- Obtain concurrent water and wastewater service;
- Pay the Utility Expansion Charge (UEC) at the rates that are imposed at the time of a service connection;
- Pay the Water Supply Charge.

**FISCAL IMPACT:**

None

**SERVICE CONNECTION  
AGREEMENT  
Perfection Honda Storage  
Rappaport Family, LLC  
2603 American Rd SE  
Rio Rancho, NM  
87124**

**Albuquerque Bernalillo County Water Utility Authority**, a New Mexico political subdivision ("Water Authority") and **Rappaport Family, LLC**, whose address is **2603 American Rd SE, Rio Rancho, NM 87124**, agree as follows:

**1. Recitals**

- A. Rappaport Family, LLC** ("Owner") is the owner of a property with the following legal description: **Lot numbered Two-A (2-A) in Block numbered One (1) of Rio Hondo Subdivision** ("Property"), more particularly described and as shown in the Serviceability Statement for the Property. The Serviceability Letter for the Property reflecting request for service referred to in this Agreement is attached hereto as **Exhibit A** and incorporated herein by reference.
- B.** The property is located outside the Water Authority's Service Area within the region previously serviced by New Mexico Utilities, Inc.
- C.** Owner desires to connect to existing water infrastructure with a 1-inch water service line for irrigation purposes only.
- D.** Water service to the Property will be taken from the existing 8-inch PVC waterline within The American Road SE. Wastewater service to the Property will not be provided as only water for irrigation is desired. No structures are proposed for this project. Installation of services shall be performed under the standard tapping permit.
- E.** All developments located outside of the Water Authority's service area will be assessed a Water Supply Charge (WSC) as provided in the Water Authority's Water and Sewer Rate Ordinance for the development of new water resources, rights and supplies necessary to serve the development.

**2. Service**

- A.** Owner shall comply with the Water Authority's Water and Sewer System Expansion Ordinance, as amended from time to time. Connection for water service shall require concurrent sewer service connection to the Water Authority's wastewater system.



- B.** Owner shall pay Utility Expansion Charges ("UECs") at the rates that are imposed at the time of a service connection, as provided in the Water Authority's Water and Sewer Rate Ordinance, as amended from time to time.
  - C.** Owner shall pay all outstanding Pro Rata assessments in full at the time of service application.
  - D.** Pursuant to Water Authority Resolution No. R-05-13, Owner agrees that it shall incorporate water conservation guidelines that shall achieve water usage of seventy-five (75) gallons per capita per day.
- 3. Termination.** If construction of the Connection to the waterline and sanitary sewer modifications by Owner has not been completed and accepted by the Water Authority within seven (7) years of the effective date of this Agreement, this Agreement shall automatically terminate, and the Water Authority and Owner shall have no further rights, obligations, or liabilities with respect to this Agreement, unless otherwise agreed in writing.
- 4. Indemnification.** Owner will indemnify and hold harmless the Water Authority and its officials, agents, and employees from any claims, actions, suits, or other proceedings arising from the acts or omissions of Owner, its agents, representatives, contractors, or subcontractors, or arising from the failure of Owner, its agents, representatives, contractors, or subcontractors to perform any act or duty required of Owner herein. The indemnification by Owner will not extend to the negligent acts of the Water Authority.
- 5. Representations and Warranties of Owner.** Owner represents and warrants that:
  - A.** Owner is validly existing under the laws of the State of New Mexico.
  - B.** Owner has all the requisite power and authority to enter into this Agreement and bind Owner under the terms of the Agreement; and
  - C.** The undersigned officer of Owner is fully authorized to execute this Agreement on behalf of Owner.
- 6. Notices.** Any notice to be given under this Agreement will be in writing and will be deemed to have been given when deposited in the United States Mail postage prepaid addressed:

If to the Water Authority:  
Mark S. Sanchez  
Executive Director  
Albuquerque Bernalillo County  
Water Utility Authority  
One Civic Plaza, Room 5012  
Albuquerque, New Mexico 87102

If to Owner:  
Rappaport Family, LLC  
2603 American Rd SE  
Rio Rancho, NM 87124

- 7. Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and Owner.
- 8. Miscellaneous.** This Agreement will be governed by and interpreted in accordance with the laws of the State of New Mexico. The headings used in this Agreement are for convenience only and shall be disregarded in interpreting the substantive provisions of the Agreement. This Agreement binds and benefits the Water Authority and their successors, assigns, and transferees and The Owner and their successors, assigns and transferees. Time is of the essence of each term of this Agreement. If any provision of this Agreement is determined by a court of competent jurisdiction to be void, invalid, illegal, or unenforceable, that portion will be severed from this Agreement and the remaining parts will remain in full force as though the invalid, illegal, or unenforceable portion had never been a part of this Agreement.
- 9. Integration; Interpretation.** This Agreement contains or expressly incorporates by reference the entire agreement of the parties with respect to the matters contemplated by this Agreement and supersedes all prior negotiations. This Agreement may only be modified in writing executed by both parties.
- 10. Approval.** This Agreement is subject to the approval of the Board of Directors of the Water Authority and will not become effective until approved by the Water Authority.
- 11. Effective Date.** The effective date of this Agreement is the date last entered below.

In Witness Whereof, the parties hereto have executed this Agreement on the dates entered below.

**Albuquerque Bernalillo County  
Water Utility Authority**

**Owner**

By: \_\_\_\_\_  
Mark S. Sanchez  
Executive Director

By: \_\_\_\_\_  
Brady K. Lovelady, Member

Date: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_ [name] \_\_\_\_\_, [title] of \_\_\_\_\_, [company name], a \_\_\_\_\_ [type of entity], on behalf of said company.

—

\_\_\_\_\_

Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, by Mark S. Sanchez, Executive Director of the Albuquerque Bernalillo County Water Utility Authority, a political subdivision of the State of New Mexico, on behalf of said political subdivision.

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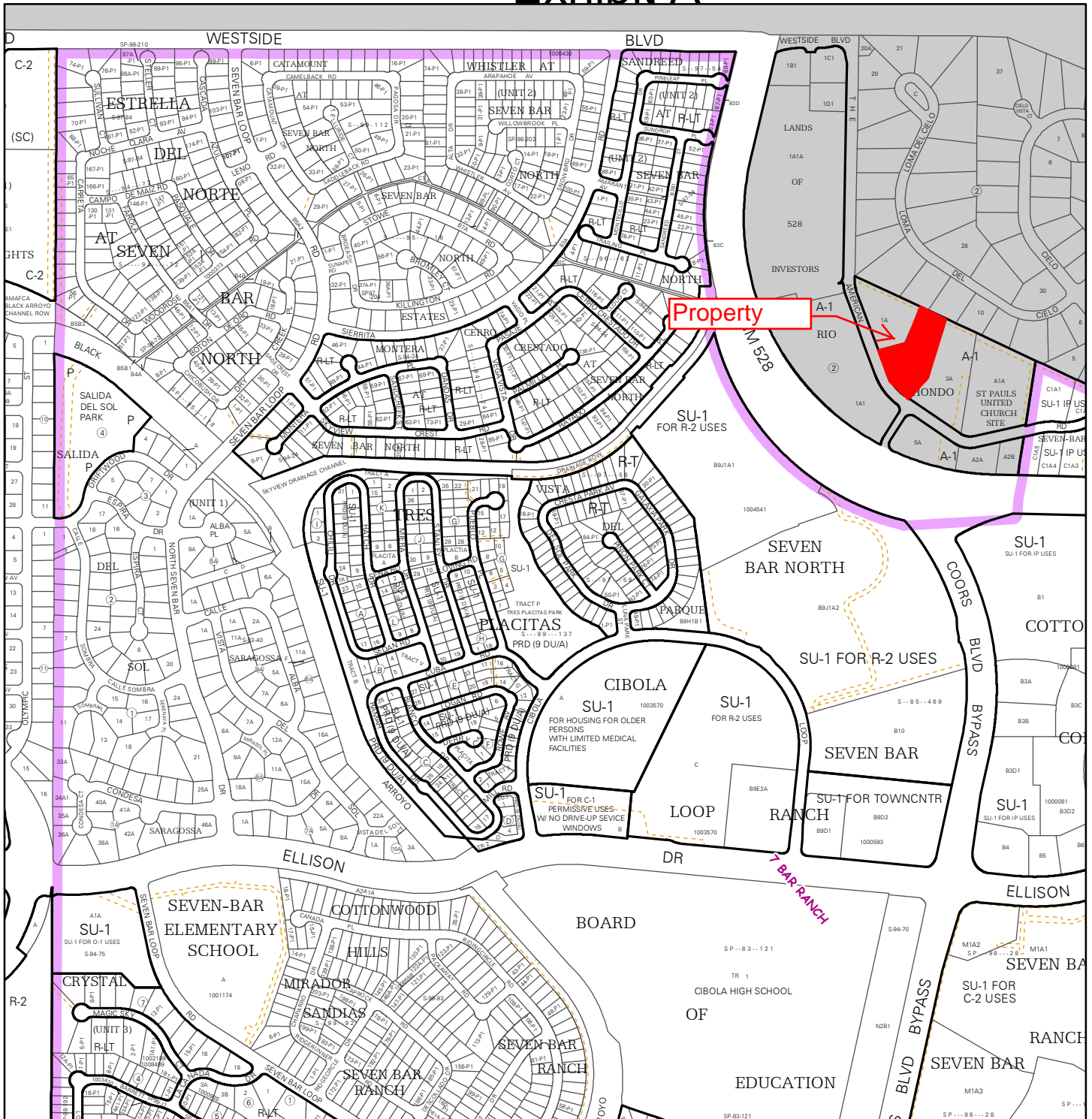
\_\_\_\_\_

Notary Public

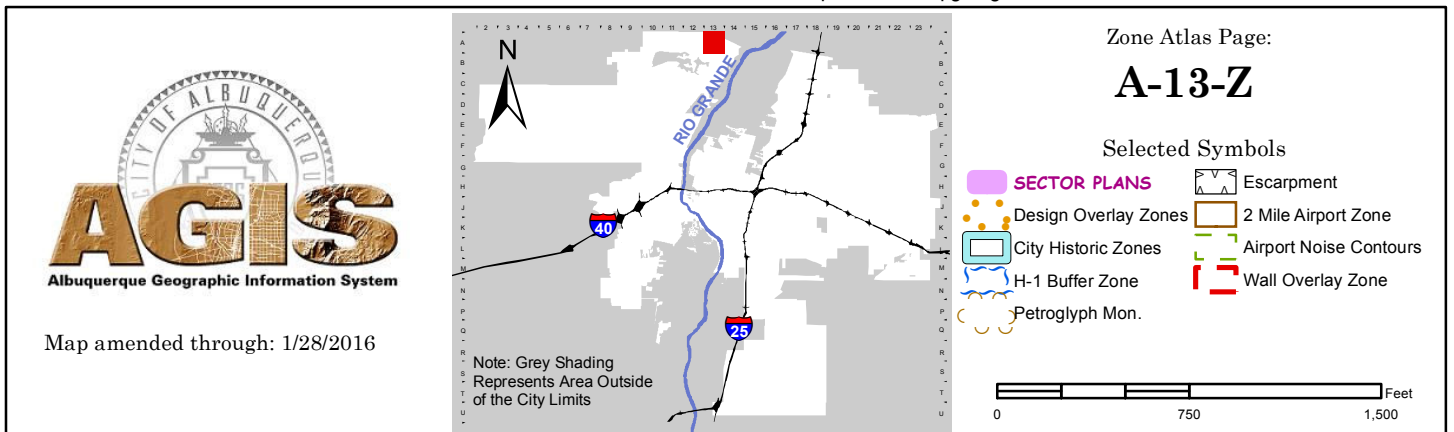
My Commission Expires:

\_\_\_\_\_

# Exhibit A



For more current information and details visit: <http://www.cabq.gov/gis>



May 3, 2017

**Chair**

Klarissa J. Peña  
City of Albuquerque  
Councilor, District 3

**Vice Chair**

Debbie O'Malley  
County of Bernalillo  
Commissioner, District 1

Richard J. Berry  
City of Albuquerque  
Mayor

Pat Davis  
City of Albuquerque  
Councilor, District 6

Maggie Hart Stebbins  
County of Bernalillo  
Commissioner, District 3

Wayne Johnson  
County of Bernalillo  
Commissioner, District 5

Trudy E. Jones  
City of Albuquerque  
Councilor, District 8

*Ex-Officio Member*  
Pablo R. Rael  
Village of Los Ranchos  
Board Trustee

*Executive Director*  
Mark S. Sanchez

*Website*  
[www.abcwua.org](http://www.abcwua.org)

Joel Hernandez  
Tierra West, LLC  
5571 Midway Park Pl.  
Albuquerque, New Mexico 87109

**RE: Water and Sanitary Sewer Serviceability Letter #170316  
Perfection Honda Storage  
On The American Rd West of Cottonwood Dr.  
Zone Atlas Map: A-13**

Dear Mr. Hernandez:

**Project Description:** The subject site is located on the American Rd west of Cottonwood Dr. within the City of Albuquerque. The property consists of approximately 1.95 acres and is currently zoned A-1 for residential/agricultural use. The property lies within the Pressure Zone 2WR in the Corrales trunk. The request for information indicates plans to utilize the site as a vehicle storage only. At this time there are no structures proposed and no services, other than irrigation, requested.

**Service Connection Agreement:** As this development is outside the existing service area, a Service Connection Agreement must be executed between the owner and the Water Authority. The developer shall coordinate with the Utility Development Section of the Water Authority in order to execute this Service Connection Agreement.

**Water Supply Charge:** All developments located outside of the Water Authority's service area will be assessed a Water Supply Charge (WSC) as provided in the Water Authority's Water and Sewer Rate Ordinance for the development of new water resources, rights and supplies necessary to serve the development. The WSC shall not be used for reimbursement of master planned facilities.

**Existing Conditions:** Water infrastructure in the area consists of the following:

- Eight inch unknown material distribution main (project #NMUI-016-96) along The American Rd.
- 12 inch unknown material distribution main (unknown project number) along the northeast border of the property.

Sanitary sewer infrastructure in the area consists of the following:

- Eight inch PVC collector line (project #NMUI-016-95) along The American Rd.

**Water Service:** New metered water service to the property can be provided via routine connection to the existing infrastructure mentioned. Service is also contingent upon compliance with the Fire Marshal's instantaneous fire flow requirements. Water service will not be sold without adequate fire protection. Water service will only be sold in conjunction with sanitary sewer service.



**Sanitary Sewer Service:** Sanitary sewer service can be provided via routine connection to the existing infrastructure along the American Rd. All food service establishments must install a grease trap upstream of the domestic private sewer connection prior to discharge into the public sanitary sewer lines.

**Fire Protection:** From the request for availability there are no instantaneous fire flow requirements for the site. This information was confirmed with the Rio Rancho fire department. A standard fire hydrant flow has been applied to the existing infrastructure (hydrant 176) and, as modeled using InfoWater™ computer software, the flow can be met. Any changes to the proposed connection points shall be coordinated through Utility Development. All new required hydrants as well as their exact locations must be determined through the City of Albuquerque Fire Marshal's Office and verified through the Utility Development Office prior to sale of service.

**Cross Connection Prevention:** Per the Cross Connection Ordinance, all new non-residential premises must have a reduced pressure principle backflow prevention assembly approved by the Water Authority and installed at each domestic service connection at a location accessible to the Water Authority. All new fire line services to fire protection systems shall be equipped with a reduced pressure principal backflow prevention assembly approved by the Water Authority and Fire Marshal having jurisdiction at each service connection. A double check valve assembly approved by the Water Authority and Fire Marshal having jurisdiction may be installed instead of a reduced pressure backflow prevention assembly provided the fire protection system contains ANSI/NSF Standard 60 or 61 water piping throughout the entire fire protection system, the fire sprinkler drain discharges into atmosphere, and there are no reservoirs, fire department connections, connections from auxiliary water supplies, antifreeze nor other additives. The Water Authority requests that all backflow (containment) devices be located above ground just outside the easement or roadway right-of-way. Contact Cross Connection at 289-3439 for more information.

**Easements:** Exclusive public water and sanitary sewer easements are required for all public lines that are to be constructed outside of any dedicated rights-of-way. A minimum width easement of 20 feet is required for a single utility and 25 feet for water and sewer both within the same easement. Easements for standard sized water meters need to be five feet by five feet and include the length of the water service if located on private property. For larger meters that require a meter vault, a 35 feet by 35 feet easement is required. Actual easement widths may vary depending on the depth of the lines to be installed. Acceptable easements must be documented prior to approval of service.

**Pro Rata:** Pro Rata is not owed and the property can utilize the services available upon completion of the requirements of this statement to connect to water and sanitary sewer.

**Design and Construction** of all required improvements will be at the developer/property owner's expense. Improvements must be coordinated through the Water Authority tapping permit process. Construction must be by a licensed, bonded, public utility contractor.

**Costs and Fees:** In addition to installation and construction costs, any new metered water services will be subject to both water and sanitary sewer Utility Expansion

Charges (UEC) payable at the time of service application. All charges and rates collected will be based on the ordinances and policies in effect at the time service is actually requested and authorized.

**Water Use:** All new commercial developments shall be subject to the requirements for water usage and water conservation requirements as defined by the Water Authority, particularly the Water Waste Ordinance (O-07-13), Water Conservation Large Users Ordinance and Water Conservation Water by Request Ordinance.

**Closure:** This serviceability letter does not provide a commitment from the Water Authority to provide services to the development. It only provides details of infrastructure that is available and potential precursors for the proposed development. For service to be provided, a Board approved service connection agreement must be supplemented by this serviceability letter. The serviceability letter will remain in effect for a period of one year from the date of issue and applies only to the development identified herein. Its validity is, in part, contingent upon the continuing accuracy of the information supplied by the developer. Changes in the proposed development may require reevaluation of availability and should be brought to the attention of the Utility Development Section of the Water Authority as soon as possible.

Please feel free to contact the Mr. Kristopher Cadena in our Utility Development Section at (505) 289-3301 or email at [kcadena@abcwua.org](mailto:kcadena@abcwua.org) if you have questions regarding the information presented herein or need additional information.

Sincerely,

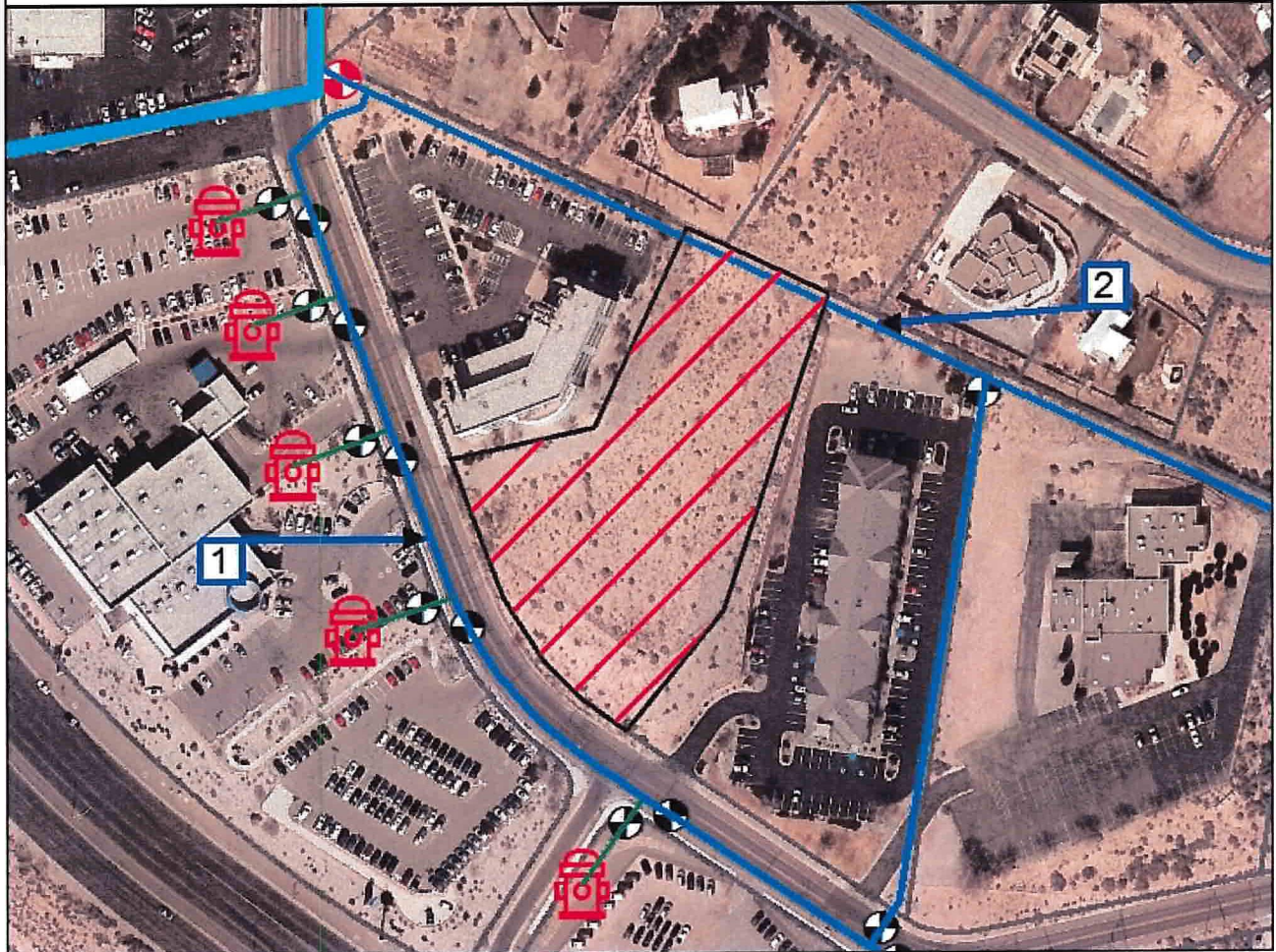


Mark S. Sanchez  
Executive Director

Enclosures: Infrastructure Maps (2)  
f/ Serviceability Letter 170316



170316



### Legend

Site Location

### Water Pipe

— <all other values>

### SUBTYPE

— Distribution Main

— Drain Line

— Hydrant Leg

— In Zone Transmission

— Out Zone Transmission

— SJC Transmission

— Sleeve

— Well Collector Line

— Well Wash Line

0 310 620 Feet

--- Water Infrastructure Map Keyed Notes:

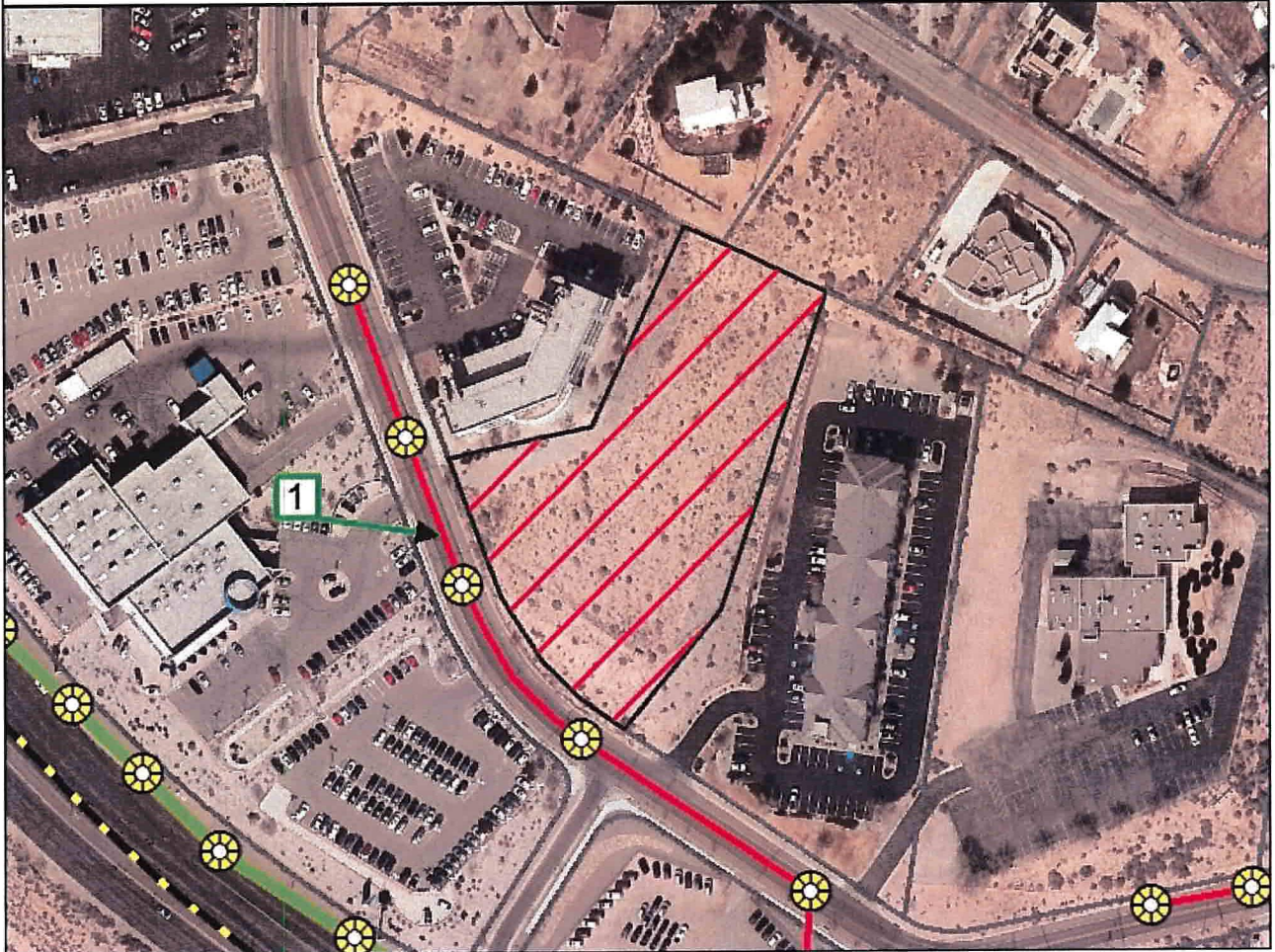
1. --- 8" Distribution Main

2. --- 12" Distribution Main





170316



**Legend**

 Site Location

**Sewer Pipe**

— <all other values>

**SUBTYPE**

— COLLECTOR

--- FORCE MAIN

— INTERCEPTOR

— VACUUM LINE

0 310 620 Feet

 --- Sanitary Sewer Infrastructure Map Keyed Notes:

1. --- 8" PVC Collector Main



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Meeting Date: May 23, 2018  
Staff Contact: Stan Allred, Chief Financial Officer

**TITLE: C-18-14 – Recommendation of Award, Lockbox Services P2018000007**

**ACTION: Recommend Approval**

**SUMMARY:**

The Albuquerque Bernalillo County Water Utility Authority issued the subject Request for Proposals (RFP) to solicit proposals from qualified vendors to provide lockbox services.

The RFP was posted on the Sicomm website and advertised in the local newspaper. Two responses were received and submitted for evaluation. The Ad Hoc evaluation committee reviewed, evaluated and scored the responses in accordance with the evaluation criteria published in the RFP.

The responses were reviewed, evaluated and scored by an Ad Hoc committee consisting of Jeffrey Li, Treasurer; Cilia Agliodoro, City Treasurer; Hobert Warren, Customer Services Division Manager; and Yvonne Lara, Assistant Customer Services Manager. The committee recommended the award of a contract to Bank of Albuquerque, as that company had the highest composite score, is qualified to perform the work and meets the requirements of the RFP

**FISCAL IMPACT:**

Fees for lockbox services are budgeted in the FY19 Operating Budget. The final fees will be negotiated as submitted in the cost proposal, but any increases will be more than offset by a higher level of earnings credits paid on deposit balances. Net savings should be realized.





# Memo

**To:** Mark S. Sanchez, Executive Director  
Jeffrey Li, Treasurer

**From:** Candida Kelcourse, Senior Buyer *CK*

**Through:** Jonathan Daniels, Purchasing Officer

**Date:** March 6, 2018

**Re:** RFP Ad Hoc Committee: P2018000007, "Lockbox Services"

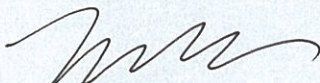
The following individuals are recommended to serve as members of the Ad Hoc Advisory Committee ("Committee") for the Request for Proposals for "Lockbox Services." This Committee will review and evaluate proposals and submit a ranked list of offerors to you for selection.

- Jeffrey Li, Committee Chair
- H. Warren, Member
- Yvonne G. Lara, Member
- Cilia Aglialoro - CABQ Treasurer, Member

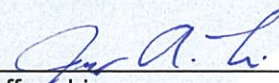
I will manage the Request for Proposals and serve as a procedural advisor to the Committee.

I respectfully request your approval of this Committee in order to start the Request for Proposals process.

APPROVED:

  
\_\_\_\_\_  
Mark S. Sanchez  
Executive Director  
Date: 3/6/18

RECOMMENDED:

  
\_\_\_\_\_  
Jeffrey Li,  
Treasurer  
Date: 3-6-2018

Original: RFP File

Copy: Luz del Carmen Carreon, Executive Services Coordinator

**Request for Proposals P201800007 LOCKBOX RFP**

| EVALUATION CRITERIA  | EVALUATION FACTORS | OFFERORS |                     |
|--|--------------------|----------|---------------------|
|  |                    | US BANK  | BANK OF ALBUQUERQUE |
| 1. The Offeror's detailed plans to meet the objectives of each task, activity, etc. on the required schedule.  | Up to 200          | 180      | 200                 |
|  |                    | 170      | 190                 |
|  |                    | 180      | 200                 |
|  |                    | 110      | 200                 |
| SUB TOTAL  |                    | 640      | 790                 |
| 2. Experience and qualifications of the Offeror and personnel as shown on staff resumes to perform   | Up to 200          | 200      | 200                 |
|  |                    | 165      | 190                 |
|  |                    | 200      | 200                 |
|  |                    | 110      | 200                 |
| SUB TOTAL  |                    | 675      | 790                 |
| 3. The overall ability of the Offeror, as judged by the evaluation committee, to successfully complete the project within the proposed schedule. This judgment will be based upon factors such as the project management plan and availability of staff and resources. | Up to 200          | 200      | 200                 |
|  |                    | 160      | 190                 |
|  |                    | 190      | 200                 |
|  |                    | 115      | 200                 |
| SUB TOTAL  |                    | 665      | 790                 |
| 4. The Offeror’s ability to provide lockbox services utilizing local employees.  | Up to 150          | 20       | 150                 |
|  |                    | 50       | 150                 |
|  |                    | 0        | 150                 |
|  |                    | 0        | 150                 |
| SUB TOTAL  |                    | 70       | 600                 |
| 5. The Offeror's past performance on projects of similar scope and size.   | Up to 100          | 100      | 100                 |
|  |                    | 50       | 90                  |
|  |                    | 50       | 100                 |
|  |                    | 50       | 100                 |
| SUB TOTAL  |                    | 250      | 390                 |
| 6. Cost Proposal – The costs proposed by the Contractor as described in Section 2.2 of this RFP to perform the tasks listed in Part 3, Scope of Services. The evaluation of this section will occur after the technical evaluation, based on a cost/price analysis.    | Up to 150          | 88       | 150                 |
|  |                    | 88       | 150                 |
|  |                    | 88       | 150                 |
|  |                    | 88       | 150                 |
| SUB TOTAL  |                    | 353      | 600                 |
|  |                    |          |                     |
| TOTAL COMPOSITE SCORES   |                    | 2653     | 3960                |
| Small Preference   | Up to 5%           |          |                     |
| Local Preference   | Up to 5%           |          | 198                 |
| Resident Business Preference   | Up to 5 %          | 133      | 198                 |
| Resident Veteran Preference  | Up to 10%          |          |                     |
| Pay Equity Preference  | Up to 5%           | 133      |                     |
| 10% Preference Max   |                    | 265      | 396                 |
| TOTAL COMPOSITE SCORES WITH PREFERENCES  |                    | 2918     | 4356                |
| RANKING  |                    | 2        | 1                   |
|  |                    | US BANK  | BANK OF ALBUQUERQUE |

# Memo

**To:** Mark S. Sanchez, Executive Director  
**From:** Candida Kelcourse, Senior Buyer *CK*  
**Through:** Jonathan Daniels, Purchasing Officer *JD*  
**Date:** April 26, 2018  
**Re:** Recommendation of Award, P2018000007, Lockbox Services RFP

The Albuquerque Bernalillo County Water Utility Authority issued the referenced Request for Proposals (RFP) to solicit proposals from qualified vendors to provide lockbox services.

The RFP was posted on the Sicom website and advertised in the local newspaper. Two (2) responses were received and submitted for evaluation. The Ad Hoc evaluation committee reviewed, evaluated, and scored the responses in accordance with the evaluation criteria published in the RFP.

Listed are all the respondents' composite scores with small and/or local preferences and the NM Resident Preference applied for the offeror(s) with an asterisk (\*). The largest total composite score possible without preferences applied is 1000.


| <u>Offeror</u>      | <u>Total Composite Score</u> |
|---------------------|------------------------------|
| Bank of Albuquerque | 4,356*                       |
| US Bank             | 2,918*                       |

The committee recommended the award of contract to **Bank of Albuquerque** as that company had the highest composite score after final scoring and is qualified to perform the work. I concur with the committee's recommendation.


Water Authority Board approval is required for this procurement.

Approved:

Recommended:

  
\_\_\_\_\_  
Mark S. Sanchez  
Executive Director

*4/20/18*  
Date

  
\_\_\_\_\_  
Jeff Li,  
Treasurer

*4/27/18*  
Date

Enclosures: Composite Score Sheet

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Meeting Date: May 23, 2018  
Staff Contact: Stan Allred, Chief Financial Officer

**TITLE: C-18-15 - FY18 3rd Quarter Operating Financial Reports**

**ACTION: Receipt be Noted**

**SUMMARY:**

Submitted to the Board for review and informational purposes are the financial reports for the quarter ended March 31, 2018. The reports provide a year to date comparison between the approved revised FY18 budget and actual expenses through March 31, 2018. The reports also include revenue and expense projections to June 30, 2018. The projections are based on actual, trend, and historical information. As with any estimates, this information is subject to change. These reports have been reviewed by the Internal Auditor and State Department of Finance and Administration Local Government Division.

Fund 21 General Operating Fund

Revenues:

Third Quarter rate revenues are \$7.31 million above the actuals for the same period in FY17. This revenue increase includes increased revenue from Water revenue of \$2.38 million, and Sewer revenue \$4.93 million. The FY18 rate revenues are up from the FY17 revenues for the same time period due to a 5% increase in water and sewer rates effective July 1, 2017. Revenues are projected be above the FY18 projected budgeted amount by \$2.00 million. This projection is based upon 8 months of actual consumption and is subject to change.

Third Quarter other revenue, which includes miscellaneous revenue is \$0.63 million more than the actuals for the same period in FY17. Approved budget revenues amounts were derived with the expectation of very limited growth in the service area for the next several years coupled with a GCPD level of 130.

Expenses:

Third Quarter total expenses are \$2.40 million higher than the actuals for the same period in FY17. The projected total expense at June 30, 2018 is estimated to be \$2.33 million under the FY18 budgeted amount.

Working capital or fund balance is projected to be \$14.50 million, compared to a beginning balance in FY18 of \$13.67 million. The increase in fund balance is due to the additional rate revenue. The fund balance trend has reversed as planned and has met the target of 1/12 of operating expenditures.

**FISCAL IMPACT:**

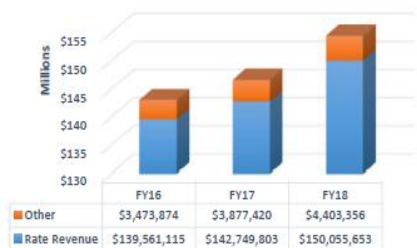
Reductions in consumption is a positive result for conservation goals, however, the costs of maintaining the utility are primarily fixed in nature and the revenue requirements for operating, debt service payments, reserves, and debt service coverage must be met. Consumption levels will continue to be monitored to ensure proper revenue levels are achieved.

The Water Authority will continue to control operating expenditures to offset any reductions in Revenue. The Water Authority also continues to add an additional \$2.00 million a year to the Rate Reserve. The balance for this reserve is now at \$7.00 million, after \$3.00 million of the reserve was transferred to CIP for work at the Water Reclamation Plant to cover the Clarifiers. The remaining \$7.00 million balance in this reserve is earmarked for fluctuations in revenue which are not anticipated and to protect ratepayers from emergency rate adjustments.

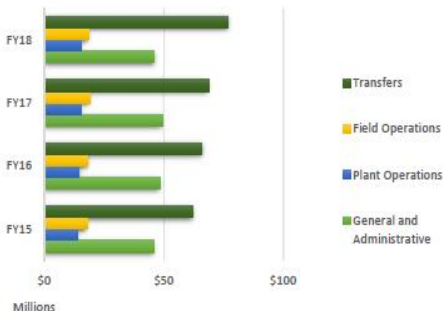


## FY18 - 3rd Quarter Water Authority Financial Dashboard

### Year-To-Date (YTD) Operating Revenue



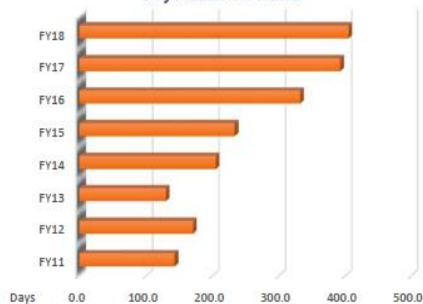
### Year-To-Date (YTD) Operating Expenses



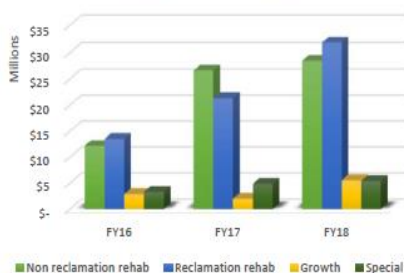
### Operating Expenditures by month Compared to Estimate



### Days Cash on Hand



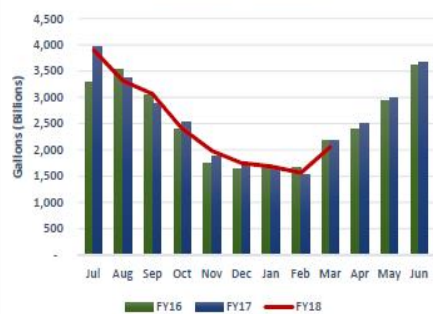
### YTD Decade Plan Expenditures by Category for 3rd Qtr



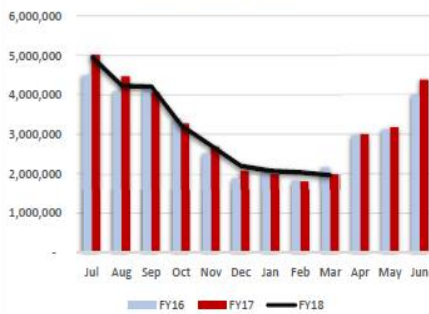
### Debt Coverage Ratio



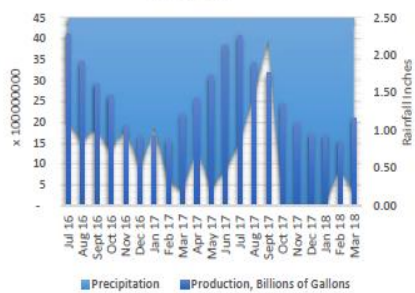
### Water Use Production



### Water Consumption



### Production vs Area Precipitation 2016-2018





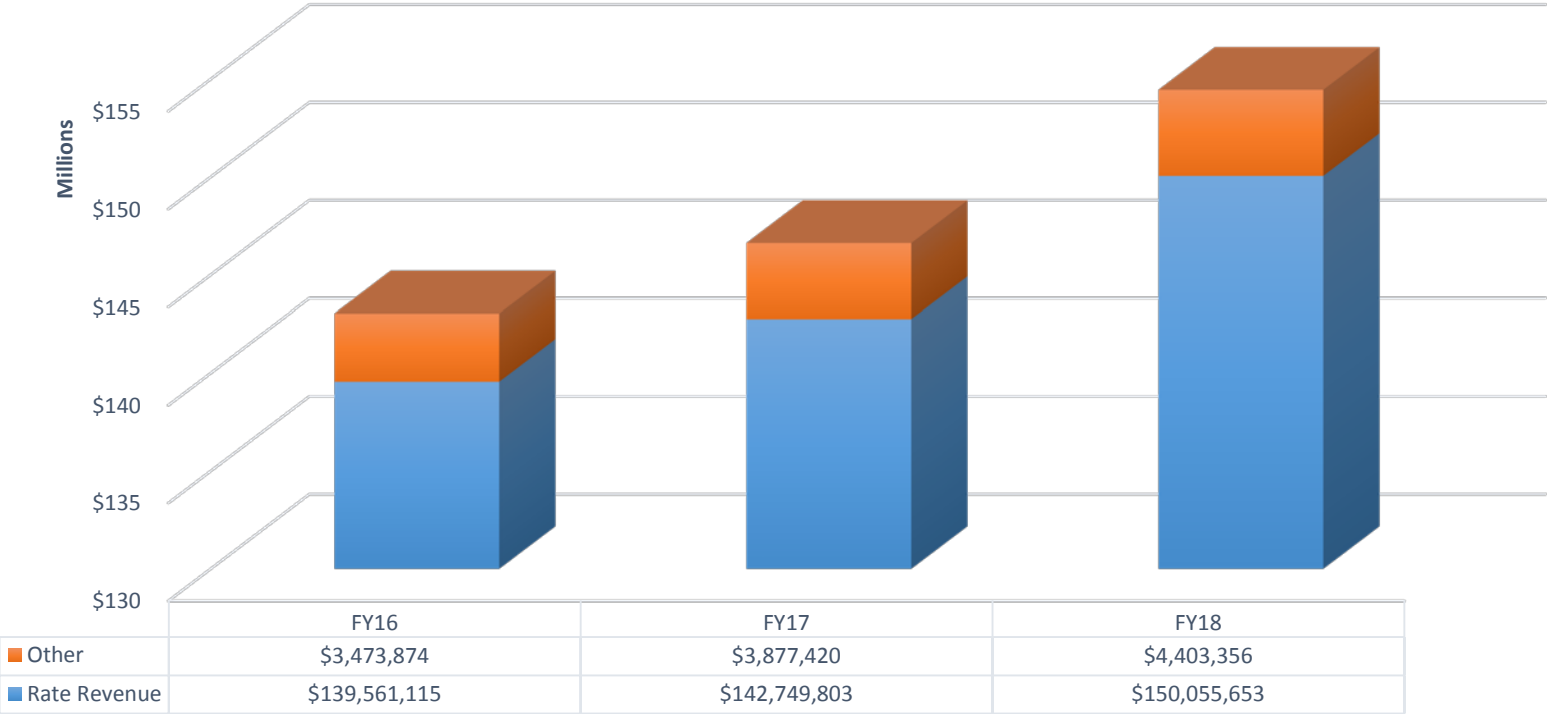
# Fiscal Year 2018

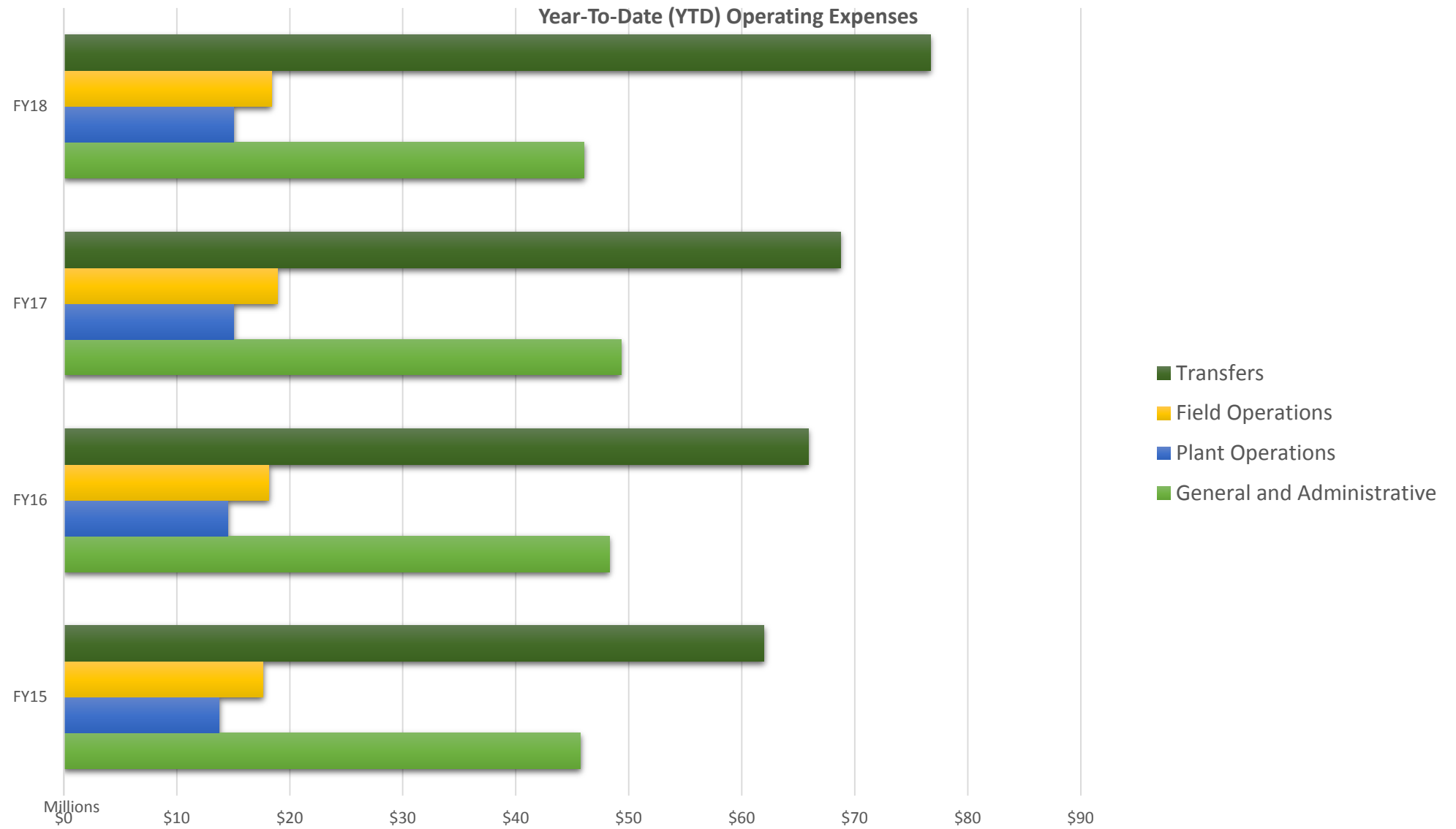
## 3rd Quarter Dashboard



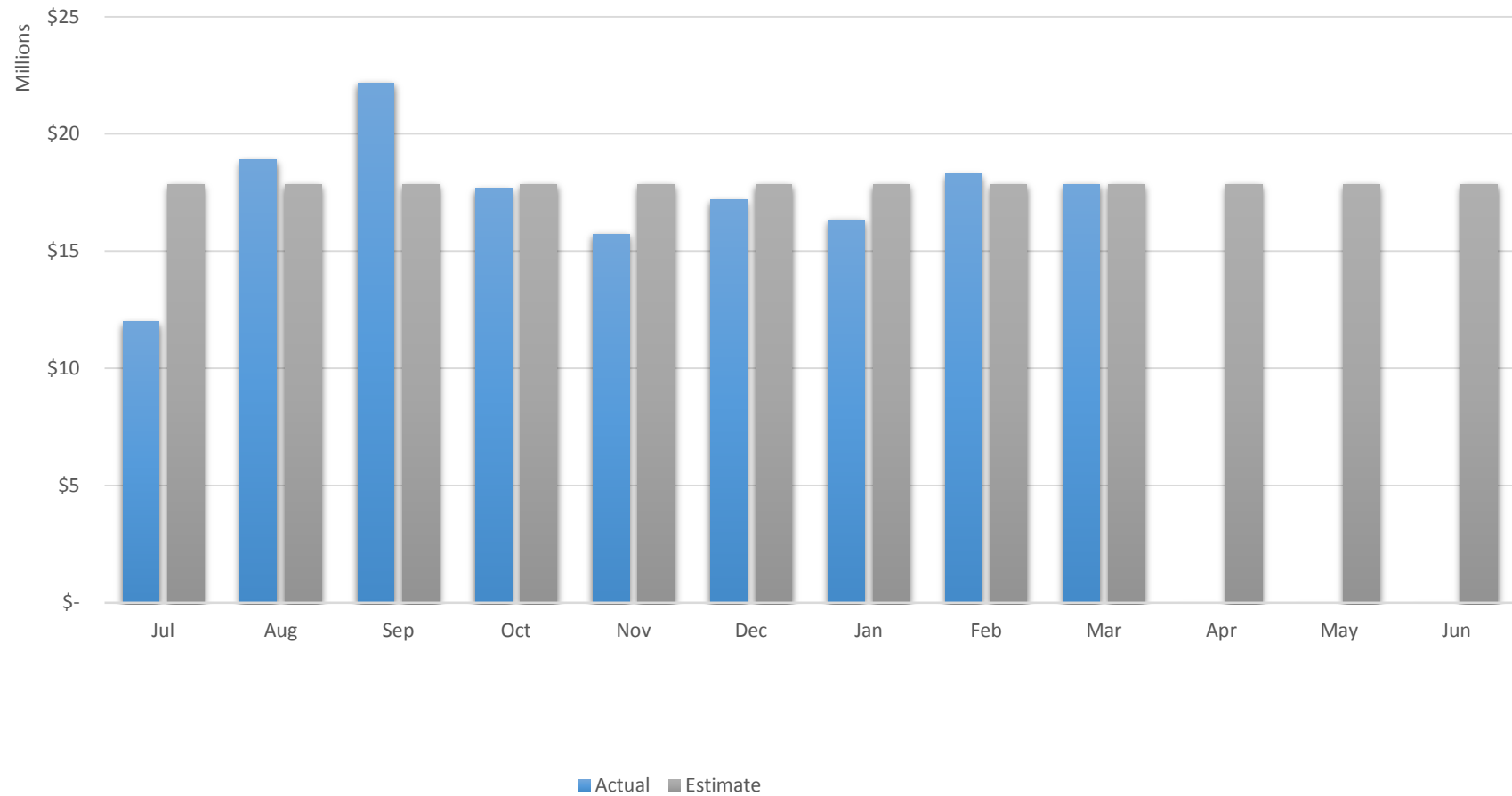
Albuquerque Bernalillo County  
Water Utility Authority

Year-To-Date (YTD) Operating Revenue



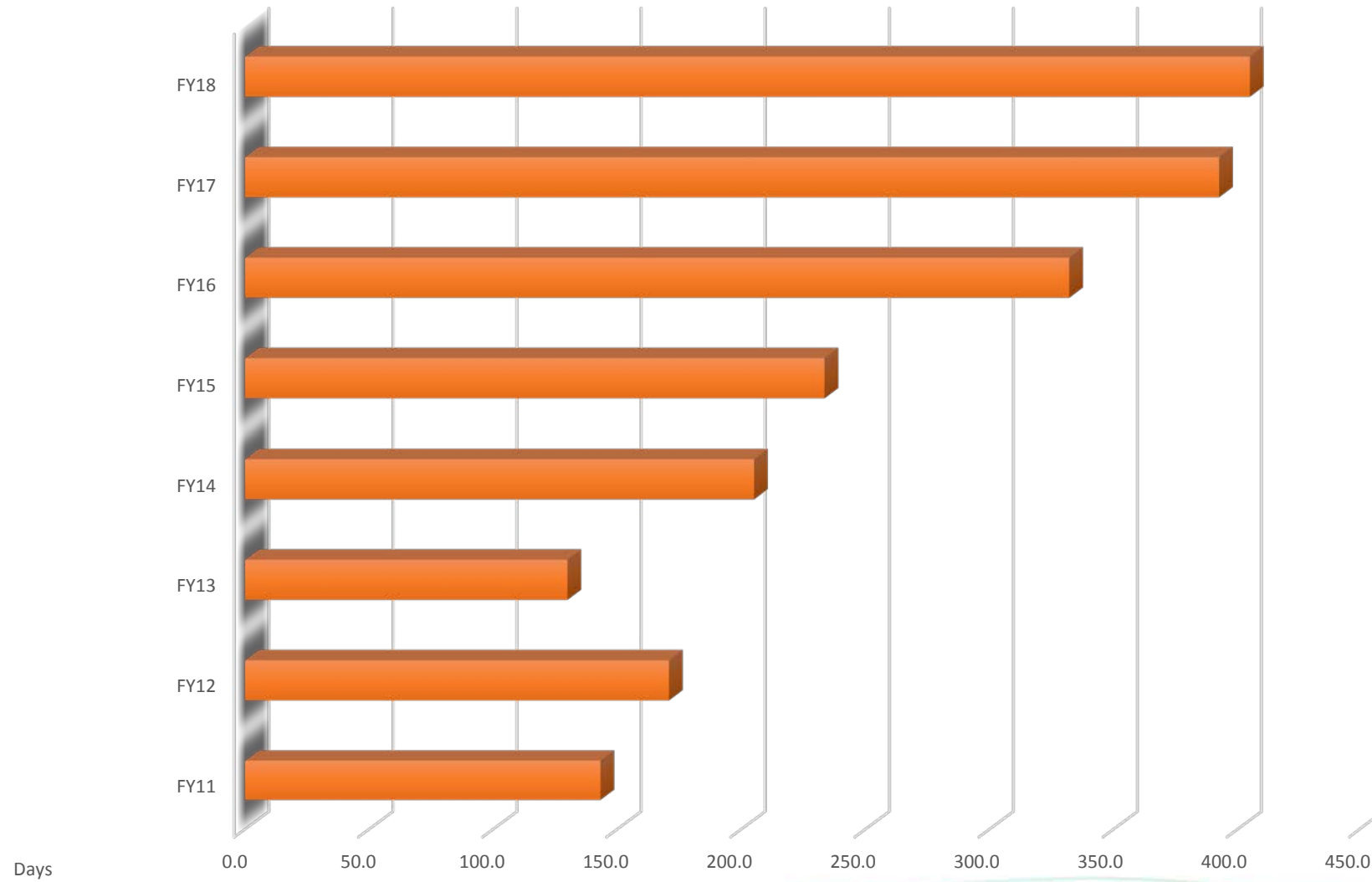


FY18 Operating Expenditures by month  
Compared to Estimate

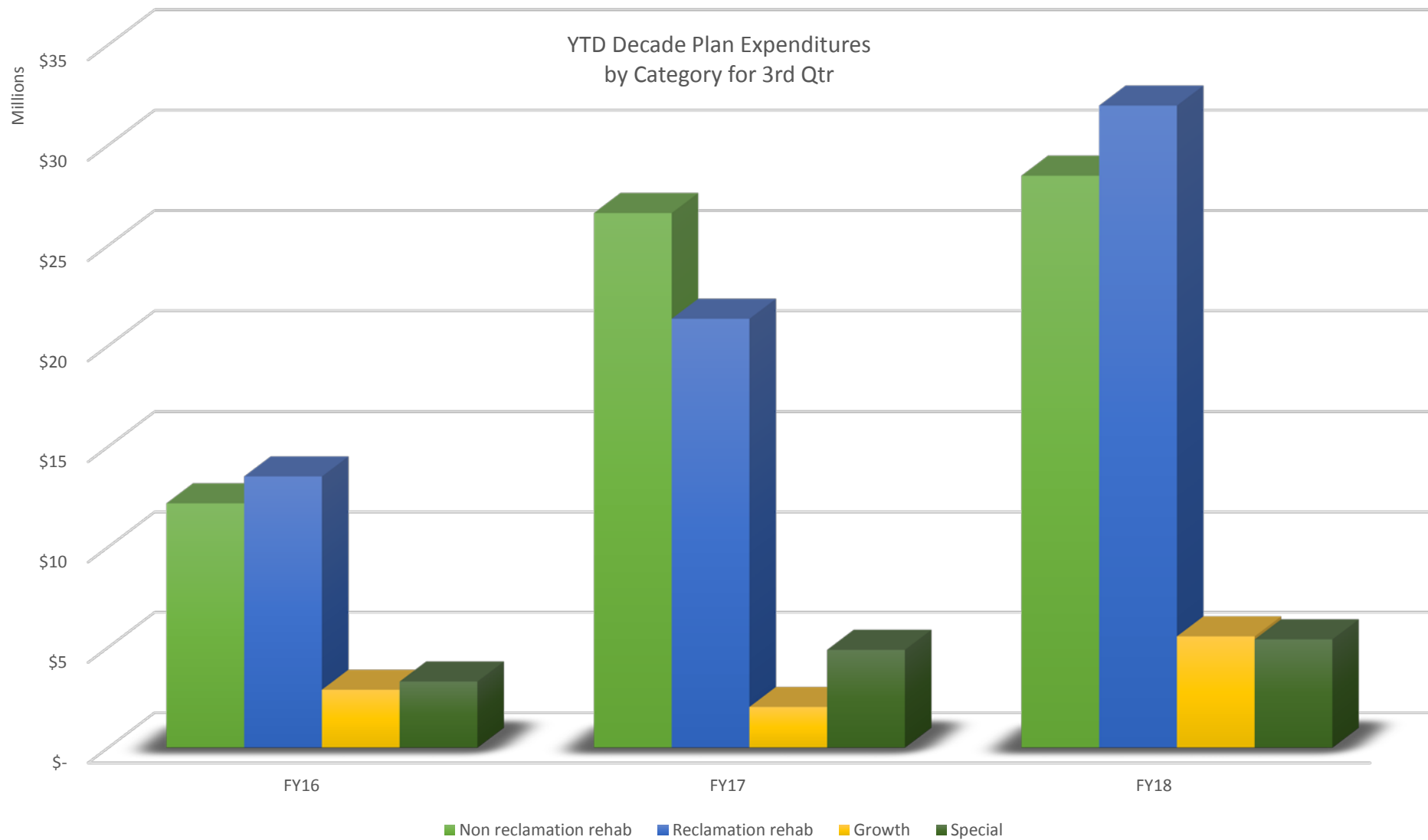


Albuquerque Bernalillo County  
Water Utility Authority

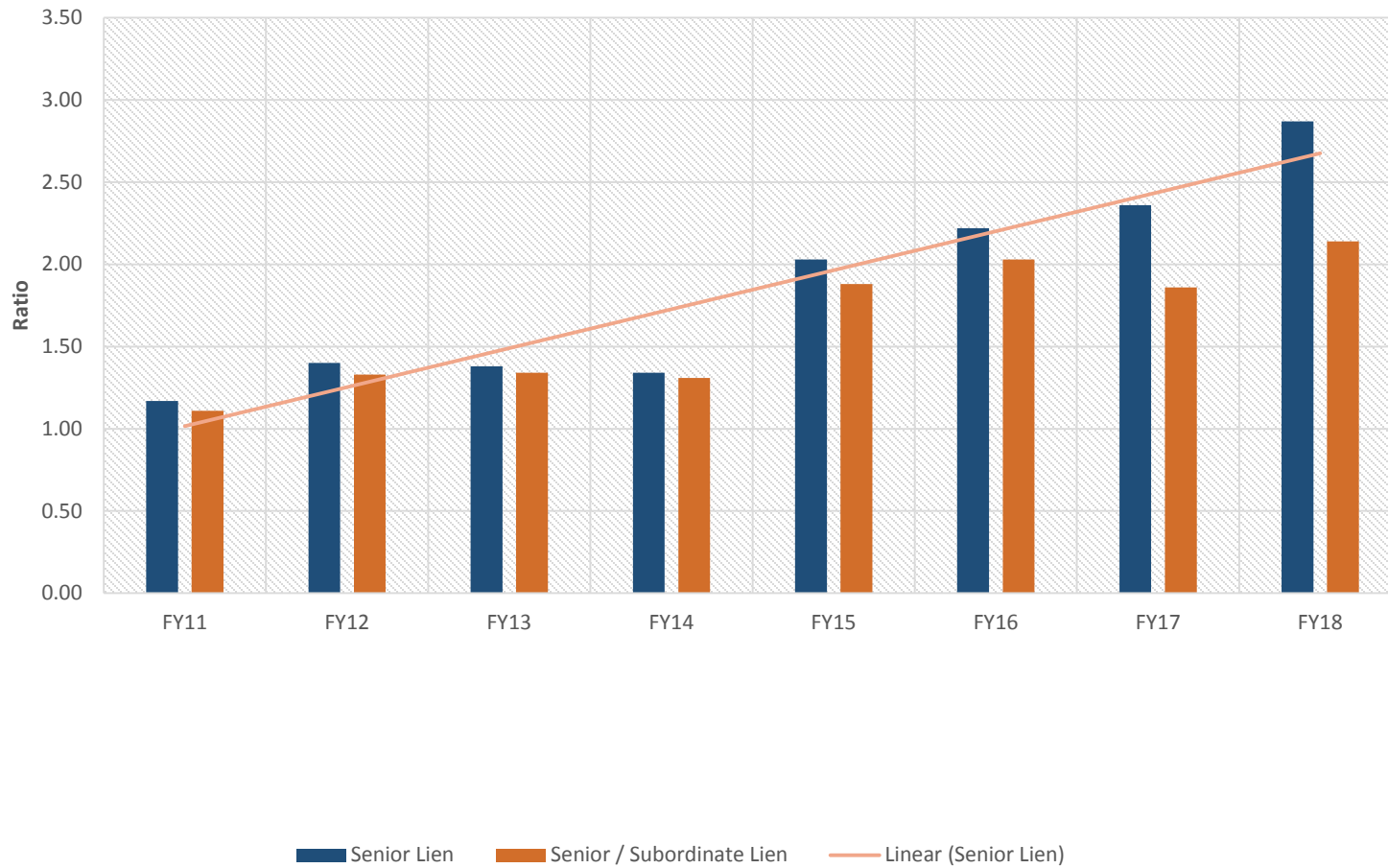
## Days Cash on Hand



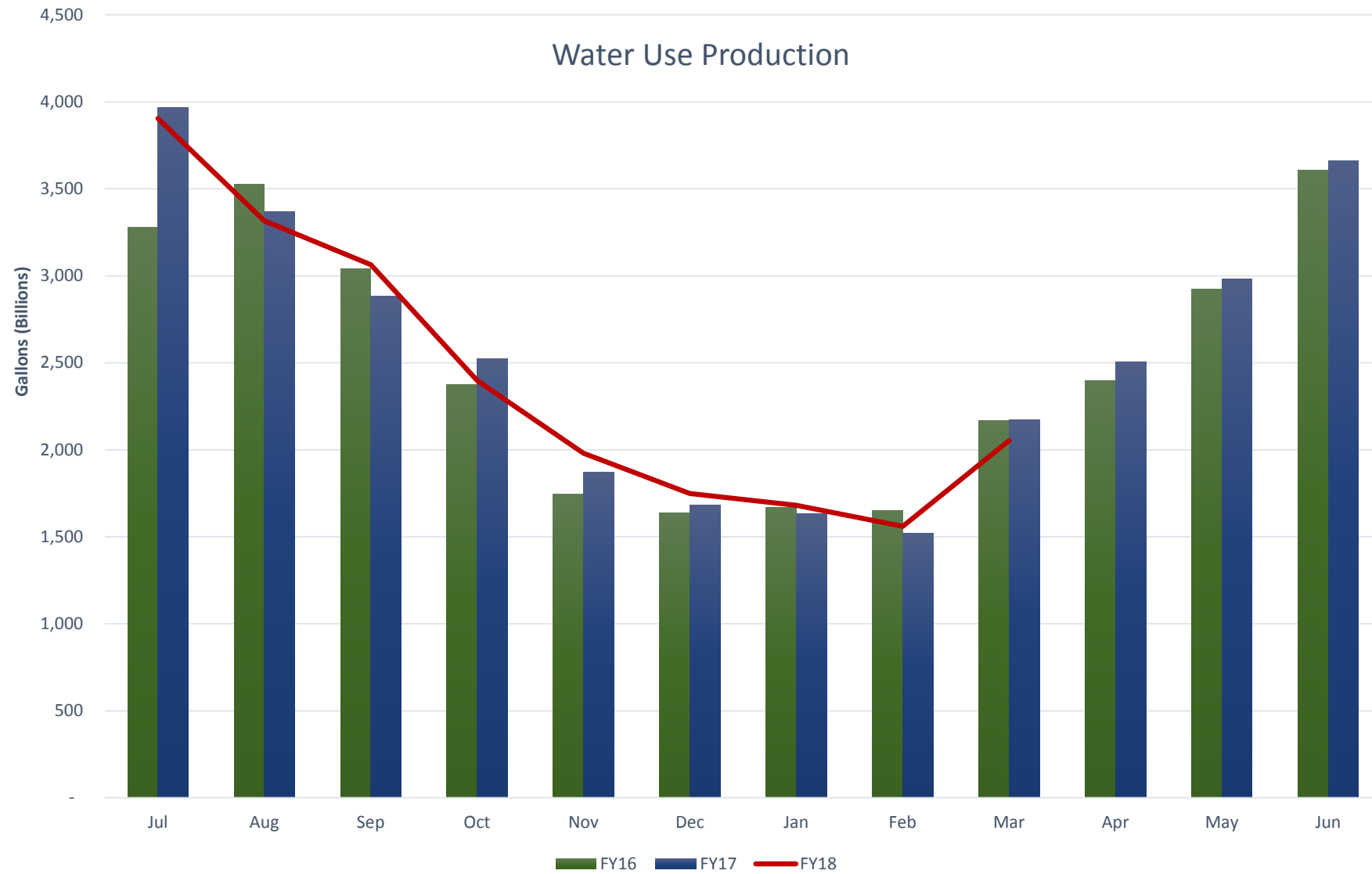
Albuquerque Bernalillo County  
Water Utility Authority



## Debt Coverage Ratio

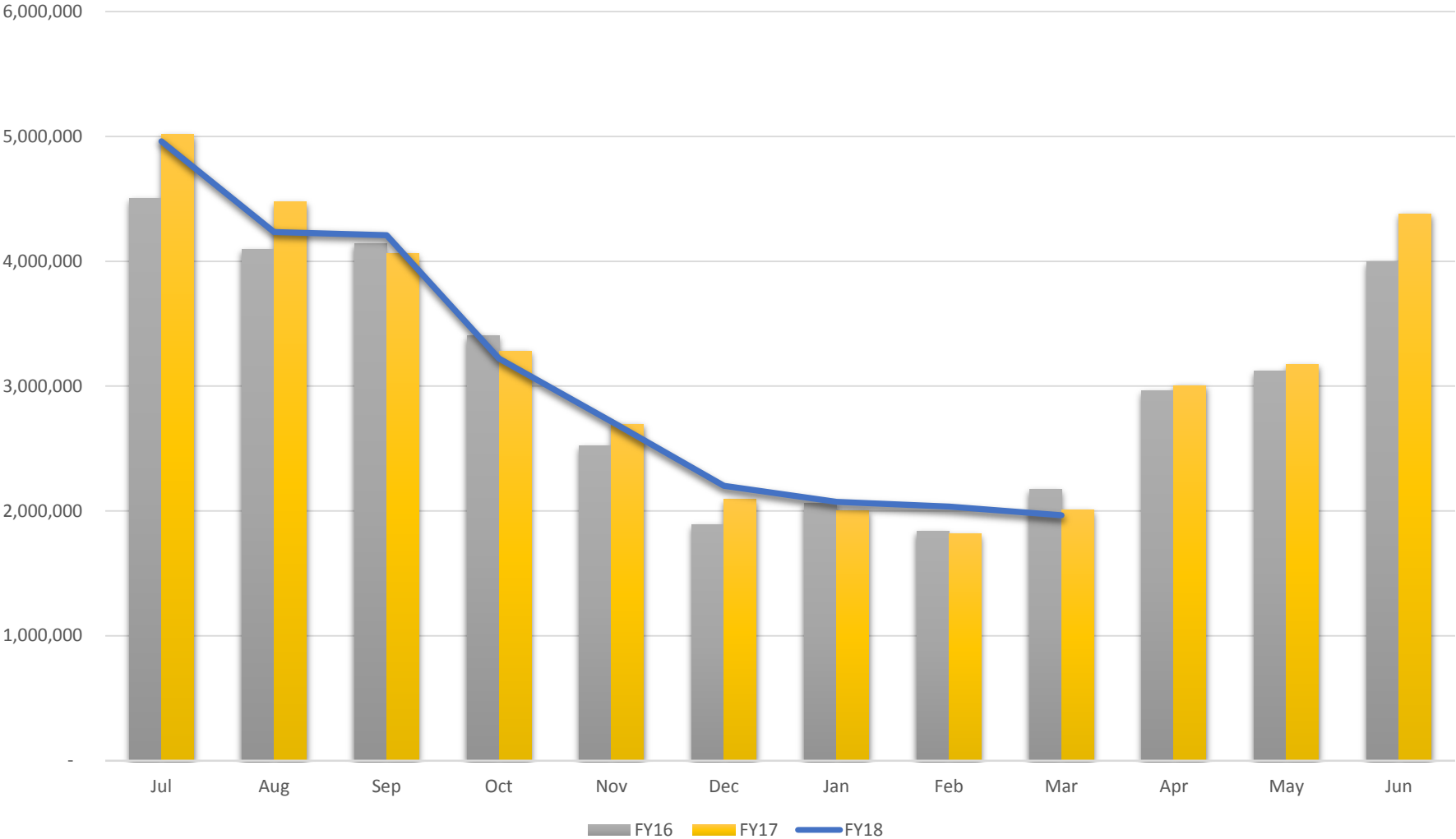


Albuquerque Bernalillo County  
Water Utility Authority

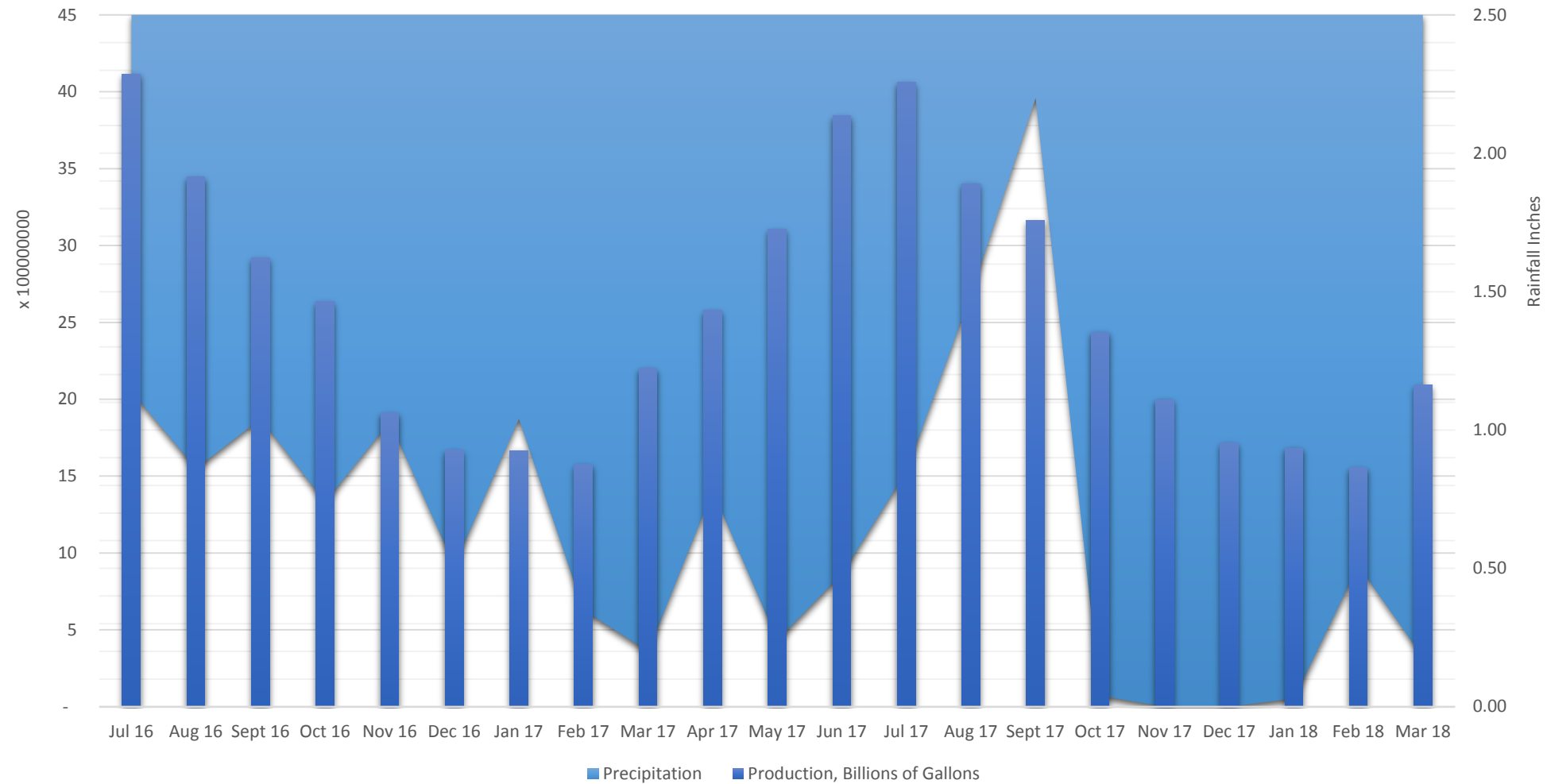




Water Consumption



Production vs Area Precipitation  
2016-2018





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Meeting Date: May 23, 2018  
Staff Contact: Rick Shean, Water Quality Hydrologist

**TITLE: C-18-16 - Purchase Order Increase for Intera Incorporated Third-Party Technical Review of Documents, Analyses and Data produced for the Kirtland Air Force Base Bulk Fuels Facility Leak Site**

**ACTION: Recommend Approval**

**SUMMARY:**

An increase to the purchase order (PO) for the third party evaluation of the Kirtland Air Force Base (KAFB) Bulk Fuels Facility site is requested. The increase from \$74,987 to \$91,200 is to complete the scope of work shown below by June 30, 2018. The increased amount is covered under the competitive pricing process carried out in the procurement for state contract no. CO5874.

Intera has provided the following support under the current PO:

1. Provide timely written comments and recommendations based on our review of documents requested by the Water Authority, such as work plans, white papers, schedules, reports, calculations, and other pertinent documents submitted by KAFB, the Air Force Civil Engineering Center, U.S. Army Corp of Engineers, their contractors, and others;
2. Carry out scoping calculations and modeling to estimate quantities such as capture zones, contaminant travel time, mass, residence time, degradation, and concentration to help assess whether the activities proposed or completed are likely to be protective of the Water Authority's interests;
3. Prepare and give presentations and attend meetings and other gatherings as directed by the Water Authority; and
4. Identified and evaluated remediation approaches for the vadose zone and saturated zone.

**FISCAL IMPACT:**

The increase will add \$16,213.00 to the contract which was appropriated in the Water Resources contractual services budget.



# Water Utility Authority

**PURCHASE ORDER NO.****CE000535****Printed** 08/04/2017**Page** 1**INQUIRIES TO:**

Albuquerque Bernalillo Water Utility Authority  
PURCHASING SECTION  
PO BOX 568  
ALBUQUERQUE, NM 87103-0568  
PHONE NO: 505-289-3227

**INVOICE TO:**

ABCWUA  
ATTN: ACCOUNTS PAYABLE  
PO BOX 568  
ALBUQUERQUE, NM 87103-0568

**VENDOR:**

INTERA INC  
ONE PARK SQUARE  
1812 CENTRE CREEK DR STE 300  
AUSTN, TX 78754

**SHIP TO:**

WATER AUTHORITY  
ONE CIVIC PLAZA  
5TH FLOOR RM 5027  
ALBUQUERQUE, NM 87102

| Buyer Name<br>CANDIDA KELCOURSE |           |      | FOB   | Ship Via<br>Common | Contract Start<br>08/03/2017 | Contract Expiration<br>06/30/2018 |
|---------------------------------|-----------|------|---|--------------------|------------------------------|-----------------------------------|
| LINE                            | QTY       | UNIT | DESCRIPTION   |                    | UNIT PRICE                   | EXTENDED PRICE                    |
| 0001                            | 74,987.00 | EA   | 3RD PARTY EVALUATION OF THE KAFB BFF LEAK<br>SITE CORRECTIVE ACTION ACTIVITIES.<br><br>PROVIDE PROFESSIONAL SERVICES PER THE<br>ATTACHED SCOPE OF SERVICES FOR FOUR TASKS<br>AT THE RATES SPECIFIED WITHIN THE ATTACHED<br>COST SHEET.<br><br>CONTRACT PERIOD: 08/03/2017 - 06/30/2018<br><br>VENDOR CONTACT:<br>JOHN SIGDA<br>(512) 425-2092<br>jsigda@intera.com<br><br>DAVID JORDAN<br>(505) 246-1600<br>djordan@intera.com<br><br>WATER AUTHORITY CONTACT:<br>RICK SHEAN<br>FLSHEAN@ABCWUA.ORG<br>(505) 289-3025<br><br>INVOICE MAY BE EMAILED TO:<br>vendorinvoices@abcwua.org<br><br>V2017-PT |                    | \$1.00                       | \$74,987.00                       |



# Water Utility Authority

**PURCHASE ORDER NO.****CE000535****Printed** 08/04/2017**Page** 2**INQUIRIES TO:**

Albuquerque Bernalillo Water Utility Authority  
PURCHASING SECTION  
PO BOX 568  
ALBUQUERQUE, NM 87103-0568  
PHONE NO: 505-289-3227

**INVOICE TO:**

ABCWUA  
ATTN: ACCOUNTS PAYABLE  
PO BOX 568  
ALBUQUERQUE, NM 87103-0568

**VENDOR:**

INTERA INC  
ONE PARK SQUARE  
1812 CENTRE CREEK DR STE 300  
AUSTN, TX 78754

**SHIP TO:**

WATER AUTHORITY  
ONE CIVIC PLAZA  
5TH FLOOR RM 5027  
ALBUQUERQUE, NM 87102

|                                 |     |      |             |                    |                              |                                   |
|---------------------------------|-----|------|-------------|--------------------|------------------------------|-----------------------------------|
| Buyer Name<br>CANDIDA KELCOURSE |     |      | FOB         | Ship Via<br>Common | Contract Start<br>08/03/2017 | Contract Expiration<br>06/30/2018 |
| LINE                            | QTY | UNIT | DESCRIPTION |                    | UNIT PRICE                   | EXTENDED PRICE                    |
|                                 |     |      |             |                    |                              |                                   |
|                                 |     |      |             |                    | TOTAL                        | \$74,987.00                       |

**Authorization to Proceed: Purchasing Officer signature on Purchase Order indicates Chief Operating Officer, Chief Financial Officer and Executive Director have reviewed and approved.**

Jonathan Daniels  
Purchasing Officer

**Albuquerque Bernalillo County Water Utility Authority (Water Authority)**

**TERMS AND CONDITIONS**

**IMPORTANT: READ CAREFULLY. FAILURE TO DO SO SHALL NOT RELIEVE THE CONTRACTOR OF RESPONSIBILITY TO PERFORM OR DELIVER IN ACCORDANCE WITH ALL APPLICABLE PROVISIONS.**

- 1. General:** Contract award occurs and a binding contract results when the Water Authority Purchasing Division issues a purchase order. The Contract consists of the purchase order with these Terms and Conditions and any written offer submitted by the Contractor and accepted by the Water Authority. The Contract may also include specifications and additional terms included in a Request for Bids or Proposals or separate contract, which, in the event of a conflict, take precedence over these Terms and Conditions as specified in those documents.
- 2. Packing, Shipping and Invoicing:** Department name AND purchase order number MUST be on all invoices, packages, packing slips, bills of lading, etc.
  - \* The Department's count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing slip.
  - \* Until delivered to the Water Authority in accordance with the Contract, Contractor will bear all risk of loss or damage. Shipment is F.O.B. Destination unless purchase order states otherwise.
- 3. Delivery and Inspection:** Delivery will be strictly in accordance with the Water Authority's delivery schedule and instructions. Final inspection and acceptance will not be deemed to be a waiver by the Water Authority of its right to (a) cancel, reject or return, at Contractor's risk and expense, all or any portion of the non-conforming goods, services or construction, or (b) make a claim for damages.
- 4. Payment Terms/Discounts:** Payment terms are net thirty (30) days unless otherwise specified in the Contract. Discounts, if offered, will be computed from the date of actual delivery or receipt of invoice, whichever is later.
- 5. Taxes:** All offers include any applicable gross receipts taxes unless otherwise specified. The Water Authority will furnish, on request, a Non-Taxable Transaction Certificate. Determination of whether the tax is due and payment of the tax is the responsibility of the Contractor. Applicable taxes are to be included in each invoice due and may not be billed more than sixty (60) days after providing the goods, services or construction to which the taxes apply.
- 6. Commercial Warranty:** The Contractor agrees that it will provide the Water Authority with the most favorable commercial warranties the Contractor gives to any customer for the goods, services, or construction and that the rights and remedies provided herein shall extend to the Water Authority and are in addition to and do not limit any rights afforded to the Water Authority by law or under this Contract. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability. In the event that the goods, services or construction are found to be defective or fail within the warranty period, Contractor will, at its own expense, promptly repair the defects.
- 7. New Material:** All items provided under this Contract are to be NEW and of most current production, unless otherwise specified.
- 8. Indemnification:** Contractor hereby agrees to indemnify and hold harmless the Water Authority, its Board, officers, agents and employees against any and all damages, claims, expenses or other liability, including attorneys' fees, arising out of any (a) alleged or actual infringement or misappropriation of any copyright, patent, trademark, trade secret or other right based upon the goods, services or construction provided by Contractor pursuant to this Contract; (b) negligence or willful misconduct of Contractor; (c) Contractor's failure to perform fully its obligations herein in a timely manner; or (d) breach of any of Contractor's representations and warranties herein.
- 9. Insurance:** Contractor shall maintain in effect during the term of the Contract, Commercial General Liability Insurance, Business Automobile Liability Insurance, and Workers' Compensation Insurance in the amounts and as otherwise specified by the Water Authority. As proof that such insurance is in effect, the Contractor shall furnish certificate(s) of insurance in a form satisfactory to the Water Authority prior to providing goods, services or construction under the Contract.
- 10. Right to Audit:** Contractor shall maintain complete and accurate records of all financial transactions associated with this Contract, including, but not limited to, invoices and other official documentation which sufficiently support all charges under this Contract. Contractor shall retain such records for three (3) years after final payment, or longer if required by law. Authorized representatives of the Water Authority may inspect and copy records pertaining to this Contract at the Contractor's business office during normal business hours. Contractor shall include this audit provision in any subcontracts that it may issue under this Contract.
- 11. Default:** The Water Authority reserves the right to cancel all or any part of this Contract without cost to the Water Authority if the Contractor fails to meet the provisions of this Contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost incurred by the Water Authority due to the Contractor's default. The Contractor shall not be liable if failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or federal government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the Water Authority shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources. The rights and remedies of the Water Authority provided in this paragraph shall not be exclusive and are in addition to and do not limit any rights afforded to the Water Authority by law or under this Contract.
- 12. Termination for Lack of Appropriations:** Notwithstanding any provision in this Contract to the contrary, payments hereunder are contingent upon the Water Authority Board making the necessary appropriations. If sufficient appropriations are not made, this Contract may be terminated at the end of the Water Authority's then current fiscal year upon written notice given by the Water Authority to the Contractor. Such event shall not constitute an event of default and all payment obligations of the Water Authority and all of its interest in this Contract will cease upon the date of termination. The Water Authority's determination regarding appropriations shall be accepted by the Contractor and shall be final.
- 13. Termination for Convenience:** The Water Authority may terminate this Contract at any time by giving at least thirty (30) days notice in writing to the Contractor. In such event, the Contractor shall be paid under the terms of the Contract for all goods, services or construction provided to and accepted by the Water Authority prior to the effective date of termination.
- 14. Termination for Debarment:** The Water Authority shall have the right to terminate the Contract without notice upon receipt of a notice of debarment of, or ineligibility to receive funds by, the Contractor from any federal, state or local agency.
- 15. Assignment/Changes:** Neither the Contract, nor any interest therein, nor claim thereunder, shall be assigned or transferred by the Contractor, except as expressly authorized in writing by the Water Authority's Purchasing Officer, or designee. No such assignment or transfer shall relieve the Contractor from the obligations and liabilities under this Contract. In no case shall the Contract be changed without the prior written approval of the Water Authority's Purchasing Officer.
- 16. Compliance With Ethics Provisions:** The Contractor certifies that (1) it has not, either directly or indirectly, entered into action in restraint of free competitive bidding; (2) it is in compliance with the Ethical Conduct provisions of the City of Albuquerque's Public Purchases Ordinance, Section 5-5-22 R.O.A. 1994; (3) it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Contract; and (4) it has followed and will continue to follow all requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978.
- 17. Compliance With Laws:** In performing the Contract, the Contractor shall comply with all applicable laws, ordinances and codes of the federal, State and local governments, including, but not limited to, all federal, State and local non-discrimination provisions. Contractor will obtain and maintain, and furnish to the Water Authority upon request, any and all permits, licenses, approvals, certificates and other documents required by the Water Authority, or otherwise required by applicable law.
- 18. Contract Information:** Direct all correspondence or inquiries concerning this Contract to: Water Authority Purchasing Division, P.O. Box 568, Albuquerque, New Mexico 87103, or call (505) 289-3227.
- 19. Governing Law:** This Contract is governed by the laws of the State of New Mexico without regard to principles of conflicts of law. Any and all actions or proceedings relating to the subject matter of this Contract will be subject to the exclusive jurisdiction of State and federal courts located in Bernalillo County, New Mexico.

**IMPORTANT NOTICE:** When accepting a hand-carried purchase order, Contractor should call the Purchasing Division to certify validity of the purchase order; or request photo identification from the person presenting the purchase order and maintain for its records the Water Authority ID number of that person. The Water Authority will not be liable for purchases made by unauthorized individuals. (Rev. 10/28/2015)

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Meeting Date: May 23, 2018

Staff Contact: Frank Roth, Senior Policy Manager

**TITLE: C-18-17 – FY2018 Third Quarter Performance Indicator Report****ACTION: Receipt be Noted****SUMMARY:**

The Third Quarter Performance Report provides a snapshot of utility performance. The Scorecard Indicators are categorized by Level of Service areas. The Scorecard Indicators are developed through benchmarking and performance assessments to identify performance gaps and to establish targets to address the gaps. The Scorecard Indicators Targets are linked to performance benchmarking, the Goals and Objectives, Customer Opinion Survey responses, and Effective Utility Management. The purpose of this report is to provide a one-page snapshot of the utility's performance so that stakeholders can easily gauge how the utility is performing in these Level of Service areas which is consistent with feedback received through the Customer Conversation forums.

The report identifies the fiscal year-to-date performance compared to the established target. A status of each indicator is provided in three categories: target achieved, work in progress, or target not met. Below is a summary status of the 22 Scorecard Indicators.

Summary Status

| On Target /<br>Target Achieved | Work in Progress /<br>Below Target | Target Not Met |
|--------------------------------|------------------------------------|----------------|
| 19 of 22                       | 3 of 22                            | 0 of 22        |

**FISCAL IMPACT:**

None

## Quarterly Performance Indicators FY18 3rd Quarter Scorecard

| Level of Service Area | Indicator   | FY18 3Q Actual   | FY18 Target   | Status |
|-----------------------|---|--|---|--------|
| Regulatory            | Number of Permit Excursions                             | 0  | <= 5  | ▲      |
|                       | Reported Overflows                                      | 31   | < 40  | ▲      |
|                       | Sewer Use/Wastewater Control Ordinance Compliance       | 92% Permitted Industrial Users<br>86% Food Service Est.<br>100% Dental Offices             | 87% Permitted Industrial Users<br>87% Food Service Est.<br>87% Dental Office                  | ▲      |
| Reliability           | Facility Planned Maintenance Ratios                     | 59% ground water<br>59% surface water<br>32% water reclamation                             | 66% ground water<br>55% surface water<br>30% water reclamation                                | ■      |
|                       | Leak Detection Leaks Located / GPY Water Loss Reduction | 604 miles surveyed<br>3,131 miles monitored<br>58 leaks found<br>55 MGY water loss reduced | 650 miles surveyed<br>2,200 miles monitored<br>> 80 leaks found<br>105 MGY water loss reduced | ▲      |
|                       | Miles of Small Diameter Sewer Line Cleaned              | 426  | Btw. 400 to 600 miles   | ▲      |
|                       | Miles of Sewer Line Televised                           | 25   | Btw. 20 to 30 miles   | ▲      |
|                       | Injury Time   | 1,809 hours  | < 2,700 hours   | ■      |
|                       |   |  |   |        |
| Quality               | Water Quality Complaints Rate (per 1,000 customers)     | 2.0  | < 3   | ▲      |
|                       | % of Biosolids to Compost                               | 63%  | > 30%   | ▲      |
|                       | Renewable Energy  | 20% Bio Gas<br>6% Solar  | 20% Bio Gas<br>5% Solar   | ▲      |
|                       | Water Consumption                                       | 6.7 BGY GW<br>14.9 BGY SW  | < 18 BGY GW<br>> 16 BGY SW  | ▲      |
| Customer Service      | Wait Time (minutes)                                     | 0:31 minutes   | < 2 minutes   | ▲      |
|                       | Contact Time (minutes)                                  | 3:47 minutes   | < 4 minutes   | ▲      |
|                       | Abandoned Call Ratio                                    | 2%   | <8%   | ▲      |
|                       | First Call Resolution                                   | 98%  | > 90%   | ▲      |
|                       | Bill Exception Rate (per 10,000 Bills)                  | 8  | <= 8  | ▲      |
| Finance               | Rehabilitation Spending                                 | \$82 million   | \$53 million  | ▲      |
|                       | Pipe Infrastructure Emergency vs. Planned Spending      | 53% Planned<br>47% Emergency   | 50% Planned<br>50% Emergency  | ▲      |
|                       | Cash Reserves (Days)                                    | 405 days   | Btw. 90-179 days  | ▲      |
|                       | Revenue to Expenditures                                 | 99%  | > 100%  | ■      |
|                       | Expenditures to Budget                                  | 93%  | < 100%  | ▲      |

### Performance Key

▲  
On Target/Target Achieved

■  
Work in Progress / Below Target

▼  
Target Not Met



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Meeting Date: May 23, 2018  
Staff Contact: Mark S. Sanchez, Executive Director

**TITLE: O-18-3 – Repealing Section Six, the Albuquerque Bernalillo County Water Utility Authority Selection Advisory Committee Ordinance to coincide with the adoption of the County of Bernalillo Procurement Ordinance**

**ACTION: Recommend Approval**

**SUMMARY:**

The Albuquerque Bernalillo County Water Utility Authority (Water Authority) has determined it to be operationally and functionally beneficial to adopt the County of Bernalillo Procurement Ordinance. To date, the Water Authority had followed the City of Albuquerque Public Purchases Ordinance legal requirements governing approval of contracts. Under the previous legal framework, the Water Authority Selection Advisory Committee Ordinance provided the procedure for the selection of firms or persons to provide professional engineering, architectural, landscape architectural and other related professional services.

By adoption of the County of Bernalillo's Procurement Ordinance, the Water Authority has determined it to be no longer necessary to establish a separate Ordinance governing selection of engineers, architects, and other related professional services. The County of Bernalillo's Procurement Ordinance establishes its own legal requirements regarding the composition of the Selection Advisory Committee and for selection of firms providing engineers, architects, and other related professional services. The Water Authority will establish additional rules governing the Selection Advisory Committee, if necessary, via administrative instruction.

The repeal of the Ordinance will be effective July 1, 2018, to coincide with the Water Authority's adoption of the County of Bernalillo Procurement Ordinance.

**FISCAL IMPACT:**

None

# Albuquerque Bernalillo County Water Utility Authority

BILL NO. O-18-3

## ORDINANCE

REPEALING SECTION SIX, THE ALBUQUERQUE BERNALILLO COUNTY WATER  
UTILITY AUTHORITY SELECTION ADVISORY COMMITTEE ORDINANCE, TO  
COINCIDE WITH THE ADOPTION OF THE COUNTY OF BERNALILLO PROCUREMENT  
ORDINANCE

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD, THE GOVERNING BODY OF  
THE WATER AUTHORITY:

### **Section 1. SECTION 6 IS REPEALED AS FOLLOWS:**

~~Section 6 SELECTION ADVISORY COMMITTEE~~

~~6-1-1 SHORT TITLE.~~

~~6-1-2 DEFINITIONS.~~

~~6-1-3 SELECTION OF SERVICES.~~

~~6-1-4 SELECTION ADVISORY COMMITTEE.~~

~~6-1-5 AD HOC BOARD.~~

~~6-1-6 PUBLICATION OF PROPOSED PROJECTS.~~

~~6-1-7 METHOD OF SELECTION.~~

~~6-1-8 PROMULGATION OF RULES AND REGULATIONS.~~

~~6-1-9 EMERGENCY SELECTION.~~

~~6-1-10 DISCLOSURE STATEMENT.~~

~~6-1-11 DEFINITE TERM REQUIRED.~~

~~6-1-12 COMPENSATION FOR BASIC SERVICES OF CONSULTING~~

~~ENGINEERS, ARCHITECTS, LANDSCAPE ARCHITECTS, CONSTRUCTION~~

~~MANAGERS AND SURVEYORS.~~

~~6-1-13 CHANGE IN SCOPE; AUTHORIZATION REQUIRED.~~

~~6-1-14 MULTI-PHASE PROJECTS.~~

~~6-1-15 PROMULGATION OF RULES AND REGULATIONS.~~

~~6-1-1 SHORT TITLE.~~

~~This Ordinance may be cited as the "Selection Advisory Committee Ordinance."~~

~~6-1-2 DEFINITIONS.~~

~~For the purpose of §§ 6-1-1 et seq., the following definition shall apply unless the context clearly indicates or requires a different meaning.~~

~~———"BASIC SERVICES". Those professional services of consulting engineers, architects landscape architects, construction managers, surveyors, and other professional service providers, identified as "Basic Services" in each specific agreement between the Authority and each consulting professional or professional firm to which a project is assigned.~~

~~6-1-3 SELECTION OF SERVICES.~~

~~———The selection of firms or persons to provide professional architectural, engineering, construction management landscape architectural and other professional services which will cost \$50,000 or more, or landscape architectural or surveying services which will cost \$10,000 or more, shall be accomplished in accordance with the provisions of §§6-1-1 et seq. For the purposes of §§6-1-1 et seq., PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL CONSTRUCTION MANAGEMENT, SURVEYING AND OTHER PROFESSIONAL SERVICES means the performance of any professional service or creative work requiring architectural, landscape architectural, construction management, surveying, engineering, or other professional education, training and experience, and the application of special professional knowledge, such as the mathematical, physical and engineering sciences, design or architectural principles to such professional services or creative work as consultation, investigation, evaluation, planning, design, observation of construction, surveying, photogrammetry and construction management.~~

~~6-1-4 SELECTION ADVISORY COMMITTEE.~~

~~———The Selection Advisory Committee shall be composed of five voting members and a nonvoting Selection Advisory Committee (SAC) Administrator as follows:~~

~~———(A) Architectural, Engineering, and Landscape Architectural, Construction Management, Surveying or Other Professional Services.~~

~~———(1) The General Manager of the Authority, or the designated staff alternate of the General Manager.~~

~~————— (2) — A minimum of two but a maximum of three Authority employees, who are registered in the state as engineers, or possessing other professionally licensed or technical qualifications suitable for the project.~~

~~————— (3) — A minimum of one, but a maximum of two, engineer(s) or other technically qualified individual(s) who is registered in the state shall be appointed as a member by the Executive Director from outside the Authority from a listing of professionally qualified candidates representative of public utility and/or public works service agencies, including but not limited to the City of Albuquerque, Bernalillo County, Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA), Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA), Middle Rio Grande Conservancy District (MRGCD), Middle Rio Grande Council of Governments (MRCOG), other public entities or professional associations, having professional expertise relevant to the project. Any such member shall not be contracting directly or indirectly through a subcontract with the Authority to perform professional services for the Authority. In the event that the Executive Director's outside representative is not available, a registered engineer or other technically qualified individual who is a public employee, and approved by the Executive Director, may serve as the Executive Director's representative.~~

~~————— (4) — Selection Advisory Committee Administrator.~~

~~(B) — The Selection Advisory Committee Administrator shall be a an Authority employee designated by the Executive Director as responsible for all administrative functions associated with the Selection Advisory Committee as delineated in Rules and Regulations promulgated by the Executive Director. The SAC Administrator shall serve as the Chairperson of the Selection Advisory Committee.~~

~~(C) — The Selection Advisory Committee Administrator shall not call a meeting with less than two weeks notice to members unless the Administrator first polls all members and finds no objection to the meeting date proposed and a quorum of the members shall be present.~~

#### ~~6-1-5 AD HOC BOARD.~~

~~In case of a project of unique or special nature, the Executive Director may name an Ad Hoc Board to recommend to the Executive Director firms or persons to provide professional architectural, engineering, landscape architectural, construction management, surveying and other related professional services required on the project. The Ad Hoc Board shall be comprised of the appropriate Selection Advisory Committee members augmented by a~~

~~maximum of four additional voting members. If the Executive Director elects to use this method of selection, the Authority shall be advised of the reasons for the Ad Hoc Board, the names of the additional voting member(s) who would augment the Selection Advisory Committee, and the selection criteria. The Authority shall review and approve the Executive Director's recommendation of the establishment of an Ad Hoc Board and the additional voting member(s) who would augment the Selection Advisory Committee prior to any convening of the Board. The SAC Administrator shall serve as the Chairperson of the Ad Hoc Board.~~

#### ~~6-1-6 PUBLICATION OF PROPOSED PROJECTS.~~

~~Brief descriptions of proposed projects shall be published in an Albuquerque newspaper of general circulation at least twice, not less than one week apart, with a due date for responses not less than one week after the second publication.~~

#### ~~6-1-7 METHOD OF SELECTION.~~

~~—— (A) Recommendation by Committee. The Selection Advisory Committee shall evaluate proposals received for each project by assigning points to evaluation criteria. For each project the General Manager or his designee, in coordination with the Chairperson, shall determine the maximum points for each criterion according to adopted procedures. If interviews are conducted from a short list of respondents, interview project related items shall be determined by the Committee. Interviewee's responses to these items during their interview presentation to the Committee shall also be evaluated by assigning points to evaluation criteria which shall consist of the interview items, the overall quality of the presentation, and subsequent response to questions from Committee Members. The Committee shall submit the names of not more than three qualified professional firms or persons in the order in which they are recommended to the Executive Director. Rankings shall be determined by the amount of points for each firm or person. If the Committee determines that there are less than three firms or persons qualified to provide the services, only those deemed qualified shall be recommended to the Executive Director.~~

~~—— (B) Recommendation by Executive Director. For the purpose of review and approval by the Authority as required by §§ 6-1-1 et seq., the Executive Director shall submit the Committee's or Ad Hoc Board's recommended list of qualified professional firms or persons to the Authority and indicate the order in which they are recommended. If the order is different from the Committee's or Ad Hoc Board's, the Executive Director shall explain the difference.~~

~~———— (C) — Approval by the Authority Board. The Authority Board shall approve or disapprove the recommendations made by the Executive Director. In the event the Authority does not approve the Executive Director's recommendations, the Executive Director shall then recommend another firm or person for the number one ranking from the firms or persons recommended by the Committee or the Ad Hoc Board.~~

~~———— (D) — If the Executive Director is unable to negotiate a satisfactory services agreement with the firm or person ranked number one based upon unreasonable delay or unreasonable cost, the Executive Director shall formally terminate negotiations with such firm or person and the Executive Director may undertake negotiations with the firm or person ranked number two. In the event that the Executive Director is unable to negotiate a satisfactory services agreement with the firm or person ranked number two, the Executive Director shall formally terminate negotiations with such firm or person and the Executive Director may undertake negotiations with the firm or person ranked number three. In the event that the Executive Director is unable to negotiate a satisfactory services agreement with the person ranked number three, the Executive Director shall formally terminate negotiations with such firm or person. If, after the termination of negotiations with the firm or person ranked number three there still is a need for the services, the entire selection process shall be repeated.~~

~~———— (E) — In those instances where the Executive Director is unable to negotiate a satisfactory services agreement with the firms or persons in their ranked order as approved by the Authority, the Executive Director shall formally communicate with the Authority the reasons for terminating negotiations in each case.~~

#### ~~6-1-8 PROMULGATION OF RULES AND REGULATIONS.~~

~~———— The Executive Director shall promulgate rules and regulations for the efficient and equitable administration of §§ 6-1-1 et seq. Such rules and regulations shall govern:~~

~~———— (A) — The procedures to be followed in the selection of firms or persons to provide professional architectural, engineering, construction management, and other professional services which will cost less than \$50,000, or landscape architectural or surveying services which will cost less than \$10,000.~~

~~———— (B) — The procedures to be followed by the Selection Advisory Committee in the selection of firms or persons to provide professional architectural, engineering, construction management, and other professional services which will cost \$50,000 or more, or landscape~~

1 ~~architectural or surveying services which will cost \$10,000 or more.~~

2 ~~6-1-9 EMERGENCY SELECTION.~~

3 ~~——— When the Executive Director determines that urgent and compelling reasons require~~  
4 ~~emergency contractual professional architectural, engineering, landscape architectural,~~  
5 ~~construction management, surveying and other professional services, the Executive Director,~~  
6 ~~notwithstanding any provision contained herein, may approve such services, provided that~~  
7 ~~the Executive Director shall notify the Authority of the action citing the compelling and urgent~~  
8 ~~reasons therefor. The report required to be made to the Authority by the Executive Director,~~  
9 ~~shall be submitted at the next regular meeting of the Authority.~~

10 ~~6-1-10 DISCLOSURE STATEMENTS.~~

11 ~~——— (A) The Executive Director shall cause to be incorporated into any contract~~  
12 ~~between the Authority and any firm or person performing architectural, engineering,~~  
13 ~~landscape architectural, construction management, surveying and other professional~~  
14 ~~services, a disclosure statement wherein such firm or person shall affirm whether within the~~  
15 ~~prior two years, it has made or agreed to make any valuable gift, whether in the form of~~  
16 ~~service, loan, thing or promise, to any person or any of his immediate family, having the duty~~  
17 ~~to recommend, the right to vote upon, or any other direct influence on the selection of firms~~  
18 ~~or persons performing architectural, engineering, landscape architectural, construction~~  
19 ~~management, surveying and other services.~~

20 ~~(B) Offerors shall disclose all campaign contributions in accordance with Section 13-1-~~  
21 ~~191.1 NMSA 1978, as amended.~~

22 ~~——— (C) A solicitation or proposed award for a proposed contract may be canceled~~  
23 ~~pursuant to Section 13-1-181 NMSA 1978, or a contract that is executed may be ratified or~~  
24 ~~terminated pursuant to Section 13-1-182 NMSA 1978 if:~~

25 ~~——— (1) a prospective contractor fails to submit a fully completed disclosure~~  
26 ~~statement pursuant to this section; or~~

27 ~~——— (2) a prospective contractor or family member or representative of the~~  
28 ~~prospective contractor gives a campaign contribution or other thing of value to an applicable~~  
29 ~~public official or the applicable public official's employees during the pendency of the~~  
30 ~~procurement process.~~

31 ~~6-1-11 DEFINITE TERM REQUIRED.~~

~~Any agreement for the basic services provided by consulting engineers, architects landscape architects, construction managers, surveyors, and other professional service providers, shall be for a definite term which shall be stated in the agreement. The term of the agreement may only be extended for good cause and after the written approval of the Executive Director.~~

~~6-1-12 COMPENSATION FOR BASIC SERVICES OF CONSULTING ENGINEERS, ARCHITECTS LANDSCAPE ARCHITECTS, CONSTRUCTION MANAGERS AND SURVEYORS.~~

~~Compensation for the basic services provided by consulting engineers, architects landscape architects, construction managers, surveyors, and other professional service providers, shall be negotiated. If an estimated construction cost can be determined from the project for which the basic services are provided, it may be used as the basis of negotiations unless use of the estimated construction cost is prohibited by funding authorities.~~

~~6-1-13 CHANGE IN SCOPE; AUTHORIZATION REQUIRED.~~

~~(A) In the event there is a change in the scope, complexity, character, or duration of a project involving the basic services of consulting engineers, architects landscape architects, construction managers, surveyors and other professional service providers, the compensation for such services shall be renegotiated or negotiated as appropriate. Whenever applicable, appropriate consideration of estimated construction cost will be used as the basis of negotiations.~~

~~(B) Any change in scope that will require different or additional services, except those services to which the emergency selection provisions in this article apply, shall be authorized by the prior written approval of the Executive Director or his designee. This provision shall apply to a change in any form, whether by amendment, additional services authorization, addendum or other designation.~~

~~(C) The written authorization shall specify the additional or different services, the estimated total cost of the additional or different services, and how the additional or different services relate to the scope of services of the underlying agreement for basic services.~~

~~(D) Verbal authorization to proceed to perform additional or different services shall not constitute valid authorization, and no services should be performed prior to the execution of all required written authorizations.~~

~~6-1-14 MULTI-PHASE PROJECTS.~~



~~Compensation for the basic services of consulting engineers, architects landscape architects, construction managers, surveyors and other professional service providers, for projects to be constructed in stages over a period of years, or in multiple phases, shall be negotiated. Whenever applicable, appropriate consideration of estimated construction cost will be used as the basis of negotiations.~~

~~6-1-15 PROMULGATION OF RULES AND REGULATIONS.~~

~~\_\_\_\_\_ The Executive Director shall promulgate rules and regulations for determining compensation for the basic services of consulting engineers, architects, landscape architects, construction managers, surveyors and other professional service providers, when an estimated construction cost is used as the basis of negotiations. Such rules and regulations shall provide for a biennial review of the percentage of estimated construction cost to be paid for such basic services.~~

**Section 2. SEVERABILITY CLAUSE.** If any Section, paragraph, sentence, clause, work or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Water Authority hereby declares that it would have passed this Ordinance and each Section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

**Section 3. EFFECTIVE DATE.** This Ordinance shall become effective July 1, 2018.

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Meeting Date: May 23, 2018  
Staff Contact: Hobert Warren, CSD Manager

**TITLE:** O-18-4 – Amending the Albuquerque Bernalillo County Water Utility Authority Water and Sewer Rate Ordinance to Update the Utility Financial Policy to Establish a Water 2120 Fund (R-16-12); Update the Minimum Committed Expenditures to \$40 Million in the Water and Sewer Rehabilitation Fund; Update the Utility Expansion Charge, Water Supply Charge, Septic Tank, and Chemical Toilet Charge by 2.60% Based on the Engineering News Report Index; and Update Appendix C Post Issuance Compliance Policy

**ACTION:** Recommend Approval

**SUMMARY:**

This Legislation amends the Albuquerque Bernalillo County Water Utility Authority (Water Authority) Water and Sewer Rate Ordinance to establish a Water 2120 Fund section 1-1-7(J) per (R-16-12), which will be funded at a minimum of \$2 million per year beginning in Fiscal Year 2020, and update the minimum committed expenditures in the Water and Sewer Rehabilitation Fund section 1-1-6(C) to not less than 40 million dollars per year.

In addition, the Ordinance is amended to increase the Utility Expansion Charges, Water Supply Charge, Septic Tank Charge, and Chemical Toilet Charge by the ENR index per sections 1-1-8(A)(1), 1-1-8(D)(1) and 1-1-9(G)(1)(2) of the Ordinance

The proposed amendment adjusts the Water and Sewer Utility Expansion Charges and Water Supply Charge by 2.60% based upon the April 1, 2017 ENR Building and Construction Cost Indexes. This is the annual adjustment made in accordance to sections 1-1-8(A)(1) and 1-1-8(D)(1) of the Water Authority's Rate Ordinance.

The Septic Tank Charge and Chemical Toilet Charge will be adjusted by 2.60% based upon the April 1, 2017 ENR Building and Construction Cost Indexes. This is the annual adjustment made in accordance to sections 1-1-9(G)(1) and 1-1-9(G)(2) of the Water Authority's Rate Ordinance.

Finally, Appendix C related to the Post Issuance Compliance Policy has been reviewed and modified to conform with current applicable federal laws. Also, the current listing of outstanding System Revenue Bonds has been updated as of March 2018.

**FISCAL IMPACT:**

The net increase on Water and Sewer Utility Expansion Charges and the Water Supply Charge for the average residential connection will be \$82 for water, \$61 for sewer and \$42 for the Water Supply Charge.

The net increase in Septic Tank Charges will be \$.0006 per gallon and the Chemical Toilet Charge will be \$.0013 per gallon.

The proposed amendments are consistent with the Water Authority's ten year Financial Plan and Rate Ordinance.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. O-18-4

## ORDINANCE

AMENDING THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY  
AUTHORITY WATER AND SEWER RATE ORDINANCE TO UPDATE THE UTILITY  
FINANCIAL POLICY TO ESTABLISH A WATER 2120 FUND (R-16-12); UPDATE THE  
MINIMUM COMMITTED EXPENDITURES TO 40 MILLION IN THE WATER AND SEWER  
REHABILITATION FUND; UPDATE THE UTILITY EXPANSION CHARGE, WATER  
SUPPLY CHARGE, SEPTIC TANK, AND CHEMICAL TOILET CHARGE BY 2.60%  
BASED ON THE ENGINEERING NEWS REPORT INDEX; AND UPDATE APPENDIX C  
POST ISSUANCE COMPLIANCE POLICY

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD, THE GOVERNING BODY OF  
THE WATER AUTHORITY:

Section 1. Section 1 is amended as follows:

Section 1 WATER AND SEWER RATES

1-1-1. SHORT TITLE.

This Ordinance will be known and may be cited as the "Albuquerque Bernalillo County  
Water Utility Authority Water and Sewer Rate Ordinance."

1-1-2. COMPUTATION OF REVENUES, EXPENSES AND DEBT SERVICE;  
DETERMINATION OF DEBT COVERAGE; REQUIRED MONTHLY FIXED CHARGE.

(A) Definition of Terms.

AWWA. American Water Works Association.

CONSUMERS ASSOCIATION (CMDWWCA). Non-profit organization  
generally located in the Carnuel land grant established in 2001 under the laws of New  
Mexico Sanitary Projects Act.

COST OF SERVICE. A rate setting methodology that is legally and  
fiscally required by bond covenants which sets sewer charges based upon EPA guidelines,  
uses a standard rate setting approach within the industry, requires users to pay their

proportionate cost of the system and creates equity within classes of customers and among classes of customers.

CITY. The City of Albuquerque, New Mexico.

COUNTY. Bernalillo County, New Mexico.

CUSTOMER. Any person, association, corporation, or entity receiving Utility service, related products or services in the metropolitan Service Area.

DEBT SERVICE REQUIREMENTS. With respect to System Obligations for any given period, the sum of: (1) the amount required to pay the interest, or to make reimbursements for payments of interest, becoming due on System Obligations during that period, plus (2) the amount required to pay the principal or Accreted Value, becoming due on System Obligations during that period, whether at maturity, an accretion term date or upon mandatory sinking fund redemption dates, plus (3) the periodic payments required to be made by the Water Authority pursuant to a Qualified Exchange Agreement minus (4) the periodic payments to be received by the Water Authority pursuant to a Qualified Exchange Agreement. No payments required for any System Obligations which may be tendered or otherwise presented for payment at the option or demand of the owners of System Obligations, or which may occur because of the exercise of an option by the Water Authority, or which may otherwise become due by reason of any other circumstance or contingency, including acceleration or early termination payments, which constitute other than regularly scheduled payments of principal, Accreted Value, interest or other regularly scheduled payments on System Obligations shall be included in any computation of Debt Service Requirements for that period.

DROUGHT. Drought occurs when there is insufficient precipitation combined with other environmental factors that cause an increase of overall water usage.

DROUGHT MANAGEMENT STRATEGY. The Water Authority's Drought Management Plan which contains four different drought severity levels, with each level containing increasingly stringent measures to reduce demand on the Water Authority's water system.

EXECUTIVE DIRECTOR. The Executive Director of the Water Authority.

EXPENSES. All expenses necessary for the operation and maintenance of the water and sewer systems, excluding depreciation, amortization and payments in lieu of taxes and expenditures for capital items.

FISCAL YEAR. July 1 through June 30.

FRANCHISE. The authorizations granted by the City of Albuquerque, City of Rio Rancho, Bernalillo County or Village of Los Ranchos to the Water Authority to use their respective rights-of-way and public places to construct, operate, and maintain Water Authority water and wastewater systems.

LOW INCOME HOUSING DEVELOPMENTS. Any multi-family residential development constructed by the City of Albuquerque or Bernalillo County or a non-profit developer in conjunction with one of these local governments which is substantially intended to provide affordable housing to very low income citizens as defined by 60 percent or less of median income as established by the US Department of Housing and Urban Development.

METER SIZE. The physical size of a water meter as designated by AWWA Standard.

NET REVENUES. The Revenues of the Utility less the Expenses. For purposes of calculating compliance with Sections 1-1-2(B) and 1-1-2(C) and the Additional Bonds Tests and Rate Covenants in the Debt Management and Policy & Guidelines, Net Revenues shall be defined and calculated in accordance with the definition of Net Revenues established in the applicable ordinance authorizing the issuance of the relevant System Obligations.

PAJARITO MESA MUTUAL DOMESTIC WATER AND WASTEWATER CONSUMERS ASSOCIATION (PMMDWWCA). Non-profit organization generally located in the Pajarito land grant established in 2000 under the laws of New Mexico Sanitary Projects Act.

REVENUES. Revenues will include all charges for current water and sewer service, income from miscellaneous services or property, interest on investments of the Joint Water and Sewer Funds, connection fees, and interest on notes or other receivables.

RIO RANCHO. The City of Rio Rancho, New Mexico.

SENIOR OBLIGATIONS. System Obligations now outstanding or hereafter issued with a first lien, but not an exclusive first lien, on the Net Revenues on a parity with the lien of the Outstanding Senior Obligations.

SERVICE AREA. Those parts of Bernalillo County and contiguous territory served by the Water Authority.

SERVICE SIZE. Service sizes range from size 1 to size 8. Each size is based upon the meter size or equivalent for each account.

SUBORDINATE OBLIGATIONS. System Obligations now outstanding or hereafter issued with a lien on the Net Revenues subordinate to the lien thereon of the Senior Obligations but superior to the lien thereon of the Super Subordinated Obligations.

SUPER SUBORDINATED OBLIGATIONS. System Obligations now outstanding or hereafter issued with a lien on the Net Revenue subordinate to the lien thereon of the Senior Obligations and subordinate to the lien thereon of the Subordinate Obligations.

SYSTEM OBLIGATIONS. All bonds and other similar indebtedness payable solely or primarily from the Net Revenues, including, without limitation, the Senior Obligations, the Subordinate Obligations, and the Super Subordinated Obligations.

UEC. Utility Expansion Charge

UTILITY. The water and wastewater facilities and all operations and management of such facilities necessary to provide water and wastewater service in the Service Area.

VILLAGE OF LOS RANCHOS. Village of Los Ranchos de Albuquerque, New Mexico.

WATER 2120 SECURING OUR WATER FUTURE. A 100-year water resource management strategy and policy document (R-16-12) which provides ratepayers a resilient and sustainable water supply for the next century.

WATER AUTHORITY. The Albuquerque Bernalillo County Water Utility Authority or its authorized agent.

WATER SUPPLY CHARGE (WSC). A charge that will be assessed by the Water Authority at the time of meter sale or application for service to any new water user customer requesting connection to the water system in an area not located within the Water Authority's service area and requiring a development agreement.

WINTER MEAN. For all customers, the average monthly water use billed in the months of December, January, February and March for each account. If a customer has a new account and does not have a full four months to calculate a winter mean or if a

customer's winter mean is zero, then the mean for that customer will be based off the class and size average mean. For those residential customers that have a winter mean greater than zero units but less than four units and does not fall in the category of a new account then their winter mean used for the Conservation Surcharge will be four units. For those residential customers that have a winter mean greater than 15 units their winter mean used for the Conservation Surcharge will be 15 units.

(B) Computation of Revenues, Expenses and Debt Service. At the end of each quarter of the fiscal year a determination will be made as to the total revenues, expenses and current debt service requirements of the system in accordance with definitions in §1-1-2(A). The determination will be made by the end of the first month following the end of each quarter. The results of the determination will be transmitted to the Water Authority.

(C) Increasing Minimum Monthly Fixed Charges. So long as there are Senior Obligations outstanding, if the determination of §1-1-2(B) above shows that the Net Revenues are less than 133 percent of the Debt Service Requirements on the outstanding Senior Obligations, the fixed monthly charge will be increased for water and sewer accounts. So long as there are Subordinate Obligations outstanding, if the determination of §1-1-2(B) above shows that the Net Revenues are less than 120 percent of the Debt Service Requirements on the outstanding Senior Obligations and outstanding Subordinate Obligations, the fixed monthly charge will be increased for water and sewer accounts. The increase in the fixed monthly charges will be a percentage of the established fixed monthly charges that produce additional revenues so that if the adjusted charges had been effective the previous quarter, the total Net Revenues would have been sufficient to meet the requirements of this paragraph. If the determination of §1-1-2(B) above shows that the Net Revenues are insufficient to meet the requirements above, it shall be determined if the revenue loss is due to efforts of Water Authority Customers to conserve water by reviewing usage patterns. If the usage study shows that the reduced revenues are due to conservation efforts, the Executive Director shall analyze the Utility's operations for the purpose of determining whether or not corresponding expense reductions can be effected and shall present any such expense reduction proposals to the Water Authority.

(D) Increasing Water Commodity Charges. If the quarterly analysis of power cost related to water pumping shows that costs are increasing or decreasing, the Executive Director is authorized to adjust the water commodity charge to reflect the change. An



adjustment in the commodity charge will only be made if the needed commodity charge adjustment is \$0.01 or greater, and shall be in \$0.01 increments. The Electric Fuel Cost Adjustment is to be calculated: (Fuel Rider - \$0.50) x Average annual kWh / Annual Billed Consumption in CCF.

(E) General Procedural Provisions. The Executive Director may enact administrative procedures to carry out the purposes of this Ordinance.

#### 1-1-3. WATER RATES.

(A) Definitions. As used in this Section, unless the context otherwise requires: CUSTOMER CLASSIFICATIONS Include:

(1) RESIDENTIAL. Single-family detached, condominiums served by individual meters, townhouses served by individual meters, duplexes served by individual meters, or mobile homes served by individual meters.

(2) MULTI-FAMILY. Any metered/account serving more than one dwelling unit; i.e., duplexes, residences with guests houses, triplexes, four-plexes, apartment complexes, condominiums, town-homes, or mobile homes served by common meters.

(3) COMMERCIAL. Retail, offices, hotels, motels, shopping centers, none of which use process water in the conduct of business.

(4) INDUSTRIAL. Manufacturing, or process facility which is engaged in producing a product.

(5) INSTITUTIONAL. Government buildings, hospitals, schools, and other facilities that provide public and quasi-public services.

(B) Water Credit Eligibility and Procedures.

(1) Single-family detached, condominiums, townhouses, duplexes or triplexes served by common or individual meters; mobile homes served by individual meters; but limited to those Customers who own the dwelling in which they reside and qualify under the United States Department of Health and Human Services poverty guidelines.

(2) The Executive Director shall establish procedures regarding certification for water credits and shall periodically make administrative changes to the income guidelines as circumstances require.

(C) Metered Water Service.

(1) The rates and compensation to be paid to the Water Authority for public and private use of water supplied by the Water Authority for any and all purposes shall be in accordance with the following schedule of charges.

Fixed Monthly Charge - Metered Service

| Serv Size | Meter Size                       | Residential | Commercial | Industrial | Institutional | Multi-family |
|-----------|----------------------------------|-------------|------------|------------|---------------|--------------|
| 1         | $\frac{5}{8} \times \frac{3}{4}$ | \$9.79      | \$10.26    | \$19.22    | \$10.55       | \$12.03      |
| 2         | 1                                | 20.22       | 20.65      | 40.31      | 21.02         | 24.58        |
| 3         | 1½                               | 56.61       | 58.83      | 120.32     | 61.42         | 72.00        |
| 4         | 2                                | 121.35      | 125.77     | 262.46     | 131.74        | 155.63       |
| 5         | 3                                | 232.26      | 241.37     | 497.91     | 252.17        | 290.05       |
| 6         | 4                                | 524.56      | 543.03     | 1143.32    | 569.75        | 675.21       |
| 7         | 6                                | 889.87      | 901.53     | 1850.64    | 940.83        | 1104.04      |
| 8         | 8 & over                         | 1863.70     | 1933.16    | 4036.09    | 2196.26       | 2391.09      |

(2) The rates and compensation to be paid to the Water Authority for public and private use of water supplied by the Water Authority for Wholesale Water Users shall be in accordance with the following schedule of charges.

Fixed Monthly Charges- Pajarito Mutual Domestic

Meter Size

|               |         |
|---------------|---------|
| $\frac{3}{4}$ | \$13.86 |
| 1             | 27.97   |
| 1½            | 80.92   |
| 2             | 173.76  |
| 3             | 361.13  |
| 4             | 802.69  |
| 6             | 1354.92 |
| 8             | 2873.97 |

(D) Unmetered Water Service.

(1) For service connections to the utility for private fire protection. Applicable to all service through which water is used solely for extinguishing accidental fires.

Fixed Monthly Charge

| Line Size<br>(inches) | Service Area |
|-----------------------|--------------|
|-----------------------|--------------|

|   |        |
|---|--------|
| 2 | \$4.85 |
|---|--------|

|   |      |
|---|------|
| 3 | 7.28 |
|---|------|

|   |      |
|---|------|
| 4 | 9.70 |
|---|------|

|   |       |
|---|-------|
| 6 | 18.20 |
|---|-------|

|   |       |
|---|-------|
| 8 | 27.90 |
|---|-------|

|    |       |
|----|-------|
| 10 | 38.81 |
|----|-------|

|    |       |
|----|-------|
| 12 | 57.00 |
|----|-------|

(2) Unmetered water service for any purpose other than standby fire protection will be a violation of this Ordinance and subject to the penalties specified herein; except by written agreement approved by the Executive Director.

(E) Private Use of Fire Hydrants for Non-Potable Use.

(1) Permits.

(a) Connections to fire hydrants at any location are prohibited except by the Water Authority, Fire Departments within the service area or by written permit (fire hydrant meter permit) issued by the Water Authority. The Fire Departments within the service area are given permission to use fire hydrants based upon written agreements with the Executive Director which pertain to inspection and maintenance. Each Fire Department is required to perform agreed upon maintenance on all fire hydrants within their service area as a condition of use.

(b) A qualified applicant (business owner or licensed contractor) or designated agent wishing to obtain a fire hydrant meter permit must submit a completed application form to the Water Authority. Completed and signed applications may be submitted online or hand delivered. If the applicant assigns a designated agent to obtain the permit, a designated agent certification form must be signed and notarized by the business owner or licensed contractor and submitted with the completed application.

(c) Fire hydrant meter permits may be issued for a period not to exceed one year. Failure to comply with one or more of the terms and conditions shall be cause for terminating the permit.

1 (d) Under a standard fire hydrant meter permit, the applicant may  
2 use any fire hydrant from the Water Authority's designated network of green-top fire  
3 hydrants. Applicants desiring to use an out-of-network hydrant must submit an alternate  
4 location application stating the reason(s) for needing to use the out-of-network hydrant.  
5 Water Authority staff will review such requests on a case by case basis and a decision shall  
6 be issued within three business days of receiving the request.

7 (e) The Water Authority reserves the right to refuse to issue a fire  
8 hydrant meter permit to any applicant or to require an applicant to pay all current charges  
9 on the applicant's Water Authority account as a condition to the issuance of a permit.

10 (2) System Connection and Water Use.

11 (a) Water taken from fire hydrants may be used only for non-  
12 potable, non-recreational purposes within the Water Authority service area. The use of  
13 non-potable water taken from fire hydrants for swimming pools is prohibited.

14 (b) The permit holder shall utilize a backflow prevention method or  
15 device acceptable to the Water Authority at all times the fire hydrant meter is in use to  
16 protect the Water Authority's water supply. Failure to use an acceptable backflow  
17 prevention method or device shall be cause for confiscating the fire hydrant meter and  
18 terminating the permit.

19 (c) The Executive Director may appoint employees to inspect fire  
20 hydrant meters at any time, but not less than once per annum. Permit holders shall make  
21 provisions for such inspections.

22 (d) For permit holders that contract with the Water Authority, the  
23 Executive Director is authorized to withhold all or a portion of the surety bond for  
24 outstanding fire hydrant meter charges including but not limited to repair and replacement  
25 of the hydrant meter and usage.

26 (3) Loss, Damage and Payment Surety Bond.

27 (a) A loss, damage and payment surety deposit of \$3,000.00 for  
28 each fire hydrant meter is required at the time the permit is issued. If a fire hydrant meter is  
29 lost or stolen, the \$3,000.00 deposit shall be forfeited and the permit holder shall be  
30 assessed up to a \$1,000.00 charge for water usage.

31 (b) All or a portion of the loss, damage and payment surety deposit  
32 will be refunded depending upon the cost of repairing the fire hydrant meter and the

1 outstanding balance for meter charges when it is returned to the Water Authority. The  
2 Water Authority shall cause the repair work to be done and compute the time and materials  
3 necessary to rehabilitate the fire hydrant meter.

4 (c) The Executive Director may waive the loss, damage and  
5 payment surety deposit for special events or non-construction related short term projects.

6 (4) Reporting. The permit holder shall be required to report and pay for  
7 fire hydrant water usage on a monthly basis. Fire hydrant meter readings shall be  
8 submitted, in writing between the first (1st) and tenth (10th) day of the month for water  
9 usage during the previous calendar month, regardless of whether any water usage  
10 occurred during that month. Failure to submit meter readings between the first (1st) and  
11 the tenth (10th) of the month shall result in a \$20.00 late meter reading fee per occurrence.  
12 Failure to report meter readings on or before the last day of the month the readings are due  
13 shall be cause for confiscation of the meter and termination of the permit.

14 (5) Fees and Charges.

15 (a) A nonrefundable program fee of \$230.00 will be charged for  
16 each fire hydrant meter permit.

17 (b) All fire hydrant meter permit holders shall pay a monthly base  
18 charge of \$70.00. This monthly base charge shall not be prorated.

19 (c) All water withdrawn from a fire hydrant shall be charged at the  
20 current commodity rate. Connections to fire hydrants in violation of this Ordinance will be  
21 subject to the penalties specified herein and shall be considered an illegal connection and  
22 be subject to hydrant meter confiscation.

23 (d) The permit holder shall be required to remit payment for all  
24 water withdrawn from fire hydrants on a monthly basis. Failure to remit payment in full  
25 within ten (10) days after final notice is issued shall result in a \$50.00 late payment fee per  
26 occurrence, and shall be cause for confiscation of the fire hydrant meter and termination of  
27 the permit.

28 (F) Water Commodity Charge.

29 (1) (a) In addition to the Fixed Monthly Charge, all water used by a  
30 Customer within the Service Area for any purpose whatsoever shall be charged at the rate  
31 of \$2.018 per unit (one unit equals 100 cubic feet). In addition, there shall be a charge of  
32 0.024 per unit, added to this commodity charge, which is the amount necessary to

1 compensate the Water Authority for the water conservation fee charged by the State of  
2 New Mexico. This is determined by the meter reading or by estimating the usage by  
3 statistical methods. Customers shall pay bills monthly.

4 (b) Included in the commodity charge is a \$0.116 charge per unit  
5 that will be dedicated to the Water Resources Management Program in Fund 621 to fund  
6 the Ground-Water Protection Policy and Action Plan, the Water Conservation Program,  
7 Water Resources Management Planning and Arsenic Investigations. All interest earned on  
8 these dedicated funds shall be used only for this purpose.

9 (c) In addition to the Fixed Monthly Charge customers with a  
10 wholesale water rate shall be charged at the rate in accordance with the following schedule  
11 of charges.

12 Pajarito Mutual Domestic - \$1.400 per 100 CCF

13 (2) Bills may be based on the estimated average annual water use in  
14 units, annualized and divided by 12 months, plus the fixed monthly charge. Any special  
15 charges, such as UEC, shall be included on the bill. The Executive Director may  
16 administratively adjust bills periodically by crediting and debiting accounts as appropriate if  
17 errors have been found and verified.

18 (3) (a) Surcharges for irrigation-only water accounts shall be  
19 assessed annually in the year following the water usage based upon an annual irrigation  
20 budget allowance established for such accounts and in accordance with the following:

21 (i) Water budgets will be established by the Water Authority  
22 whenever a new irrigation account is established or an existing account is converted to an  
23 irrigation account.

24 (ii) All usage will be calculated annually on a per site basis. Any  
25 usage of individual wells at these sites shall be submitted in writing to the Water Authority  
26 by the 15<sup>th</sup> of the month following the use.

27 (iii) All golf courses existing prior to October 1, 1995 will be allowed  
28 up to 40 inches of water over the entire landscaped area per calendar year.

29 (iv) All new golf courses or existing golf course expansions  
30 permitted after October 1, 1995 will be allowed up to 37 inches of water over the entire  
31 landscaped area per calendar year.

32 (v) Athletic fields will be allowed up to 45 inches of water over the

entire landscaped area per calendar year.

(vi) All other landscaped areas will receive a water budget of 35 inches of water over the entire landscaped area per calendar year.

A surcharge will be applied to the usage above the annual irrigation budget allowance. For excess usage up to 150 percent (first tier) of the annual irrigation budget, the surcharge shall be 50 percent of the commodity rate shown in §1-1-3(F)(1)(a). For excess usage greater than 150 percent (second tier) of the annual irrigation budget, the surcharge shall be 100 percent of the commodity rate shown in §1-1-3(F)(1)(a). For excess usage greater than 200 percent (third tier) of the annual irrigation budget, the surcharge shall be 150 percent of the commodity rate shown in §1-1-3(F)(1)(a).

(b) The surcharge amount added for each unit exceeding 200 percent of the Winter Mean water usage as calculated in §1-1-2(A), shall be equal to 50 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(1)(a) for usage during the following months of April through October. For those residential customers that have a Winter Mean equal to or greater than 15 units, the surcharge amount added for each unit exceeding 200 percent of the Winter Mean water usage as calculated in §1-1-2(A), shall be equal to 100 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(1)(a) for usage during the months of April through October.

(c) The surcharge amount added for each unit exceeding 300 percent of the Winter Mean water usage as calculated in §1-1-2(A), shall be equal to 50 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(3)(b) for usage during the months of April through October. For those residential customers that have a Winter Mean equal to or greater than 15 units, the surcharge amount added for each unit exceeding 300 percent of the Winter Mean water usage as calculated in §1-1-2(A), shall be equal to 100 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(3)(b) for usage during the months of April through October.

(d) The surcharge amount added for each unit exceeding 400 percent of the Winter Mean water usage as calculated in §1-1-2(A) shall be equal to 50 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(3)(c) for usage during the months of April through October. For

1 those residential customers that have a Winter Mean equal to or greater than 15 units, the  
2 surcharge amount added for each unit exceeding 400 percent of the Winter Mean water  
3 usage as calculated in §1-1-2(A), shall be equal to 100 percent of the Commodity Charges  
4 §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(3)(c) for  
5 usage during the months of April through October.

6 (e) Drought Related Surcharges. Under the four levels of Drought  
7 defined in the Drought Management Strategy, the Water Authority may, at its sole  
8 discretion, increase surcharges described in §1-1-3 by a factor of two, three or more as  
9 may be necessary to assist in water use reduction during a drought. During a drought, the  
10 Water Authority shall declare to the public the Drought Level, which can be raised and  
11 lowered by the Water Authority, and the proposed increase in surcharges. The Drought  
12 level only applies to the current year and must be approved by the Water Authority on a  
13 year by year basis. The Water Authority delegates the implementation of the Drought  
14 Management Strategy including the increase of surcharges to the Executive Director.  
15 Based on the Drought Level approved by the Water Authority, the Executive Director shall  
16 implement the Drought Management Strategy and announce the effective date of the new  
17 surcharges.

18 (f) For residential class Customers only having service sizes 1  
19 through 3, a 50 percent discount shall be applied to the commodity charges in §1-1-  
20 3(F)(1)(a) for water usage greater than the customer's Winter Mean water usage during the  
21 months of April through October when water usage is equal or less than 150 percent of the  
22 Class Winter Mean water usage.

23 (G) Multiple Meter Service. Customers with service by more than one meter to  
24 any premise shall be charged the applicable fees associated with each meter except for  
25 single-family residential Customers who have two meters, of which one is used for  
26 irrigation. The monthly fixed charge for these single-family residential Customers will be  
27 based on the largest meter at the single-family residence.

28 (H) Water Credit. For those accounts included within the Water Credit  
29 classification, a credit of \$10.31 per month will be applied to their billing; the billing shall be  
30 calculated using the Fixed Monthly Charge and Commodity Charge as set forth in this  
31 Ordinance.



(I) Tag and Testing Charge. When a Customer disputes meter accuracy, a "Tag & Test" service will be done after all the steps taken by the Water Authority have been exhausted and if requested in writing by the legal property owner or his/her authorized representative.

(1) Meters 5/8 X 3/4" to 2"

| Meter Size | Tag and Testing Charge Service |
|------------|--------------------------------|
|------------|--------------------------------|

|             |       |
|-------------|-------|
| 5/8" x 3/4" | \$140 |
|-------------|-------|

|    |     |
|----|-----|
| 1" | 185 |
|----|-----|

|        |     |
|--------|-----|
| 1-1/2" | 380 |
|--------|-----|

|    |     |
|----|-----|
| 2" | 455 |
|----|-----|

The meter in question will be removed and a new one installed so that service can be maintained. The removed meter will be bench tested by the Water Authority in accordance with AWWA Standard C705. Should the meter fail the accuracy test such that the requestor was being overcharged, there would be no charge to the requestor.

(2) Meter 3" and greater. The meter in question will be tested in place in accordance with AWWA Standard C701, C702 or C703 and AWWA manual M6. Should the meter fail the accuracy test such that the requestor was being over charged, there would be no charge to the requestor. The testing charge for this will be \$500 for all sizes.

(J) Customer utility statements shall contain the following itemized element: "Facility Rehabilitation: \$`x,' where `x' shall be the cost of the rate increase to fund facility rehabilitation."

(K) Real property owners receiving water service from the Water Authority are responsible for hiring a licensed plumber to connect their customer service line to the Water Authority system at the point of metered service, or obtain a Homeowner Permit from the permitting Agency, allowing the property owner to make the connection.

#### 1-1-4. NON-POTABLE WATER RATES.

(A) Definitions. Refer to §1-1-3(A) Water Rates for the definitions of Customer Classifications, which apply to this Section.

(B) Metered Service. The rates and compensation to be paid to the Water Authority for public and private use of non-potable water supplied by the Water Authority within the Service Area for any and all purposes shall be in accordance with the schedule of charges listed in §1-1-3(A) for potable water metered service.

1 (C) Commodity Charge.

2 (1) In addition to the Fixed Monthly Charge, all non-potable water used by  
3 a Customer within the Service Area shall be charged at the rate corresponding to 80  
4 percent of the potable water commodity rate (one unit equals 100 cubic feet). This is  
5 determined by the meter reading or by estimating the usage by statistical methods.  
6 Customers shall pay bills monthly.

7 (2) Bills may be based on the estimated average annual non-potable  
8 water use by units, annualized and divided by 12 months, plus the fixed monthly charge.  
9 Any special charges, such as UEC, shall be included on the bill. The Executive Director  
10 may administratively adjust bills periodically by crediting and debiting accounts as  
11 appropriate if errors have been found and verified.

12 (3) All surcharges for irrigation-only water accounts shall be charged at the  
13 rate based upon the non-potable water commodity rate (one unit equals 100 cubic feet).

14 (D) Multiple Meter Service. Customers with non-potable water service by more  
15 than one meter to any premise shall be charged the applicable fees associated with each  
16 meter.

17 (E) Tag and Testing Charge. Refer to §1-1-3 (I) for applicable provisions and  
18 charges.

19 (F) Utility Expansion Charge (UEC).

20 (1) A Utility Expansion Charge shall be paid to the Water Authority at the  
21 time of non-potable meter sale or application for non-potable water service for all new  
22 services connecting to the non-potable water system. The UEC may be paid in full at the  
23 time of non-potable service application, or paid over time with an initial minimum of 5  
24 percent down payment. The balance shall be subject to a fixed monthly charge to include a  
25 carrying charge set at 7 percent per annum. On all connections, the balance shall be paid  
26 in full within 120 months.

27 (2) The UEC for non-potable water service shall be the same as the UEC  
28 for potable water service. Refer to §1-1-8(A) for applicable provisions and charges.

29 (3) Existing water Customers wishing to receive non-potable water shall  
30 not be charged a UEC unless the new combined potable and non-potable system capacity  
31 exceeds the Customer's previous existing potable system capacity.

(4) Redundant potable water and non-potable water metered services are not required for non-potable service.

(G) Non-potable Water Meter and Service Installation Fees. Refer to §1-1-9 for applicable provisions and charges.

(H) Customers that are currently using potable water for irrigation or other qualified industrial purposes as determined by the Water Authority and whose property is located within 200-feet of a non-potable water line are required to connect to the non-potable system within one year of service availability. Connection to non-potable system is a condition of service. The Water Authority is required to provide written notification to the property owner that non-potable water is available and that connection to the system is mandatory. If requested, the Water Authority will meet with the affected property owners and provide additional information regarding service availability, connection locations and other information that may be deemed necessary. The property owner has one year from the date of notification to connect to the system. Failure to connect may result in termination of service.

(I) Water Rights Leases. Beginning July 1, 2006, except for lease agreements that provide for periodic rate increases, water rights leases entered into by the Water Authority for the purpose of offsetting depletive effects on the Rio Grande from pumping by others shall be charged at the non-potable water rate.

#### 1-1-5. SEWER RATES.

(A) Definitions. For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOD or BIOCHEMICAL OXYGEN DEMAND.** The quantity of oxygen utilized in the biochemical oxidation of organic matter by Standard Methods procedures in five days at 20° C. expressed in milligrams per liter (mg/l).

**CLEANOUT.** A tee section in the sanitary sewer located outside any structure accessible 24 hours a day and constructed according to the Utility's standard detail.

**COD or CHEMICAL OXYGEN DEMAND.** A measure of the oxygen-consuming capacity of organic and inorganic matter present in wastewater as milligrams per liter (mg/l), by Standard Methods procedures.

NH<sub>3</sub>N OR AMMONIA NITROGEN. Total Ammonia – A measure of the total ammonia as nitrogen concentration as milligrams per liter (mg/L) by Standard Methods or EPA approved procedures.

#### CUSTOMER CLASSIFICATIONS.

(1) RESIDENTIAL. Single-family detached, condominiums served by individual meters, townhouses served by individual meters, duplexes served by individual meters, or mobile homes served by individual meters.

(2) MULTI-FAMILY. Any metered/account serving more than one dwelling unit; i.e., duplexes, residences with guests houses, triplexes, four-plexes, apartment complexes, condominiums, town-homes, or mobile homes served by common meters.

(3) COMMERCIAL. Retail, offices, hotels, motels, shopping centers, none of which use process water in the conduct of business.

(4) INDUSTRIAL. Manufacturing, or process facility which is engaged in producing a product.

(5) INSTITUTIONAL. Government buildings, hospitals, schools, and other facilities that provide public and quasi-public services.

(6) WHOLESALE-SPECIAL CONTRACTS. Contract Customers that are responsible for a collection system beyond the point where their respective wastewater discharges into the Water Authority's interceptors.

(7) KIRTLAND AIR FORCE BASE (KAFB).

(8) FOOD SERVICE ESTABLISHMENT or FSE. Any establishment, commercial or noncommercial, such as a restaurant, cafeteria, snack bar, temple, mosque, church, synagogue, worship hall, banquet facility, preschool, school, or meeting place, with a kitchen that is used for preparing, serving, or otherwise making available for consumption foodstuffs in commercial amounts in or on a receptacle that requires washing and that discharges to the Water Authority's POTW.

INDUSTRIAL WASTE. Wastes resulting from any process of industry, manufacturing, trade, or business, or from the development, recovery, or processing of natural resources.

LATERAL SEWER. An individual user's sewer pipe beginning at the public sewer and extending to the premises actually served. The lateral sewer includes the stub to which a user connects to the public sewer and all appurtenances on such lateral sewer.

1 The user is responsible for the maintenance of the lateral sewer including those portions  
2 that may be within any right-of-way. The term is interchangeable with "house service  
3 connection," "sewer service line," or "building sewer."

4 NORMAL DOMESTIC WASTEWATER. Effluent which contains constituents  
5 and characteristics similar to effluent from a residence and specifically for the purposes of  
6 this Ordinance does not contain BOD, COD, NH<sub>3</sub>N and TSS in excess of the following  
7 concentration:

8 BOD -- 250 mg/l

9 COD -- 500 mg/l

10 TSS -- 330 mg/l

11 NH<sub>3</sub>N – 25 mg/l

12 PUBLICLY OWNED TREATMENT WORKS or POTW. A treatment works as  
13 defined by §212 of the Clean Water Act, (33 USC 1292) which is owned by the Water  
14 Authority. The term also includes Water Authority works, as defined in §502 of the Clean  
15 Water Act, (33 USC 1362) which has jurisdiction over the indirect discharges to and the  
16 discharges from such a treatment works. The "treatment works" includes all plants,  
17 sanitary sewers, lift stations, odor control stations, and all other properties, now or hereafter  
18 existing, used or useful in connection with the collection, pumping, disposal and treatment  
19 of wastewater, as now or hereafter added to, expanded or improved.

20 SEWER CREDIT ELIGIBILITY AND PROCEDURES. Single-family  
21 detached, condominiums, townhouses, duplexes or triplexes served by common or  
22 individual meters; mobile homes served by individual meters; but limited to those  
23 Customers who own the dwelling in which they reside and qualify under the United States  
24 Department of Health and Human Service poverty guidelines.

25 STANDARD METHODS. The laboratory procedures set forth in the latest  
26 edition, at the time of analysis, of Standard Methods for Examination of Water and  
27 Wastewater, as prepared, approved and published jointly by the American Public Health  
28 Association and American Water Works Association and the Water Pollution Control  
29 Federation.

30 TOTAL SUSPENDED SOLIDS or TSS. Those solids which are retained by a  
31 standard glass fiber filter and dried to constant weight at 103 – 105° C. expressed in  
32 milligrams per liter (mg/l), by Standard Methods procedures.

WASTEWATER. The used water of a community. Such used water may be a combination of the liquid waterborne wastes from residences, commercial buildings, industrial plants and institutions.

(B) Methodology and Calculation of Rates and Charges.

(1) The rates and charges described in this Ordinance are developed in conformance with standard cost-of-service rate making principles as recommended by the American Water Works Association, the Water Environment Federation, and the United States Environmental Protection Agency (USEPA).

(2) The Water Authority's rates and charges are calculated based on each customer classification's use of the system. Historical billed flows by classification and a systematic allocation of operation, maintenance, and capital costs were used to calculate the schedule of charges contained in this Ordinance.

(C) Fixed Monthly Charge.

(1) The rates and compensation to be paid to the Water Authority for public or private use by discharge of liquid waste into the Water Authority within the Service Area for any and all purposes whatsoever shall be in accordance with the following schedules of charges. The Fixed Monthly Charge for Customers with Water Authority water service shall be based on the water service size. The Fixed Monthly Charge for Customers without Water Authority water service shall be based on the liquid waste flow. Liquid waste flow will be calculated in accordance with the methodology set forth in the Commodity Charge Section of §1-1-5(D).

(2) Fixed Monthly Charge for Customers with water service:

| Serv Size | Meter                            | Resid  | Comm   | Indust  | Instit | Multi-family |
|-----------|----------------------------------|--------|--------|---------|--------|--------------|
| 1         | $\frac{5}{8} \times \frac{3}{4}$ | \$2.99 | \$3.70 | \$16.82 | \$2.87 | \$4.97       |
| 2         | 1                                | 4.84   | 5.90   | 28.49   | 4.63   | 8.22         |
| 3         | 1½                               | 19.84  | 25.11  | 122.72  | 18.88  | 34.62        |
| 4         | 2                                | 49.37  | 62.62  | 308.35  | 46.94  | 86.31        |
| 5         | 3                                | 66.11  | 83.90  | 413.63  | 62.86  | 115.68       |
| 6         | 4                                | 140.83 | 178.85 | 883.44  | 133.88 | 246.77       |
| 7         | 6                                | 187.56 | 237.02 | 1177.19 | 178.30 | 328.73       |
| 8         | 8 & over                         | 333.41 | 423.55 | 2094.23 | 316.95 | 584.60       |

|    |              |   |            |            |               |        |        |
|----|--------------|---|------------|------------|---------------|--------|--------|
| 1  | (3)          | Fixed Monthly Charge for Customers without water service: |            |            |               |        |        |
| 2  | Liquid Waste |   |            |            |               |        |        |
| 3  | Flow (CCF)   | Residential   | Commercial | Industrial | Institutional | Multi- |        |
| 4  |              |   |            |            |               | family |        |
| 5  | 0 - 10       | $\frac{5}{8} \times \frac{3}{4}$                          | \$2.99     | \$3.70     | \$16.82       | \$2.87 | \$4.97 |
| 6  | 11-19        | 1   | 4.84       | 5.90       | 28.49         | 4.63   | 8.22   |
| 7  | 20-63        | 1½  | 19.84      | 25.11      | 122.72        | 18.88  | 34.62  |
| 8  | 64-82        | 2   | 49.37      | 62.62      | 308.35        | 46.94  | 86.31  |
| 9  | 83-343       | 3   | 66.11      | 83.90      | 413.63        | 62.86  | 115.68 |
| 10 | 344-599      | 4   | 140.83     | 178.85     | 883.44        | 138.88 | 246.77 |
| 11 | 600-803      | 6   | 187.56     | 237.02     | 1177.19       | 178.30 | 328.73 |
| 12 | 804-over     | 8 & over  | 333.41     | 423.55     | 2094.23       | 316.95 | 584.60 |

13 (4) Fixed Monthly Charges for Wholesale and KAFB

|    |           |           |           |             |
|----|-----------|-----------|-----------|-------------|
| 14 | Serv Size | Wholesale | Item      | KAFB        |
| 15 | 1         | \$3.78    | Per Month | \$12,038.74 |
| 16 | 2         | 6.19      |           |             |
| 17 | 3         | 13.70     |           |             |
| 18 | 4         | 64.09     |           |             |
| 19 | 5         | 85.88     |           |             |
| 20 | 6         | 183.06    |           |             |
| 21 | 7         | 243.83    |           |             |
| 22 | 8         | 412.91    |           |             |

24 (D) Commodity Charge. All wastewater discharge shall be charged on the basis  
 25 of the Commodity Charges for Retail and Special Customers rate table on a per unit basis  
 26 (one unit equals 100 cubic feet).

27 Commodity Charges for Retail and Special Contract Customers

|    |                  |               |                |                          |
|----|------------------|---------------|----------------|--------------------------|
| 28 | Customer Class   | Base (\$/CCF) | Rehab (\$/CCF) | Total Commodity (\$/CCF) |
| 29 | Retail Customers |               |                |                          |
| 30 | Residential      | \$1.394       | \$0.288        | \$1.682                  |
| 31 | Commercial       | 1.394         | 0.288          | 1.682                    |
| 32 | Industrial       | 1.394         | 0.288          | 1.682                    |

|   |                   |         |         |         |
|---|-------------------|---------|---------|---------|
| 1 | Institutional     | 1.394   | 0.288   | 1.682   |
| 2 | Multi-family      | 1.394   | 0.288   | 1.682   |
| 3 | Special Contracts |         |         |         |
| 4 | Wholesale         | \$0.727 | \$0.151 | \$0.878 |
| 5 | KAFB              | 0.727   | 0.151   | 0.878   |

(1) Customers with Water Service. The commodity charge for usage during the months of December, January, February and March (winter months) shall be based upon 95 percent of the metered or estimated volume of water usage during each of these months for each account. The commodity charge for usage during other months shall be based upon 95 percent of the metered or estimated volume of water usage during that month or shall be based upon 95 percent of the prior winter months' average, whichever is less for each account. The winter months' average is determined by averaging the metered or estimated volume of water used during the winter months.

(2) Customers without Water Service. The volume of wastewater discharge shall be determined by the physical measurement at the expense of the customer; however, where accurate and reasonable estimates can be made by statistical methods, such estimates shall be considered the volume of discharge upon which the Commodity Charge is based. The Water Authority expressly reserves the right to determine the estimated wastewater volume for any customer without water service, which determination may be appealed to the Executive Director.

(3) Special Wastewater Discharge Volume. The Water Authority recognizes that sewage discharge patterns for individual Customers may vary to a great extent from the norms of any particular class; therefore, any Customer may, at their own expense, provide the Water Authority with sewage flow data for consideration of a special wastewater discharge volume. Such data shall be certified by an engineer registered in the state. The Water Authority expressly reserves the right to determine the estimated wastewater volume for any Customer, which determination may be appealed to the Executive Director.

(E) Extra-Strength Surcharge.

(1) All Customers discharging wastewater into the POTW are subject to a surcharge if the discharged wastewater exceeds normal domestic wastewater strength. NORMAL STRENGTH is defined as:



- 1 (a) Chemical Oxygen Demand (COD) less than or equal to 500  
2 mg/l; and  
3 (b) Biochemical Oxygen Demand (BOD) less than or equal to 250  
4 mg/l; and  
5 (c) Total Suspended Solids (TSS) less than or equal to 330 mg/l;  
6 and  
7 (d) Ammonia Nitrogen (NH<sub>3</sub>N) less than or equal to 25 mg/l.

8 (2) The Water Authority shall determine strength as defined by the above  
9 parameters in §1-1-5(E)(1) above. The procedures are described §1-1-5(I) below. If it is  
10 determined that the wastewater strength exceeds the limits specified, a surcharge shall be  
11 levied at the rate of:

- 12 (a) \$.17 per pound of COD for the excess of 500 mg/l of COD; and  
13 (b) \$.33 per pound of BOD for the excess of 250 mg/l BOD; and  
14 (c) \$.27 per pound of TSS for the excess of 330 milligrams per liter  
15 of TSS; and  
16 (d) \$.81 per pound of NH<sub>3</sub>N for the excess of 25 mg/l of NH<sub>3</sub>N.

17 (3) Any customer that is a Food Service Establishment permitted by the  
18 City of Albuquerque, Village of Los Ranchos, Bernalillo or Sandoval County shall be  
19 charged an extra strength surcharge of \$1.96 per unit (100 cubic feet).

20 (4) The Water Authority shall promulgate administrative procedures to  
21 carry out the provisions of the extra-strength surcharge.

22 (F) Septic Tank Truck Discharge. No user owning vacuum or "cesspool" type  
23 pumping trucks or other liquid waste transport trucks shall discharge such waste into the  
24 POTW, unless such person shall first have applied for and received a Septic Tank  
25 Discharge or Chemical Toilet Discharge Permit from the Industrial Pretreatment Engineer  
26 pursuant to the Sewer Use and Wastewater Control Ordinance Section 3-3-7.

27 (G) Sewer Use Regulations. The Water Authority's Sewer Use and Wastewater  
28 Control or successor Ordinance, shall govern all discharges of wastewater to the POTW.

29 (H) Sampling; Metering Manhole Requirements. When required by the Utility, the  
30 owner of property serviced by a lateral sewer carrying industrial wastes shall install a  
31 suitable control manhole or cleanout together with such necessary meter and other  
32 appurtenances in the lateral sewer to facilitate observation, sampling, and measurement of

1 the wastes. Such monitoring locations shall be accessible, safely located, and constructed  
2 in such a manner as to prevent infiltration of ground and surface waters. They shall be  
3 constructed in accordance with plans approved by the Utility. The Utility has established  
4 standard details. The monitoring location and all equipment shall be installed by the owner  
5 at his expense, and shall be maintained by him so as to be safe and accessible at all times.

6 (I) Sampling and Testing Procedures.

7 (1) All dischargers subject to monitoring according to the Water Authority's  
8 Sewer Use and Wastewater Control Ordinance, will be monitored by the Water Authority.  
9 The discharge will be sampled and tested for compliance with the Water Authority's Sewer  
10 Use and Wastewater Control Ordinance, and to determine the surcharge amount.

11 (2) All measurements, tests and analysis of the characteristics of waters  
12 and wastes shall be determined in accordance with the latest edition of Standard Methods  
13 for the Examination of Water and Wastewater, published jointly by the American Public  
14 Health Association and Water Pollution Control Federation, and the American Waterworks  
15 Association.

16 (3) Sampling shall be carried out by customarily accepted methods. The  
17 particular analyses involved will determine whether a 24-hour composite of all outfalls of a  
18 premise is appropriate or whether a grab sample or samples should be taken. Normally,  
19 but not always, BOD, COD, NH<sub>3</sub>N and TSS analyses are obtained from 24-hour  
20 composites of all outfalls.

21 (4) Those industries suspected of discharging either high COD, BOD,  
22 NH<sub>3</sub>N wastes or high TSS wastes shall be sampled for four consecutive days by grab  
23 samples or 24-hour composite samples from a Utility manhole. If COD results exceed 500  
24 mg/l, BOD results exceed 250 mg/l, NH<sub>3</sub>N results exceed 25 mg/l, or TSS results exceed  
25 330 mg/l on any of the two of the four consecutive days, or in any of the 24-hour composite  
26 samples, a sampling manhole may be required for industries discharging greater than  
27 25,000 gallons per day or if required by the Water Authority's Sewer Use and Wastewater  
28 Control Ordinance or successor Ordinance. Upon installation of the sampling manhole, an  
29 automatic sampler will be used to gather a composite which shall be used to compute a  
30 monthly surcharge. Industries discharging less than 25,000 gallons per day and not  
31 otherwise requiring a sampling manhole may be required to install a cleanout and an  
32 automatic sampler will be used to gather a composite which shall be used to compute a

monthly surcharge. Pretreatment may be required according to the Water Authority's Sewer Use and Wastewater Control Ordinance or successor Ordinance.

(5) The Water Authority may assess penalties for noncompliance with the Sewer Use and Wastewater Control Ordinance or successor Ordinance.

(J) Sewer Credit. For those accounts included within the Sewer Credit classification, a credit of \$9.62 per month will be applied to their billing; the billing shall be calculated using the Fixed Monthly Charge and Commodity Charge as set forth in this Ordinance.

(K) Customer utility statements shall contain the following itemized element: "Facility Rehabilitation: \$`x,' where `x' shall be the cost of the rate increase to fund facility rehabilitation."

#### 1-1-6. WATER AND SEWER REHABILITATION FUND.

(A) An established portion of the revenue generated by fixed water rates and the Water Commodity Charge shall be distributed to a Water and Sewer Rehabilitation Fund. The fixed rate portion of the Water Rates contained in §1-1-3(B) which shall be distributed to the Water and Sewer Rehabilitation Fund are contained in the following schedule of charges. The portion of the water commodity rate to be distributed to the Water and Sewer Rehabilitation Fund shall be 0.392 per unit.

##### Fixed Water Rates (per month)

| Serv Size | Meter Size                    | Residential | Commercial | Industrial | Institutional | Multi-family |
|-----------|-------------------------------|-------------|------------|------------|---------------|--------------|
| 1         | $\frac{5}{8}$ X $\frac{3}{4}$ | \$6.12      | \$6.41     | \$12.01    | \$6.59        | \$7.52       |
| 2         | 1                             | 12.63       | 12.90      | 25.19      | 13.13         | 15.36        |
| 3         | 1½                            | 35.37       | 36.76      | 75.17      | 38.37         | 44.98        |
| 4         | 2                             | 75.82       | 78.58      | 163.99     | 82.31         | 97.24        |
| 5         | 3                             | 145.11      | 150.81     | 311.10     | 157.55        | 181.22       |
| 6         | 4                             | 327.75      | 339.29     | 714.36     | 355.98        | 421.88       |
| 7         | 6                             | 555.99      | 563.28     | 1156.29    | 587.84        | 689.81       |
| 8         | 8 & over                      | 1164.45     | 1207.85    | 2521.77    | 1372.24       | 1493.97      |

(B) In addition to the portion of the commodity rate to be distributed to the Water and Sewer Rehabilitation fund as identified in §1-1-5(D) above, the following fixed rate portions of the sewer rates contained in §1-1-5(C) shall be distributed to the Water and Sewer Rehabilitation Fund.

Fixed Monthly Rehabilitation Charges

Fixed Sewer Rates (per month)

| Serv Size | Meter Sz  | Resid  | Comm    | Indust  | Instit | Multi-fam | Wholesale |
|-----------|-----------|--------|---------|---------|--------|-----------|-----------|
| 1         | 5/8 X 3/4 | \$7.54 | \$9.33  | \$42.40 | \$7.22 | \$12.52   | \$9.53    |
| 2         | 1         | 12.21  | 14.87   | 71.83   | 11.67  | 20.73     | 15.61     |
| 3         | 1 - 1 1/2 | 50.02  | 63.29   | 309.39  | 47.59  | 87.28     | 34.53     |
| 4         | 2         | 124.45 | 157.88  | 777.37  | 118.34 | 217.58    | 161.57    |
| 5         | 3         | 166.66 | 211.51  | 1042.77 | 158.47 | 291.64    | 216.50    |
| 6         | 4         | 355.04 | 450.89  | 2227.17 | 337.52 | 622.11    | 461.50    |
| 7         | 6         | 472.83 | 597.53  | 2967.73 | 449.50 | 828.74    | 614.71    |
| 8         | 8 & over  | 840.54 | 1067.78 | 5279.60 | 799.03 | 1473.80   | 1040.96   |

Monthly Rehabilitation Charges for KAFB

Item KAFB

Per Month \$30,349.92

(C) Committed expenditures for the rehabilitation of water wells, pump stations, reservoirs, service lines, other water lines, gate valves and the committed expenditures for rehabilitation of sewer lines, odor control stations, pumping stations and treatment facilities from revenues in the Water and Sewer Rehabilitation Fund shall not be less than ~~\$30~~ \$40 million dollars per year.

(D) The distributions from water and sewer rates to the Water and Sewer Rehabilitation Fund shall be reviewed every five years and updated as needed to adjust for construction inflation, new capital inventory, rate increases and other factors.

1-1-7. WATER AND SEWER SYSTEM AND UTILITY FINANCIAL POLICIES.

(A) The term of each and every instrument of debt shall be 12 years or less; except for sustainable water supply projects. This policy shall not apply to the possible acquisition of other operating water and wastewater utility systems or to mitigate short term rate impacts.

(B) At a minimum, an average of 50 percent of the cost of capital projects which constitute the normal capital program of the water and sewer system including the rehabilitation and replacement of existing facilities, and the construction of water wells, pump stations, reservoirs, service lines, other water lines, gate valves, revenue meters and meter boxes, sewer lines, odor control stations, and pumping stations, and treatment facilities shall be paid with cash rather than borrowed funds. The normal capital program

1 excludes special capital projects such as the expansion of the wastewater treatment plants,  
2 arsenic mitigation, state and federal grant projects, state and federal mandated projects,  
3 and related to water resources management to achieve a sustainable supply of water. This  
4 policy shall not apply to the possible acquisition of other operating water and wastewater  
5 utility systems or to mitigate short term rate impacts.

6 (C) At a minimum, 25 percent of the cost of capital projects not included in the  
7 normal capital program of the water and sewer system shall be paid with cash rather than  
8 borrowed funds. This policy shall not apply to the possible acquisition of other operating  
9 water and wastewater utility systems sustainable water supply or to mitigate short term rate  
10 impacts.

11 (D) Utility Expansion Charge (UEC) revenues or those of successor development  
12 fees in excess of \$6 million per year shall be transferred to the Joint Water and Sewer  
13 Capital Funds. The transfer of these funds shall be made in the fiscal year following the  
14 most recent audited Comprehensive Annual Financial Report.

15 (E) Utility Expansion Charge rates shall be based on adopted policies of the  
16 Water Authority.

17 (F) Appropriations of cash transfers from water and sewer utility operating funds  
18 or debt service funds to a Joint Water and Sewer Capital Fund shall be made in the  
19 amounts appropriated during the year for which the appropriations have been made.

20 (G) The Water Authority has implemented an asset management program to  
21 manage its capital infrastructure focusing on minimizing the total cost of designing,  
22 acquiring, operating, maintaining, replacing, and disposing of capital assets over their life  
23 cycle while achieving desired service levels. It will allow the Water Authority to manage  
24 existing assets more effectively, make informed decisions on policy and budgetary matters,  
25 and plan for future needs. Based upon this program the Water Authority will begin to  
26 incrementally increase its Capital Implementation Program spending at approximately \$3  
27 million a year until the Water Authority can reach and sustain a spending level of  
28 approximately \$76 million a year.

29 (H) A Rate Reserve Fund is established for reserving water and sewer revenues  
30 in a dedicated fund for the purpose of offsetting declines in rate revenue and to mitigate  
31 future rate increases. This Rate Reserve Fund will be funded at \$2 million per year. The  
32 goal for the Water Authority is to achieve and maintain a Working Capital Balance that will

be 1/12 of the Water Authority's annual budgeted expenditures. The Rate Reserve Fund will be counted in the Working Capital Balance calculation, however any expenditure from the Rate Reserve Fund will require an appropriation approved by the Water Authority Board.

(I) The Water Authority's Investment Policy is attached as Appendix A and provides the policy guidance on the investment of funds. The Water Authority's Debt Management Policy and Guidelines is attached as Appendix B and sets forth the parameters for issuing debt and managing the outstanding debt portfolio and provides guidance regarding the purposes for which debt may be issued, types and amounts of permissible debt, timing and method of sale that may be used, and structural features that may be incorporated. The Water Authority's Post Issuance Compliance Policy is attached as Appendix C, and provides the post-issuance tax compliance controls and procedures related to financial obligations.

(J) A Water 2120 Fund is established to fund water supply infrastructure projects in implementing the adopted Water 2120: Securing Our Water Future (R-16-12). Revenue from the Water Supply Charge shall be earmarked solely for the projects identified in Water 2120 into this fund. Beginning in Fiscal Year 2020, this fund will be funded at a minimum of \$2 million per year.

1-1-8. UTILITY EXPANSION CHARGE (UEC) and WATER SUPPLY CHARGE (WSC).

(A) (1) A UEC charge will be paid to the Water Authority at the time of meter sale or application for service for all properties connecting to the water and/or wastewater system in accordance with the following schedule. The amount of the UEC's shall be adjusted annually by building cost or construction cost indices (BCI or CCI) as published by the Engineering News Record (ENR). Where water service does not exist and sewer service is to be taken and the sewer UEC is applicable, the charge shall be based upon the wastewater flow. A unit of flow is equal to 100 cubic feet.

(a) Financing for Water UEC

Finance for Water UEC

| Water Meter Size | Water Payment | Minimum Cash Down | Balance to Finance |
|------------------|---------------|-------------------|--------------------|
| 5/8 X 3/4"       | \$3,233       | \$162             | \$3,071            |
| 1"               | 5,388         | 269               | 5,119              |
| 1-1/2"           | 10,775        | 539               | 10,236             |

|    |            |         |       |         |
|----|------------|---------|-------|---------|
| 1  | 2"         | 17,245  | 862   | 16,383  |
| 2  | 3"         | 34,482  | 1,724 | 32,758  |
| 3  | 4"         | 53,879  | 2,694 | 51,185  |
| 4  | 6"         | 107,762 | 5,388 | 102,374 |
| 5  | 8" or More | 172,417 | 8,621 | 163,796 |
| 6  | 5/8 X 3/4" | \$3,151 | \$158 | \$2,993 |
| 7  | 1"         | 5,251   | 263   | 4,988   |
| 8  | 1-1/2"     | 10,502  | 525   | 9,977   |
| 9  | 2"         | 16,808  | 840   | 15,968  |
| 10 | 3"         | 33,608  | 1,680 | 31,928  |
| 11 | 4"         | 52,514  | 2,626 | 49,888  |
| 12 | 6"         | 105,031 | 5,252 | 99,779  |
| 13 | 8" or More | 168,048 | 8,402 | 159,646 |

14 (b) Financing for Sewer UEC

15 Finance for Wastewater UEC

| 16 | Water Meter Size | Liquid Waste Flow | Sewer Payment | Minimum Cash Down | Balance to Finance |
|----|------------------|-------------------|---------------|-------------------|--------------------|
| 17 |                  |                   |               |                   |                    |
| 18 | 5/8 X 3/4"       | 0-10              | \$2,425       | \$121             | \$2,304            |
| 19 | 1"               | 11-19             | 4,041         | 202               | 3,839              |
| 20 | 1-1/2"           | 20-63             | 8,082         | 404               | 7,678              |
| 21 | 2"               | 64-82             | 12,930        | 646               | 12,284             |
| 22 | 3"               | 83-343            | 25,923        | 1,296             | 24,627             |
| 23 | 4"               | 344-599           | 41,432        | 2,072             | 39,360             |
| 24 | 6"               | 600-803           | 82,869        | 4,143             | 78,726             |
| 25 | 8" or More       | 804 & over        | 129,307       | 6,465             | 122,842            |
| 26 | 5/8 X 3/4"       | 0-10              | \$2,364       | \$118             | \$2,246            |
| 27 | 1"               | 11-19             | 3,939         | 197               | 3,742              |
| 28 | 1-1/2"           | 20-63             | 7,877         | 394               | 7,483              |
| 29 | 2"               | 64-82             | 12,602        | 630               | 11,972             |
| 30 | 3"               | 83-343            | 25,266        | 1,263             | 24,002             |
| 31 | 4"               | 344-599           | 40,382        | 2,019             | 38,363             |
| 32 | 6"               | 600-803           | 80,769        | 4,038             | 76,731             |

1    ~~8" or More~~                      ~~804 & over~~                      ~~126,030~~                      ~~6,302~~                      ~~119,728~~

2                      (2)    The UEC may be paid in full or paid over time with an initial minimum  
3    of 5 percent down payment and the balance shall be subject to a fixed monthly charge to  
4    include a carrying charge set at 7 percent per annum. On all connections, the balance  
5    shall be paid in full within 120 months.

6                      (3)    The fixed monthly charge for the UEC shall run against the property  
7    and be the responsibility of any subsequent owner until paid in full. All monies collected  
8    through the imposition of the UEC, including the fixed monthly charge, shall be placed in a  
9    separate account to be used for financing the expansion for the water and sewer system.

10                    (B)    Reactivation of disconnected service. No refund of UEC will be made for a  
11    service downsizing. Reconnections requesting larger service than was originally installed  
12    shall pay UEC determined by subtracting the current charge for the original service size  
13    from the current charge for the new service size requested.

14                    (C)    Charges for multiple residential units:

15                      (1)    Requests for residential or commercial water and/or sewer service  
16    which will provide for more than one residential unit will pay UEC according to one of the  
17    following schedules:

18                      (a)    Apartment Complexes.

19                                      (i)    With 30 dwelling units or less shall pay 50 percent of the  
20    product of the total number of units times the water and/or sanitary sewer UEC for a 5/8" x  
21    3/4" water meter.

22                                      (ii)    With more than 30 dwelling units shall pay the amount  
23    given by the equation below:

24                                      Equivalent Units =  $(0.45) \times (\text{No. of Units}) + 1.49$

25                                      Total UEC = (Equivalent Units) x (5/8" x 3/4" Meter UEC)

26                      (b)    Mobile Home Parks, regardless of size, shall pay 53 percent of  
27    the product of the total number of dwelling units times the water and/or sanitary sewer UEC  
28    for a 5/8" x 3/4" water meter.

29                      (c)    Condominiums, regardless of size, shall pay 53 percent of the  
30    product of the total number of dwelling units times the water and/or sanitary sewer UEC for  
31    a 5/8" x 3/4" water meter.

32                      (d)    Commercial service shall pay the larger of the following:



(i) The water and/or sewer UEC as shown in §1-1-8(A).  
(ii) 50 percent of the product of the number of equivalent residential units times the water and/or sewer UEC charge for a 5/8" x 3/4" meter.

(e) Low income housing developments shall pay the greater of either:

(i) Eight percent of the product of the total number of dwelling units times the water and sanitary sewer UEC set forth in §1-1-8(A)(1) of this Ordinance for a 5/8" x 3/4" water meter; or,

(ii) The UEC set forth in §1-1-8(A)(1) of this Ordinance for the meter size required to service the development. The size shall be determined by the Water Authority based on the number of water fixture units described in AWWA M-22.

(f) At the time the water and sewer UEC is due and payable for a low income housing development, the owner of the low income housing development shall give the Water Authority a promissory note in the principal amount that is equal to the difference between the amount of the water and sewer UEC set forth in §1-1-8(A)(1) of this Ordinance for a 5/8" x 3/4" water meter and the amount of the water and sewer UEC set forth in §1-1-8(C)(1)(e). The promissory note shall be due and payable on the date the Low Income Housing Development ceases to qualify as a low income housing development as defined in §1-1-2(A), which shall constitute its maturity date. The promissory note shall not bear any interest from the date of the promissory note to its maturity date, but shall bear interest thereafter at the rate imposed by §1-1-8(A)(2) from the maturity date of the promissory note until the date the promissory note is paid. The promissory note shall be secured by a mortgage on the low income housing development that is subject and subordinate only to mortgages securing the costs to purchase the land for the low income housing development and to design and construct the low income housing development.

(2) If the service requested necessitates modification and/or installation of additional facilities other than those already in existence and available to serve the property, then the cost of such modifications and/or additional facilities shall be applied and apportioned according to existing Water Authority policy.

(D) (1) A Water Supply Charge (WSC), as specified herein, will be assessed by the Water Authority at the time of meter sale or application for service to any new water user customer requesting connection to the water system in an area requiring new or

enhanced infrastructure through a service expansion in accordance with §1-1-8(D)(1). The proceeds from this charge will be dedicated and restricted to the development of new water resources, rights or supplies to serve the beneficiary new customers outside of the established infrastructure consistent with the Water Authority's Regional Water Plan and Water Resources Management Strategy and other guiding principles adopted by the Water Authority. The amount of the WSC shall be adjusted annually by building cost or construction cost indices (BCI or CCI) as published by the Engineering News Record (ENR).

#### Financing for Water Supply Charge - WSC

| Water Meter Size      | Water Payment      | Minimum Cash Down | Balance to Finance |
|-----------------------|--------------------|-------------------|--------------------|
| <u>5/8 X 3/4"</u>     | <u>\$1,669</u>     | <u>\$83</u>       | <u>\$1,586</u>     |
| <u>1"</u>             | <u>2,793</u>       | <u>140</u>        | <u>2,653</u>       |
| <u>1-1/2"</u>         | <u>5,564</u>       | <u>278</u>        | <u>5,286</u>       |
| <u>2"</u>             | <u>8,902</u>       | <u>445</u>        | <u>8,457</u>       |
| <u>3"</u>             | <u>17,806</u>      | <u>890</u>        | <u>16,916</u>      |
| <u>4"</u>             | <u>27,627</u>      | <u>1,381</u>      | <u>26,246</u>      |
| <u>6"</u>             | <u>55,760</u>      | <u>2,788</u>      | <u>52,972</u>      |
| <u>8" or More</u>     | <u>89,023</u>      | <u>4,451</u>      | <u>84,572</u>      |
| <del>5/8 X 3/4"</del> | <del>\$1,627</del> | <del>\$81</del>   | <del>\$1,546</del> |
| <del>1"</del>         | <del>2,722</del>   | <del>136</del>    | <del>2,586</del>   |
| <del>1-1/2"</del>     | <del>5,423</del>   | <del>271</del>    | <del>5,152</del>   |
| <del>2"</del>         | <del>8,676</del>   | <del>434</del>    | <del>8,242</del>   |
| <del>3"</del>         | <del>17,355</del>  | <del>868</del>    | <del>16,487</del>  |
| <del>4"</del>         | <del>26,927</del>  | <del>1,346</del>  | <del>25,581</del>  |
| <del>6"</del>         | <del>54,347</del>  | <del>2,717</del>  | <del>51,630</del>  |
| <del>8" or More</del> | <del>86,767</del>  | <del>4,338</del>  | <del>82,429</del>  |

(2) The WSC may be paid in full or paid over time with an initial minimum of 5 percent down payment and the balance shall be subject to a fixed monthly charge to include a carrying charge set at seven percent per annum. On all new hook-up connections, the balance shall be paid in full within 120 months.

(3) The fixed monthly fee for the WSC shall run against the property and be the responsibility of any subsequent owner until paid in full. All monies collected

through the imposition of the WSC shall be placed in a separate account to be used for financing the development of additional long term water supplies to serve expansions of the Water Authority's service area subsequent to June 15, 2007.

(4) The WSC is not reimbursable under the line extension policy except for master planned water, wastewater, and reuse supply projects as contained in development agreements. All revenues generated from the WSC will be maintained in its own activity and to be used only as specified in §1-1-8(D)(1).

(5) Master planned developments outside the service area shall meet additional water, wastewater, and reuse service provision requirements in accordance with Water Authority policies and plans.

#### 1-1-9. SPECIFIC SERVICES.

Fees for specific services shall be as follows:

(A) Metered Service Lines.

(1) 5/8 X 3/4" meter set only, \$295

(2) 1" meter set only, \$355

(3) 1 1/2" meter set only, \$555

(4) 2" meter set only, \$635

(5) 3" metered service line installation.

(a) 3" meter set only with compound meter without vault, \$2,185

(6) 4" metered service line installation.

(a) 4" meter set only with compound meter without vault, \$3,125

(b) 4" meter set only with fire assembly meter without vault \$7,210

(7) 6" metered service line installation.

(a) 6" meter set only with compound meter without vault, \$5,140

(b) 6" meter set only with fire assembly meter without vault \$7,520

(8) 8" metered service line installation.

(a) 8" meter set only with fire assembly without vault \$13,040

(9) 10" and larger: Contact the Utility for price quote

(B) Meter Size Reduction Installation.

(1) 5/8 X 3/4" through 1-1/2", contact the Utility for price quote

(2) 2", contact the Utility for price quote

(3) 3" and larger, contact the Utility for price quote

1 (C) Nonpayment Delinquency Fee.

2 (1) 5/8 X 3/4" and 1", \$45

3 (2) 1-1/2" through 10", \$60

4 (D) Combined Fire-Domestic Meters.

5 (1) Requests for this type of metered service, which provide both fire  
6 protection and domestic-irrigation service, may be made at the New Services Section of  
7 Utility Development. Upon the satisfactory determination of peak flow water delivery  
8 requirements, as certified by an engineer registered in the State of New Mexico, in  
9 accordance with the City and the County fire codes and the AWWA M22 an equivalent  
10 meter size will be determined for the service. Fixed monthly charges for private fire  
11 protection shall also be applied commensurate with the degree of fire protection capacity  
12 being provided.

13 (2) Fees for installation (set only) is in §1-1-9(A).

14 (E) Cross Connection Fees

15 (1) Containment Inspection Fees. An inspection fee of \$50 shall be  
16 assessed to all customers required to have premise inspections to cover expenses incurred  
17 by the Water Authority during the initial inspection of the premise. The inspection fee shall  
18 be assessed only to those customers whose premise are is in compliance with this  
19 Ordinance at the time of inspection.

20 (2) Backflow Prevention Assembly Administrative Charge. All customers  
21 required to provide cross-connection control by containment and/or isolation shall be  
22 assessed an annual administrative fee of \$30 (fee is not to be prorated in case of change in  
23 ownership) for each backflow prevention assembly located at the premise. This fee  
24 incorporates expenses incurred by the Water Authority to maintain records, to process  
25 required testing notices and to enter data as required.

26 (3) Late report fee. A late report fee of \$100 per month may be assessed  
27 for passing test reports submitted more than 30 days past the due date. The late report fee  
28 will be assessed monthly until a passing test report is submitted.

29 (4) Non-existent containment backflow preventer assembly fee. A non-  
30 existent containment backflow preventer assembly fee of \$200 per month may be assessed  
31 for each service line without a backflow preventer or with an unapproved backflow  
32 preventer.

(5) Unauthorized connection fee. An unauthorized connection fee of \$200 per month may be assessed for each service line with an unauthorized tee, branch, connection fitting, or opening between the containment backflow prevention assembly and the service connection.

(F) Meter Reset

(1) Contact the Utility for a price quote.

(G) Septage Fees. Each time the septage hauler enters the septage disposal site at the Southside Water Reclamation Plant, the permittee will be assessed a charge based on the type of permitted waste and based on 85% of the permitted septage hauler tank capacity no matter the amount discharged. The amount of the Septic Tank and Chemical Toilet charge shall be adjusted annually by building cost or construction cost indices (BCI or CCI) as published by the Engineering News Record (ENR).

(1) Septic Tank Charge. The septic tank charge is ~~\$.02426~~ .02489 per gallon.

(2) Chemical Toilet Charge. The chemical toilet charge is ~~\$.05077~~ .05209 per gallon.

(3) Septage Hauler Registration Charge. A septage hauler registration charge of \$25 per vehicle shall be assessed to all septage haulers submitting a septage hauler application.

1-1-10. FRANCHISE FEE.

There shall be a charge of four percent on the total sales of water and sewer services added to customer billings to compensate the Water Authority for the franchise fee charged by the City, County and the Village of Los Ranchos and a charge of two percent on the total sales of water and sewer services added to customer billings to compensate the Water Authority for the franchise fee charged by the City of Rio Rancho for the granted authorization to use rights-of-way and public places to construct, operate, and maintain water and wastewater systems.

1-1-11. PAYMENT.

All charges shall be payable at any location as designated by the Water Authority and will become delinquent 15 days following the "due by" date on the Customer's utility statement.

1-1-12. PENALTY FOR DELINQUENT ACCOUNTS.

A penalty of 1.5 percent per month may be imposed on all delinquent accounts.

1-1-13. PENALTY FOR NONCOMPLIANCE WITH THE SEWER USE AND WASTEWATER CONTROL ORDINANCE

(A) Any permitted Industrial User who has violated, or continues to violate, any Pretreatment Standard or Requirement as defined in the Sewer Use and Wastewater Control Ordinance shall be assessed a penalty of up to \$1,000 per violation per day.

(B) Any other violations of the Sewer Use and Wastewater Control Ordinance may be subject to a penalty up to \$1,000 per violation per day.

1-1-14. RESPONSIBILITY OF PAYMENT, LIENS, AND DEPOSIT.

(A) The assessed fees and service charges provided for herein are the personal responsibility of the owner of record, as reported by the Bernalillo County Assessor for the real property served.

(B) The Water Authority may file a lien of record on such real property for such charges including any interest or penalties accruing on same.

(C) Reasonable deposits may be required of any Customer including tenants. Deposits not to exceed six months in duration. Such deposits and accrued interest shall be applied to the utility account immediately upon becoming delinquent or the expiration of six month period. Any credit status created by applying the deposit will be absorbed by the monthly service charges and considered prepayments for services. Such deposits shall draw reasonable interest.

(D) The Executive Director is authorized to establish and issue guidelines for billing procedures, including but not limited to payment plans for delinquent accounts.

1-1-15. DISCONTINUANCE OF SERVICE; HEARING.

(A) The Water Authority may cause the water supply to be turned off and discontinue service to the property if any charge provided for herein remains unpaid for a period of 30 days from the "due by" date on the Customer's utility statement. Service may not be discontinued for delinquencies of a previous owner unless a lien, or a record has been filed prior to the real property changing ownership or responsibility with the Bernalillo County Clerk indicating that outstanding Utility charges remain.

(B) In order to discontinue service, a written notice shall be sent to the Customer at least ten calendar days' notice before termination of service and notice of the right to

1 protest the Water Authority's proposed action at an administrative hearing.

2 (C) The Customer must request in writing that a hearing be held and such  
3 request must be received by the Executive Director on or before the date the services are  
4 to be terminated. If the Customer requesting the hearing is not the owner of record, the  
5 Customer must provide proof that the owner of record will be bound by the decision of the  
6 hearing officer.

7 (D) At such hearing, the Customer may present evidence as the Water Authority  
8 and the Executive Director, or his designated hearing officer, may affirm, overrule or modify  
9 the decision to terminate the services. The decision shall be final.

10 (E) In the event a hearing is requested, the services shall not be terminated  
11 pending the conclusion of the hearing and this issuance of a decision.

12 (F) A nonrefundable hearing fee of \$50.00 shall accompany each appeal filed  
13 pursuant to this §1-1-15.

14 (G) For purposes of expediting the satisfaction of delinquent accounts the  
15 Executive Director may at his discretion waive, credit, and or remove penalty fees or other  
16 fees from any account.

#### 17 1-1-16. EFFECTIVE DATE AND PUBLICATION.

18 The effective date of this Ordinance will be July 1, ~~2017~~ 2018 unless otherwise  
19 stated.

#### 20 1-1-98. PROHIBITIONS.

21 (A) No person shall use or cause to be used any water produced or distributed by  
22 the Water Authority without the consent of Water Authority. Water distributed through an  
23 authorized meter or obtained by any means authorized by ordinances or administration  
24 rules and regulations shall constitute the consent of the Water Authority.

25 (B) No person shall discharge or cause to be discharged any liquid waste to the  
26 liquid waste collection or treatment system operated by the Water Authority without the  
27 consent of the Water Authority and in compliance with the Water Authority's Sewer Use  
28 and Waste Water Control Ordinance. Approved connections or permits shall constitute  
29 such consent.

30 (C) No person shall willfully break, injure, or tamper with any property of the  
31 Water Authority, including but not limited to: wells, pump stations, reservoirs, sewage

1 treatment plants, lift stations, distribution lines, fire hydrant service lines, meters, gate  
2 valves, manhole covers or grates.

3 (D) Violation of any of the above described Prohibitions constitutes a violation of  
4 the conditions of Water Authority service and may be subject to a connection service  
5 charge of \$400.00 per occurrence and charges of four years of usage based upon prior  
6 usage or the customer class average or termination of service.

7 **Section 2. SEVERABILITY CLAUSE.** If any Section, paragraph, sentence, clause, word  
8 or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any  
9 court of competent jurisdiction, such decision shall not affect the validity of the remaining  
10 provisions of this Ordinance. The Water Authority hereby declares that it would have  
11 passed this Ordinance and each Section, paragraph, sentence, clause, word or phrase  
12 thereof irrespective of any provision being declared unconstitutional or otherwise invalid.





## **POST ISSUANCE COMPLIANCE POLICY**

As of May 23, 2018



## **Post-Issuance Tax and Securities Compliance Guidelines for Bonds**

### **Overview**

This guide lists the post-issuance tax compliance controls and procedures related to financial obligations (“Post-Issuance Compliance Guidelines”) maintained by Albuquerque Bernalillo County Water Utility Authority (the “Water Authority”). Post-Issuance Compliance Guidelines are intended to ensure that the Water Authority complies, and is able to demonstrate such compliance with applicable legal provisions including certain recordkeeping and reporting requirements in order (a) to maintain the tax status of the bonds for federal income tax purposes under the Internal Revenue Code and the Treasury Regulations, (b) to ensure that the bonds continue to comply with the securities laws contained in Rule 15c2-12 of the Securities Exchange Board. References herein to “Tax-exempt bonds” include the issuance of tax exempt and tax-advantaged bonds, loans and other similar debt instruments that may be issued by the Water Authority. This guideline is designed to formalize compliance procedures so that the Water Authority utilizes the proceeds of all issues of bonds in accordance with applicable federal tax requirements, and complies with all other applicable federal requirements with respect to bond issues.

A list of currently outstanding bond issues, inclusive of taxable and tax advantaged issues when applicable is attached hereto as Exhibit A. Such exhibit will be updated from time to time as new bond issues arise or existing bond issues cease to be outstanding. Certain additional transactional covenants and recurring reporting and similar obligations of the Water Authority relevant to the Water Authority’s current bonds and leases are set forth in Exhibit B hereto, which may be amended from time to time to address future leases or bond issues.

### **Section I: Issuance of Bonds**

Financing with tax-exempt bonds is determined by the Water Authority’s Board with consultation from the following:

- Water Authority’s Finance Staff
- Financial Advisor (RBC Capital Markets as of May 1, 2013)
- Bond Counsel (Brownstein Hyatt Farber Schreck as of May 1, 2013)
- Disclosure Counsel (Modrall Sperling as of May 1, 2013)

#### ***Bond Counsel***

The Water Authority will retain a firm of nationally recognized bond counsel (“Bond Counsel”) to deliver a legal opinion upon issuance of Bonds. The Water Authority will consult with Bond Counsel, other legal counsel and advisors throughout the bond financing process as well as during the post-issuance term of the bonds.

#### ***External Counsel Advisors***

The Water Authority maintains a relationship with a firm to serve as financial advisor (“Financial Advisor”) in

connection with the issuance of tax exempt bond financing to advise with respect to outstanding tax-exempt bonds and for future capital projects.

### ***Tax Certificate***

The federal tax requirements relating to each issue of Bonds will be set forth in a related Tax Certificate, which will be included in the closing transcript for each issue. The certifications, representations, expectations and covenants set forth in the Tax Certificate relate primarily to the restriction on use of the Bond-financed facilities by persons or entities other than the Water Authority, changes in use of Bond-financed assets, restrictions applicable to the investment of Bond proceeds and other moneys relating to the Bonds, arbitrage rebate requirements, and economic life of the Bond-financed assets. Bond Counsel will rely in part on the Tax Certificate in rendering its opinion that interest on the Bonds is excluded from gross income for federal income tax purposes.

### ***IRS Form 8038-G***

Bond Counsel, with assistance from the Water Authority and other professionals associated with each Bond issuance, shall prepare an IRS Form 8038-G. The Chief Financial Officer (“CFO”) or designee will review and sign at closing, and will confirm that the IRS Form 8038-G with respect to all Bond issues is timely filed by Bond Counsel, including any required schedules and attachments. The Form 8038-G filed with the IRS, together with an acknowledgement copy or IRS Notice CP152, will be included as part of the closing transcript for each Bond issue.

### ***Bond Financing Transcript***

The transcript associated with each Bond financing, will include copies of the executed Opinion of Bond Counsel, Tax Certificate, and IRS Form 8038-G. The CFO will keep a copy of the transcript in accordance with the provisions of Section V-“Records Retention”, of these Post-Issuance Compliance Guidelines.

## **Section II. Application of Bond Proceeds**

The CFO will monitor and report to the Executive Director (“ED”) the use of Bond Proceeds. Bond Proceeds will be used for the purpose set forth in the respective Tax Certificate.

### **Reimbursement / Official Intent**

If it is anticipated that a capital expenditure will eventually be reimbursed with proceeds of a bond issue, at the time of expenditure, or in any event, not later than 60 days after payment of the original expenditure, the Water Authority will adopt an official intent that complies with Section 1.150-2(e) of the Treasury Regulations. Further, the actual reimbursement allocation must be made not later than 18 months after the later of either the date the original expenditure is paid; or the date the project is placed in service or abandoned, but in no event more than 60 days after the fifth anniversary of the issue date or the date 60 days after the retirement of the issue, if earlier.

### ***Assignment of Responsibility and Establishment of Calendar***

On the date of issuance of any bond, the CFO will identify for the bond issue:

- The funds and/or accounts into which bond proceeds are deposited
- The types of expenditures expected to be made with the bond proceeds deposited into those funds and/or accounts and any expenditures prohibited from being made from such funds or accounts.

- The dates by which all bond proceeds must be spent or become subject to arbitrage yield limitations ("Expenditure Deadlines") and all interim dates by which funds and/or accounts must be checked to ensure compliance with the applicable Expenditure Deadlines.

### ***Timely Expenditure of Bond Proceeds***

At the time of issuance of any Bond issue, the Water Authority must reasonably expect to spend at least 85% of all proceeds expected to be used to finance improvements, which proceeds would exclude proceeds in a reasonably required reserve fund, ("Net Sale Proceeds") within three (3) years of issuance. In addition, the Water Authority must have incurred or expect to incur within six months after issuance expenditures or a binding obligation of not less than 5% of such amount of proceeds, and must expect to complete the project and allocate the proceeds to costs with due diligence. Satisfaction of these requirements allows project-related Bond proceeds to be invested at an unrestricted yield for three (3) years. The CFO will review the anticipated Project construction and funding timeline. The Water Authority's finance staff will monitor the appropriate capital project accounts and ensure that Bond proceeds are spent in the time period required under federal tax law. If the CFO discovers that an Expenditure Deadline has not been met, said person will consult with Bond Counsel to determine the appropriate course of action with respect to such unspent bond proceeds. Special action may need to be taken with such unspent bond proceeds, including yield restriction, or redemption of Bonds.

### ***Final Allocation***

Expenditures will be summarized in a final allocation of bond proceeds ("Final Allocation") in a manner consistent with allocations made to determine compliance with arbitrage yield restriction and rebate requirements. The Final Allocation will memorialize the assets or portion thereof financed with bond proceeds and the assets or portion thereof financed with other funds.

The Final Allocation must occur not later than 18 months after the later of the date the expenditure is paid or the date the Project to which the expenditure relates is completed and actually operating at substantially the level for which it was designed. This allocation must be made in any event not later than 60 days after the end of the fifth year after issuance of the Bonds or 60 days after none of the Bonds are outstanding, if earlier.

The CFO will be responsible for ensuring that such Final Allocation is made for the bonds.

### ***Modification of Bond Terms***

The CFO is responsible for identifying any events resulting in (a) changes or modifications of any of the contractual terms of bonds (including, without limitation, modifications of the bond interest rates, maturity dates or payment schedule), (b) changes to any credit enhancement of or liquidity facility for bonds, (c) changes in the nature of the security for the bonds, (d) purchase of bonds by the Water Authority or any entities related to the Water Authority or (e) any deferral or forbearance of default of payment of principal and interest due on bonds. Such actions may result in a deemed reissuance of the bonds for federal income tax purposes and could require protective actions to maintain the tax status of the bonds. Bond Counsel should be consulted prior to taking any of these actions.

### ***Use of Bond Proceeds***

Bond Proceeds generally should be used for long-term capital projects and not more than 5% of the proceeds should be loaned to one or more Nongovernmental Persons. Bond Proceeds (including earnings on original sale proceeds), other than proceeds deposited in a reasonably required reserve fund or used to pay costs of issuance, should be spent on Capital Expenditures. For this purpose, Capital Expenditures generally mean costs to acquire, construct, or improve property (land, buildings and equipment), or to adapt the property to a new

or different use. The property must have a useful life longer than one (1) year. Capital Expenditures include design and planning costs related to the Project, and include architectural, engineering, surveying, soil testing, environmental, and other similar costs incurred in the process of acquiring, constructing, improving or adapting the property. Capital Expenditures do not include operating expenses of the projects or incidental or routine repair or maintenance of the Project, even if the repair or maintenance will have a useful life longer than one (1) year.

### ***Segregation of Bond Proceeds***

Bond Proceeds shall be maintained in separate accounts or subaccounts to ensure accurate calculations and accounting as required by the Internal Revenue Code. The Water Authority shall establish separate accounts or subaccounts as provided in the related Bond Resolution.

### **Section III: Use of Bond Financed Assets**

The Water Authority reviews, and will continue to review, any third-party uses of its Bond-financed facilities (“Projects”) for private business use. In addition, the Water Authority will continue to consult regularly with Bond Counsel and Financial Advisor regarding applicable federal tax limitations imposed on the Water Authority’s outstanding tax-exempt obligations and whether arrangements with third parties give rise to private business use of the Projects. The CFO will maintain records identifying the assets or portion of assets that are financed with proceeds of a Bond issue, the uses and the users (including terms of use and type of use). Such records may be kept in any combination of paper or electronic form. In the event the use of Bond proceeds or the Project is different from the covenants and representations in the Tax Certificate, the CFO shall be notified at that time and Bond Counsel will be promptly notified and consulted to ensure that there is no adverse effect on the tax-exempt status of the Bond issue.

### ***Ownership and Use of Project***

For the life of the Bond issue, the Project must be owned and operated by the Water Authority (or another state or local governmental entity). At all times while the Bond issue is outstanding, no more than 10% (or \$15,000,000, if less) of the Bond proceeds or the Project may be used, directly or indirectly, in a trade or business carried on by a person other than a state or local governmental unit (“Private Use”). Generally, Private Use consists of any contract or other arrangement, including leases, management contracts, operating agreements, guarantee contracts, take or pay contracts, output contracts or research contracts, which provides for use by a person who is not a state or local government on a basis different than the general public. Use may include: (i) owning, leasing, providing services, operating, or managing the Project; (ii) acquiring the output (or throughput) of the Project; or (iii) acquiring or using technology developed at the Project. The Project may be used by any person or entity, including any person or entity carrying on any trade or business, if such use constitutes “General Public Use”. General Public Use is any arrangement providing for use that is available to the general public at either no charge or on the basis of rates that are generally applicable and uniformly applied. Water Authority staff will monitor all leases and subleases on property that has been financed with tax-exempt long-term obligations. Prior to entering into any lease or sublease on a bond-financed property, Water Authority staff will consult with Bond Counsel to determine the impact, if any, such lease or sublease would have on the tax status of outstanding tax-exempt obligations.

The Water Authority will use long-term obligations to finance those projects that are intended to be owned and operated by the Authority for the entire term of the long-term financing. Prior to selling or otherwise disposing of any tax-exempt debt financed project for which debt remains outstanding, the Water Authority will consult with Bond Counsel to determine the impact, if any, such sale or disposition would have on the tax status of outstanding tax-exempt debt.

### ***Management or Operating Agreements***

Any management, operation or service contracts whereby a non-exempt entity is using Bond-financed assets must relate to portions of the Project that fit within the above-mentioned 10% allowable Private Use or the contracts must meet the IRS safe harbor for management contracts. Any replacements of or changes to such contracts should be reviewed by Bond Counsel. The Water Authority shall contact Bond Counsel if there may be a lease, sale, disposition or other change in use of Bond-financed assets. The CFO will maintain records on contracts related with Water Authority real estate on the Facility Management System. In general, management or service contracts related to Projects must provide for reasonable compensation for services rendered with no compensation based on a share of net profits from operations.

The CFO will inform the persons responsible for the management and operation of the Bond-financed assets (“Asset Managers”) of the Private Business Use restrictions relating to the Bond-financed assets. The CFO will require Asset Managers to submit any management contract with respect to any portion of Bond-financed Assets for his or her review prior to entering into such management contract. The CFO will meet at least annually with Asset Managers to identify and discuss any existing or planned use of Bond-financed assets that may give rise to Private Business Use.

### ***Useful Life Limitation***

The weighted average maturity of the Bond issue cannot exceed 120% of the weighted average economic life of the Bond-financed assets. In other words, the weighted average economic life of the Project must be at least 80% of the weighted average maturity of the Bond issue. The term of a long-term obligation should not exceed the useful life of a project financed by those obligations; or in the case of multiple projects, the term of the long-term obligation will not exceed the average useful life. The useful life of an object is confirmed at the time of issuance. Also, each asset of the Authority has a useful life that is recorded in the Authority enterprise resource program.

## **Section IV: Investment Restrictions, Arbitrage Liability**

### ***Investment Restrictions***

Investment restrictions relating to Bond proceeds and other moneys relating to the Bonds are set forth in the Tax Certificate. The Authority’s finance staff will monitor the investment of Bond proceeds to ensure compliance with yield restriction rules. The Authority’s CFO is responsible for directing the investment of proceeds of Bonds or other funds related to the Water Authority’s Bonds and will provide periodic updates on the investments of Bond proceeds to the Water Authority investment committee.

### ***Arbitrage Yield Calculations and Rebate***

Investment earnings on Bond proceeds will be tracked and monitored to comply with applicable yield restrictions and/or rebate requirements. The Authority is responsible for calculating (or causing the calculation of) rebate liability for each Bond issue, and for making any required rebate payments. Any funds of the Authority set aside or otherwise pledged or earmarked to pay debt service on Bonds should be analyzed to assure compliance with the tax law rules on arbitrage, invested sinking funds and pledged funds (including gifts or donations linked to the Bond-financed assets).

### ***Arbitrage Rebate Consultant***

The Authority will retain an arbitrage rebate consultant, to perform rebate calculations as required in the Tax Certificate of each Bond financing. The CFO is responsible for providing the arbitrage rebate consultant with requested documents and information on a prompt basis, reviewing applicable rebate reports and other

calculations and generally interacting with the arbitrage rebate consultant to ensure the timely preparation of rebate reports and payment of any rebate liability.

### ***Arbitrage Rebate Payments***

The reports and calculations provided by the arbitrage rebate consultant will confirm compliance with rebate requirements, which include the Authority to make rebate payments, if any rebate liability exists, no later than the fifth (5th) anniversary date and each fifth (5th) anniversary date thereafter through the final maturity or redemption date of a Bond issue. A final rebate payment must be made within sixty (60) days of the final maturity or redemption date of a Bond issue. The CFO or their designee will confer and consult with the arbitrage rebate consultant to determine whether any rebate spending exception may be met. Rebate spending exceptions are available for periods of 6 months, 18 months and 2 years. The Authority will review the Tax Certificate and/or consult with the arbitrage rebate consultant or Bond Counsel for more details regarding the rebate spending exceptions. Copies of all arbitrage rebate reports, related return filings with the IRS (i.e., IRS Form 8038-T), copies of cancelled checks with respect to any rebate payments, and information statements must be retained as described in Section V below. The Authority's finance staff will follow the procedures set forth in the Tax Certificate entered into with respect to any Bond issue that relate to compliance with the rebate requirements.

## **Section V: Record Retention**

The CFO will maintain, or cause to be maintained, copies of all relevant documents and records sufficient to support that the tax requirements relating to a Bond issue have been satisfied will be maintained by the Water Authority for the later of: (i) the term of a Bond issue, or (ii) the term of any subsequent issue that refunds the original Bond issue, plus three (3) years, including the following documents and records:

- Bond closing transcript
- All records of investments, arbitrage reports, returns filed with the IRS and underlying documents
- Construction contracts, purchase orders, invoices and payment records
- Documents relating to costs reimbursed with Bond proceeds
- All contracts and arrangements involving Private Use of the Bond-financed property
- All reports relating to the allocation of Bond proceeds and Private Use of Bond-financed property
- Itemization of property financed with Bond proceeds
- Subscription information related to United States Treasury Securities – State and Local Government Series (SLGs)
- Solicitation and all responses received from the bidding of any guaranteed investment contracts and Government Obligations

## **Section VI. Annual Review of Post Issuance Compliance Controls**

The Water Authority will conduct periodic reviews of compliance with these Post-Issuance Compliance Guidelines to determine whether any violations have occurred so that such violations can be remedied through the “remedial action” regulations (Treas. Reg. Section 1.141-12) or the Voluntary Closing Agreement Program (VCAP) described in IRS Notice 2008-31 (or successor guidance). If any changes to the terms or provisions of a Bond issue are contemplated, the Water Authority will consult Bond Counsel. The Water Authority recognizes and acknowledges that such modifications could result in a “reissuance” for federal tax purposes (i.e., a deemed refunding) of the Bond issue and thereby jeopardize the tax-exempt status of interest on the Bonds after the modifications. At least annually, the CFO will conduct an evaluation of the effectiveness of the design and operation of the Water Authority’s Post-Issuance Compliance Guidelines with the assistance of the Water Authority’s Financial Advisor as needed and internal finance staff of the Water Authority as appropriate, to the extent determined by any of them to be necessary or appropriate.

### ***Annual Review and Training***

The CFO will coordinate an annual review process to investigate, monitor, assure and document compliance with the tax and continuing disclosure requirements described in these guidelines. CFO or other staff responsible for monitoring post-issuance tax compliance matters will attend regular training or educational forums necessary to stay up to date on tax-exempt bond compliance requirements.



### ***Continuing Disclosure Compliance Requirements***

In each year that the Water Authority has bonds or taxable obligations outstanding subject to SEC Rule 15c2-12, it must provide updated information or its designee, must file or cause to be filed its annual report (the "Annual Report") with the Municipal Securities Rulemaking Board (the "MSRB") through its Electronic Municipal Market Access system for municipal securities disclosure ("EMMA"). Aforementioned updated information must be provided by the Water Authority or designee by the date specified in each bond's official statement. Refer to Exhibit B for the required disclosure dates for Water Authority's existing bonds.

In preparing its Annual Report, the Water Authority should review each of its outstanding continuing disclosure undertakings (if any) (collectively, the "Undertakings") to determine the quantitative financial information and operating data which, together with the audited financial statements, will constitute the content of the Annual Report. Certain quarterly reports may also need to be filed with the MSRB through EMMA.

The Water Authority, through its Disclosure Counsel, will also continuously monitor other events relevant to the bonds and provide proper notice to the MSRB through EMMA as may be required by the Undertakings. A list of relevant events is included on Exhibit C hereto, which may be amended from time to time to reflect updates in the law.

The Water Authority will coordinate any submissions with the MSRB through EMMA with Disclosure Counsel or other legal counsel.

## EXHIBIT A

### TO POST-ISSUANCE COMPLIANCE GUIDELINES

#### LIST OF CURRENTLY OUTSTANDING BONDS

##### SYSTEM REVENUE BONDS

- \$135,990,000 (original principal amount; dated April 8, 2009) Senior Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue Bonds, **Series 2009A-1** (Final Maturity: July 1, 2034)
- \$62,950,000 (original principal amount; dated October 22, 2013) Senior Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue Bonds, **Series 2013A** (Final Maturity: July 1, 2038)
- \$55,265,000 (original principal amount; dated October 22, 2013) Senior Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue Bonds, **Series 2013B** (Final Maturity: July 1, 2024)
- \$97,270,000 (original principal amount; dated September 24, 2014) Senior Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue Bonds, **Series 2014A** (Final Maturity: July 1, 2026)
- \$87,005,000 (original principal amount; dated September 24, 2014) Subordinate Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue Bonds, **Series 2014B** (Final Maturity: July 1, 2025)
- \$211,940,000 (original principal amount; dated April 27, 2015) Senior Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue Bonds, **Series 2015** (Final Maturity: July 1, 2033)
- \$87,970,000 (original principal amount; dated March 1, 2017) Senior Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue Bonds, **Series 2017** (Final Maturity: July 1, 2034)

##### NMFA LOANS

- \$10,426,232 (original principal amount) Subordinate Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue NMFA DWRFL, **Series 2008** (Final Maturity: May 1, 2025)
- \$1,000,000 (original principal amount) Senior Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue NMFA DWRFL, **Series 2009** (Final Maturity: July 1, 2031)
- \$53,400,000 (original principal amount) Senior Lien Albuquerque Bernalillo County Water Utility Authority, New Mexico, System Revenue NMFA PPRF, **Series 2011** (Final Maturity: June 1, 2036)

**EXHIBIT B**  
**TO POST-ISSUANCE COMPLIANCE GUIDELINES**

THE FOLLOWING SUMMARIES ARE NOT COMPLETE DESCRIPTIONS OF THE COVENANTS DESCRIBED IN THE BOND DOCUMENTS, AND REFERENCE MUST BE MADE TO THE APPLICABLE DOCUMENT SECTIONS FOR A FULL DESCRIPTION OF SUCH COVENANTS. The Water Authority should seek advice of Bond Counsel or other legal counsel to assist in reviewing tax, insurance, disclosure and business covenants summarized below.

| <b>ISSUE</b>                    | <b>ADDITIONAL<br/>BOND TEST</b>                                   | <b>CDU<br/>DATE</b> | <b>RATE<br/>COVENANT</b>               | <b>RESERVE<br/>REQUIREMENT</b> |
|---------------------------------|---|---------------------|--|--------------------------------|
| <b>NET SYSTEM REVENUE BONDS</b> |   |                     |  |                                |
| SERIES 2009A-1                  | 1.33X Max Combined<br>Annual Debt Svc &<br>Historic or Proj. Test | Mar 31              | Sufficient To<br>Pay 1.33X<br>Debt Svc | N/A                            |
| SERIES 2013A                    | 1.33X Max Combined<br>Annual Debt Svc &<br>Historic or Proj. Test | Mar 31              | Sufficient To<br>Pay 1.33X<br>Debt Svc | N/A                            |
| SERIES 2013B                    | 1.33X Max Combined<br>Annual Debt Svc &<br>Historic or Proj. Test | Mar. 31             | Sufficient To<br>Pay 1.33X<br>Debt Svc | N/A                            |
| SERIES 2014A                    | 1.33X Max Combined<br>Annual Debt Svc &<br>Historic or Proj. Test | Mar. 31             | Sufficient To<br>Pay 1.33X<br>Debt Svc | N/A                            |
| SERIES 2014B                    | 1.33X Max Combined<br>Annual Debt Svc &<br>Historic or Proj. Test | Mar. 31             | Sufficient To<br>Pay 1.33X<br>Debt Svc | N/A                            |
| SERIES 2015                     | 1.33X Max Combined<br>Annual Debt Svc &<br>Historic or Proj. Test | Mar. 31             | Sufficient To<br>Pay 1.33X<br>Debt Svc | N/A                            |
| SERIES 2017                     | 1.33X Max Combined<br>Annual Debt Svc &<br>Historic or Proj. Test | Mar. 31             | Sufficient To<br>Pay 1.33X<br>Debt Svc | N/A                            |

EXHIBIT C  
TO POST-ISSUANCE COMPLIANCE GUIDELINES  
**SEC RULE 15c2-12 DISCLOSURE REQUIREMENTS**

For its Undertakings with respect to bonds or other obligations issued before December 1, 2010, the Water Authority must monitor the following events and provide notice of such events to the MSRB through EMMA as required by the applicable Undertaking:

1. Principal and interest payment delinquencies
2. Non-payment related defaults
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions or events affecting the tax-exempt status of the security
7. Modifications to the rights of security holders
8. Bond calls
9. Defeasances
10. Release, substitution or sale of property securing repayment of the securities
11. Rating changes.

For its Undertakings with respect to bonds or other obligations issued on or after December 1, 2010, the Water Authority must monitor the following events and provide notice of such events to the MSRB through EMMA as required by the applicable Undertaking, but not later than 10 business days after occurrence:

1. Principal and interest payment delinquencies
2. Non-payment related defaults, if material
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security
7. Modifications to rights of bondholders, if material
8. Bond calls, if material, and tender offers
9. Defeasances
10. Release, substitution or sale of property securing repayment of the securities, if material
11. Rating changes
12. Bankruptcy, insolvency, receivership or similar event of the Water Authority
13. The consummation of a merger, consolidation or acquisition involving the Water Authority or the sale of all or substantially all of the assets of the Water Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material/applicable.

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Meeting Date: May 23, 2018  
Staff Contact: Stan Allred, Chief Financial Officer

**TITLE: R-18-12 – Appropriating Funds for Operating the Albuquerque Bernalillo County Water Utility Authority for Fiscal Year Beginning July 1, 2018 and Ending June 30, 2019**

**ACTION: Recommend Approval**

**SUMMARY:**

This legislation is the Water Authority's proposed budget appropriation for Fiscal Year 2019 beginning July 1, 2018. The FY19 budget was developed utilizing the Water Authority's Five-Year Goals, One Year Objectives, Performance Plan and the Guiding Principles in determining the costs needed to effectively and efficiently run the utility operation.

**FY 2019 HIGHLIGHTS:**

The FY19 Executive Director's Proposed Budget establishes the Water Authority's financial plan and uses the Goals, Objectives and the Performance Plan as guides for the appropriation of funds. The Water Authority, with input from the operating divisions, developed the budget by determining those essential costs necessary to successfully run the utility operation.

Helping to guide this effort is *Water 2120*, the Water Authority's 100-year water resources management strategy, adopted in September 2016. *Water 2120* incorporates the latest science regarding the effect of climate change on the availability of surface water supplies. Using climatic hydrologic simulation models from the Office of the State Engineer, Sandia National Laboratories and the U.S. Bureau of Reclamation and Geological Survey, among other agencies, it takes climate variability into account and for the first time looks at a 100-year time horizon for the greater Albuquerque area. Three different demand scenarios along with three supply alternatives are used to examine the need for new supplies while maintaining a ground water resource for future generations. A portfolio of supply options is used to fill the gaps to meet future demand over the next 100 years. A key component going forward will be the shift from acquisition of water rights to the development of reuse facilities to have a more resilient supply.

**Operations**

The operational cornerstone of *Water 2120* is the San Juan-Chama Drinking Water Project (DWP), which will continue to have a major positive impact on the ground water

resources in the Middle Rio Grande. After ten years of operation, the DWP – along with conservation and other resource management efforts – has resulted in rising aquifer levels throughout the service area as documented by the U.S. Geological Survey. A video documenting this success is available for viewing at:  
<https://www.youtube.com/watch?v=sYhINqjtDuc>

Building on accomplishments such as these, Water Authority staff and leadership will continue to pursue new operational efficiencies and improvements in FY19. The Operations groups have completed documentation for shift procedures and standard operating procedures and are implementing and measuring key performance indicators for the water, wastewater and groundwater plant facilities. In addition, we will continue to implement mobile technology to document and complete work assignments in the operation groups.

The Water Authority will continue to operate two potable water supply systems, the surface water and the ground water systems. This dual system operation will continue with the primary source of supply being treated surface water from the DWP. The DWP provided 70% of all water distributed to Water Authority customers in calendar year 2017. The Water Authority's goal is to have the DWP supply 70-75% of all customer demand. Flow conditions in the Rio Grande may limit the ability to fully realize this goal on a consistent basis.

The Water Authority began a major renovation of the Southside Water Reclamation Plant (SWRP) in FY10 called the Reclamation Rehabilitation and Asset Management Plan (RRAMP). The RRAMP is a multi-year program to renew the treatment processes at the plant. Several key improvement projects in this program have been completed, including the Preliminary Treatment Facility (PTF), aeration basin and air piping renovations, final clarifier renovations, and major renovations and improvements to the Solids Dewatering Facility (SDF). Improvements will also be made to the Anaerobic Digesters, Primary Clarifiers, Secondary Sludge Thickening Facilities, plant-wide electrical systems, and other SWRP facilities.

Plans are to continue to increase the amount of wastewater bio-solids that are composted and sold while not “over-saturating” the regional market for bio-solids compost and sell at least 30% of the total quantity of bio-solids.

In FY19, the DWP will focus on efforts related to solids management by continuing sales of grit basin material to Waste Management for the Rio Rancho Landfill and beginning a pilot testing of iron sludge disposal to aid with significant odor control and provide corrosion benefits. The plant will also begin Phase II of its Ozone system modifications, coarse screening improvements at river intake, and construction of a lime storage silo.

Wastewater Collections continues to implement the CMOM program and the expanded closed- circuit television (CCTV) inspection of 5% of the small diameter system which provides for better maintenance and identification of specific rehab needs.

Water Distribution Field will focus on pressure monitoring, pressure reducing valve preventive maintenance, and eliminating select redundant/inoperable pressure reducing valves monitored with Automated Meter Infrastructure (AMI) technology. Staff will continue with the Los Padillas water line extensions and partner with Compliance and Plant staff to address South Valley water quality issues.

Water Resources will expand and develop their education series by offering new classes, online videos, and workshops. In conjunction with the expanded education effort, the division will also be redesigning the rebate programs and move from indoor to outside rebate programs. Water Resources staff will develop the Environmental Plan and the Groundwater Monitoring Plan. Plans are to launch a Water Conservation newsletter and website which will contain irrigation, gardening and horticultural tips and practices.

Planning & Engineering will complete the Guide to Development, complete the Field Asset GPS Coordinates Program, and prepare a list of recommended modifications to the Expansion Ordinance in coordination with the Guide to Development. Staff will be developing a proposed fee schedule for Utility Development deliverables and begin work on a Construction Inspection Manual.

### **Compliance**

Water and Wastewater Operations are regulated by a myriad of federal, state, and local environmental permits, regulations, and rules. The Compliance division continues to maintain a matrix that is updated quarterly of regulatory requirements to monitor regulatory initiatives to define operational impacts and develop compliance strategies.

In the NPDES program, FY19 will complete revisions to the Cross-Connection Control Ordinance. The current version of the ordinance needs refining to remove ambiguity and improve clarity. The program will also be obtaining a new NPDES permit and completing their PPCP wastewater sampling during 2018.

The Water Quality lab will be developing Standard Operating Procedures for analyses of TKN and Fecal as MPN. The program will also be meeting with CIP staff to begin the process of renovation projects at the lab.

### **Administration, Employee Relations and Development**

The Water Authority will continue to conduct periodic activities to engage, educate, and provide updates to customers, legislators and neighborhood associations regarding Water Authority activities and initiatives, and offer opportunities for dialogue and feedback.

Human Resources wellness staff will continue offering wellness challenges for individuals and departments. At least two fitness challenges per quarter will be offered in conjunction with nutrition, physical activity and weight loss tips as well as disease and injury prevention topics to employees. Staff will be developing a Sick to Well Time Policy and a Wellness Champion/Stretching policy.

A major focus for Human Resources will be the design and implementation of a new Application System. This system will be more user-friendly for both applicants and Water Authority staff and will allow staff to push jobs out to various recruitment websites and provide continuous recruitment capability. Staff will also continue to implement Employee Satisfaction Survey and Employee Connections initiatives.

The proposed budget also includes nonrecurring funding for an employee safety incentive program. This program will reward employees for cost savings that result from a decrease in work-related losses. Funding for this program is contingent on the Water Authority generating the same or a greater amount in savings. This incentive program has been an effective tool in the reduction of the Water Authority's Workers Compensation expense in the last three fiscal years.

### **Budget, Finance and Business Management**

Finance will submit to GFOA the FY19 Approved Budget for the Distinguished Budget Presentation Award, the FY18 Comprehensive Annual Financial Report (CAFR) for the Certificate of Achievement for Excellence in Financial Reporting and the FY18 Popular Annual Financial Report (PAFR) for the Popular Annual Financial Reporting Award. The division believes that all three financial documents meet or exceed the recommended requirements to successfully receive each award and to also be nationally recognized by GFOA for these accomplishments.

In FY19, Accounting Services will be leading the Maximo Phase II implementation of Asset on-boarding and disposition, barcoding for the annual capital asset inventory required by State statute, life-cycle costing of assets, and developing policies and procedures for capturing costs for new and existing assets.

Purchasing will fully implement the new Bernalillo County Home Rule Procurement Code. Two areas of major focus for FY19 will be the completion of the Warehouse Ordering and Payment Policies and Procedures and overseeing the Maximo Phase II implementation for Purchasing and Inventory related functions, specifically Maximo/One Solution integration options, inventory management improvements, satellite storerooms, and inventory barcoding.

Budget will continue to provide budget and ERP system training to utility staff and schedule monthly budget update meetings with staff.

Treasury will optimize management of Water Authority funds while implementing the investment strategy, complete the Living River Fund and Water Assistance Fund donation programs.

Customer Services (CSD) and Northwest Service Area (NWSA) have been successfully integrated into one group that handles call center, treasury, billing, new service applications, field operations and meter maintenance functions. CSD, Field Operations, and NWSA Field Operations & Maintenance sections work together to implement the Clevest mobile workforce management system, which provides a bridge for Maximo (Work Order & Asset Management) and Customer Care & Billing (CC&B) to create



operating procedures for a paperless, real-time work order system, where field activities are dispatched, updated and closed out on a mobile platform. In addition, Clevest is used to manage line spots and schedule and record the preventative maintenance activities on the meter change outs, box and valve replacement initiatives.

CSD will be implementing a major upgrade to the CC&B system in FY19. Customer Services Field Operations will continue working on the Automated Meter Infrastructure project which will move provide a 50% saturation of automated meters in the service area by the end of FY19.

ITD Quality Assurance staff will continue the buildout of the service desk, implement an Information Security Plan, update IT policies relating to IT security, and coordinate change management and training efforts for the CC&B upgrade.

IT Infrastructure objectives for FY19 include the buildout and migration of the Disaster Recovery site to the Surface Water Plant, migration of all database servers to SimpliVity, completion of a comprehensive security plan, and building redundant infrastructure for card key and video surveillance systems.

An additional \$2 million is reserved in the rate reserve fund. The Water Authority will also provide deferred UEC collections on up to 50 affordable housing units developed by non-profit housing developers.

#### **FISCAL IMPACT:**

This appropriation consists of the Water Authority General Fund which totals \$214,009,000 and the Water Authority Debt Service Fund which totals \$85,730,000.

#### **COMMENTS:**

For FY19, General Fund revenue is estimated to be \$225.8 million with proposed expenses of \$214.0 million. Revenues are expected to be \$11.8 million over proposed expenses. This amount will bring the Working Capital or Fund Balance to \$16.7 million at June 30, 2019. The Water Authority's target is to maintain its Fund Balance at 1/12 of the annual budgeted operating expenses as defined by the Water Authority's Rate Ordinance.

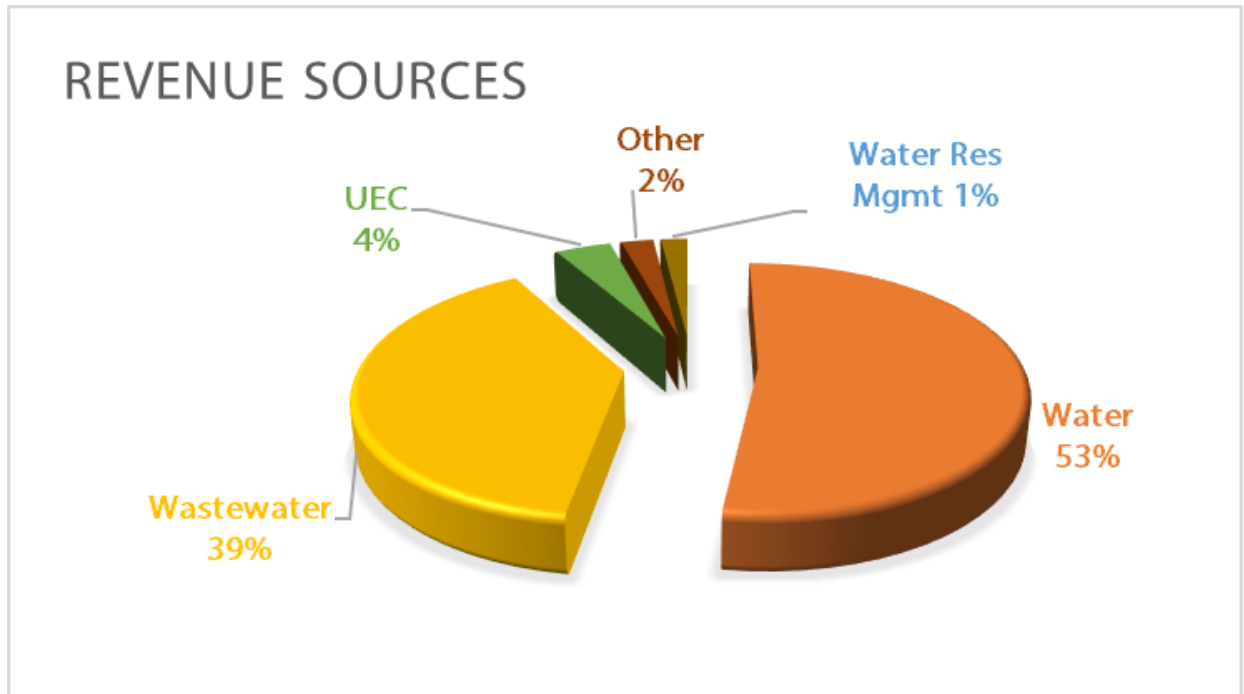
#### **Revenues**

The revenue table is an estimate of revenues projected next year. The following is a revenue comparison of the FY17 Audited Actuals, FY18 Revised and the FY19 Proposed budgets:

## WATER AUTHORITY GENERAL FUND - 21

| ACCOUNT NAME               | AUDITED<br>FY17 | REVISED<br>BUDGET<br>FY18 | PROPOSED<br>BUDGET<br>FY19 | DIFFERENCE<br>FY19-FY18 |
|----------------------------|-----------------|---------------------------|----------------------------|-------------------------|
| Interest                   | 86              | 100                       | 540                        | 440                     |
| Miscellaneous              | 1,757           | 2,077                     | 3,109                      | 1,032                   |
| Water                      | 140,089         | 123,355                   | 123,355                    | -                       |
| Water Resources Management | 4,363           | 4,500                     | 4,500                      | -                       |
| Wastewater                 | 69,101          | 88,391                    | 92,471                     | 4,080                   |
| CIP Employees              | 793             | 1,014                     | -                          | (1,014)                 |
| Solid Waste Admin Fee      | 1,401           | 1,480                     | 1,509                      | 29                      |
| DMD Admin Fee              | 349             | 348                       | 359                        | 11                      |
| PNM Pass Thru              | (1)             | -                         | -                          | -                       |
| <b>FUND TOTAL</b>          | <b>217,938</b>  | <b>221,265</b>            | <b>225,843</b>             | <b>4,578</b>            |

General Fund revenue for FY19 is estimated to be \$4.6 million above the FY18 revised budget. The increase is mainly due to the projected increase in rate revenue. Revenue in the Debt Service Fund has a \$2.2 million increase, comprised of a \$1.5 million increase in UEC Revenue and a \$0.7 million increase in the transfer from the General Fund for debt service payments.



\* Consolidated for Reporting Purposes

\* \* Other includes Interest, Miscellaneous, SW Admin Fee, DMD Admin Fee

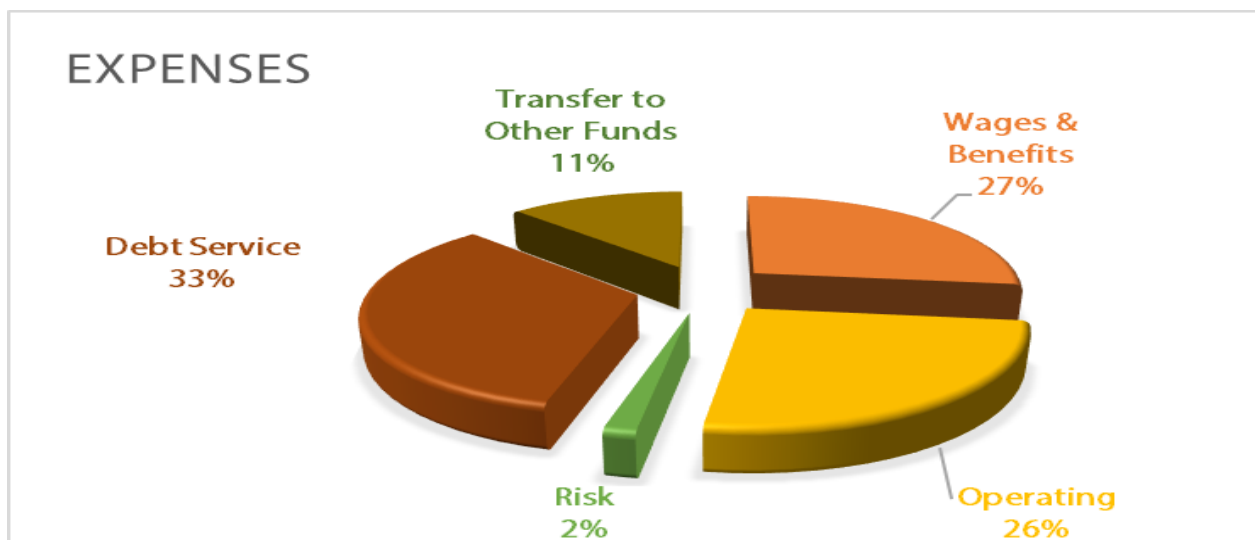
**Expenses**

The following is the appropriation comparison of the FY17 Audited Actuals, FY18 Revised and the FY19 Proposed budgets:

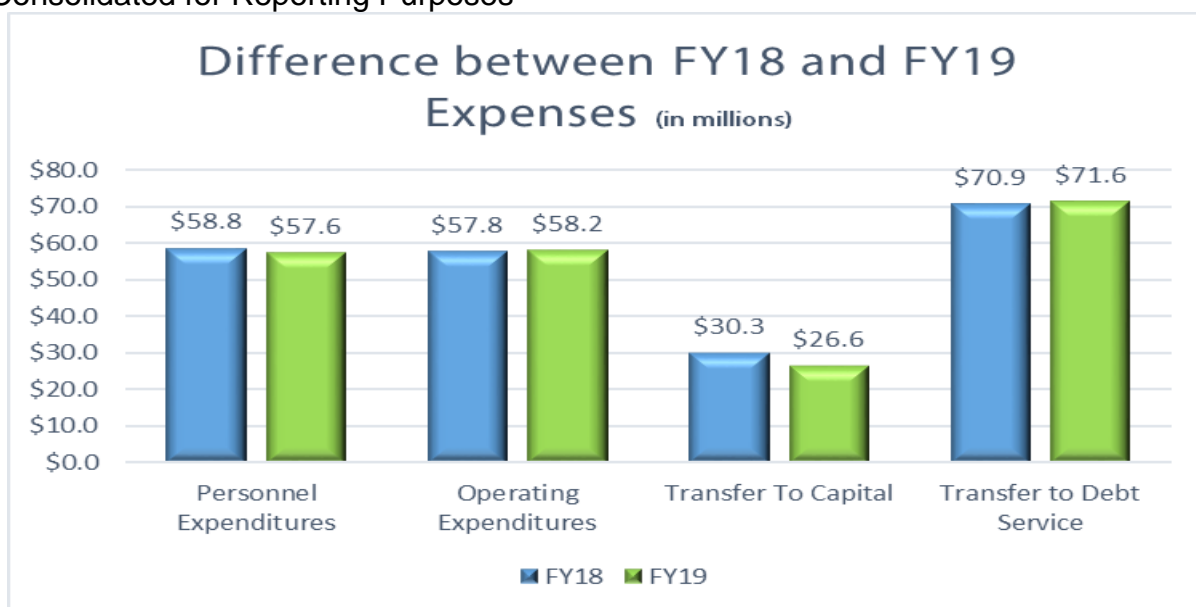
**WATER AUTHORITY GENERAL FUND - 21**

| <b>PROGRAM</b>                   | <b>AUDITED<br/>FY17</b> | <b>REVISED<br/>BUDGET<br/>FY18</b> | <b>PROPOSED<br/>BUDGET<br/>FY19</b> | <b>DIFFERENCE<br/>FY19-FY18</b> |
|----------------------------------|-------------------------|------------------------------------|-------------------------------------|---------------------------------|
| Administration                   | 2,726                   | 2,792                              | 2,684                               | (108)                           |
| Risk                             | 4,239                   | 4,523                              | 4,534                               | 11                              |
| Legal                            | 459                     | 703                                | 760                                 | 57                              |
| Human Resources                  | 1,313                   | 1,552                              | 1,588                               | 36                              |
| Finance                          | 3,894                   | 4,004                              | 4,184                               | 180                             |
| Customer Services                | 8,587                   | 9,112                              | 9,050                               | (62)                            |
| Information Technology           | 7,072                   | 7,131                              | 7,096                               | (35)                            |
| Wastewater Plant                 | 10,747                  | 11,680                             | 11,426                              | (254)                           |
| San Juan-Chama Water Treat Plant | 3,415                   | 3,639                              | 3,971                               | 332                             |
| Groundwater Operations           | 5,985                   | 6,427                              | 6,629                               | 202                             |
| Wastewater Collection            | 6,540                   | 6,758                              | 6,701                               | (57)                            |
| Water Field Operations           | 19,134                  | 20,085                             | 19,595                              | (490)                           |
| Compliance                       | 4,513                   | 5,400                              | 5,261                               | (139)                           |
| Planning & Engineering           | 2,871                   | 3,342                              | 3,899                               | 557                             |
| Water Resources                  | 3,587                   | 3,920                              | 3,861                               | (59)                            |
| Power & Chemicals                | 19,940                  | 20,232                             | 20,236                              | 4                               |
| Taxes                            | 338                     | 657                                | 656                                 | (1)                             |
| Overhead                         | 1,737                   | 2,403                              | 1,410                               | (993)                           |
| San Juan-Chama                   | 2,378                   | 2,247                              | 2,247                               | -                               |
| Tfr Gen Fund to Rehab Fund       | 21,000                  | 30,250                             | 26,589                              | (3,661)                         |
| Tfr Gen Fund to Debt Serv Fund   | 70,628                  | 70,908                             | 71,631                              | 723                             |
| <b>FUND TOTAL</b>                | <b>201,104</b>          | <b>217,765</b>                     | <b>214,009</b>                      | <b>(3,756)</b>                  |

The FY19 proposed General Fund expenses contain a net decrease of \$3.8 million from the FY18 Revised Budget. Total personnel costs have decreased by \$1.2 million as compared to FY18 based on retirements and efficiencies; general operating expenses increased \$0.4 million; and interfund transfers decrease \$3.0 million because of the FY18 one-time \$3.0 million additional transfer from the General Fund to CIP.



\* Consolidated for Reporting Purposes



Personnel expenses include a 2% step increase in wages and a 15% increase in health benefit costs. Total personnel costs have decreased by \$1.2 million as compared to FY18. There is no change in full-time equivalent positions. Total general operating costs increase \$0.4 million. The interfund transfers decrease by \$3.0 million.

The Working Capital balance at June 30, 2019 is estimated to be \$16.7 million. The Water Authority's target is to maintain its Fund Balance at 1/12 of the annual budgeted operating expenses as defined by the Water Authority's Rate Ordinance.

The Water Authority's goals and objectives focus on improving the Utility's operations and improving customer conditions. The Budget Ordinance requires the Water Authority's operating budget be consistent with the goals and objectives, and that they be major factors in determining funding for Water Authority programs and improvements in both the operating and capital Implementation budgets. Many of the objectives also

reflect policy direction. With the establishment of goals and objectives that have policy as well as budgetary implications, the Water Authority must actively manage the daily operations of the Utility.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-18-12

1 **RESOLUTION**

2 **APPROPRIATING FUNDS FOR OPERATING THE ALBUQUERQUE BERNALILLO**  
3 **COUNTY WATER UTILITY AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY**  
4 **1, 2018 AND ENDING JUNE 30, 2019**

5 WHEREAS, the Albuquerque Bernalillo County Water Utility Authority (Water  
6 Authority) as a political subdivision of the State of New Mexico is required to budget and  
7 account for all money received or spent in accordance with New Mexico laws; and

8 WHEREAS, the Board, by Ordinance, has established a budget process for the  
9 Water Authority; and

10 WHEREAS, the Budget Ordinance requires the Executive Director to formulate  
11 the operating budget for the Water Authority; and

12 WHEREAS, the Budget Ordinance requires the Water Authority Board to  
13 approve or amend and approve the Executive Director's proposed budget; and

14 WHEREAS, the Board has received the budget formulated by the Executive  
15 Director and has deliberated on it and provided public notice and input; and

16 WHEREAS, appropriations for the operation of the Water Authority must be  
17 approved by the Board.

18 **BE IT RESOLVED BY THE WATER AUTHORITY:**

19 Section 1. That the following amounts are hereby appropriated to the following  
20 funds for operating The Albuquerque Bernalillo County Water Utility Authority during  
21 Fiscal Year 2019:

|                             |             |
|-----------------------------|-------------|
| 22 <u>GENERAL FUND – 21</u> | 214,009,000 |
|-----------------------------|-------------|

23 This appropriation is allocated to the following programs:

|                    |           |
|--------------------|-----------|
| 24 Administration  | 2,684,000 |
| 25 Risk            | 4,534,000 |
| 26 Legal           | 760,000   |
| 27 Human Resources | 1,588,000 |
| 28 Finance         | 4,184,000 |

|    |  |            |
|----|--|------------|
| 1  | Customer Services  | 9,050,000  |
| 2  | Information Technology   | 7,096,000  |
| 3  | Wastewater Plant   | 11,426,000 |
| 4  | San Juan-Chama Water Treatment Plant   | 3,971,000  |
| 5  | Groundwater Operations   | 6,629,000  |
| 6  | Wastewater Collections   | 6,701,000  |
| 7  | Water Field Operations   | 19,595,000 |
| 8  | Compliance   | 5,261,000  |
| 9  | Planning & Engineering   | 3,899,000  |
| 10 | Water Resources  | 3,861,000  |
| 11 | Power & Chemicals  | 20,236,000 |
| 12 | Taxes  | 656,000    |
| 13 | Authority Overhead   | 1,410,000  |
| 14 | San Juan-Chama   | 2,247,000  |
| 15 | Transfers to Other Funds:  |            |
| 16 | Rehab Fund (28)  | 26,589,000 |
| 17 | Debt Service Fund (31)   | 71,631,000 |
| 18 | <u>DEBT SERVICE FUND – 31</u>  | 85,730,000 |
| 19 | This appropriation is allocated to the following programs:                                 |            |
| 20 | Debt Service   | 80,730,000 |
| 21 | Transfer to Other Funds:   |            |
| 22 | Growth Fund (29)   | 5,000,000  |
| 23 | Section 2. The Executive Director is authorized to develop and establish a                 |            |
| 24 | nonrecurring safety/performance incentive program. This program will provide               |            |
| 25 | employees with an incentive based on cost reductions or performance enhancements           |            |
| 26 | resulting in operating efficiencies and/or a reduction in work related losses. Funding for |            |
| 27 | this program is contingent on savings in the same or a greater amount.                     |            |
| 28 | Section 3. The Water Authority shall continue its partnership with non-profit              |            |
| 29 | affordable housing developers under contract with local government whereby the first-      |            |
| 30 | time homebuyer will not be required to pay the Utility Expansion Charge until the          |            |
| 31 | property is sold. No more than 50 units per year will be authorized under this program.    |            |
| 32 | The Water Authority will secure its position with a second mortgage.                       |            |
| 33 | Section 4. The Rate Reserve Fund is augmented by the amount of \$2,000,000.                |            |

1           Section 5. If working capital balance exceeds 1/12 of operating expenses, and  
2 debt service payments and debt service coverage are met, the remaining working  
3 capital balance shall be reserved for capital projects.

4           Section 6. The Executive Director is authorized to carry out all appropriations  
5 contained in this budget in accordance with established policies and procedures.





Albuquerque Bernalillo County  
Water Utility Authority

# FY19 Proposed Budget

Operating & Capital Improvement Plan (CIP) Budgets

# FY19 Budget Assumptions

- No Rate Revenue Adjustment
- No New FTE's
- Nominal Growth in Service Area
- FY17 Consumption Levels at 128 Gallons Per Capita
- Capital Spending Increase by \$3.0 million
- Rate Reserve Increase by \$2.0 million
  - Rate Reserve dedicated for the purpose of offsetting declines in rate revenue
- Fund Balance at 1/12<sup>th</sup> of Operating Expenses



# FY19 Selected Priorities

- Continue Community Outreach and Communication
- Complete Phase 2 of Maximo Asset Management System
  - Fleet Management module
  - Full Life-cycle Accounting of Assets
  - Preventive and Condition Monitoring
- Complete Clarifier Odor Control Mitigation
- Begin construction of the Consolidated Customer Service & Field Operations Facility
- Complete Source Water Protection Plan Update and report on findings from Pharmaceuticals and Personal Care Products (PPCPs)
- Identify funding for Phase 7C Los Padillas Waterline Project
- Begin implementation of Vulnerability Assessment recommendations and complete cyber security evaluation
- Planned 5 Megawatt Solar Facilities





# FY19 Selected Priorities

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## Continue Implementation of Water 2120 Plan

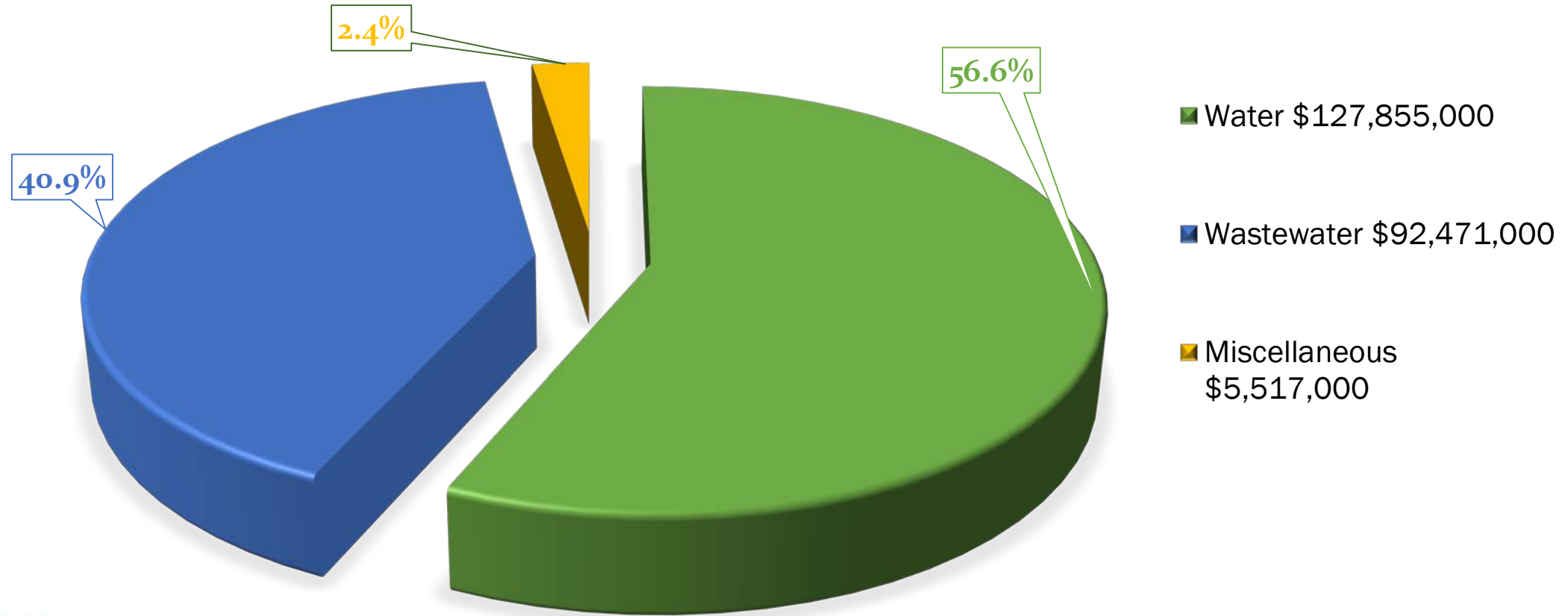
- Complete Environmental Plan
- Prepare draft of the Groundwater Management Plan
- Begin development of the Reuse Plan
- Create new Water 2120 Capital Fund



Albuquerque Bernalillo County  
Water Utility Authority

# FY19 General Fund Projected Revenues

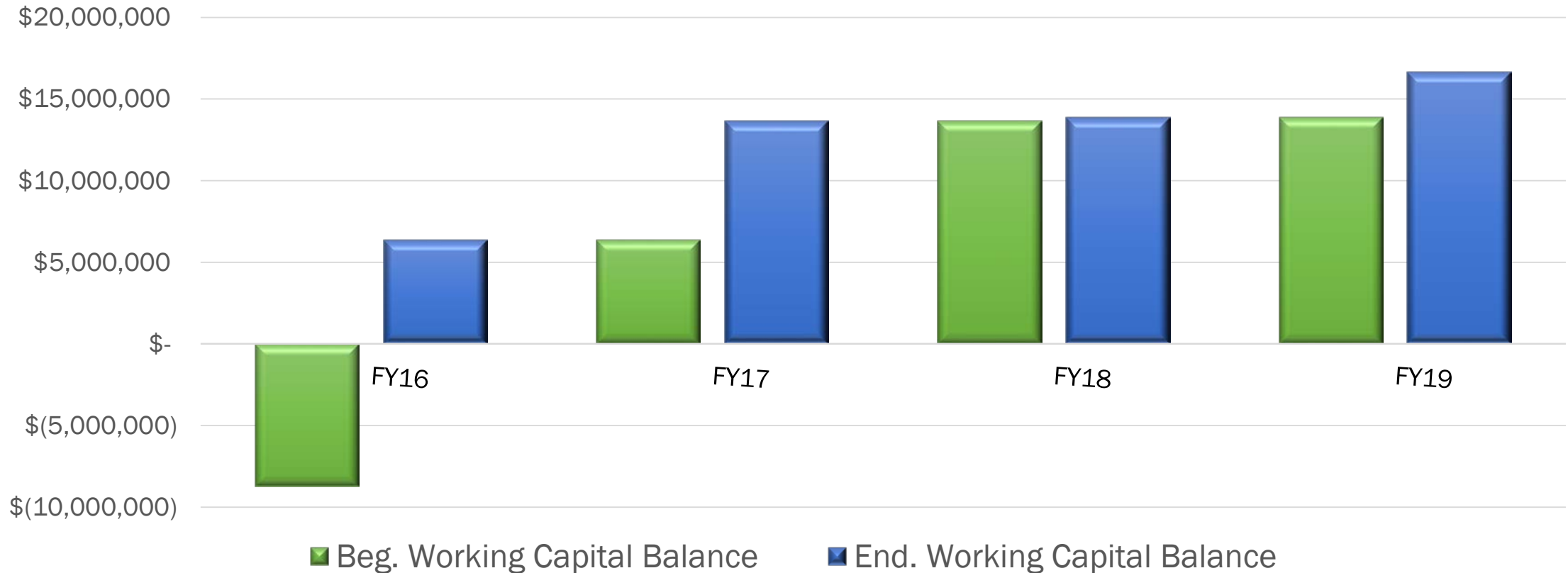
## \$225,843,000



Albuquerque Bernalillo County  
Water Utility Authority

# FY19 Working Capital Projected Balance

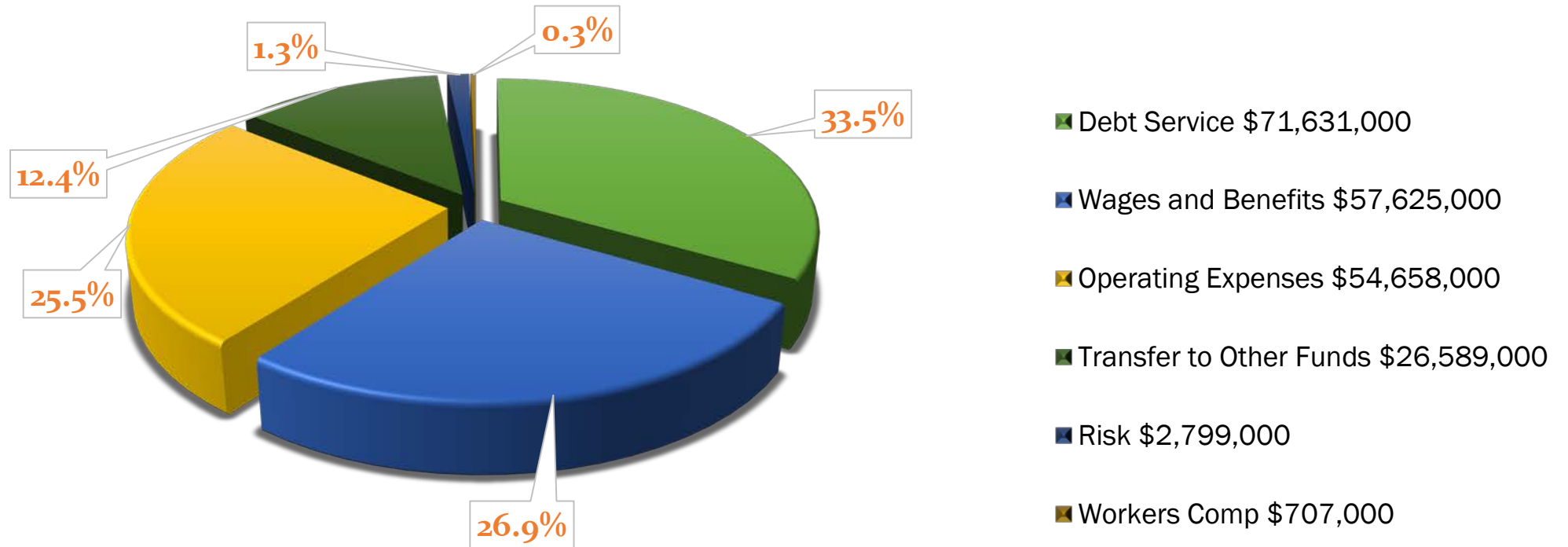
Working Capital projected to meet 1/12<sup>th</sup> Reserve Requirement



Albuquerque Bernalillo County  
Water Utility Authority

# FY19 Budgeted Expenses

## \$214,009,000



# FY19 Capital Improvement Plan(CIP)

## Appropriations

\$84.3 Million Appropriation Includes:

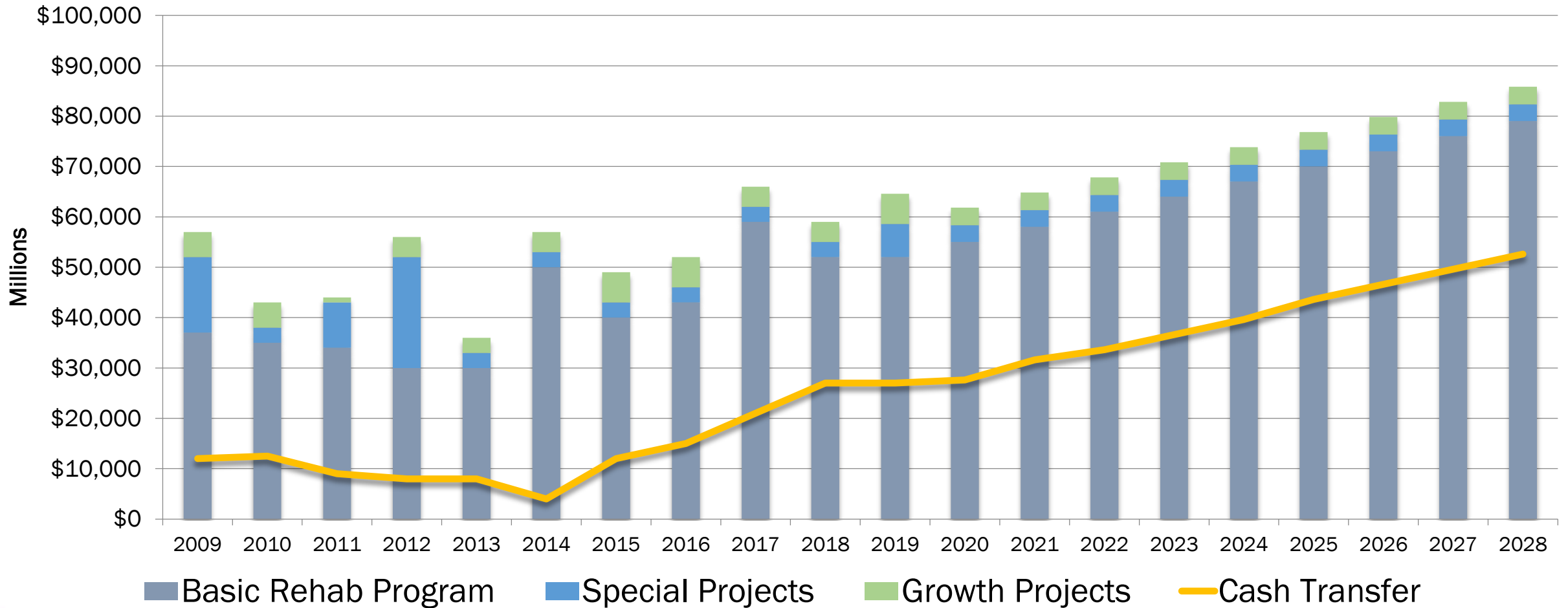
- \$55 Million Basic Rehab Program
- Major Initiatives Include:
  - \$15.0 Million to Complete Odor Mitigation for Clarifiers
  - \$5.0 Million to Construct Consolidated Customer Service & Field Operations Facility
  - \$4.8 Million for Vehicle and Heavy Equipment Replacement
  - \$2.0 Million Automated Meter Infrastructure (AMI) – 50% build-out target
  - \$1.0 Million for Steel Line Replacement
  - \$350,000 for Renewable Energy Projects
  - \$300,000 for Water 2120 Fund



Albuquerque Bernalillo County  
Water Utility Authority



# CIP Spending – Decade Plan



Each \$1.0 million in Capital Spending creates 15 Jobs

Source: U.S. Water Alliance



Albuquerque Bernalillo County  
Water Utility Authority



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Meeting Date: May 23, 2018

Staff Contact: Stan Allred, Chief Financial Officer

**TITLE: R-18-13 – Appropriating Funds for the Capital Implementation of the Albuquerque Bernalillo County Water Utility Authority for the Fiscal Year Beginning July 1, 2018 and Ending June 30, 2019**

**ACTION: Recommend Approval**

**SUMMARY:**

This legislation appropriates funding for the FY19 Capital Implementation Program (CIP). This appropriation provides funding for new projects as well as supplements current appropriations for projects that are ongoing.

**FISCAL IMPACT:**

The FY19 capital program appropriation totals \$84.3 million. \$55 million is appropriated for the level one priority basic capital programs, an additional \$15 million appropriated for the covers for the clarifiers, \$618K for vehicles and heavy equipment, \$5 million for growth related projects, and \$8.3 million is appropriated for special projects.

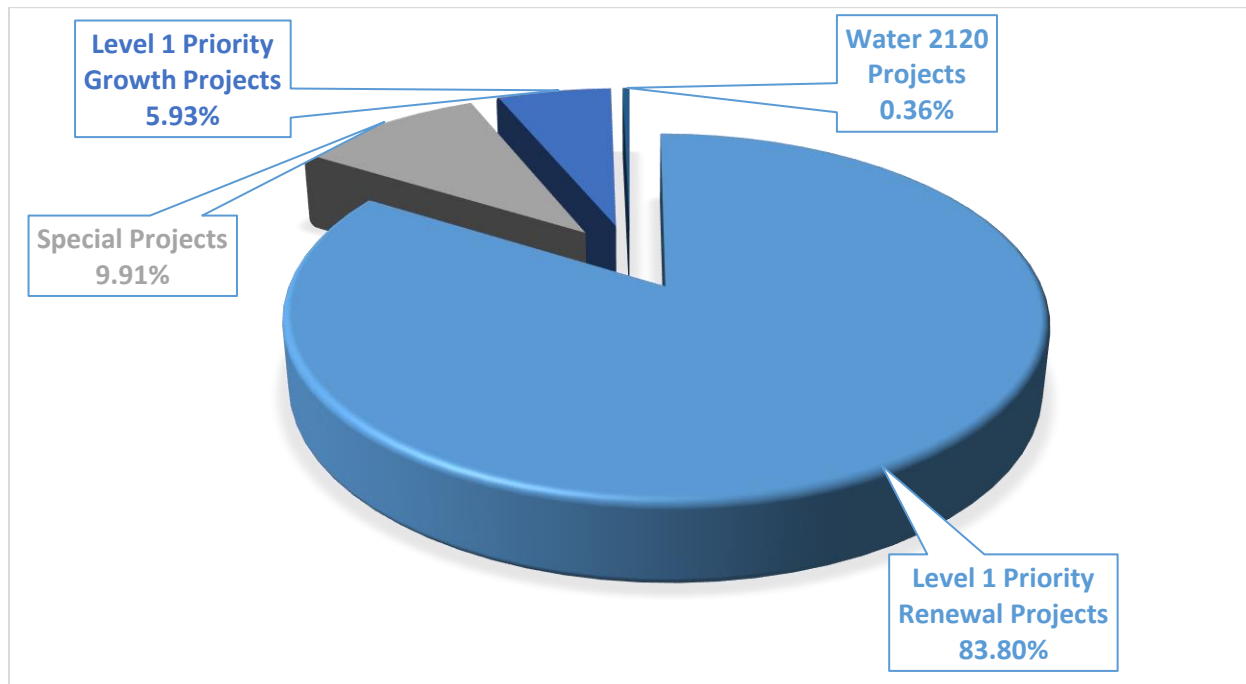
The \$8.3 million for special projects is comprised of \$2 million for the Automated Meter Infrastructure (AMI), \$1 million for steel water line replacement, \$0.4 million for various renewable energy projects, and \$5 million for the consolidated customer services and field operations facility.

The current Rate Ordinance requires no less than \$30 million for Basic rehabilitation program. Additionally, \$2 million is budgeted annually for the Automated Meter Infrastructure (AMI) program. There are no appropriations in the proposed FY19 CIP budget for projects that will be funded with revenues from FY20 or later.

The recent rate revenue increases alleviate future borrowing and increases the level of funding for infrastructure rehab projects.

The growth program is funded by Utility Expansion Charge (UEC) revenue which is tied to economic growth in the Water Authority's service area. The non-discretionary portion of the growth program includes funding for the low-income connection program managed by Bernalillo County and development repayment agreements as connections are made to the System.

Demonstrated in the graph below is the overall percentage of each CIP category:



#### COMMENTS:

The blueprint for the Basic capital program is the Decade Plan, a ten-year plan required to be updated biennially with two, four, six, eight and ten-year planning elements. There must always be an approved two-year planning element in place before the Board can approve a current year capital program appropriation. FY18 was the first year in the current FY 2018 – FY 2027 Decade Plan. Listed below are the detailed projects for year two:

| <b>Basic Program Appropriations:</b>            | <b>FY19<br/>Budget</b> |
|---|------------------------|
| Sanitary Sewer Pipeline Renewal                 | \$7,995,000            |
| Drinking Water Pipeline Renewal                 | 7,550,000              |
| Southside Water Reclamation Plant Renewal       | 34,370,000             |
| Soil Amendment Facility (SAF) Renewal           | 100,000                |
| Lift Station and Vacuum Station Renewal         | 3,150,000              |
| Odor Control Facilities Renewal                 | 750,000                |
| Drinking Water Plant Groundwater System Renewal | 4,695,000              |
| Drinking Water Plant Treatment System Renewal   | 4,910,000              |
| Reuse Line and Plant Rehab                      | 70,000                 |
| Compliance                                      | 195,000                |
| Shared Renewal                                  | 15,000                 |
| Franchise Agreement Compliance                  | 2,000,000              |

|   |                        |
|---|------------------------|
| Vehicles and Heavy Equipment                                  | 4,818,000              |
| <b>Level 1 Priority Renewal Projects Total</b>                | <b>\$70,618,000</b>    |
|   | <b>FY19<br/>Budget</b> |
| <b>Special Projects:</b>                                      |                        |
| Steel Waterline Rehab   | \$1,000,000            |
| Automated Meter Infrastructure (AMI)                          | 2,000,000              |
| Renewable Energy Projects                                     | 350,000                |
| Miscellaneous   | 5,000,000              |
| <b>Special Projects Total</b>                                 | <b>\$8,350,000</b>     |
| <b>Combined Level 1 Priority Renewal and Special Projects</b> | <b>\$78,968,000</b>    |
| <b>Growth Projects:</b>                                       |                        |
| Development Agreements  | 1,250,000              |
| MIS/GIS   | 3,500,000              |
| Miscellaneous   | 250,000                |
| Growth Total  | 5,000,000              |
| Water 2120 Projects   | 300,000                |
| <b>Level 1 Priority Growth/Other Projects Total</b>           | <b>\$5,300,000</b>     |
| <b>Grand Total</b>  | <b>\$84,268,000</b>    |

### **FY19 Capital Program Highlights**

There are over 1,835 miles of eight inch and ten inch sanitary sewer collection lines through the Water Authority's service area. Lines that were constructed using concrete material or other obsolete material have a life expectancy of 50 years or less. These types of lines must now be lined or replaced with suitable material to avoid collapses in the collection line and possibly the roadways that they occupy. Lining or replacement options will increase the life of the pipe up to 100 years if not longer. When the deterioration has compromised the integrity of the wall strength, the replacement option is the only option left for rehabilitation of the line. Funding for planning, designing, construction, and related activity will be used for the rehabilitation and replacement of deteriorating sewer collections lines.

There are over 2,000 miles of small diameter (four inch to ten inch) water lines that serve as the distribution network for the Water Authority's water system. These lines are used to provide domestic metered water service, fire protection, and irrigation uses for our customers. Currently there are over 500-miles of pipe that is deficient either in wall integrity or size that poses potential threats to the Water Authority. As the older steel or cast-iron lines become deficient, Water Authority staff will often respond to numerous leaks. These leaks if gone unnoticed do have the potential, under certain circumstances, will become sinkholes which destroy entire roadways and create an incredible liability.

Replacing whole segments aged pipe will reduce ongoing operation and maintenance costs. If aging pipeline is not replaced, the impact of emergency response will increase

for these repairs and multiple leaks will occur in the same segment of pipe. This program will provide funding for evaluation, planning, design, construction, and related activity necessary for the rehabilitation or replacement of water lines that have deteriorated and are past the useful life.

The primary clarifiers are used to remove suspended solids ahead of the aeration basins. Maintaining these units in good working order is important for the downstream processes to work properly and for the plant to meet its NPDES permit requirements. The primary clarifiers handle sewage resulting in deterioration of structural, mechanical, and electrical components. Also, the currently open basins are a source of hydrogen sulfide and other odors. Funding will be used to rehabilitate and make improvements to the existing primary clarifiers. In addition, covers will be added to assist in combating offensive odors.

The Information Technology/GIS funding allocations will be utilized to complete the Asset Management system upgrade, which includes Phase II tasks associated with the project and enhancing utilization of mobility to support our Asset Management initiatives. The Phase II Asset Management activities include barcoding of fixed assets, implementation of the Maximo Fleet module, asset on-boarding and decommissioning, and enhancing procurement functions within Maximo to further support the Asset Management goals and objectives related to Asset Management life-cycle accounting practices. The Customer Care & Billing (CC&B) software upgrade has begun with a combined technical and functional upgrade that will be completed during FY19.

Other projects include transitioning infrastructure and server environment to a hardware/software centric environment, resulting in cost savings, performance enhancement, and promotes “green” initiatives to downsize the footprint of traditional IT related equipment. Efforts will continue to add redundancy to the Network, Telephony and Security systems which includes additional network connections, and an upgrade to Call Manager v11. ITD will work to evaluate and assess our current SCADA environment, and create a master plan to upgrade, replace, and/or consolidate current WUA SCADA Systems that support the Authorities Asset Management plan. SunGard will also be upgraded during FY19, and in addition to this, a new Applicant Online feature will be developed to better suit the needs of WUA staff, and those prospective individuals that will be applying for employment with the WUA.

ITD’s initiatives also include the creation of an Information Security Plan that’s primarily based on the federal NIST standard for cyber-security. This initiative includes drafting and completing the Information Security Plan and any supporting IT policies, a thorough penetration analysis of our systems and network including all SCADA systems, and will also include all major applications that host sensitive data.

Funding will be used to plan, design, and construct a new consolidated customer services and field operations facility to replace the leased space at the City of Albuquerque “Pino Yard” facility, West Side leased space and downtown customer services. This facility will be located at the San Juan-Chama Drinking Water Treatment Plant at 6000 Alexander Blvd, NE.

The remainder of the Basic rehabilitation program is primarily focused on line contingency work and normal repair and maintenance work in the groundwater plant system with minimal planned projects.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-18-13

1 **RESOLUTION**

2 **APPROPRIATING FUNDS FOR THE CAPITAL IMPLEMENTATION PROGRAM FOR**  
3 **THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY FOR**  
4 **THE FISCAL YEAR BEGINNING JULY 1, 2018 AND ENDING JUNE 30, 2019**

5 WHEREAS, the Albuquerque Bernalillo County Water Utility Authority (Water  
6 Authority) as a political subdivision of the State of New Mexico is required to budget and  
7 account for all money received or spent in accordance with New Mexico laws; and

8 WHEREAS, the Board, by Ordinance, has established a budget process for the  
9 Authority; and

10 WHEREAS, the Budget Ordinance, requires the Executive Director to formulate  
11 an annual Capital Implementation Program budget for the Water Authority; and

12 WHEREAS, the Budget Ordinance requires the Water Authority Board to approve  
13 or amend and approve the Executive Director's proposed budget; and

14 WHEREAS, the Board has received the Capital Implementation Program Budget  
15 formulated by the Executive Director and has deliberated on it and provided public notice  
16 and input; and

17 WHEREAS, appropriations for the Capital Implementation Program of the Water  
18 Authority must be approved by the Board; and

19 WHEREAS, the appropriation of these Capital Implementation Program funds to  
20 projects with their respective purposes are timely and necessary for Water Authority to  
21 serve its customers.

22 BE IT RESOLVED BY THE WATER AUTHORITY:

23 That the appropriations for the projects as stated below are hereby made.

24 Basic Program Appropriations:

|    |   |            |
|----|---|------------|
| 25 | Sanitary Sewer Pipeline Renewal           | 7,995,000  |
| 26 | Drinking Water Pipeline Renewal           | 7,550,000  |
| 27 | Southside Water Reclamation Plant Renewal | 34,370,000 |
| 28 | Soil Amendment Facility (SAF) Renewal     | 100,000    |

[+Bracketed Material+] - New  
[-Bracketed Material-] - Deletion

[+Bracketed Material+] - New  
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|    |   |           |
|----|---|-----------|
| 1  | Lift Station and Vacuum Station Renewal         | 3,150,000 |
| 2  | Odor Control Facilities Renewal                 | 750,000   |
| 3  | Drinking Water Plant Groundwater System Renewal | 4,695,000 |
| 4  | Drinking Water Plant Treatment Systems Renewal  | 4,910,000 |
| 5  | Reuse Line and Plant Rehab                      | 70,000    |
| 6  | Compliance                                      | 195,000   |
| 7  | Shared Renewal                                  | 15,000    |
| 8  | Franchise Agreement Compliance                  |           |
| 9  | 2,000,000                                       |           |
| 10 | Vehicles and Heavy Equipment                    | 4,818,000 |
| 11 | <u>Special Projects:</u>                        |           |
| 12 | Steel Waterline Rehab                           | 1,000,000 |
| 13 | Automated Meter Infrastructure (AMI)            | 2,000,000 |
| 14 | Renewable Energy Projects                       | 350,000   |
| 15 | Miscellaneous                                   | 5,000,000 |
| 16 | <u>Growth:</u>                                  |           |
| 17 | Development Agreements                          | 1,250,000 |
| 18 | MIS/GIS   | 3,500,000 |
| 19 | Miscellaneous                                   | 250,000   |
| 20 | <u>Other:</u>                                   |           |
| 21 | Water 2120 Project Fund                         | 300,000   |
| 22 |   |           |
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Meeting Date: May 23, 2018  
Staff Contact: Mark S. Sanchez, Executive Director

**TITLE: R-18-14 – Adopting the County of Bernalillo Purchasing Ordinance for the Albuquerque Bernalillo County Water Utility Authority**

**ACTION: Recommend Approval**

**SUMMARY:**

The statute creating the Albuquerque Bernalillo County Water Utility Authority (Water Authority), Section 72-1-10, authorized the Water Authority to elect either the City of Albuquerque's (City) or the County of Bernalillo's (County) procurement processes to further its public and corporate purposes. In 2006, the Water Authority procurement functions were still performed by City procurement staff, just as they had previously when the Water Authority was a component unit of the City. At the time, the Water Authority decided that continued use of City procurement processes were in its best interests. In 2013 the Water Authority employed a full-time division for the purposes of performing centralized procurement. To date, the Water Authority had followed the City of Albuquerque Public Purchases Ordinance legal requirements governing approval of contracts.

In order to determine the appropriate legal framework to govern the Water Authority's purchases, the Water Authority worked with the County procurement staff and performed a comprehensive and thoughtful analysis of the procurement authority presented by adopting the County of Bernalillo's new Home Rule Procurement Ordinance. The County Procurement Ordinance was drafted using the New Mexico State Procurement Code as its foundation and provides for the fair and equitable treatment of all person involved in public procurement, to maximize the purchasing value of public funds, provides for transparency and accountability, and safeguards for maintaining a procurement system of quality and integrity. The Water Authority has determined it operationally and functionally beneficial to adopt the County of Bernalillo Procurement Ordinance. This resolution would establish the County of Bernalillo Procurement Ordinance as the legal framework governing all Water Authority procurement effective July 1, 2018. This resolution would also establish the Water Authority's responsibilities to the Water Authority Board related to contract approval.

**FISCAL IMPACT:**

None

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-18-14

**1 RESOLUTION**

**2 ADOPTING THE COUNTY OF BERNALILLO PROCUREMENT ORDINANCE FOR**  
**3 THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY**

**4** WHEREAS, the Albuquerque Bernalillo County Water Utility Authority  
**5** (Water Authority) regularly has the need to purchase services (including professional  
**6** services), construction, and items of tangible personal property; and

**7** WHEREAS, the Water Authority has been granted all powers to carry out and  
**8** effectuate its public and corporate purposes, including providing its own procurement  
**9** functions, as a local public body and political subdivision of the State of New Mexico;  
**10** and

**11** WHEREAS, the Water Authority employs in-house staff to perform all needed  
**12** procurement functions; and

**13** WHEREAS, paragraph B. (3) of the amended NMSA 1978, Section 72-1-10,  
**14** authorizes the Water Authority to use City or County procurement processes to further  
**15** its public and corporate purposes; and

**16** WHEREAS, the County of Bernalillo, in cooperation with Water Authority staff,  
**17** has performed a comprehensive analysis of local procurement, drafted, proposed and  
**18** adopted an up to date Home Rule Procurement Ordinance; and

**19** WHEREAS, it is operationally and functionally beneficial to the Water Authority to  
**20** adopt the County of Bernalillo Procurement Ordinance (the "Procurement Ordinance").

**21** BE IT RESOLVED BY THE WATER AUTHORITY:

**22** Section 1. That Resolution R-06-2, adopting the City of Albuquerque Purchasing  
**23** Rules and Regulations is rescinded, effective July 1, 2018.

**24** Section 2. That the County of Bernalillo Procurement Ordinance be adopted and  
**25** implemented by the Water Authority, effective July 1, 2018.

**26** Section 3. That all contracts and agreements and amendments thereto entered  
**27** into prior to July 1, 2018 shall remain subject to the provisions of the Resolution R-06-2  
**28** until their expiration.

1 Section 4. That for all procurement, approval of contracts, and purchases by or  
2 for the Water Authority pursuant to the Procurement Ordinance, approval by the Water  
3 Authority Governing Board (the "Board") shall substitute for approval by the Bernalillo  
4 County Board of County Commissioners; approval by the Executive Director of the  
5 Water Authority shall substitute for approval by the County Manager; any requirements  
6 of, or rights reserved by, the County as provided in the Procurement Ordinance shall be  
7 deemed to be a requirement of, or right reserved by, the Water Authority; and any  
8 responsibility delegated to an officer or employee of the County as provided in the  
9 Procurement Ordinance shall be deemed to be a responsibility of a similar officer or  
10 employee of the Water Authority.

11 Section 5. That the Executive Director is authorized to enter into agreements of  
12 any type on behalf of the Water Authority following approval by the Board, if required.  
13 This includes, but is not limited to, contracts, capital acquisition, construction of capital  
14 projects, agreements with other public governmental agencies, and real property  
15 agreements. The Executive Director may delegate the authority to enter into such  
16 agreements by written instrument documenting the delegation.

17 Section 6. That the following contracts must be approved by the Board prior to  
18 execution by the Executive Director or his/her designee:

19 (A) Any Purchase Order, Contract, or total maximum dollar value of a Price  
20 Agreement used to purchase, lease or otherwise acquire services (including  
21 professional services), construction, real property or items of tangible  
22 personal property in an amount exceeding \$500,000 (excluding NMGRT).

23 (B) Any amendment to a Purchase Order, Contract or total maximum dollar value of  
24 a Price Agreement used to purchase, lease or otherwise acquire services  
25 (including professional services), construction, real property or items of  
26 tangible personal property which causes the aggregate amount of that  
27 purchase arrangement to exceed \$500,000 (excluding NMGRT), if the  
28 Purchase Order, Price Agreement or Contract was not previously approved  
29 by the Board.

30 (C) Any supplement to increase a Purchase Order, Contract or total maximum dollar  
31 value of a Price Agreement will not require an additional approval by the  
32 Board if the original amount of the Purchase Order, Contract, or total

1 maximum dollar value of a Price Agreement, and the amount of possible  
2 supplements were previously presented to and approved by the Board.

3 (D) Any additional increase to a Purchase Order, Contract or total dollar value of a  
4 Price Agreement that exceeds 20% of the amounts previously approved by  
5 the Board (including the amounts of previously presented and approved  
6 supplements) shall require additional approval by the Board, unless said  
7 authority is otherwise delegated to the Executive Director with previous  
8 approvals of the contract.

9 (E) When the Executive Director determines that urgent and compelling reasons  
10 require an emergency procurement of services (including professional  
11 services), construction or items of tangible personal property exceeding  
12 \$500,000 (excluding NMGR), the Executive Director shall notify the Board,  
13 at its next regularly scheduled meeting, of the action and shall give a full  
14 description of the urgent and compelling reasons, the scope of work, the  
15 contract amount, and the name of the contractor.

16 (F) All other purchases shall be approved by the Executive Director or his/her  
17 designee, or as otherwise provided by the Procurement Ordinance or  
18 administrative instructions promulgated by the Executive Director.

19 (G) For the purposes of this Section, the following definitions shall apply:

20 (1) Contract means any agreement for the procurement of items of tangible  
21 personal property, services (including professional services) or  
22 construction;

23 (2) Price Agreement means an agreement between the Water Authority and  
24 an awarded contractor or contractors establishing the pricing, terms and  
25 conditions for providing an indefinite quantity of items of tangible personal  
26 property, services (including professional services) or construction for a  
27 fixed time and awarded in accordance with the Procurement Ordinance,  
28 including those allowed for use by the Water Authority awarded by other  
29 government agencies;

30 (3) Purchase Order means the document issued by the Central Purchasing  
31 Office that directs a contractor to deliver items of tangible personal  
32 property, services (including professional services) or construction.

Section 7. That the Executive Director shall name an ad hoc advisory committee to evaluate Water Authority initiated requests for proposals other than those requests for proposals subject to the Selection Advisory Committee requirements of the Procurement Ordinance.

[+Bracketed Material+] - New  
[-Bracketed Material-] - Deletion

**BERNALILLO COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**

**ORDINANCE NO. 2018-11**

Procurement Ordinance

Chapter 2, Article V, Division 1 – 3 (Secs. 2-356 – 2-402)

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**Chapter 2 – ADMINISTRATION**

**ARTICLE V. - PURCHASING**

**DIVISION 1. – GENERALLY**

**Sec 2-356. RULES OF CONSTRUCTION; PURPOSES**

- (a) The Procurement Ordinance (“Ordinance”) shall be liberally construed and applied to promote its purposes and policies.
- (b) Any conflict in interpretation of the Ordinance with the New Mexico State Procurement Code [NMSA 1978, Section 13-1-1, et seq.] shall be resolved as required by applicable law.
- (c) The purpose of the Ordinance is to provide for the fair and equitable treatment of all Persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity.

**Sec 2-357. APPLICATION OF THE ORDINANCE**

- (a) This Ordinance applies to all expenditures by the County of Bernalillo (“County”) for procurement of Tangible Personal Property, Services, and Construction, except as otherwise provided in this Article.
- (b) Procurement involving the expenditure of federal funds must be conducted in accordance with the mandatory applicable federal laws and regulations. Such laws and regulations will supersede this Ordinance where it is inconsistent with those federal laws and regulations. Nothing in this Ordinance shall prevent the County from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with the County Code of Conduct or other applicable law.
- (c) When mandatory applicable state or federal laws or regulations are inconsistent with the provisions of this Ordinance, compliance with such state or federal laws or regulations shall constitute compliance with the Ordinance.
- (d) Any Contract or procurement document executed in violation of the Ordinance or other applicable laws shall be void and of no effect.
- (e) All matters not specifically addressed in the Ordinance are intentionally omitted and are not governed by the provisions of the State of New Mexico Procurement Code, unless expressly made applicable to home rule local government entities.
- (f) The effective date of section 2-393 (Design and Build Project System Requirements) shall be April 26, 2018. The balance of this Article shall become effective on July 1, 2018.
- (g) **NO IMPAIRMENT FROM PARTIAL INVALIDITY:** The provisions of this Ordinance are severable, and if any provision, section, clause, sentence, or part thereof is held to be illegal, invalid, unconstitutional, or inapplicable, to any person, persons, circumstances, situation, or otherwise, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining sentences, clauses, sections, articles, or parts of this Ordinance or their applicability to other persons, circumstances or situations.



**CONTINUATION PAGE 4, ORDINANCE 2018-11.**

**Sec 2-358. DEFINITIONS**

- (a) Architectural and Engineering Services - Professional Services within the scope of the practice of architecture and professional engineering, as defined by the State of New Mexico, involving research, design, development, Construction, alteration, or repair of real property;
- (b) Best Obtainable Price – a price at which Tangible Personal Property, Services or Construction can be purchased which is most advantageous to the County;
- (c) Bidder or Offeror - one who submits a bid or proposal in response to a Request for Bids, Request for Proposals, or submits a Quote in response to a call for formal or informal Quotes;
- (d) Brand-Name Specification - a Specification limited to describing an item by manufacturer's name or catalogue number;
- (e) Brand-Name or Equal Specification - a Specification describing one or more items by manufacturer's name or catalogue number to indicate the standard of quality, performance or other pertinent characteristics and providing for the substitution of equivalent items;
- (f) Capital Project - a project involving Construction, paid for with funds intended for capital improvements, which may include Architectural or Engineering Services;
- (g) Central Purchasing Office – the central department or office of the County led by the Chief Procurement Officer and charged with the duty of procurement;
- (h) Chief Procurement Officer – the Person holding the position as the head of the Procurement Office in the County;
- (i) Construction - building, altering, repairing, installing or demolishing in the ordinary course of business any: (1) road, highway, bridge, parking area or related project; (2) building, stadium or other structure; (3) airport, subway or similar facility; (4) park, trail, athletic field, golf course or similar facility; (5) dam, reservoir, canal, ditch or similar facility; (6) sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; (7) sewage, water, gas or other pipeline; (8) transmission line; (9) radio, television or other tower; (10) water, oil or other storage tank; (11) shaft, tunnel or other mining appurtenance; (12) electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; (13) air conditioning conduit, heating or other similar mechanical work; or (14) similar work, structures or installations. Construction shall also include: (15) leveling or clearing land; (16) excavating earth; (17) drilling wells of any type, including seismographic shot holes or core drilling; and (18) similar work, structures or installations;
- (j) Construction Management - consulting services related to the process of management applied to a public works project for any duration from conception to completion of the project for the purpose of controlling time, cost and quality of the project;
- (k) Construction Manager - a Person who acts as an agent of the County for Construction Management, for whom the County shall assume all the risks and responsibilities;
- (l) Construction Manager at Risk - a Person who, pursuant to a Contract with the County, provides the pre-Construction Services and Construction Management required in a

**CONTINUATION PAGE 5, ORDINANCE 2018-11.**

- 1 Construction Manager at Risk delivery method;
- 2 (m) Contract - any written agreement for the procurement of items of Tangible Personal  
3 Property, Services or Construction;
- 4 (n) Contractor – means any business having a Contract with the County to furnish Tangible  
5 Personal Property, Services or Construction;
- 6 (o) Cooperative Procurement – (i) the action taken when two or more entities combine their  
7 requirements to obtain advantages of volume purchases, including administrative savings  
8 and other benefits; (ii) a variety of arrangements, whereby two or more public  
9 procurement entities (or agencies) purchase from the same supplier or multiple suppliers  
10 using a single RFB or RFP; (iii) cooperative procurement efforts may result in Contracts  
11 that other entities may utilize;
- 12 (p) Cost-Plus-Percentage-of-Cost-Contracts - an agreement in which the Contractor is  
13 provided a specified percentage profit over and above the actual costs of Tangible  
14 Personal Property, Services or Construction;
- 15 (q) Debarment – a final order that denies a Contractor the right to bid or offer to enter into a  
16 Contract with the County;
- 17 (r) Definite Quantity Contract - a Contract which requires the Contractor to furnish a  
18 specified quantity of Tangible Personal Property, Services, or Construction at or within a  
19 specified time;
- 20 (s) Determination - the documentation of a decision including the facts and justifications  
21 required to support a decision. A Determination becomes part of the procurement file to  
22 which it pertains;
- 23 (t) Employee - an individual receiving a salary, wages or per diem and mileage from the  
24 County whether elected or not and any noncompensated individual performing personal  
25 services as an elected or appointed official or otherwise for the County;
- 26 (u) External Procurement Unit - any procurement organization not located in the State of  
27 New Mexico which, if in this state, would qualify as a state agency or a Local Public  
28 Body. An agency of the United States government is an External Procurement Unit;
- 29 (v) Financial Interest – (i) holding a position in a business as officer, director, trustee, partner  
30 or holding any position in management; or (ii) ownership of more than five percent  
31 interest in a business;
- 32 (w) Gratuity - a payment, loan, subscription, advance, deposit of money, service or anything  
33 of more than nominal value, received or promised, unless consideration of substantially  
34 equal or greater value is exchanged;
- 35 (x) Immediate Family - a spouse, father, mother, child, father-in-law, mother-in-law,  
36 daughter-in-law or son-in-law;
- 37 (y) Indefinite Quantity Contract - a Contract which requires the Contractor to furnish an  
38 indeterminate quantity of specified Tangible Personal Property, Services, or Construction  
39 during a prescribed period of time at a definite unit price or at a specified discount from  
40 list or catalogue prices;

**CONTINUATION PAGE 6, ORDINANCE 2018-11.**

- (z) Landscape Architectural Services - services including but not limited to consultation, investigation, reconnaissance, research, design, preparation of drawings and Specifications and administration of Contracts where the dominant purposes of such services are: (i) the preservation or enhancement of land uses and natural features; (ii) the location and Construction of functional approaches for structures, pathways or walkways; or (iii) the design of trails, plantings and landscape irrigation. Excluded from the provisions of this section are the services of architects, engineers and surveyors as defined in this Article;
- (aa) Local Public Body - every political subdivision of the state and the agencies, instrumentalities and institutions thereof;
- (bb) Multiple Source Award - an award of Contract for one or more similar Tangible Personal Property, Services, or Construction to more than one Bidder or Offeror;
- (cc) Multi-Step Sealed Bidding or Proposal – a two phase process consisting of a technical first phase when Bidders submit unpriced technical offers and a second phase when approved Bidders have costs reviewed;
- (dd) NMSA – New Mexico Statutes Annotated;
- (ee) Person - an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or other legal or commercial entity;
- (ff) Price Agreement – a Definite Quantity Contract or Indefinite Quantity Contract which requires the Contractor to furnish items of Tangible Personal Property, Services, or Construction to the County which issues a Purchase Order or written agreement, if the quantities ordered are within the quantity limitations of the Contract, if any;
- (gg) Professional Services – services rendered by members of a recognized profession or possessing a special skill. Such Services are generally acquired to obtain information, advice, training or direct assistance. Services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, Construction Managers and other Persons or businesses providing similar Professional Services, which may be designated as such by a Determination issued by the Central Purchasing Office;
- (hh) Public Records – all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of the County and relate to public business, whether or not the records are required by law to be created or maintained;
- (ii) Purchase Order - the document issued by the Central Purchasing Office that directs a Contractor to deliver items of Tangible Personal Property, Services, or Construction;
- (jj) Quote – purchasing method generally used for small orders under a certain dollar threshold, request is sent to suppliers along with a description of the commodity or Services needed and the supplier is asked to respond with price and other information by a predetermined date. Evaluation and recommendation for award should be based on the quotation that best meets price, quality, delivery, service, past performance, and

**CONTINUATION PAGE 7, ORDINANCE 2018-11.**

- 1 reliability. Award is made to the most Responsive, Responsible Bidder;
- 2 (kk) Request for Bids ("RFB") – all documents used to solicit competitive single or Multi-  
3 Step Sealed Bids for which an award is based on compliance the Specifications and low  
4 bid pricing;
- 5 (ll) Request for Proposal ("RFP") – all documents used to solicit proposals from potential  
6 providers (Offerors) for Tangible Personal Property, Services or Construction. Price is  
7 usually not a primary evaluation factor. Provides for the negotiation of all terms,  
8 including price, prior to Contract award. May include a provision for the negotiation of  
9 best and final offers. May be a single-step or multi-step process. Award is made to the  
10 most Responsive, Responsible Bidder;
- 11 (mm) Request for Qualifications ("RFQ") – a request for submission of unpriced offers to be  
12 followed by a formal solicitation limited to those Bidders or Offerors whose offers have  
13 been qualified under the criteria set forth in the first solicitation;
- 14 (nn) Responsibility – the status in which a Bidder or Offeror establishes, to the satisfaction of  
15 the Chief Procurement Officer, an ability to fulfill the solicitation expectations and  
16 requirements. The Chief Procurement Officer may consider such criteria as described in  
17 this Article;
- 18 (oo) Responsible Bidder (or Offeror) – a business entity or individual who has the ability to  
19 fulfill the solicitation expectations and requirements, including but not limited to  
20 financial and technical capacity to perform the requirement of the solicitation and  
21 subsequent Contract;
- 22 (pp) Responsive Bidder (or Offeror) – a Contractor, business entity or individual who has  
23 submitted a bid or proposal that fully conforms in all material respects to the Request for  
24 Bids /Request for Proposal and all of its requirements including all form and substance;
- 25 (qq) Selection Advisory Committee ("SAC") – the committee established by County  
26 Ordinance for the purpose of selecting firms to provide Services of architects, landscape  
27 architects, engineers or surveyors;
- 28 (rr) Services – furnishing labor, time or effort by a Contractor not involving the delivery of a  
29 specific end product other than reports and other materials which are merely incidental to  
30 the required performance. Services includes the furnishing of insurance but does not  
31 include Construction or the services of Employees of the County;
- 32 (ss) Specification - a description of the physical or functional characteristics or of the nature  
33 of items of Tangible Personal Property, Services, or Construction. "Specification" may  
34 include a description of any requirement for inspecting or testing, or for preparing items  
35 of Tangible Personal Property, Services, or Construction for delivery;
- 36 (tt) Surveying Services - any service or work, the substantial performance of which involves  
37 the application of the principles of mathematics and the related physical and applied  
38 sciences for: (i) the measuring and locating of lines, angles, elevations, natural and man-  
39 made features in the air, on the surface of the earth, within underground workings and on  
40 the beds or bodies of water for the purpose of defining location, areas and volume; (ii) the  
41 monumenting of property boundaries and the platting and layout of lands and  
42 subdivisions thereof; (iii) the application of photogrammetric methods used to derive

topographic and other data; (iv) the establishment of horizontal and vertical controls for surveys for design, topographic surveys including photogrammetric methods, Construction surveys for engineering and architectural public works; and (v) the preparation and perpetuation of maps, records, plats, field notes and property descriptions;

(uu) Suspension – a temporary order of the Chief Procurement Officer that denies a Contractor the right to bid or offer to enter into a Contract with the County;

(vv) Tangible Personal Property - goods other than real property having a physical existence, including but not limited to supplies, equipment, materials and printed materials;

(ww) User Department or User – a County department, office, unit or staff member for which procurement services are provided.

**Sec 2-359. ELECTRONIC TRANSMISSIONS**

(a) The Chief Procurement Officer shall develop procedural rules to use electronic media, including distribution of solicitations and acceptance of sealed bids and competitive sealed proposals that include electronic signatures, which shall include:

(1) appropriate security to prevent unauthorized access to electronically submitted bids or proposals prior to the date and time set for opening of bids or the deadline set for receipt for proposals, including the electronic bidding, approval and award process; and

(2) accurate retrieval or conversion of electronic forms of information into a medium that allows inspection and copying.

(b) The Central Purchasing Office, in any Request for Bids or a Request for Proposals, may require all or any part of a sealed bid or a competitive sealed proposal to be submitted electronically if it determines that an electronic submission will be advantageous to the procurement process. If electronic submission is required:

(1) hard copy documentation shall not be submitted to the Central Purchasing Office prior to the award of the Contract, except as specifically identified in the Request for Bids or the Request for Proposals;

(2) the Request for Bids or Request for Proposals shall specify an opening date and time, a fixed closing date and time and an email account or other secure electronic location to which the electronic bid or proposal shall be submitted;

(3) sealed bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the RFB unless all bids are submitted electronically, in which case the amount of each bid, each bid item, and other relevant information as may be specified by the bid requirements, together with the name of each Bidder, shall be recorded and made open to public inspection by the Central Purchasing Office; and

(4) sealed proposals shall be opened by the Central Purchasing Office, then evaluated and the Contract awarded as required in the Request for Proposals and as otherwise provided in the Ordinance.

**Sec 2-360. CENTRAL PURCHASING OFFICE**

- (a) The Central Purchasing Office shall perform all duties required by the Ordinance and other relevant statutes. The Central Purchasing Office may coordinate with the state purchasing agent, the Central Purchasing Offices of other Local Public Bodies, and the purchasing office of External Procurement Units to maximize benefits of joint and cooperative efforts.
- (b) The Central Purchasing Office is delegated the responsibility for all procurement transactions, including negotiating and finalizing Contract documents as described herein, administering this Ordinance and ensuring compliance with all applicable policies, procedures, laws, regulations, rules, statutes and Ordinances. The Central Purchasing Office is also responsible for creating and maintaining the procedural rules needed to effectuate the Ordinance.
- (c) All procurements shall be performed by the Central Purchasing Office except as otherwise provided in the Ordinance or other procedural rules promulgated under its authority.
- (d) The County shall report to the State of New Mexico Procurement Agent the Person within the Central Purchasing Office designated as the "Chief Procurement Officer." The Chief Procurement Officer shall maintain high standards of education and knowledge of the profession.
- (e) The Chief Procurement Officer may make Determinations regarding exemptions, the issuance of Purchase Orders, authorization of small purchases and approval of procurements pursuant to the Ordinance.
- (f) The Chief Procurement Officer may delegate his/her authority to subordinates as he/she deems necessary and appropriate by clearly delineating in writing such delegated authority and the limitations thereto.

**Sec 2-361. EXEMPTIONS FROM THE PROCUREMENT ORDINANCE**

- (a) The provisions of the Ordinance shall not apply to:
  - (1) procurement of items of Tangible Personal Property or Services from a state agency, a Local Public Body or External Procurement Unit;
  - (2) printing and duplicating Contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;
  - (3) purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;
  - (4) purchases of books, periodicals, manuals and training materials published in all formats;
  - (5) insurance coverage for the County including but not limited to the New Mexico Association of Counties (excluding the purchase of insurance through a broker);
  - (6) travel by common carrier or by private conveyance and related travel expenditures such as meals and lodging;
  - (7) procurement of Tangible Personal Property or Services, as defined in this Article,

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- 1 from the Corrections Industries Division of the New Mexico Corrections Department;
- 2 (8) purchases consisting of memberships, subscription services (excluding electronic or
- 3 web-based subscription services), conference and training registration fees, and other
- 4 similar purchases where prepayments are required;
- 5 (9) the issuance, sale and delivery of public securities pursuant to the applicable
- 6 authorizing statute, with the exception of bond attorneys and general financial
- 7 consultants;
- 8 (10) Contracts with a private independent Contractor for housing of inmates as well as
- 9 the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and
- 10 33-3-27 NMSA 1978;
- 11 (11) Contracts and expenditures for services or items of Tangible Personal Property to
- 12 be paid or compensated by money or other property transferred to the Bernalillo
- 13 County Sheriff's Department by the United States Department of Justice Drug
- 14 Enforcement Administration;
- 15 (12) Contracts with professional entertainers;
- 16 (13) Contracts and expenditures for legal subscription and research services and
- 17 litigation expenses in connection with proceedings before administrative agencies or
- 18 state or federal courts, including experts, mediators, arbitrators, court reporters,
- 19 process servers and witness fees, but does not include Contracts for legal services;
- 20 (14) Services of lecturers, speakers, trainers, facilitators and scriptwriters, when the
- 21 provider possesses specialized training methods, techniques, or expertise in the
- 22 subject matter;
- 23 (15) Contracts for services relating to the design, engineering, financing, construction
- 24 and acquisition of public improvements undertaken in improvement districts pursuant
- 25 to Subsection L of Section 3-33-14.1 NMSA 1978 and in County improvement
- 26 districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;
- 27 (16) works of art for museums or for display in public buildings or places;
- 28 (17) Contracts with a Person, firm, organization, corporation or association or a state
- 29 educational institution named in Article 12, Section 11 of the Constitution of New
- 30 Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article
- 31 44 NMSA 1978, lease or operation of a County hospital pursuant to the Hospital
- 32 Funding Act [Chapter 4, Article 48B NMSA 1978] or operation and maintenance of a
- 33 hospital pursuant to the Special Hospital District Act [Chapter 4, Article 48A NMSA
- 34 1978];
- 35 (18) direct purchases of advertising in all media, including radio, television, print and
- 36 electronic, excluding Professional Services provided by marketing firms;
- 37 (19) procurement of services from community rehabilitation programs or qualified
- 38 individuals pursuant to the State Use Act [13-1C-1 through 13-1C-7 NMSA 1978];
- 39 (20) purchases of products or Services for eligible Persons with disabilities pursuant to
- 40 the federal Rehabilitation Act of 1973;

**CONTINUATION PAGE 11, ORDINANCE 2018-11.**

- (21) Contracts entered into by the Crime Victims Reparation Commission to distribute federal grants to assist victims of crime, including grants from the federal Victims of Crime Act of 1984 and the federal Violence Against Women Act of 1994;
- (22) purchases of parts and labor or maintenance agreements to repair disabled equipment or machinery if the equipment or machinery is repaired by a franchised dealer or by a factory authorized repair shop or the original equipment manufacturer;
- (23) purchases of computer software, online diagnostic tools, web-based or electronic subscriptions and ancillary services required to match software already in use. This includes licensing fees, upgrades, implementation, maintenance or other related Services for proprietary software, if such services are available from only a single vendor;
- (24) sponsorship Contracts allowing Persons or other entities to publicize the County's participation in community events in return for consideration;
- (25) purchases of drugs, controlled substances and other related chemicals, the distribution and use of which is controlled by law or requires licensing, provided that such purchases are properly receipted and accounted for with appropriate supporting documentation, which shall be subject to internal audit;
- (26) purchases of Tangible Personal Property, and ancillary Services such as installation, training, modification or maintenance, where required to match equipment currently in use and where standardization is in the best interest of the County and where a unique or novel application (available from only a single provider) is required to be used, with all such purchases justified in writing and approved by the Chief Procurement Officer;
- (27) leases, licenses, permits, exchanges or purchases of real property and all other real property transactions, including closing costs;
- (28) postage or shipping Services;
- (29) relocation of utility lines within an easement owned by a public utility which requires its own Contractors to move the utility lines;
- (30) purchases necessary for the investigation of criminal activities, which, if purchased competitively, may compromise an investigation as determined by the Sheriff or designee in writing; all funds expended for this type of activity will be properly receipted and accounted for with supporting documentation maintained by the Sheriff's Department and reviewed on a quarterly basis by the County Manager or designee;
- (31) Contracts for retirement benefits which are paid for directly by County Employees;
- (32) a Contract for materials grown, processed or manufactured in this state by Small Businesses, cooperatives, community self-determination corporations or other such enterprises; prior to negotiating a Contract under this exemption, the Central Purchasing Office shall make a Determination of the reasonableness of the price and the quality of the materials and that the public interest will best be served by the procurement;



**CONTINUATION PAGE 12, ORDINANCE 2018-11.**

(33) procurements exempt from the Ordinance as otherwise provided by law.

**Sec 2-362. SOURCE SELECTION METHODS**

(a) All County procurements shall be made by competitive sealed bids, except:

(1) When competitive sealed proposals, including Requests for Qualifications, are authorized;

(2) For small purchases;

(3) For Sole Source procurement;

(4) For Emergency procurement;

(5) When procured under existing government Contracts or by Cooperative Procurement;

(6) Purchases from antipoverty program businesses;

(7) For Construction Manager at Risk and Design-Build Construction projects.

(b) A Request for Information ("RFI") may be used to determine the market availability or to solicit information on Tangible Personal Property, Services or Construction.

(c) It is a violation of the Ordinance to split Contracts and purchases and/or to participate in any bid rigging activities to circumvent the required purchasing and contracting processes. In no event shall any purchase be arbitrarily or capriciously divided so as to circumvent any requirement of the Ordinance.

**Sec 2-363. COMPETITIVE SEALED BIDS**

(a) The Request for Bids ("RFB") is used to initiate a competitive sealed bid procurement and shall contain:

(1) The Specifications for the Tangible Personal Property, Services, or Construction to be procured;

(2) All Contract terms and conditions applicable to the procurement;

(3) Bid form(s) to be submitted by Bidders;

(4) The location where bids are to be received;

(5) Date, time and place of the bid opening;

(6) The requirements for complying with any applicable preference provisions as required under state statute and this Ordinance;

(7) A notice that states that the County Ordinance imposes civil and criminal penalties for its violation in addition to the penalties for illegal bribes, Gratuities, kickbacks or other criminal activities that are prohibited by the New Mexico Criminal Code.

(b) Notice of an RFB shall not be published prior to the completion or approval of the Request for Bids by the Central Purchasing Office.

(c) Any business requesting an RFB shall, at the time the request is made, provide to the Central Purchasing Office a current mailing address, telephone, fax numbers and email address, if available.

**CONTINUATION PAGE 13, ORDINANCE 2018-11.**

**(d) Amendments to the RFB**

(1) The Central Purchasing Office may amend the RFB to:

- a. Make material changes such as changes in quantity, purchase descriptions, Specifications, delivery schedules and opening dates;
- b. Correct defects or ambiguities;
- c. Furnish all Bidders information given to one Bidder, if such information will assist the other Bidders in submitting bids, or if the lack of such information would prejudice the other Bidders.

(2) Any amendment shall be sent via standard mail, faxed or electronically transmitted to all Bidders that have supplied their current contact information, pursuant to this section, and shall be distributed within a reasonable time to allow prospective Bidders to consider them in preparing their Bids.

**(e) Bidding time**

(1) Bidding time is the period of time between publication of the Request for Bids and the date of bid opening.

(2) The Central Purchasing Office shall allow a reasonable bidding time for preparation of bids, except when a shorter time is determined to be in the best interest of the County. A Request for Bids or a notice thereof shall be published not less than ten calendar days prior to the date set forth for the opening of bids.

**(f) Pre-bid conference**

(1) Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective Bidders known to have received an RFB.

(2) Nothing stated at the pre-bid conference shall change the RFBs unless a change is made by written amendment.

**(g) Receipt and acceptance of bids**

(1) Bids must be accepted for consideration, without alteration or correction, except as authorized in the Ordinance.

(2) Bids are to be evaluated on the requirements set forth in the Request for Bids. Any criteria that affects the bid price, such as discounts, transportation costs, total or life cycle costs, must be objectively measurable. No criteria may be used in bid evaluation that are not set forth in the Request for Bids.

(3) Each bid received by the Central Purchasing Office shall be stamped as received and labeled with date and time of filing. All bids shall be retained by the Central Purchasing Office in a secure place until the date and time for opening.

(h) If the lowest Responsible bid has otherwise qualified, and if there is no change in the original Specifications, terms, and conditions, the County may negotiate with the lowest Bidder for a lower total bid in order to avoid rejection of all bids for the reason that the lowest bid exceeded budgeted project funds.

**(i) Correction or withdrawal of bids**

**CONTINUATION PAGE 14, ORDINANCE 2018-11.**

- 1 (1) A bid mistake discovered before bid opening may be modified or withdrawn by a  
2 Bidder prior to the opening by delivering a written notice to the Central Purchasing  
3 Office.
- 4 (2) After bid opening, no modifications in price or other provisions of bids are permitted.  
5 However, a low Bidder, alleging a material mistake of fact which makes his bid non-  
6 Responsive, may be permitted to withdraw his bid if:
  - 7 a. The mistake is clearly evident on the face of the bid; or
  - 8 b. The Bidder submits evidence which clearly and convincingly demonstrates that  
9 a mistake was made; or
  - 10 c. The decision to permit or deny withdrawal of a bid on the basis of mistake is a  
11 decision to be made by the Central Purchasing Office and shall be supported  
12 by a written Determination setting forth the grounds of the decision.
- 13 (3) After the bid opening and prior to the award, the following provisions apply:
  - 14 a. Minor Technical Irregularities: The Central Purchasing Office may waive  
15 technical irregularities that do not alter the price, quality or quantity of the  
16 Tangible Personal Property, Services, or Construction bid;
  - 17 b. Mistakes where the intent of a bid is clearly evident on the face of the bid  
18 document shall be corrected and may not be withdrawn. Examples of mistakes  
19 that may be clearly evident on the face of the bid document are typographical  
20 errors, errors in extending unit prices, transposition errors, and arithmetical  
21 errors.
- 22 (4) All corrections or withdrawals allowed by the Central Purchasing Office shall be  
23 supported by a written Determination placed in the applicable procurement file.
- 24 (j) A bid shall be opened publicly in the presence of one or more witnesses at the time and  
25 place designated in the RFB. The amount of each bid, and each bid item (if appropriate),  
26 and other relevant information, together with the name of each Bidder, shall be recorded  
27 in the procurement file and each bid shall be open to public inspection. In the event that  
28 all bids are submitted electronically, no public bid opening is required, in which case the  
29 amount of each bid, each bid item, and other relevant information as may be specified by  
30 the bid requirements, together with the name of each Bidder, shall be recorded and made  
31 open to public inspection by the Central Purchasing Office;
- 32 (k) Bid award:
  - 33 (1) Following award, a record of the basis for the award and the names of all people  
34 present at the bid opening shall be made part of the procurement file;
  - 35 (2) Written notice of the award shall be sent to all Bidders of record;
  - 36 (3) A Contract shall be awarded on the bid amount exclusive of any applicable state gross  
37 receipts or local option tax. Contracts shall require the County to pay these applicable  
38 taxes, including any increase that becomes effective after the Contract is executed.  
39 The applicable gross receipts tax or local option tax shall be shown as a separate  
40 amount on each billing or request for payment made under the Contract.

**CONTINUATION PAGE 15, ORDINANCE 2018-11.**

(l) Identical low bids. When two or more identical low bids are received and all applicable preferences have been applied, the Central Purchasing Office may:

- (1) Award pursuant to the Multiple Source Award provisions of this Article;
- (2) Award to a business or Contractor who qualifies for any preferences pursuant to this Article if the identical low bids are submitted by a business or Contractor that does not qualify for any preferences;
- (3) Award by lottery to one of the identical low Bidders; or
- (4) Reject all bids and resolicit bids or proposals for the required Tangible Personal Property, Services, or Construction.

(m) Bid and performance bonds and other security.

- (1) Bid security, performance bonds or other security may be required for Contracts for items of Tangible Personal Property, Services, or Construction as deemed necessary to protect the County.
- (2) Any bonding requirements shall not be used as a substitute for a Determination of the Responsibility of a Bidder or Offeror.
- (3) When the RFB requires bid security, noncompliance by the Bidder requires that the bid be rejected.
- (4) If a Bidder is permitted to withdraw its bid before award, no action shall be taken against the Bidder or its surety.
- (5) As to performance and payment bonds for Construction Contracts, see the requirements of Section 13-4-18 NMSA 1978 and Division 2 of this Article.

**Sec 2-364. REQUEST FOR QUALIFICATIONS**

A Request for Qualifications may be issued requesting the submission of unpriced offers to be followed by a formal solicitation limited to those Bidders or Offerors whose offers have been qualified under the criteria set forth in the first solicitation.

**Sec 2-365. COMPETITIVE SEALED PROPOSALS**

(a) The Request for Proposals ("RFP") is used to initiate a competitive sealed proposal and competitive sealed qualifications-based proposal and may be used when procuring:

- (1) Professional Services;
- (2) Design and build projects;
- (3) Contracts for Construction and facility maintenance, Service and repairs;
- (4) Construction Manager at Risk Contracts;
- (5) Contracts for design and installation of measures the primary purpose of which is to conserve natural resources including guaranteed utility savings Contracts entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act [Chapter 6, Article 23 NMSA 1978]; or
- (6) Other items of Tangible Personal Property, Services or Construction when the use of competitive sealed bidding is either not practicable or advantageous to the County.

**CONTINUATION PAGE 16, ORDINANCE 2018-11.**

(b) Competitive qualifications-based proposals shall be used for procurement of Professional Services of architects, engineers, landscape architects, Construction Managers and surveyors who submit proposals pursuant to the requirements of the Ordinance.

(c) Competitive sealed proposals, including competitive sealed qualifications-based proposals, shall include:

(1) The Specifications for the Tangible Personal Property, Services or Construction to be procured;

(2) All contractual terms and conditions applicable to the procurement;

(3) Instructions and information to Offerors, including the date, time, and place where proposals are to be received and reviewed;

(4) All evaluation factors, including the relative weight to be given to each factor, including price, when applicable;

(5) A statement that discussions may be conducted with Offerors who submit proposals, but that proposals may be accepted without such discussions;

(6) The form for disclosure of campaign contributions given by Prospective Contractors to Applicable Public Officials pursuant to the requirements of the Ordinance; and

(7) The requirements for complying with any applicable preference provisions as required under state statute and this Ordinance.

(d) In selecting qualified financial institutions, the Central Purchasing Office shall include socially responsible banking performance as a factor worth at least 15 percent of the total point value in determining the winning offer.

(e) A Request for Proposals may require that all or a portion of a Responsive proposal be submitted electronically.

(f) In the case of requests for competitive qualifications-based proposals, price shall be determined by formal negotiations related to scope of work.

(g) Offerors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Negotiations may be conducted with Responsible Offerors who submit proposals found to be reasonably likely to be selected for award. This section shall not apply to architects, engineers, landscape architects and surveyors who submit proposals pursuant to the requirements of this Article.

(h) The contents of any proposal shall not be disclosed so as to be available to competing Offerors during the negotiation process and prior to award. Award in this context means the final required signature on the Contract(s) resulting from the procurement.

(i) The award shall be made to the Responsible Offeror or Offerors whose proposal is most advantageous to the County, taking into consideration the evaluation factors set forth in the Request for Proposals.

**Sec 2-366. FORMAL COMPETITIVE SEALED BID AND PROPOSAL MATTERS**

**CONTINUATION PAGE 17, ORDINANCE 2018-11.**

- (a) A notice of any formal competitive solicitation (i.e. RFB, RFP) shall be published for not less than ten calendar days prior to the date set forth for the opening of bids or proposals. The notice shall be published at least once in a newspaper of general circulation in the County and may be posted on the County's website to notify interested parties of the project.
- (b) A copy of any formal competitive solicitation (RFB, RFP) shall be made available for public inspection at the Central Purchasing Office or by electronic posting on the internet.
- (c) The Central Purchasing Office shall send copies of the notice of formal competitive solicitations (RFB, RFP) to those businesses that have signified in writing an interest in submitting bids or proposals for particular categories of items of Tangible Personal Property, Services or Construction and that have paid any fees, if required. The Central Purchasing Office may satisfy the requirement of sending copies of a notice of bids or proposals by distributing the documents to prospective Bidders through electronic media.
- (d) A Request for Bids, a Request for Proposals or any other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part when it is in the best interest of the County. If no bids are received or if all bids received are rejected and if the Request for Bid was for Tangible Personal Property, Services or Construction, then new Request for Bids may be issued. If upon rebidding the Tangible Personal Property, Services or Construction, the bids received are unacceptable, or if no bids are secured, the Central Purchasing Office may purchase the Tangible Personal Property, Services or Construction in the open market at the Best Obtainable Price.
- (e) Minor Technical Irregularities: The Central Purchasing Office may waive technical irregularities in bids or proposals that do not alter the price, quality or quantity of the items of Tangible Personal Property, Services or Construction. Technical irregularities are matters of form, rather than substance, which are evident from the bid or proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other Bidders or Offerors; i.e. when there is no effect on the price, quantity, quality, delivery or material Contract conditions. The Chief Procurement Officer or designee may waive such irregularities, or allow the low Bidder(s) or Offeror(s) to correct them, if either action is in the best interest of the County. Examples include, but are not limited to, the failure of a low Bidder(s) or Offeror(s) to: (i) Return the number of signed bids or proposals required by the solicitation; (ii) Sign the bid or proposal, but only if the unsigned bid or proposal is accompanied by other material indicating the low Bidder's or Offeror's intent to be bound; (iii) or acknowledge receipt of an addendum to the RFB or RFP, but only if it is clear from the bid or proposal that the low Bidder(s) or Offeror(s) received the addendum and intended to be bound by its terms or the addendum involved had no effect on price, quality or quantity.
- (f) Standards of Responsibility for Bidders or Offerors: Factors to be considered in determining whether the standard of Responsibility has been met include whether a Bidder or Offeror has:
- (1) submitted a Responsive bid or offer;
  - (2) ability, capacity, availability and skill to perform the Contract;
  - (3) adequate financial resources, production or service facilities, personnel, service

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reputation and experience to make satisfactory delivery of the Tangible Personal Property, Services or Construction described in the RFB or RFP;

(4) a satisfactory record of previous performance on similar work;

(5) a satisfactory record of integrity, character, customer service, reputation and judgment;

(6) previous and existing compliance with laws;

(7) met the requirements of the Unfair Business Practices provisions of this Article;

(8) qualified legally to Contract with the County; and

(9) supplied all necessary information and data in connection with any inquiry concerning Responsibility.

(g) Finding of Responsibility: If a Bidder or Offeror who otherwise would have been awarded a Contract is found not to be a Responsible Bidder or Offeror, a Determination that the Bidder or Offeror is not a Responsible Bidder or Offeror, setting forth the basis of the finding, shall be prepared by the Chief Procurement Officer or designee. The unreasonable failure of a Bidder or Offeror to promptly supply information in connection with an inquiry with respect to Responsibility is grounds for a Determination that the Bidder or Offeror is not a Responsible Bidder or Offeror.

(h) Prequalification: A business may be prequalified by the Central Purchasing Office as a Bidder or Offeror for particular types of Tangible Personal Property, Services or Construction.

**Sec 2-367. PROCUREMENT PREFERENCES**

(a) For the purposes of this section:

(1) Business means a commercial enterprise carried on for the purpose of selling Tangible Personal Property or Services, including growing, producing, processing or distributing agricultural products.

(2) Formal Solicitation means a competitive bid process or competitive proposal process, including a competitive qualifications-based proposal process.

(3) Local Business means a business that holds a valid Resident Business/Contractor certificate from the New Mexico Taxation and Revenue Department pursuant to 13-1-22, NMSA 1978 and maintains its principal office and place of business in Bernalillo County, which is staffed and open to the public on a regular basis, subject to verification by the County.

(4) Pay Equity Business means any business that maintains a deviation of 7% or less between the salaries paid to men and salaries paid to women for comparable positions, as reported in the Pay Equity Reporting form that has been submitted by each Bidder and/or Offeror as prescribed under this Article. For purposes of this definition, comparable positions are those listed in the Job Classification Guide 2010 (as may be updated and amended from time to time) published by the federal Equal Employment Opportunity Commission.

(5) Recycled Content Goods means supplies and materials composed of 25% or more

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recycled materials; provided that the recycled materials content meets or exceeds the minimum content standards required by bid Specifications.

(6) Small Business shall mean a Local Business which employs an average of fewer than fifty (50) full-time employees in a calendar year, which number shall be verified by submittal of an affidavit from a Certified Public Accountant.

(7) State Resident Business/Contractor means a business that has a valid Resident business certificate or a valid Resident Contractor business certificate issued by the New Mexico Taxation and Revenue Department pursuant to 13-1-22, NMSA 1978.

(8) State Veteran Resident Business /Contractor means a Resident Veteran Business that has a valid Veteran Resident Business certificate or a valid Resident Veteran Contractor certificate issued by the New Mexico Taxation and Revenue Department pursuant to 13-1-22, NMSA 1978.

(b) Application of State and County Preferences

(1) When making a purchase through a formal solicitation process of Tangible Personal Property, Services or Construction, and prior to making a recommendation of award, the Central Purchasing Office shall apply the applicable preferences and related percentages as provided below. Preferences under the New Mexico State Procurement Code Section 13-1-21, NMSA 1978 shall be applied before any County preferences created under this Ordinance. The total amount of all preferences is limited as provided herein.

(2) State Preferences

a. The State Resident Business preference of 5% shall be applied to a qualified bid or proposal submitted in response to a Request for Bids or Request for Proposals for the purchase of Tangible Personal Property or Services in accordance with state law.

b. The State Resident Contractor preference of 5% shall be applied to a qualified bid or proposal submitted in response to a competitive solicitation for the purchase of Construction in accordance with state law.

c. The State Veteran Business preference of 10% shall be applied to a qualified bid or proposal for the purchase of Tangible Personal Property, Services and Construction submitted in response to a competitive solicitation by a state certified Veteran's business in accordance with state law.

d. The State Veteran Contractor preference of 10% shall be applied to a qualified bid or proposal for the purchase of Tangible Personal Property, Services and Construction submitted in response to a competitive solicitation by a state certified Veteran's business in accordance with state law.

e. The Recycled Content Goods preference of 5% shall be applied to a qualified bid or proposal from any Business in accordance with state law, except a Resident Veteran Business.

f. The Recycled Content Goods preference of 10% shall be applied to a qualified bid or proposal from a Resident Veteran Business with annual gross revenues



of up to \$3,000,000 in the preceding tax year in accordance with state law.

- g. The Central Purchasing Office shall not apply a business both a State Resident Business/Contractor preference and a State Resident Veteran Business/Veteran Contractor preference in accordance with state law.

**(3) County Preferences**

- a. A Local Business preference of 5% shall be applied to a qualified bid or proposal submitted in response to a competitive solicitation for the purchase of Tangible Personal Property, Services and Construction by a local business, as defined herein.
- b. A Small Business preference of 5% shall be applied to a qualified bid or proposal, submitted in response to a competitive solicitation for the purchase of Tangible Personal Property, Services and Construction by a Small Business as defined herein.
- c. A Pay Equity preference of 5% shall be applied to a qualified bid or proposal, submitted in response to a competitive solicitation that at the time of submittal holds a valid Pay Equity Business Certificate issued by the County or any political subdivision of the State of New Mexico.

**(4) Order of Application of Preferences**

- a. When the Central Purchasing Office makes a purchase using a formal bid process, the County shall deem any bid subject to any of the preferences listed in this Ordinance to be lower by the specified percentage listed in the specific preference than the bid actually submitted; and
- b. When the Central Purchasing Office makes a purchase using a formal Request for Proposals process based on either a point-based system and / or weight factors, the Central Purchasing Office shall apply an additional percentage of the total possible points or the total weight of all the factors used in evaluating the proposals in the amounts specified in this Ordinance.

**(5) Eligibility for Preferences**

- a. To qualify for the state's Resident Business and / or Resident Contractor preference, the Bidder or Offeror must submit with its bid or proposal its Resident Business and / or Resident Contractor Certificate issued by the State of New Mexico with its submittal.
- b. To qualify for the state's Resident Veteran's preference, the Bidder or Offeror must submit with its bid or proposal the certificate of its Resident Veteran's Business and / or Resident Veteran's Contractor preference issued by the State of New Mexico.
- c. If necessary, the Central Purchasing Office may seek additional information or proof to verify a local business eligibility for a local preference.
- d. Only the Bidder or Offeror submitting a bid or proposal and not a subcontractor, may qualify for a preference.

e. Pay Equity Reporting Form and Pay Equity Preference:

i) Reporting Form: All competitive sealed bids and competitive sealed proposals may include a completed Bernalillo County Pay Equity Reporting Form to determine the deviation between salaries for men and women and to encourage compliance with the New Mexico State Fair Pay for Women Act. The Central Purchasing Office shall require that bids and proposals include the Form for the Bidder to be eligible for this preference. The Central Purchasing Office may allow for a revised Pay Equity Reporting Form to be submitted by the respondent should, in their sole opinion, the originally submitted form require a technical change;

ii) Certification: The County Manager or designee shall provide a Pay Equity Business Certificate to businesses that meet, to his/her satisfaction, the requirements contained herein. Certificates shall only be valid for the duration set forth on their face as allowed under the statute, Ordinance or regulation of the State of New Mexico or political subdivision that issued said certificate;

iii) The pay equity preference described herein shall not become available until the County Manager or designee establishes its own pay equity preference certification program or enters into an agreement with the State of New Mexico or one of its political subdivisions that allows the Central Purchasing Office to use its pay equity certification program.

(6) Limitation (percentage): The total amount of all preferences applied under this section including the applicable State preference, for the purchase of Tangible Personal Property, Services or Construction in any single award shall not exceed 15%, with the limit on State preferences as set forth under the New Mexico State Procurement Code.

(7) County Preference Limitation (dollar amount): When applying the County preferences as set forth in this section, the total dollar amount of County preferences shall never exceed \$150,000.00.

(8) Protests: The procedures provided in the Ordinance governing protests and judicial review apply to a protest concerning the awarding of a Contract in violation of this section.

(9) This section shall not apply when the expenditure includes federal funds for the specific purchase is involved, or when the expenditure of grant funds includes a condition of which prohibits a local preference.

**Sec 2-368. SMALL PURCHASES**

(a) The Central Purchasing Office shall procure items of Tangible Personal Property, Services or Construction having a value not exceeding \$100,000, excluding applicable state and local gross receipts taxes, in accordance with the applicable small purchase rules adopted by the Central Purchasing Office.

(1) Insofar as it is practical for small purchases of non-Professional Services, Construction or items of Tangible Personal Property having a value exceeding

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\$20,000 but not exceeding \$100,000, no fewer than three businesses shall be solicited via written requests containing the Specifications for the procurement; written Quotes shall be recorded and placed in the procurement file.

(2) If three written Quotes cannot be obtained, the User shall document the reasons and include the document in the procurement file. Award shall be made to the business offering the lowest acceptable Quote.

(3) If the lowest Quote is not acceptable, the Central Purchasing Office must issue a written Determination as to the reasons for such a decision. These reasons must not be arbitrary or capricious and the written Determination shall become a part of the procurement file.

(b) Notwithstanding the requirements of this section, the County may procure items of Tangible Personal Property, Services or Construction having a value not exceeding \$20,000, excluding applicable state and local gross receipts taxes, based upon the Best Obtainable Price.

(c) Notwithstanding the requirements of this section, the Central Purchasing Office may procure Professional Services having a value not exceeding \$80,000, excluding applicable state and local gross receipts taxes based upon the Best Obtainable Price.

(d) Contracting with firms or individuals to provide professional Architectural, Engineering, Construction Management and other related Professional Services, including Landscape Architectural or Surveying Services, shall be accomplished in accordance with the provisions of the applicable sections of this Article. The Central Purchasing Office shall negotiate a Contract for the required Services at a fair and reasonable price to the County.

(e) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

**Sec 2-369. SOLE SOURCE PROCUREMENT**

(a) A Contract for Tangible Personal Property, Services or Construction may be awarded without competitive sealed bids or competitive sealed proposals, regardless of the estimated cost, when the Chief Procurement Officer or designee makes a written Determination, after conducting a good-faith review of available sources and consulting the User Department, that:

(1) There is only one source for the required Tangible Personal Property, Services or Construction;

(2) The Tangible Personal Property, Services or Construction are unique and this uniqueness is substantially related to the intended purpose of the Contract; and

(3) Other similar Tangible Personal Property, Services or Construction cannot meet the intended purpose of the Contract.

(b) The Central Purchasing Office shall use due diligence in determining the basis for the Sole Source procurement, including reviewing available sources and consulting the User, and shall include its written Determination in the procurement file.

(c) The Central Purchasing Office shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the County.

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- (d) The Central Purchasing Office shall not circumvent this section by narrowly drafting Specifications so that only one predetermined source would satisfy those Specifications.
- (e) At least fifteen calendar days before a Sole Source Contract is awarded, the Central Purchasing Office shall post notice of the intent to award a Sole Source Contract on its web site. The notice shall identify at a minimum:
- (1) The Contractor's name and address;
  - (2) The estimated amount and term of the Contract;
  - (3) A listing of the Tangible Personal Property, Services or Construction procured under the Contract; and
  - (4) The justification for the procurement method.
- (f) The record of each such procurement shall be Public Record and shall be maintained as required by applicable New Mexico statutes and regulations regarding records retention.
- (g) Any qualified potential Contractor who was not awarded a Sole Source Contract may protest to the Central Purchasing Office. The protest shall be submitted in writing within fifteen calendar days of the notice of intent to award a Contract being posted by the Central Purchasing Office.

**Sec 2-370. EMERGENCY PROCUREMENT**

- (a) The Central Purchasing Office may make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances.
- (b) An emergency condition is a situation that creates a threat to public health, welfare or safety such as may arise by reason of floods, fires, epidemics, riots, acts of terrorism, equipment failures or similar events and includes the planning and preparing for an emergency response. The existence of the emergency condition creates an immediate and serious need for items of Tangible Personal Property, Services or Construction that cannot be met through normal procurement methods and the lack of which would seriously threaten:
- (1) The functioning of government;
  - (2) The preservation or protection of property; or
  - (3) The health or safety of any Person.
- (c) Emergency procurements shall not include the purchase or lease purchase of heavy road equipment.
- (d) The Central Purchasing Office shall use due diligence in determining the basis for the emergency procurement and for the selection of the particular Contractor. The Determination shall be in writing and included in the procurement file.
- (e) Within three business days of awarding an emergency procurement Contract, the Central Purchasing Office shall post on its web site the notice, identifying, at a minimum:
- (1) The Contractor's name and address;

(2) The amount and term of the Contract;

(3) A listing of the Tangible Personal Property, Services or Construction procured under the Contract; and

(4) The justification for the procurement method.

(f) The record of each such procurement shall be Public Record and shall be maintained as required by applicable New Mexico statutes and regulations regarding records retention.

**Sec 2-371. EXISTING GOVERNMENT CONTRACTS AND COOPERATIVE  
PROCUREMENT (AS A MEANS OF SOURCE SELECTION)**

(a) Existing Government Contracts: Notwithstanding the other requirements of the Ordinance, the Central Purchasing Office may Contract for Tangible Personal Property, Services or Construction without use of competitive sealed bids or competitive sealed proposals as follows:

(1) at a price equal to or less than the Contractor's current federal supply Contract price (GSA), providing the Contractor has indicated in writing a willingness to extend such Contractor pricing terms and conditions to the County and the Purchase Order adequately identifies the Contract relied upon;

(2) with a business which has a current exclusive or nonexclusive Price Agreement with the state purchasing agent or a Central Purchasing Office for the item, Services or Construction meeting the same standards and Specifications as the items to be procured if the following conditions are met:

a. the quantity purchased does not exceed the quantity which may be purchased under the applicable Price Agreement; and

b. the Purchase Order adequately identifies the Price Agreement relied upon;

(3) at a current Contract price obtained by any other public agency, Local Public Body, External Procurement Unit or cooperative purchasing agency using competitive solicitation processes publicized in accordance with the requirements of the procurement laws and regulations applicable to that agency.

(b) Cooperative Procurement:

(1) The County may participate in, sponsor or administer a Cooperative Procurement agreement for the procurement of any items of Tangible Personal Property, Services or Construction with any other state agency, Local Public Body or External Procurement Unit in accordance with an agreement entered into and approved by the governing authority of each of the state agencies, Local Public Bodies or External Procurement Units involved.

(2) The Cooperative Procurement agreement shall clearly specify the purpose of the agreement and the method by which the purpose will be accomplished. Any power exercised under a Cooperative Procurement agreement entered into pursuant to this subsection shall be limited to the central purchasing authority common to the contracting parties, even though one or more of the contracting parties may be located outside this state.

(3) All Cooperative Procurement agreements, where the County acts as lead agency, shall be available for public viewing on the County's website. The records for all other Cooperative Procurement agreements shall be Public Records and shall be maintained and available for inspection as required by applicable New Mexico statutes and regulations.

(c) The Central Purchasing Office shall retain a copy of each Contract relied upon; these Contracts may be required for auditing purposes and for public review.

**Sec 2-372. INSURANCE RELATED PURCHASES**

(a) Insurance coverage for the County, other than Employee health care and other voluntary Employee benefits, may be remarketed by a controlled bidding process through a broker under the direction of the County's Risk Management Department.

(b) Employee health care insurance and other voluntary Employee benefits shall be obtained in accordance with the procurement methods described in this Article.

(c) The selection of the County's broker responsible for the negotiation of insurance coverages for the County will be obtained in accordance with the procurement methods described in this Article.

**Sec 2-373. ANTIPOVERTY PROGRAM BUSINESS PURCHASES**

(a) Without regard to the bid requirements of this Article, the Central Purchasing Office may negotiate a Contract for materials grown, processed or manufactured in this state by Small Businesses, cooperatives, community self-determination corporations or other such enterprises designed and operated to alleviate poverty conditions and aided by state or federal antipoverty programs or through private philanthropy.

(b) Prior to negotiating a Contract under this section, a Central Purchasing Office shall make a Determination of the reasonableness of the price and the quality of the materials and that the public interest will best be served by the procurement.

**Sec 2-374. ASSISTANCE TO SMALL BUSINESS**

(a) The Central Purchasing Office shall develop training programs to assist small businesses in learning how to do business with the County.

(b) The Central Purchasing Office may make special provisions for progress payments as such office or officer may deem reasonably necessary to encourage procurement from small businesses in accordance with procedural rules promulgated by the Central Purchasing Office.

(c) The Chief Procurement Officer may reduce the bid bond, performance bond or payment bond to encourage procurement from small businesses, except as otherwise provided by law.

**Sec 2-375. PUBLIC ACQUISITION OF AMERICAN MADE MOTOR VEHICLES REQUIRED**

(a) The County shall only acquire motor vehicles assembled in North America except for gas-electric hybrid vehicles until these vehicles are assembled in North America;

provided that this section shall not apply to motor vehicles used for law enforcement purposes. For the purposes of this section, "motor vehicle" means a light-duty vehicle under eight thousand five hundred pounds.

**Sec 2-376. UNFAIR BUSINESS PRACTICES**

(a) For the purposes of this Section, "Unfair Business Practices" shall mean a system or pattern of acts or practices that a relevant federal or state enforcement agency has made a formal finding within the last three years to be discriminatory, deceptive, fraudulent, or abusive (or similar terms) under the New Mexico Unfair Practices Act, NMSA 1978, § 57-12-1 et seq, or an applicable federal or other state consumer protection law relating to the subject matter of the procurement) or that have violated a relevant criminal statute, as evidenced by a public enforcement order or judgment, settlement with the enforcement agency or other formal finding by the relevant enforcement agency with regulatory enforcement authority under the applicable consumer protection law, or criminal conviction.

(b) The County finds that it is a priority to protect its interests and the public's trust by conducting its business with partners that are committed to and consistently demonstrate engaging in fair and responsible business practices. The general purpose and intent of this Section are to ensure to the maximum extent practicable that the County's contracting practices support conducting its business with partners who are committed to and consistently demonstrate engaging in fair and responsible business practices and avoid conducting its business with partners that engage in criminal or systematic deceptive, fraudulent or abusive business practices.

(c) Requirements:

(1) All RFBs and RFPs will include an Unfair Business Practices Disclosure Form for the reporting of all relevant violations that shall be submitted together with the bid or proposal;

(2) Any Person or entity who has reported, or failed to report, relevant violations constituting Unfair Business Practices as set forth in this Article may be subject to rejection of bid or proposal based on finding of non-Responsibility;

(3) All Contractors shall report to the Central Purchasing Office all additional Unfair Business Practices violations during the term of their agreement(s) with the County;

(4) Any Person or entity that is awarded a Contract with the County who has been found to engage in Unfair Business Practices as set forth in this Article may be subject to Contract termination.

(d) The County Manager or designee may waive the requirements of this section when it is in the best interests of the County.

**Sec 2-377. PROCUREMENT OF BANKING SERVICES**

(a) Socially Responsible Banking

(1) The Chief Procurement Officer, in conjunction with the Deputy County Manager for Finance, in selecting qualified depositories for County moneys, shall have the power

and duty to:

- a. Require that prospective Offerors provide the County with data on their socially responsible banking practices;
- b. Utilize socially responsible banking performance as a factor in determining the successful proposal;
- c. Accept proposals for depository services only from financial institutions that have received a rating of "Outstanding" in their most recent Community Reinvestment Act review by the Office of the U.S. Comptroller of the Currency, U.S. Federal Reserve Bank or the Federal Deposit Insurance Corporation. The Chief Procurement Officer may waive this requirement, with written notice to the County Commission, in the event that no qualified Offerors apply, the federal program is no longer applicable, or to satisfy a compelling County need;
- d. Include in Contracts for depository services a statement of work that provides a framework for socially responsible banking;
- e. Establish relevant reporting criteria and timeframes to validate the statement of work.

(2) Socially responsible banking proposal criteria shall include, but are not limited to, community involvement and reinvestment; meeting community banking needs; supporting small business lending and community development; providing for home ownership and consumer credit; assisting distressed homeowners; and allowing for products and services that are advantageous for the County and its Residents.

(b) Statement of Work:

- (1) The statement of work for socially responsible banking tasks shall include, but is not limited to, the following:
  - a. Community Involvement and Reinvestment
    - i) The bank will report to the County on its efforts to invest in low- and moderate- income areas and minority census tracts.
    - ii) The bank, through its community investment program or other similar program, will collaborate and support annually at least one designated non-profit organization focused on providing financial services, education and asset building for low-income people in the County.
    - iii) The bank, through its community investment program or other similar program, will collaborate with and support annually at least one organization that provides free tax preparation Services in the County that target lower-income workers to help them take advantage of the Earned Income Tax Credit and other tax credits.
    - iv) The bank will report on its community development activities (such as investments, lending, and Services) to demonstrate the bank's response to the credit, financial and banking needs of low- to moderate- income individuals in the County and surrounding areas.



v) The bank will provide the County with reasonable notice of branch closures and openings within the County, including the reasons for any closures.

b. Community Banking Needs

i) The bank will continue to support and participate in programs that strive to reach traditionally underserved populations as described in the Community Reinvestment Act. These programs may include unbanked, under banked, and low-income populations. The bank will provide free or low-cost services and products and increase access to these underserved populations.

ii) The bank will make its best effort to offer consumers prepaid debit cards with the primary features and criteria outlined in the Cities for Financial Empowerment (CFE) Coalition's Bank on National Account Standards.

iii) The bank will provide easy-to-understand fee schedules and make a reasonable effort to offer fair, responsible, and affordable small-dollar loans.

c. Small Business Lending and Community Development. The bank will provide a single point of contact for business lending and partnership, and will participate as agreed in small business trade fairs, outreach or educational opportunities.

d. Home Ownership and Consumer Credit

i) The bank will provide a single point of contact in its loan servicing group for the County Manager or designee.

ii) The bank will participate in outreach and educational opportunities aimed at salvaging distressed home mortgages, will collaborate with HUD-certified housing counseling services, and will inform customers who do not qualify for home loans or other products about local non-profit credit and debt counseling services.

(2) The Chief Procurement Officer, in conjunction with the Deputy County Manager for Finance, may propose exceptions to this statement of work, subject to Board approval by resolution, in future Contract cycles.

(c) Reporting:

(1) Any banking Contract must include a requirement that the bank provide the following reporting:

a. Residential lending information - The bank will provide the total number and the total dollar amount of Residential loans for one- to four-family dwellings applied for and originated during the previous calendar year in each of the following listed categories. The data shall be provided for the entire County by zip code. For home loans, fixed-rate loans shall be reported separately from adjustable-rate loans.

i) Home purchase loans, both federally insured and conventional loans;

ii) Refinancing of home loans;

- 1                   iii) Home improvement loans;  
2                   iv) Home equity loans;  
3                   v) Multi-family loans;  
4                   vi) Loans to non-occupant owners of single-family housing;  
5                   vii) Modifications of distressed loans and the type of modification, including  
6                   interest rate reductions, forbearance, principal reduction, or repayment plans  
7                   in which the outstanding loan amount increases, and an indication of whether  
8                   the modification was executed under the federal Home Affordable  
9                   Modification Program (HAMP), another federal program or the institution's  
10                  own modification program;  
11                  viii) Short sales, deeds in lieu, and other mechanisms besides loan  
12                  modifications that avoid foreclosure;  
13                  ix) Defaults and delinquencies on home loans.  
14              b. Small business lending information - The bank will provide the total number  
15                  and the total dollar amount of small business loans originated during the  
16                  previous calendar year for the entire County by zip code, and for minority-  
17                  and women-owned business enterprises in the entire County. Loans to small  
18                  businesses with annual revenues above \$1 million dollars shall be reported  
19                  separately from loans to small businesses with annual revenues under \$1  
20                  million. The bank may use data reporting procedures mandated by the federal  
21                  Community Reinvestment Act for reporting small business loans.  
22              c. Community development loans and investments - The bank will provide the  
23                  number and dollar amount of community development loans and investments  
24                  including loans and investments for affordable housing, small business  
25                  development, economic development and community facilities for the entire  
26                  County by zip code or neighborhood. The bank may use definitions of  
27                  community development found in federal Community Reinvestment Act  
28                  regulations. For each loan and investment, the bank will indicate if the loan or  
29                  investment was for affordable housing, small business development, economic  
30                  development, community facilities and other such categories requested by the  
31                  Director.  
32              d. Consumer loan data - The number and dollar amount of consumer loans for the  
33                  entire County by zip code. Price information shall be reported in a manner  
34                  similar to Home Mortgage Disclosure Act (HMDA) data.  
35              e. Checking, savings and loan products - Information on selected checking,  
36                  savings, prepaid card, small dollar loan and other products marketed to  
37                  County Residents, including information on fees, interest and features.  
38              f. Other - Narrative descriptions will be required to describe efforts to meet all  
39                  other items set forth in the statement of work.  
40              (2) The Chief Procurement Officer, in conjunction with the Deputy County Manager for  
41                  Finance, may propose exceptions to these reporting elements, subject to Board

approval by resolution, in future Contract cycles.

**Sec 2-378. CONTRACTS**

(a) Contract Approval: The County Manager or designee shall have the authority to approve all Contracts for the County; Contracts in excess of any amounts adopted by resolution of the Board shall be approved by the Board in accordance with the requirement of the applicable resolution.

(b) Contract Classifications: The Chief Procurement Officer shall determine the use of standard and specialized Contracts including but not limited to Definite Quantity Contracts, Indefinite Quantity Contracts and Price Agreements (including Cost-Plus-Percentage-of-Cost Contracts), as required acting in the best interest of the County; provided that the County shall not enter into any Contract for Construction which is a Cost-Plus-Percentage-of-Cost Contracts, unless the Contract meets the requirements in this Article for an Emergency purchase or is determined by the Chief Procurement Officer to be in the best interest of the County. A cost-reimbursement Contract may be used when such Contract is likely to be less costly or it is impracticable to otherwise obtain the items of Tangible Personal Property, Services or Construction required.

(c) Contract Clauses: All County Contracts shall include provisions necessary to define the responsibilities and rights of the parties to the Contract. The Chief Procurement Officer shall include uniform clauses that protect the best interest of the County, including but not limited to the following subjects:

(1) Unilateral right of the County to order in writing:

a. Changes in the work within the scope of the Contract; and

b. Temporary stoppage of the work or the delay of performance;

(2) Variations occurring between estimated quantities of work in a Contract and actual quantities;

(3) Liquidated damages;

(4) Permissible excuses for delay or nonperformance;

(5) Termination of the Contract for default;

(6) Termination of the Contract in whole or in part for the convenience of the County;

(7) Assignment clauses providing for the assignment by the Contractor to the County of causes of action for violation of state or federal antitrust statutes;

(8) Identification of subcontractors by Bidders; and

(9) Uniform subcontract clauses in Contracts.

(10) Insurance provisions (if applicable)

(d) The County shall include a clause in Contracts imposing late payment charges against the County in the amount and under the conditions stated in in this Article.

(e) Price Adjustments: Adjustments in price shall be computed in one or more of the following ways as specified in the Contract:

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- (1) In such other manner as the Contracting parties may mutually agree; or
  - (2) In the absence of agreement by the parties, by a unilateral Determination reasonably computed by the County of the costs attributable to the events or conditions.
- (f) Multi-year Contracts
- (1) Prerequisites. Prior to the use of a multi-year Contract, the Central Purchasing Office shall determine that:
    - a. The estimated requirements cover the period of the Contract and are reasonably firm and continuing; and
    - b. The Contract will serve the best interests of the County.
  - (2) A multi-year Contract for items of Tangible Personal Property, Services or Construction except for Professional Services may be entered into for any period of time deemed to be in the best interests of County not to exceed ten years.
  - (3) A multi-year Contract for Professional Services may be entered into for any period of time not to exceed six years, including all extensions, except for the following:
    - a. Contracts for the Services of trustees, escrow agents, registrar, paying agents, letter of credit issuers and other forms of credit enhancement; and other similar Services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities remain outstanding;
    - b. Contracts for Services relating to measurement and verification of conservation-related cost savings and utility cost savings pursuant to the Public Facility Energy Efficiency and Water Conservation Act; and
  - (4) For Construction, Architectural, and Engineering Services provided for specific projects already in progress, the Chief Procurement Officer, by written Determination, may approve an extension beyond a multi-year term set forth in this Section.
  - (5) Availability of funds: Payment and Contractor performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds.
  - (6) Cancellation: If funds are not appropriated or otherwise made available to support continuation of the multi-year Contract, the Contract shall be cancelled.
- (g) Multiple Source Award: A Multiple Source Award may be made pursuant to the competitive sealed bid or competitive sealed proposal requirements of this Article when awards to two or more Bidders or Offerors are necessary for adequate delivery or service. Multiple source awards shall not be made when a single award will meet the needs of the County without sacrifice of economy or service. A Multiple Source Award shall be based upon the lowest Responsible bid as identified by Competitive Sealed Bids or most highly qualified as identified by Competitive Sealed Proposals.

**Sec 2-379. PROCUREMENT OF USED ITEMS**

- (a) When procuring used items of Tangible Personal Property, the estimated cost of which

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exceeds \$20,000, shall request Quotes as though the items were new, adding Specifications that permit used items under conditions which may include but are not limited to:

- (1) Requiring a written warranty for at least 90 days after date of delivery; and
  - (2) An independent "certificate of working order" by a qualified mechanic or appraiser.
- (b) All purchases of used items under \$20,000 shall be made at the Best Obtainable Price.
- (c) The price paid for used items, including all fees and applicable surcharges, shall not exceed the current value established by:
- (1) The current book value established by any well-recognized market-value guide or publication, where such information is available;
  - (2) Where such information is not available, price shall not exceed the value as established (a) by appraisal, or (b) by the price of comparable goods;
  - (3) The provisions of this section shall apply to the purchase of used items by auction, through private sale, or through public sale.

**Sec 2-380. TRADE IN OR EXCHANGE OF USED ITEMS**

- (a) The Central Purchasing Office, when trading in or exchanging used items of Tangible Personal Property the estimated value of which exceeds five thousand dollars (\$5,000) as part-payment on the procurement of new items of Tangible Personal Property, shall:
- (1) have two written Quotes for purchase of the property at a specified price; or
  - (2) have an independent appraisal made of the items to be traded in or exchanged, which shall be in writing, shall be made part of the procurement file and shall be a Public Record.
  - (3) contain notice in applicable Request for Bids or Request for Proposals to prospective Bidders or Offerors which includes the description and Specifications of the items to be traded in or exchanged, the appraised value of the items to be traded in or exchanged, and the location where the items to be traded in or exchanged may be inspected.
- (b) Award shall be based upon the net bid. Bidders or Offerors shall compute their net bid or offer by deducting the appraised value or highest Quote of the items to be traded in or exchanged from the gross bid or offer on the new items of Tangible Personal Property to be procured. If an amount offered in trade is less than the appraised value or the highest Quote but is found to be a fair reflection of the current market, representative of the condition of the items of Tangible Personal Property and in the best interest of the County, the bid or offer may be accepted. Documentation of the terms of acceptance shall be in writing, shall be made a part of the procurement file and shall be a Public Record.

**Sec 2-381. RECEIPT, INSPECTION, AND PAYMENT**

- (a) The User Department is responsible for inspecting and accepting or rejecting deliveries. The User Department shall determine whether the quantity is as specified in the Purchase Order or Contract and whether the quality conforms to the Specifications referred to or included in the Purchase Order or Contract. If inspection reveals that the delivery does

not conform to the quantity or quality specified in the Purchase Order or Contract, the User Department shall immediately notify the Central Purchasing Office. The User Department shall notify the vendor that the delivery has been rejected and shall order the vendor to promptly make a satisfactory replacement or supplementary delivery. In case the vendor fails to comply, the County shall have no obligation to pay for the nonconforming items of Tangible Personal Property.

(b) The County shall not issue payment without certification from the User Department stating that products, equipment or Services have been received or completed as specified.

(c) Prepayment shall be allowed when approved by the Chief Procurement Officer, or his/her designee.

(d) In the event of disputed invoices, unless otherwise agreed upon by the parties or unless otherwise specified in the RFB, RFP, or other solicitation, within twenty days from the date the invoice is received by the County, the Central Purchasing Office or User Department shall issue a written notification of full or partial rejection of the items of Tangible Personal Property, Services or Construction.

(e) Except as otherwise provided herein, upon approval by the Central Purchasing Office or User Department that the items of Tangible Personal Property, Services or Construction have been received and accepted, payment shall be tendered to the Contractor within thirty days of the date the invoice is received by the County. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth day from the date the invoice is received by the County, late payment charges shall be paid on the unpaid balance due on the Contract to the Contractor at the rate of one percent per month. For purchases funded by state or federal grants to the County, if the County has not received the funds from the federal or state funding agency, payments shall be tendered to the Contractor within five working days of receipt of funds from that funding agency.

(f) Late payment charges that differ from the provisions of this section may be assessed if specifically provided for by Contract or pursuant to tariffs approved by the New Mexico public utility commission or the public regulation commission.

#### **Sec 2-382. RIGHT TO INSPECT PLANT**

A Contract or a solicitation may include a provision permitting the County, at reasonable times, to inspect the facility or place of business of a Contractor or any subcontractor that is related to the performance of any Contract awarded or to be awarded.

#### **Sec 2-383. CONTRACT AUDIT**

The County shall be entitled to audit the books and records of a Contractor or any subcontractor under any negotiated Contract or subcontract to the extent that such books and records relate to the performance of such Contract or subcontract. Such books and records shall be maintained by the Contractor for a period of three years from the date of final payment under the prime Contract and by the subcontractor for a period of three years from the date of final payment under the subcontract unless a shorter period is otherwise authorized in writing.

**Sec 2-384. SPECIFICATIONS**

- (a) All Specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the County's needs, and shall not be unduly restrictive. All Specifications shall be drafted so as to ensure maximum practicable competition and fulfill the requirements of the County. In preparing Specifications, if, in the opinion of the Central Purchasing Office, a proposed component is of a nature that would restrict the number of Responsible Bidders or Responsible Offerors and thereby limit competition, if practicable, the Central Purchasing Office shall draft the Specifications without the component and procure the component by issuing a separate Request for Bids or Request for Proposals or by entering into a Sole Source procurement.
- (b) A Brand-Name or Equal Specification may be used when the Central Purchasing Office determines that only the identified Brand-Name item will satisfy the needs of the County. Should the essential characteristics of the Brand-Names included in the Specifications be commonly known in the industry or trade, such a detailed description is not necessary. Where a Brand-Name or Equal Specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a Brand-Name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition. The Central Purchasing Office or the User Department shall seek to identify sources from which the designated Brand-Name items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable.
- (c) The County shall not accept any bid or proposal from a Person who directly participated in the preparation of Specifications. This prohibition does not extend to vendors who have suggested changes to Specifications that were approved by the County during the course of a publicly-solicited, formal bid or proposal process.
- (d) The requirements of this section regarding the purposes and non-restrictiveness of Specifications shall also apply to all Specifications prepared other than by County personnel, including, but not limited to, those prepared by architects, engineers and designers.

**Sec 2-385. PROTEST AND APPEALS**

- (a) Any Bidder or Offeror who is aggrieved in connection with a solicitation or award of a Contract may protest to the Chief Procurement Officer. The protest shall be submitted in writing within fifteen calendar days after knowledge of the facts or occurrences giving rise to the protest.
- (b) In the event of a timely protest, the Central Purchasing Office shall not proceed further with the procurement unless it makes a Determination that the award of the Contract is necessary to protect substantial interests of the County. A procurement shall not be halted after a Contract has been awarded merely because a protest has been filed. After a Contract has been awarded, the Central Purchasing Office may, in its sole discretion, halt a procurement in exceptional circumstances or for good cause shown.
- (c) The Central Purchasing Office shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Bidder or Offeror. This authority shall be exercised in accordance with this section but shall not include the authority to award

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money damages or attorneys' fees.

(d) The Central Purchasing Office shall promptly issue a Determination relating to the protest. The Determination shall:

(1) state the reasons for the action taken; and

(2) inform the protestant of the right to judicial review of the Determination pursuant to this Article.

(e) The written Determination shall immediately be sent via certified mail to the protestant and otherwise provided via standard mail or electronically to other Bidders or Offerors involved in the procurement.

(f) The Chief Procurement Officer shall promulgate procedural rules for the resolution of protests under this Article, provided that the County shall not have the authority to award money damages or attorneys' fees.

**Sec 2-386. REMEDIES PRIOR TO EXECUTION OF CONTRACT**

If prior to the execution of a valid, written Contract by all parties and necessary approval authorities, the Central Purchasing Office makes a Determination that a solicitation or proposed award of the proposed Contract is in violation of law, then the solicitation or proposed award shall be canceled.

**Sec 2-387. RATIFICATION OR TERMINATION AFTER EXECUTION OF CONTRACT**

(a) If after the execution of a valid, written Contract by all parties and necessary approval authorities, the Central Purchasing Office makes a Determination that a solicitation or award of the Contract was in violation of law and if the business awarded the Contract did not act fraudulently or in bad faith:

(1) the Contract may be ratified, affirmed, and revised to comply with law, provided that a Determination is made that doing so is in the best interests of the County; or

(2) the Contract may be terminated, and the Contractor shall be compensated for the actual expenses reasonably incurred under the Contract plus a reasonable profit prior to termination.

**Sec 2-388. JUDICIAL REVIEW**

All actions authorized by the Ordinance for judicial review of a Determination shall be filed pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

**Sec 2-389. VENDOR SUSPENSION AND DEBARMENT**

(a) The Chief Procurement Officer, after reasonable notice to the business involved, shall have authority to recommend to the Board the Suspension or Debarment of a business for cause from consideration for award of Contracts if after reasonable investigation, he or she finds that a Person has engaged in conduct that constitutes cause for Debarment.

(b) The term of a Suspension pursuant to this section shall not exceed three months; however, if a Person, including a Bidder, Offeror or Contractor, has been charged with a criminal offense that would be a cause for Debarment, the Suspension shall remain in



1 effect until the criminal charge is resolved and the Person is debarred or the reason for  
2 Suspension no longer exists.

3 (c) The Chief Procurement Officer, after reasonable notice to the Person involved, shall have  
4 authority to recommend to the County Manager the Debarment of Person(s) for cause  
5 from consideration for award of Contracts. The Debarment shall not be for a period of  
6 more than three years. The authority to debar shall be exercised only upon reasonable  
7 notice and a hearing prior to Debarment.

8 (d) The causes for Debarment or Suspension occurring within three years of the date final  
9 action on a procurement is taken include but are not limited to the following:

10 (1) criminal conviction of a Bidder, Offeror or Contractor for commission of a criminal  
11 offense related to obtaining unlawfully or attempting to obtain a public or private  
12 Contract or subcontract, or related to the unlawful performance of such Contract or  
13 subcontract;

14 (2) civil judgment against a Bidder, Offeror or Contractor for a civil violation related to  
15 obtaining unlawfully or attempting to obtain a public or private Contract or  
16 subcontract, or related to the unlawful performance of such Contract or subcontract;

17 (3) conviction of a Bidder, Offeror or Contractor under state or federal statutes related to  
18 embezzlement, theft, forgery, bribery, fraud, falsification or destruction of records,  
19 making false statements or receiving stolen property or for violation of federal or  
20 state tax laws;

21 (4) conviction of a Bidder, Offeror or Contractor under state or federal antitrust statutes  
22 relating to the submission of offers;

23 (5) criminal conviction against a Bidder, Offeror or Contractor for any other offense  
24 related to honesty, integrity or business ethics;

25 (6) civil judgment or settlement with enforcement agency against a Bidder, Offeror or  
26 Contractor for a civil violation related to honesty, integrity or business ethics;

27 (7) civil judgment or settlement with enforcement agency against a Bidder, Offeror or  
28 Contractor pursuant to the New Mexico Unfair Trade Practices Act or other similar  
29 act from another state or the United States Government;

30 (8) violation by a Bidder, Offeror or Contractor of Contract provisions, as set forth in this  
31 paragraph, of a character that is reasonably regarded by the Chief Procurement  
32 Officer to be so serious as to justify Suspension or Debarment action, including:

33 a. willful failure to perform in accordance with one or more Contracts; or

34 b. a history of failure to perform or of unsatisfactory performance of one or more  
35 Contracts; provided that this failure or unsatisfactory performance has  
36 occurred within a reasonable time preceding the decision to impose  
37 Debarment; and provided further that failure to perform or unsatisfactory  
38 performance caused by acts beyond the control of the Contractor shall not be  
39 considered to be a basis for Debarment;

40 (9) any other cause that the Chief Procurement Officer determines to be so serious and  
41 compelling as to affect Responsibility as a Contractor; or

(10) for a willful violation by a Bidder, Offeror or Contractor of the provisions of this Ordinance.

(e) As used in this section, the terms "Bidder", "Offeror" and "Contractor" include principals, officers, directors, owners, partners and managers of the Bidder, Offeror or Contractor.

(f) The Chief Procurement Officer shall promulgate procedural rules to adjudicate all Debarments and Suspensions under this Section.

**Sec 2-390. ETHICAL CONDUCT**

(a) Bribes, Gratuities, and Kickbacks: All Contracts and solicitations thereof shall contain references to the New Mexico criminal statutes prohibiting bribes, Gratuities and kickbacks.

(b) Campaign Contribution Disclosure and Prohibition:

(1) Any Prospective Contractor shall disclose all campaign contributions given by the Contractor, Family Member or representative to any public official of the County during the two-years prior to the date on which a proposal is submitted or, in the case of a Sole Source or small purchase Contract for Professional Services, the two-years prior to the Contract date, if the aggregate total of contributions given by the Prospective Contractor or a Family Member or Representative of the Prospective Contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period.

(2) The disclosure shall indicate the date, the amount, the nature and the purpose of the contribution. The disclosure statement shall be on a form developed and made available electronically by the County. The County shall indicate on the form the name or names of every Applicable Public Official, if any, for which disclosure is required by a Prospective Contractor for each competitive sealed proposal, sole source or small purchase Contract. The form shall be filed as part of the competitive sealed proposal, or in the case of a sole source or small purchase Contract, on the date on which the Contractor signs the Contract.

(3) A Prospective Contractor submitting a disclosure statement pursuant to this section who has not contributed to an Applicable Public Official, whose Family Members have not contributed to an Applicable Public Official or whose representatives have not contributed to an Applicable Public Official, shall make a statement that no contribution was made.

(4) A Prospective Contractor or a Family Member or Representative of the Prospective Contractor shall not give a campaign contribution or other thing of value to an Applicable Public Official or the Applicable Public Official's employees during the Pendency of the Procurement Process or during the pendency of negotiations for a sole source or small purchase Contract.

(5) A solicitation or proposed award for a proposed Contract may be canceled or a Contract that is executed may be ratified or terminated pursuant to this Article if:

a. a Prospective Contractor fails to submit a fully completed disclosure statement

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pursuant to this section or violates any provision of the Bernalillo County Code of Conduct; or

- b. a Prospective Contractor or Family Member or Representative of the Prospective Contractor gives a campaign contribution or other thing of value to an Applicable Public Official or the Applicable Public Official's employees during the Pendency of the Procurement Process.

(6) As used in this section:

- a. "Applicable Public Official" means a Person elected to an office or a Person appointed to complete a term of an elected office, who has the authority to award or influence the award of the Contract for which the Prospective Contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase Contract that may be awarded without submission of a sealed competitive proposal;
- b. "Family Member" means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of: (i) a Prospective Contractor, if the Prospective Contractor is a natural Person; or (ii) an owner of a Prospective Contractor;
- c. "Pendency of the Procurement Process" means the time period commencing with the public notice of the Request for Proposals and ending with the award of the Contract or the cancellation of the Request for Proposals;
- d. "Prospective Contractor" means a Person or business that is subject to the competitive sealed proposal process set forth in this Article or is not required to submit a competitive sealed proposal because that Person or business qualifies for a sole source or small purchase Contract; and
- e. "Representative of the Prospective Contractor" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the Prospective Contractor.

(c) Contingent Fees:

- (1) It is unlawful for a Person or business to be retained or for a business to retain a Person or business to solicit or secure a Contract upon an agreement or understanding that the compensation is contingent upon the award of the Contract, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business and Persons or businesses employed by the County which are providing Professional Services to the County in anticipation of the receipt of federal or state grants or loans;
- (2) The prohibition against contingent fees shall not apply to the procurement of legal services upon approval of the Board.

(d) Conflict of Interest: Employees and other individuals representing the County shall comply with the County's Ordinances, policies, procedures, and administrative instructions governing conflicts of interest, and the County Code of Conduct and Governmental Conduct Act, Section 10-16-1 et seq., NMSA 1978.

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**(e) Unlawful Employee Participation:**

- (1) It is unlawful for any County Employee to participate directly or indirectly in a procurement when the Employee or any member of the Employee's Immediate Family has a Financial Interest pertaining to the procurement.
- (2) An Employee or any member of an Employee's Immediate Family who holds a Financial Interest in a disclosed blind trust shall not be deemed to have a Financial Interest with regard to matters pertaining to that trust.

**(f) Contemporaneous Employment Prohibition: It shall be unlawful for any County Employee who is participating directly or indirectly in the procurement process to become or to be, while such an Employee, the Employee of any Person or business Contracting with the County. The County Manager or designee may grant a waiver from unlawful Employee participation as set forth in the Ordinance upon making a Determination that:**

- (1) the contemporaneous employment or Financial Interest of the Employee has been publicly disclosed;
- (2) the Employee will be able to perform his procurement functions without actual or apparent bias or favoritism; and
- (3) the Employee participation is in the best interests of the County.

**(g) Confidential Information: It shall be unlawful for any Employee or former Employee knowingly to use any information which is available to an Employee because of the Employee's status as an Employee of the County and which is not a matter of public knowledge or available to the public on request for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other Person.**

**(h) Recovery of Value: The value of anything transferred or received in breach of the ethical standards of this section by an Employee or a nonemployee may be recovered from both Employee and nonemployee.**

**Sec 2-391. PENALTIES**

- (a) Any business or Person that willfully violates any provision of the Ordinance may be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation with any penalty collected under the provisions of this section shall be credited to the County's general fund.
- (b) Upon a showing that a subcontractor made a kickback to a prime Contractor or a higher-tier subcontractor in connection with the award of a subcontract or order thereunder, it is conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the County. An amount equal to the kickback is imposed as a civil penalty by the County upon the recipient and upon the subcontractor making such kickbacks in addition but pursuant to the terms and conditions of subsection (a) above, and/or
- (c) Any business or Person that willfully violates the Ordinance may be criminally prosecuted and subject to penalties contained in Section 1-6 of the Bernalillo County Code.

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- (d) Any business or Person that willfully violates any provision of the Ordinance contrary to the New Mexico Criminal Code may be referred to the appropriate authorities for felony or misdemeanor prosecution.

**DIVISION 2. – PUBLIC WORKS PROJECTS; CONSTRUCTION**

**Sec 2-392. CONSTRUCTION CONTRACTS**

- (a) The award and execution of Contracts for major Construction, including but not limited to roads, bridges, airports, buildings and dams, shall be made by the Board or designee by resolution. The Chief Procurement Officer or designee responsible for the procurement shall give notice to prospective Bidders pursuant to this Article.
- (b) All Tangible Personal Property, Services or Construction for Capital Projects, shall be procured through the Central Purchasing Office in accordance with all applicable policies, procedures, laws, regulations, rules, statutes and Ordinances.
- (c) Upon award of a Construction Contract in excess of \$25,000, performance and payment bonds shall be delivered by the Contractor. The performance bond shall be in an amount equal to 100% of the Contract price unless it is determined by the Central Purchasing Office that a lower bond, no less than 50%, is in the best interest of the County. The payment bond shall be for an amount that is approved by the County, but in an amount that satisfactorily covers the subcontractors on the project.
- (d) Bid Security: When applicable, Bidders for Construction Contracts must provide bid security when the price is estimated to exceed \$25,000. The bid security shall be equal to at least five percent of the amount of the bid and shall be (1) a bond provided by a surety company authorized to do business in this state; or (2) or otherwise supplied in a form satisfactory to the County.
- (e) Prior to submitting a bid or proposal for a public works project, if the Central Purchasing Office, or a Responsible Bidder or Responsible Offeror determines that there is only one source for a specific Tangible Personal Property, Services or Construction that is required in the Specifications, the Central Purchasing Office, Responsible Bidder or Responsible Offeror may require any bid or offer submitted by a subcontractor or supplier to price separately the specific Tangible Personal Property, Services or Construction.
- (f) Except to the extent necessary to ensure that a surety company meets the requirements of Subsection A of Section 13-4-18 NMSA 1978, an Employee of the County, or a Person acting or purporting to act on behalf of that Employee, shall not require a Bidder or an Offeror in a procurement for a Construction Contract pursuant to this Article to make application or furnish financial data for a surety bond or to obtain a surety bond from a particular surety company, insurance company, broker or agent in connection with the bid or proposal.
- (g) A subcontractor may be required to provide a performance and payment bond on a public works project.
- (h) Public Works Minimum Wage Act:
- (1) Every proposed Construction Contract in excess of the minimum threshold set forth by state statute shall contain a provision stating the minimum wages to be paid

various classes of laborers and mechanics. With respect to all such Contracts, the New Mexico Department of Workforce Solutions (or successor agency) shall be contacted for a wage rate determination.

(2) Every Contract within the scope of the Public Works Minimum Wage Act [13-4-10 to 13-4-17 NMSA 1978] shall contain further provision that in the event it is found by the director of the Labor Relations Division of the New Mexico Department of Workforce Solutions (or its successor) that any laborer or mechanic employed on the site of the project has been or is being paid as a result of a willful violation a wage rate or fringe benefit rate less than the rates required, the County may, by written notice to the Contractor, subcontractor, employer or Person acting as a Contractor, terminate the right to proceed with the work or the part of the work as to which there has been a willful failure to pay the required wages or fringe benefits, and the County may prosecute the work to completion by Contract or otherwise, and the Contractor or Person acting as a Contractor and the Contractor's or Person's sureties shall be liable to the state for any excess costs occasioned thereby. Any party receiving notice of termination of a project or subcontract pursuant to the provisions of this section may appeal the finding of the director as provided in the Public Works Minimum Wage Act.

(3) In order to respond to a Request for Proposals or to be considered for award of any portion of a public works project that is subject to the Public Works Minimum Wage Act, the Contractor, serving as a prime Contractor or not, shall be registered with the Labor Relations Division of the New Mexico Department of Workforce Solutions (or its successor). Bidding documents issued or released by the County shall include a clear notification that each Contractor, prime Contractor or subcontractor is required to be registered pursuant to the Public Works Minimum Wage Act.

(4) The County shall not accept a bid on a public works project subject to the Public Works Minimum Wage Act from a prime Contractor that does not provide proof of required registration for itself.

(5) The Public Works Minimum Wage Act shall not be construed to supersede or impair a more stringent requirement under any authority granted by federal law to provide for the establishment of specified wage rates.

(i) Subcontractors Fair Practices Act

(1) For any public works project, the County shall evaluate bids and administer Contracts as they pertain to the listing of subcontractors in accordance with the requirements of the Subcontractors Fair Practices Act, Sections 13-4-31 through 13-4-42, NMSA 1978.

(j) Public Works Mediation

(1) State statute, NMSA Sections 13-4C-1 et seq., mandates that all disputes related to the performance of a public works project shall exhaust procedures set forth in the Public Works Mediation Act before seeking judicial relief. Disputes arising pursuant to the Public Works Minimum Wage Act, the Workers' Compensation Act, or disputes regarding an apprenticeship, are exempted from the mandatory public works mediation process.

(2) A dispute that arises under an arbitration clause of a Contract for a public works project that includes a clause in the Contract that requires arbitration is exempt from the provisions of the Public Works Mediation Act.

(3) When a public works project involves the expenditure of federal funds, the mediation process shall be conducted in accordance with mandatory applicable federal law and regulations. When mandatory applicable federal law or regulations are inconsistent with the Public Works Mediation Act, compliance with federal law or regulations shall constitute compliance with the Public Works Mediation Act.

**Sec 2-393. DESIGN AND BUILD PROJECT SYSTEM REQUIREMENTS**

(a) A design and build project may be authorized when the Chief Procurement Officer makes a Determination in writing that it is appropriate and in the best interest of the County to use the system on a specific project. The Determination shall be issued only after the Chief Procurement Officer has taken into consideration the following criteria, which shall be used as the minimum basis in determining when to use the design and build process:

(1) the extent to which the project requirements have been or can be adequately defined;

(2) time constraints for delivery of the project;

(3) the capability and experience of potential teams with the design and build process;

(4) the suitability of the project for use of the design and build process as concerns time, schedule, costs, and quality; and

(5) the capability of the County to manage the project, including experienced personnel or outside consultants, and to oversee the project with Persons who are familiar with the design and build process.

(b) When a Determination has been made by the Chief Procurement Officer that it is appropriate to use a design and build project delivery system, the design and build team shall include, as needed, a New Mexico registered engineer or architect and a Contractor properly licensed in New Mexico for the type of work required.

(c) Except as provided in Subsections (e) and (f) of this section, for each proposed design and build project, a two-phase procedure for awarding design and build Contracts shall be used and shall include at a minimum the following:

(1) during phase one, and prior to solicitation, documents shall be prepared for a Request for Qualifications by a New Mexico registered engineer or architect, either in-house or selected in accordance with applicable law, and shall include minimum qualifications, a scope of work statement and schedule, documents defining the project requirements, the composition of the selection committee and a description of the phase-two requirements and subsequent management needed to bring the project to completion. Design and build qualifications of responding firms shall be evaluated, and shall be short-listed in accordance with technical and qualifications-based criteria in a manner set forth in the solicitation; and

(2) during phase two, the short-listed firms shall be invited to submit detailed specific technical concepts or solutions, costs and scheduling. Unsuccessful firms may be paid a stipend to cover proposal expenses. After evaluation of these submissions,

selection shall be made and the Contract awarded to the highest-ranked firm.

(d) Except as provided in Subsections (e) and (f) of this section, to ensure fair, uniform, clear and effective procedures that will strive for the delivery of a quality project on time and within budget, the Central Purchasing Office shall adopt procedural rules to be followed when procuring design and build projects.

(e) The requirements of Subsections (c) and (d) of this section do not apply to a design and build project and the services procured for the project if:

(1) the maximum allowable Construction cost of the project is four hundred thousand dollars (\$400,000) or less; and

(2) the only requirement for architects, engineers, landscape architects or surveyors is limited to either site improvements or adaption for a pre-engineered building or system.

(f) The procurement of a design and build project qualifying for exemptions pursuant to Subsection (e) of this section, including the Services of any architect, engineer, landscape architect, Construction Manager or surveyor needed for the project, shall be accomplished by competitive sealed bids in accordance with applicable law.

**Sec 2-394. CONSTRUCTION MANAGER AT RISK**

(a) As used in this section:

(1) "Construction Manager at Risk Delivery Method" means a Construction method wherein a Construction Manager at Risk provides a range of pre-Construction Services and Construction Management, including cost estimation and consultation regarding the design of the building project, preparation and coordination of bid packages, scheduling, cost control, value engineering and, while acting as the general Contractor during Construction, detailing the trade Contractor scope of work, holding the trade Contracts and other subcontracts, prequalifying and evaluating trade Contractors and subcontractors and providing management and Construction Services, all at a Guaranteed Maximum Price for which the Construction Manager at Risk is financially responsible;

(2) "Guaranteed Maximum Price" means the maximum amount to be paid by the County for the Construction of the facility, including the cost of the work, the general conditions and the fees charged by the Construction Manager at Risk.

(b) A Construction Manager at Risk Delivery Method may be used when the County determines that it is in its interest to use that method on a specific Construction project, provided that the Construction Manager at Risk shall be selected pursuant to the provisions of this section.

(c) The Central Purchasing Office shall form a selection committee of at least three members with at least one member being an architect or engineer. The Central Purchasing Office in conjunction with the selection committee shall develop an evaluation process, including a multiphase procedure consisting of two or three steps. A two-step procedure may be used when the total amount of money available for the project is less than five hundred thousand dollars (\$500,000) and shall include a Request for Qualifications and



an interview. A three-step procedure shall consist of a Request for Qualifications, a Request for Proposals and an interview.

(d) A Request for Qualifications shall be published in accordance with the notice requirements for Requests for Proposals provided in this Article and shall include at a minimum the following:

(1) a statement of the minimum qualifications for the Construction Manager at Risk, including the requirements for:

a. a Contractor's license for the type of work to be performed, issued pursuant to the Construction Industries Licensing Act [Chapter 60, Article 13 NMSA 1978];

b. registration pursuant to Section 13-4-13.1 NMSA 1978; and

c. a minimum bond capacity.

(2) a statement of the scope of work to be performed, including:

a. the location of the project and the total amount of money available for the project;

b. a proposed schedule, including a deadline for submission of the statements of qualification;

c. specific project requirements and deliverables;

d. the composition of the selection committee;

e. a description of the process the selection committee shall use to evaluate qualifications;

f. a proposed Contract; and

g. a detailed statement of the relationships and obligations of all parties, including the Construction Manager at Risk, agents, such as an architect or engineer, and the County.

(3) a verification of the maximum allowable Construction cost; and

(4) a Request for a Proposal bond as required by this Article.

(e) The selection committee shall evaluate the statements of qualifications submitted and determine the Offerors that qualify for the Construction Manager at Risk. If the selection committee has chosen a three-step procedure, the committee shall issue a Request for Proposals to the Offerors that qualify.

(f) If the selection committee has chosen a two-step procedure, the committee shall rank the Persons that qualify based upon the statements of qualification and interview up to three of the highest-ranked Offerors.

(g) In a three-step procedure, the selection committee shall issue a Request for Proposals and evaluate the proposals pursuant to the requirements of this Article regarding the evaluation of Requests for Proposals except that:

(1) the Request for Proposals shall be sent only to those determined to be qualified

- 1           pursuant to this section;
- 2           (2) the selection committee shall evaluate the proposals and conduct interviews with up  
3           to three of the highest-ranked Offerors instead of negotiating with Responsible  
4           Offerors found to be reasonably likely to be selected; and
- 5           (3) pursuant to subsection (h) of this section, the Contract award may be made after the  
6           interviews.
- 7   (h)   After conducting interviews with the highest-ranked Offerors and after considering the  
8           factors listed in subsection (i) of this section, the selection committee shall recommend to  
9           the Central Purchasing Office the Offeror that will be most advantageous to the County.  
10          Should the Central Purchasing Office be unable to negotiate a satisfactory Contract with  
11          the Offeror considered to be the most qualified at a price determined to be fair and  
12          reasonable, negotiations with that Offeror shall be formally terminated. The Central  
13          Purchasing Office shall then undertake negotiations with the second most qualified  
14          Offeror. Failing accord with the second most qualified Offeror, the Central Purchasing  
15          Office shall formally terminate negotiations with the Offeror. The Central Purchasing  
16          Office shall then undertake negotiations with the third most qualified Offeror. Should the  
17          Central Purchasing Office be unable to negotiate a Contract with any of the Offerors  
18          selected by the committee, additional Offerors shall be ranked in order of their  
19          qualifications and the Central Purchasing Office shall continue negotiations in  
20          accordance with this section until a Contract is signed with a qualified Offeror or the  
21          procurement process is terminated and a new Request for Proposals is initiated.
- 22   (i)   In evaluating and ranking statements of qualifications, proposals and results of  
23          interviews, and in the final recommendation of a Construction Manager at Risk, the  
24          selection committee shall consider:
- 25          (1) the Offeror's experience with Construction of similar types of projects;
- 26          (2) the qualifications and experience of the Offeror's personnel and consultants and the  
27          role of each in the project;
- 28          (3) the plan for management actions to be undertaken on the project, including services to  
29          be rendered in connection with safety and the safety plan for the project;
- 30          (4) the Offeror's experience with the Construction Manager at Risk method; and
- 31          (5) all other selection criteria, as stated in the request for qualifications and the Request  
32          for Proposals.
- 33   (j)   Nothing in this section precludes the selection committee from recommending the  
34          termination of the selection procedure pursuant to the provisions of this Article and  
35          repeating the selection process pursuant to this section. Any material received by the  
36          selection committee in response to a solicitation that is canceled shall not be disclosed so  
37          as to be available to competing Offerors.
- 38   (k)   After a Contract is awarded, the selection committee shall make the names of all Offerors  
39          and the names of all Offerors selected for interview available for public inspection along  
40          with the selection committee's final ranking and evaluation scores. Offerors who were  
41          interviewed but not selected for Contract award shall be notified in writing.

- (l) The Contract with the Construction Manager at Risk shall specify:
- (1) the Guaranteed Maximum Price; and
  - (2) the percentage of the Guaranteed Maximum Price that the Construction Manager at Risk will perform with its own work force.
- (m) The Construction Manager at Risk, in cooperation with the County, shall seek to develop subcontractor interest in the project and shall furnish to the County and any architect or engineer representing the County a list of subcontractors who state in writing that they are a Responsible Bidder or a Responsible Offeror, including suppliers who are to furnish materials or equipment fabricated to a special design and from whom proposals or bids will be requested for each principal portion of the project. The County and its architect or engineer shall promptly reply in writing to the Construction Manager at Risk if the County, architect or engineer knows of any objection to a listed subcontractor or supplier, provided that the receipt of the list shall not require the County, architect or engineer to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the right of the County, architect or engineer later to object to or reject any proposed subcontractor or supplier.
- (n) The Construction Manager at Risk shall assist the Central Purchasing Office with:
- (1) conducting pre-bid or pre-proposal meetings;
  - (2) advising the County about bidding or proposals;
  - (3) drafting of the Contracts; and
  - (4) evaluating submissions by Responsible Bidders and Offerors.

**DIVISION 3. – PUBLIC WORKS PROJECTS; PROFESSIONAL SERVICES**

**Sec 2-395. SELECTION ADVISORY COMMITTEE**

- (a) Proposal Guidelines: In order for a consultant to be eligible to perform Professional Services of architects, engineers, landscape architects, Construction Managers and surveyors for the County, all work must be performed under the direct supervision of a registered New Mexico Professional Engineer (or land surveyor, architect or landscape architect, if applicable). Procurement involving the expenditure of federal funds must be conducted in accordance with the mandatory applicable federal laws and regulations.
- (b) Submittal Requirements and Scoring Criteria: Submittal requirements and scoring criteria shall be specified in each request for proposal (RFP). Proposals which do not contain all of the mandatory information in their proposals may be considered incomplete and may not be considered by the Selection Advisory Committee.
- (c) Required Proposal Format: Proposal format is discretionary. Any specific requirements or limits will be defined in each request for proposal as appropriate.
- (d) Pre-Proposal Conference: A pre-proposal conference to answer questions may be held during the advertising period. Notice of the pre-proposal conference will be included in the request for proposal (RFP).
- (e) Selection Process: The Selection Advisory Committee and the Central Purchasing Office

**CONTINUATION PAGE 47, ORDINANCE 2018-11.**

will review each proposal to ensure that it is complete in all required elements. Any proposal that is incomplete may be deemed non-Responsive and may not be scored. All Responsive proposals will be reviewed and scored by each individual committee member in accordance with the provisions of the RFP. The Selection Advisory Committee will collate scores and determine those firms, if any, which may be interviewed.

(f) Interviews (if applicable): Prior to the interviews, the Selection Advisory Committee shall agree on a rating system combining the aspects of the written proposal, any required submittals and the interviews. At the selection interviews, the Selection Advisory Committee shall rate all interviewed Offerors. The combined rating shall be used to determine the final ranking of the firms for negotiations. The Selection Advisory Committee's final ranking and evaluation matrix for all proposals shall be made a part of the procurement file with the Central Purchasing Office. This information shall be kept confidential until after award of the Contract to the successful firm by the Board or designee by resolution.

(g) Negotiations: Following the interviews, the County shall negotiate with the highest ranked firm. Negotiations shall be based upon man-hour estimates submitted as part of a cost proposal following ranking by the Selection Advisory Committee. If agreement on terms can be reached, a Contract shall be prepared in accordance with provisions adopted by resolution regarding the County Manager's approval authority set forth in this Article. If agreement cannot be reached within a reasonable time, the County shall terminate negotiations with the highest ranked firm, and begin negotiations with the next firm on the ranking list. This process will continue until a Contract has been negotiated with one of the firms on the ranking list. If negotiations with the top three firms on the ranking list have been exhausted and a Contract can still not be negotiated, the County may rank the other Offerors in their order of qualifications and negotiate with those other qualified Offerors evaluated by the committee or terminate negotiations.

(h) Selection Advisory Committee Membership:

(1) The Public Works Division Selection Advisory Committee members shall be as follows: One position shall be occupied by the Deputy County Manager for Public Works or designated staff alternate and another position shall be recommended by the Deputy County Manager for Public Works from public works staff along with an alternate. The Deputy County Manager for General Services shall recommend two members along with alternates. One member along with an alternate shall be a citizen-at-large, not associated with the County or any professional firm.

(2) For projects not led the by Public Works Division, other applicable Deputy County Managers from divisions utilizing the Selection Advisory Committee process shall assign members and alternates as stated above. The Deputy County Manager for General Services shall recommend two members along with alternates. One member along with an alternate shall be a citizen-at-large, not associated with the County or any professional firm.

(3) In case of a project of unique or special nature, the Central Purchasing Office in conjunction with the User Department may name non-voting subject matter expert(s) to provide advice to the Selection Advisory Committee during the evaluation process.

(4) For projects with funding from other agencies or jurisdictions of at least one third of the project's total funding, the applicable Deputy County Manager of the division responsible for the project may name a voting member to the Selection Advisory Committee for each respective agency(ies).

(i) Board of County Commissioners Approval of Contracts: All Contracts for professional architectural, engineering, land surveying or other Professional Services related to public works, in an amount exceeding that delegated to the County Manager by resolution shall require final approval of the Board prior to the award of the Contract.

(j) Ownership of Documents: All Contracts between the County and any firm selected under this division shall contain the provision that all designs, drawings, Specifications, notes, computer discs and generated work regardless of the media used and other work developed in the performance of the Contract are the sole property of the County.

(k) Multiple-Award Requests for Proposals: Multiple awards of qualification-based selection of Offerors shall be allowed, unless prohibited by applicable federal law on the date of award. To utilize multiple Offeror awards, the solicitation must identify the types of projects for which the RFP is advertised. The specific type of projects shall be identified by professional discipline and type of work proposed such that qualified firms and individuals can be identified by the Selection Advisory Committee. Each request for proposal issued under this section may contain sample tasks on which the Offeror will base the technical proposal. These sample tasks may be examples of typical work, which could be awarded under the Contract and not actual projects. The maximum number of tasks for which a firm may propose may be defined in the RFP. In addition the RFP may state the maximum number of consultants which will be selected for award in each task. The written proposals will be scored by the Selection Advisory Committee and interviews may be held. The Selection Advisory Committee will rank the firms based on the written proposals and interviews, if applicable, and recommend the selected firms for award. Once selection is complete and the list of Offerors is approved, pursuant to the Contract approval requirements of this Article, project assignments shall be made in accordance with the provisions of the awarded Contract(s).

**Sec 2-396. – Sec 2-402. RESERVED**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
BERNALILLO COUNTY, NEW MEXICO this 27<sup>th</sup> day of March, 2018.

APPROVED AS TO FORM

BOARD OF COUNTY COMMISSIONERS


  
W. Ken Martinez, County Attorney

  
Steven Michael Quezada, Chair

  
Lonnie C. Talbert, Vice Chair


Excused

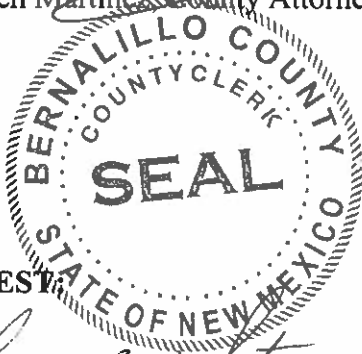
Debbie O'Malley, Member

  
Maggie Hart Stebbins, Member

  
James E. Smith, Member

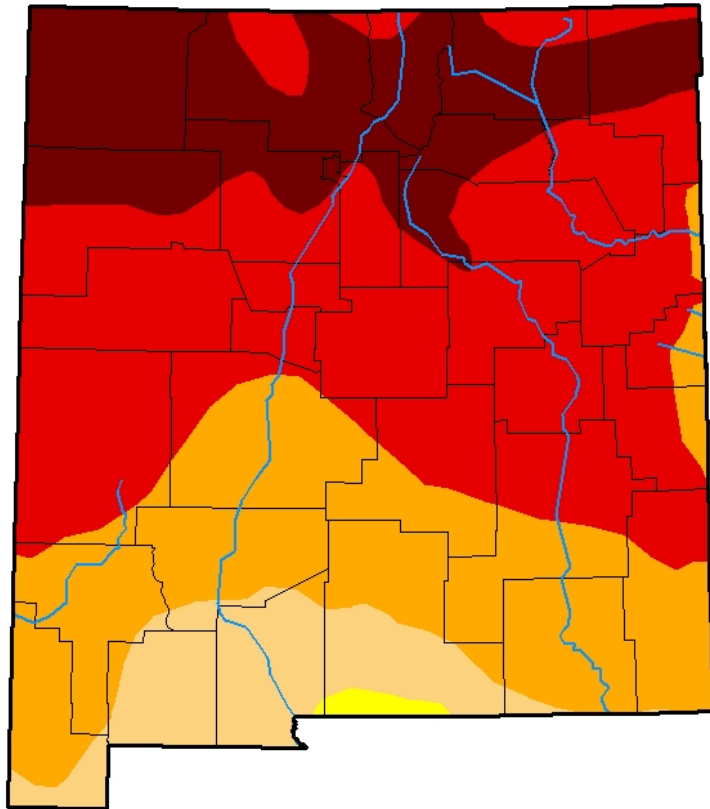
ATTEST

  
Linda Stover, County Clerk



# NM Drought

## U.S. Drought Monitor New Mexico



**May 15, 2018**  
(Released Thursday, May. 17, 2018)  
Valid 8 a.m. EDT

Drought Conditions (Percent Area)

|   | None  | D0-D4  | D1-D4 | D2-D4 | D3-D4 | D4    |
|---|-------|--------|-------|-------|-------|-------|
| <b>Current</b>                              | 0.00  | 100.00 | 99.43 | 90.21 | 63.58 | 20.27 |
| <b>Last Week</b><br>05-08-2018              | 0.12  | 99.88  | 98.56 | 81.14 | 55.38 | 10.59 |
| <b>3 Months Ago</b><br>02-13-2018           | 0.00  | 100.00 | 99.65 | 80.09 | 3.96  | 0.00  |
| <b>Start of Calendar Year</b><br>01-02-2018 | 7.01  | 92.99  | 45.97 | 4.76  | 0.00  | 0.00  |
| <b>Start of Water Year</b><br>09-26-2017    | 85.16 | 14.84  | 0.00  | 0.00  | 0.00  | 0.00  |
| <b>One Year Ago</b><br>05-16-2017           | 81.27 | 18.73  | 6.56  | 0.00  | 0.00  | 0.00  |

### Intensity:

- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions.  
Local conditions may vary. See accompanying text summary  
for forecast statements.

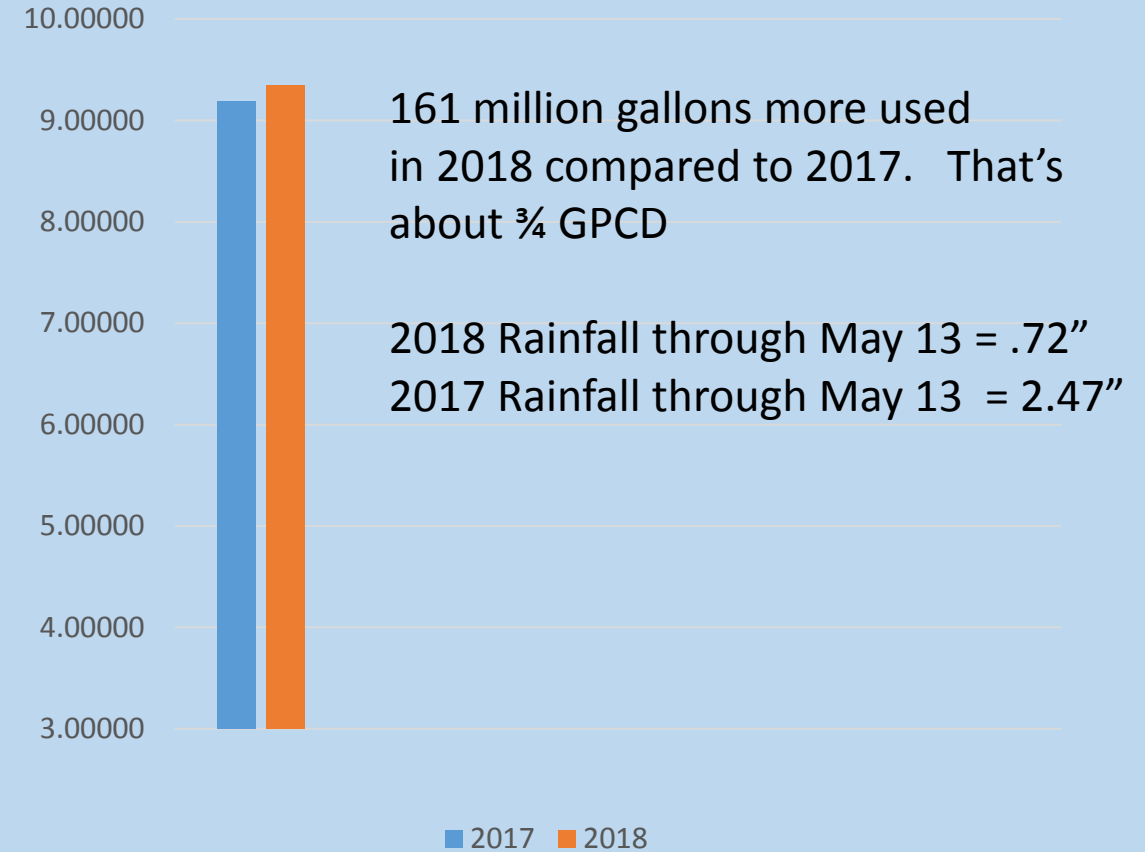
### Author:

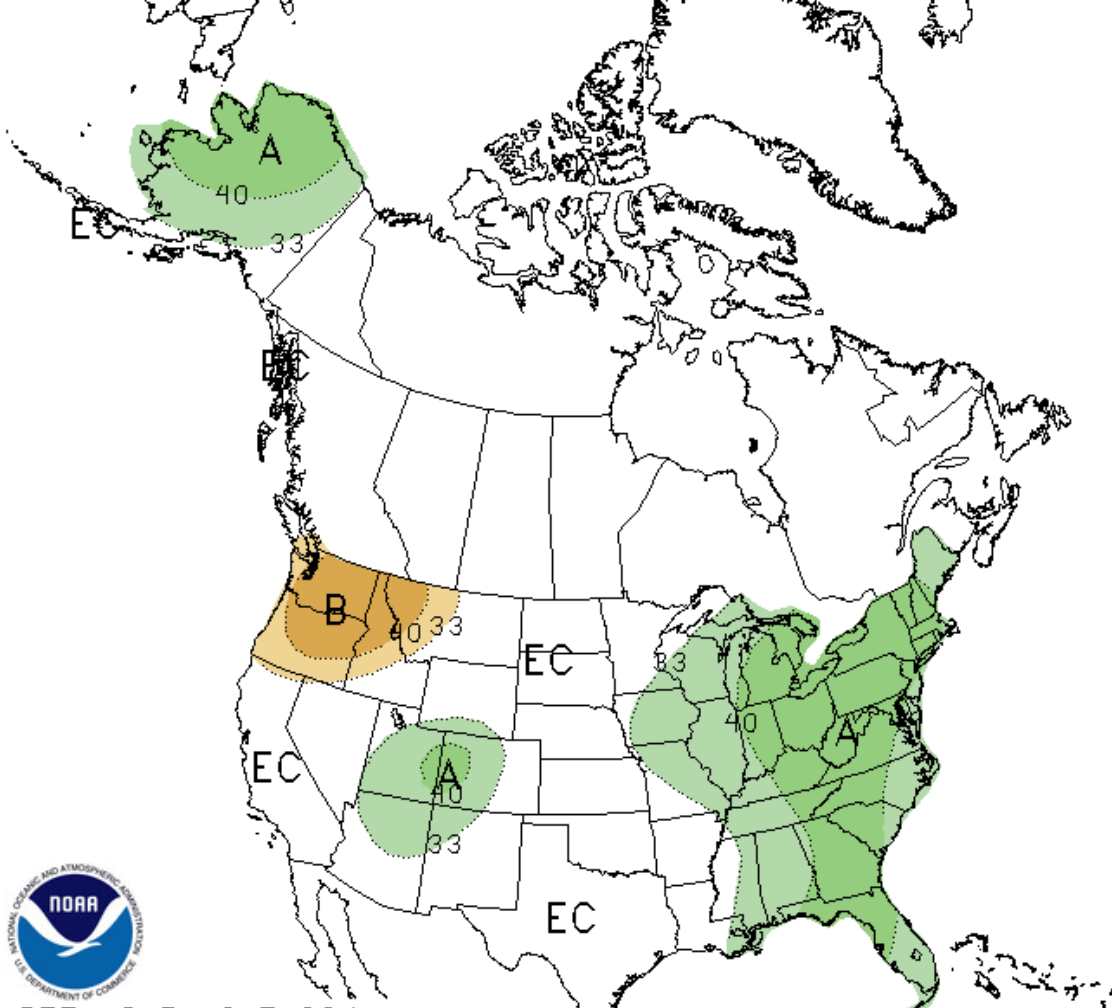
Eric Luebehusen  
U.S. Department of Agriculture



<http://droughtmonitor.unl.edu/>

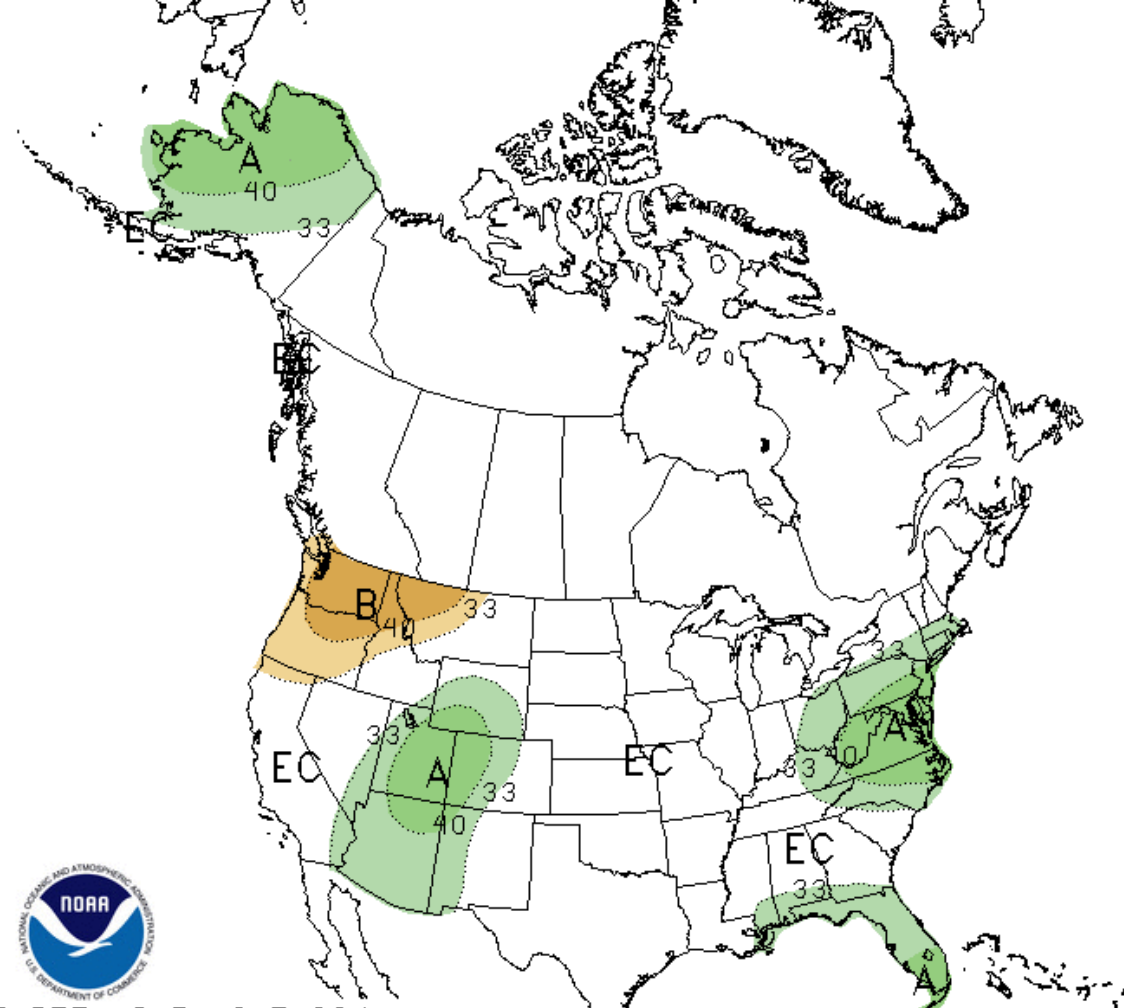
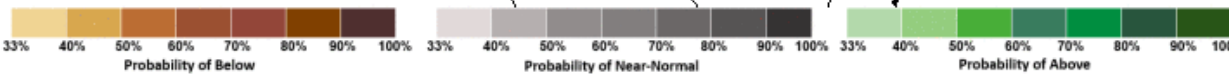
## Water Use January 1 – May 13





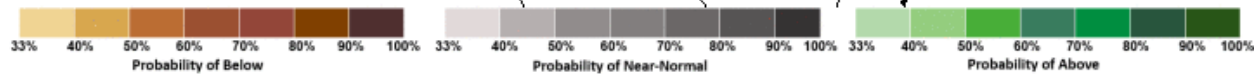
THREE-MONTH OUTLOOK  
PRECIPITATION PROBABILITY  
0.5 MONTH LEAD  
VALID JJA 2018  
MADE 17 MAY 2018

EC MEANS EQUAL  
CHANCES FOR A, N, B  
A MEANS ABOVE  
N MEANS NORMAL  
B MEANS BELOW



THREE-MONTH OUTLOOK  
PRECIPITATION PROBABILITY  
1.5 MONTH LEAD  
VALID JAS 2018  
MADE 17 MAY 2018

EC MEANS EQUAL  
CHANCES FOR A, N, B  
A MEANS ABOVE  
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Albuquerque Bernalillo County  
Water Utility Authority

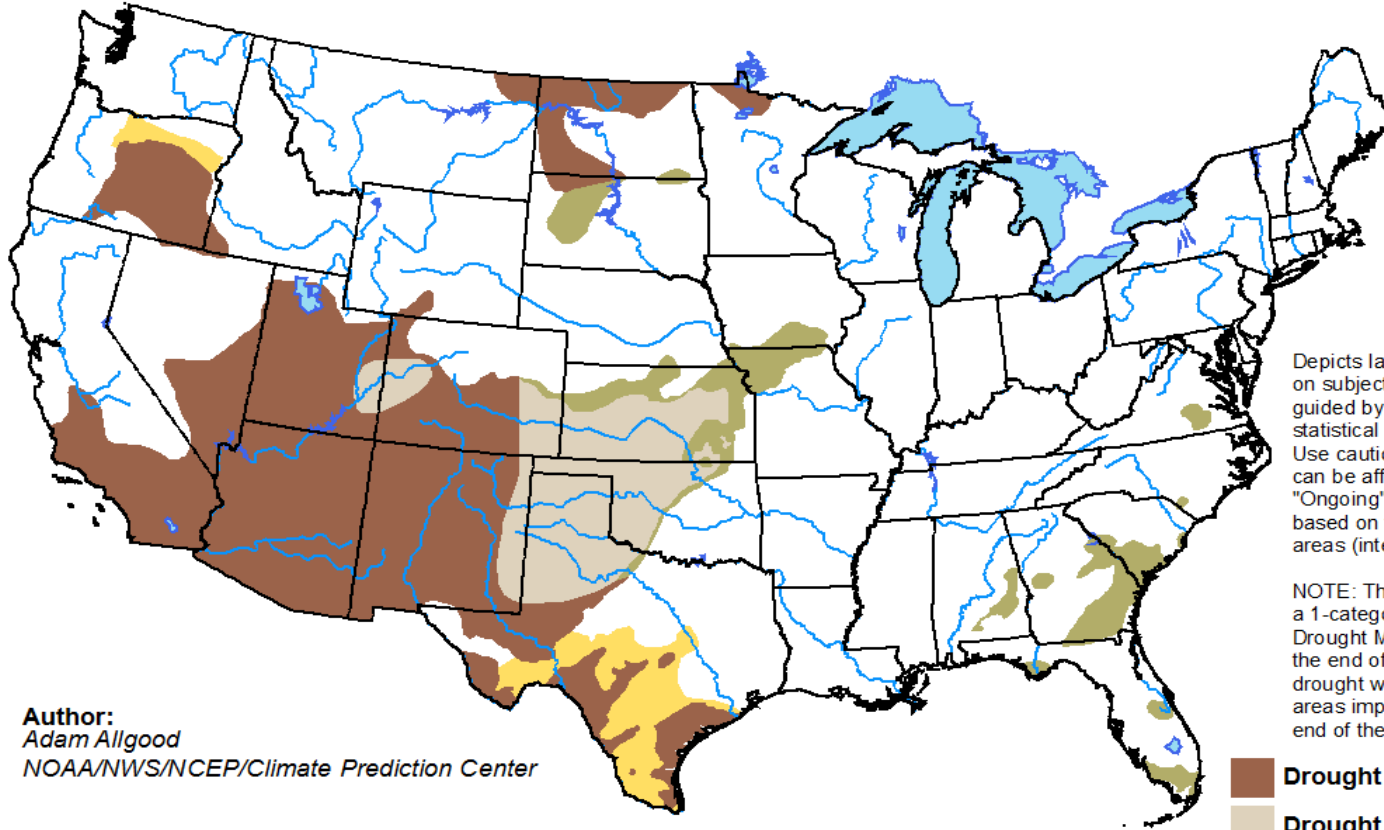


# U.S. Seasonal Drought Outlook

## Drought Tendency During the Valid Period

Valid for May 17 - August 31, 2018





Released May 17, 2018

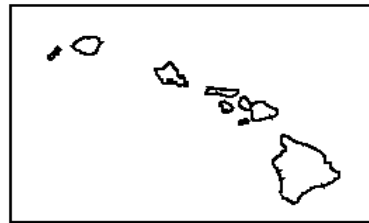
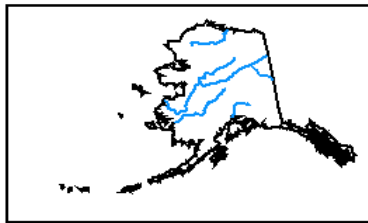


Depicts large-scale trends based on subjectively derived probabilities guided by short- and long-range statistical and dynamical forecasts. Use caution for applications that can be affected by short lived events. "Ongoing" drought areas are based on the U.S. Drought Monitor areas (intensities of D1 to D4).

NOTE: The tan areas imply at least a 1-category improvement in the Drought Monitor intensity levels by the end of the period, although drought will remain. The green areas imply drought removal by the end of the period (D0 or none).

Author:  
Adam Allgood  
NOAA/NWS/NCEP/Climate Prediction Center

-  Drought persists
-  Drought remains but improves
-  Drought removal likely
-  Drought development likely



<http://go.usa.gov/3eZ73>



Albuquerque Bernalillo County  
Water Utility Authority

# Annual Operating Plan for the Drinking Water Plant April 2018 – March 2019

John M. Stomp III, Chief Operating Officer  
Albuquerque Bernalillo County Water Utility Authority  
May 23, 2018

# Purpose

Satisfy Conditions of the Water Authority's 2004 Biological Opinion for the Drinking Water Project.

Reviewed by the U.S. Fish and Wildlife Service.

DWP provided 70% in 2017.

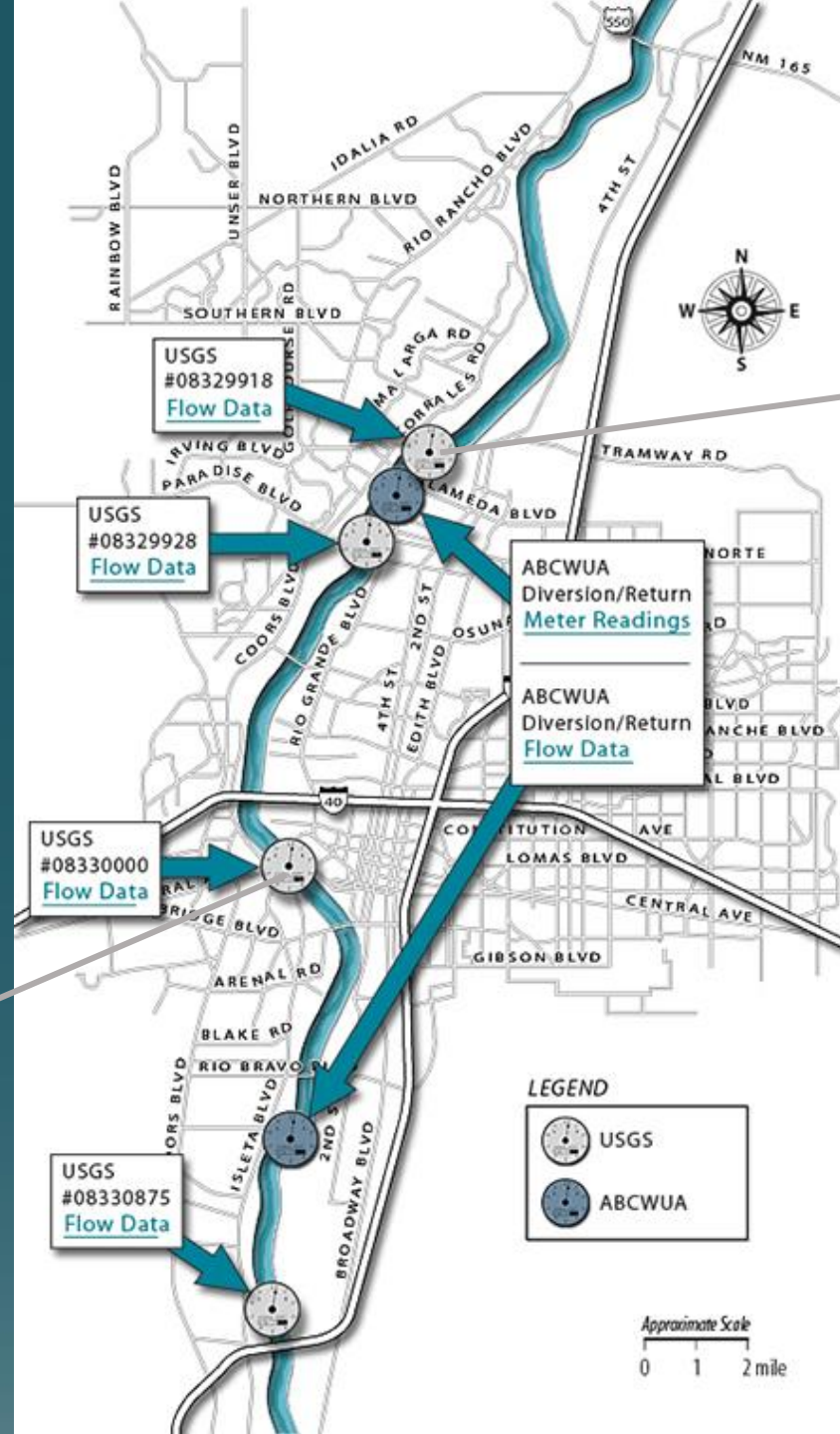


Albuquerque Bernalillo County  
Water Utility Authority

# DWP Operations and Constraints

Office of the State  
Engineer Permit No.  
SP-4830

122 cfs



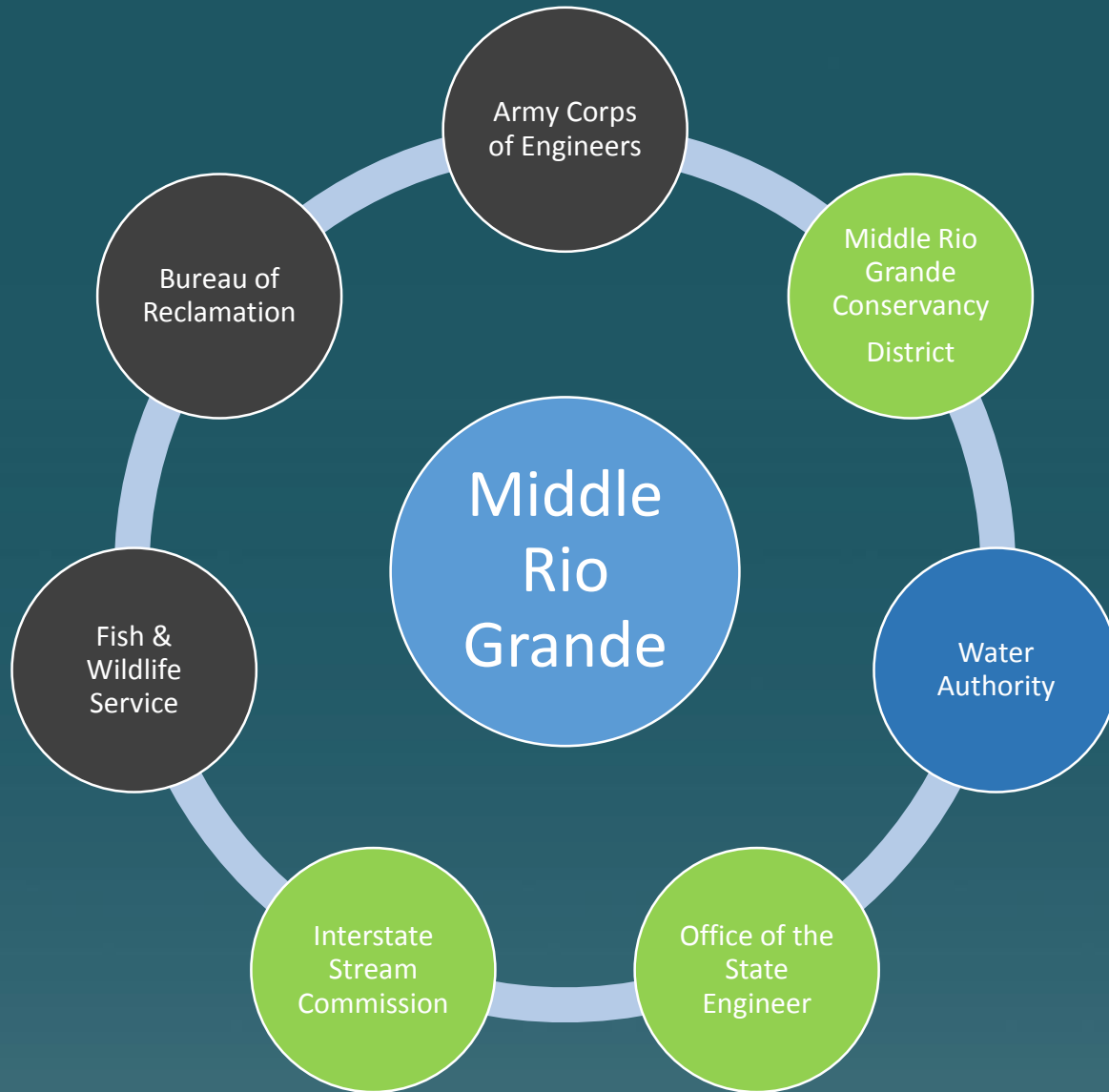
195 cfs

# Coordination

Three conference  
calls per week to  
coordinate releases

Federal/State  
Agencies Meetings

Drought Planning





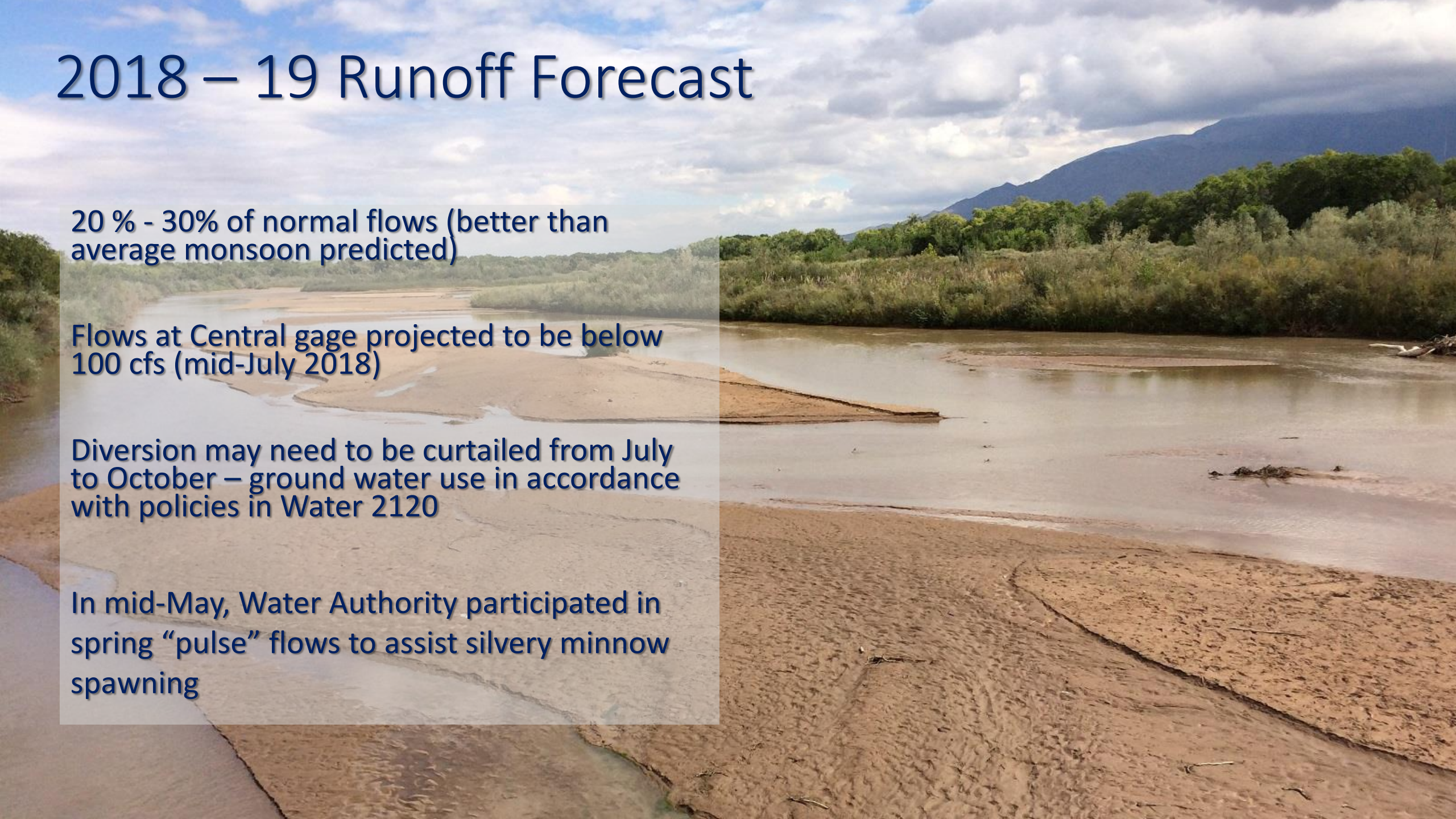
# 2018 – 19 Runoff Forecast

20 % - 30% of normal flows (better than average monsoon predicted)

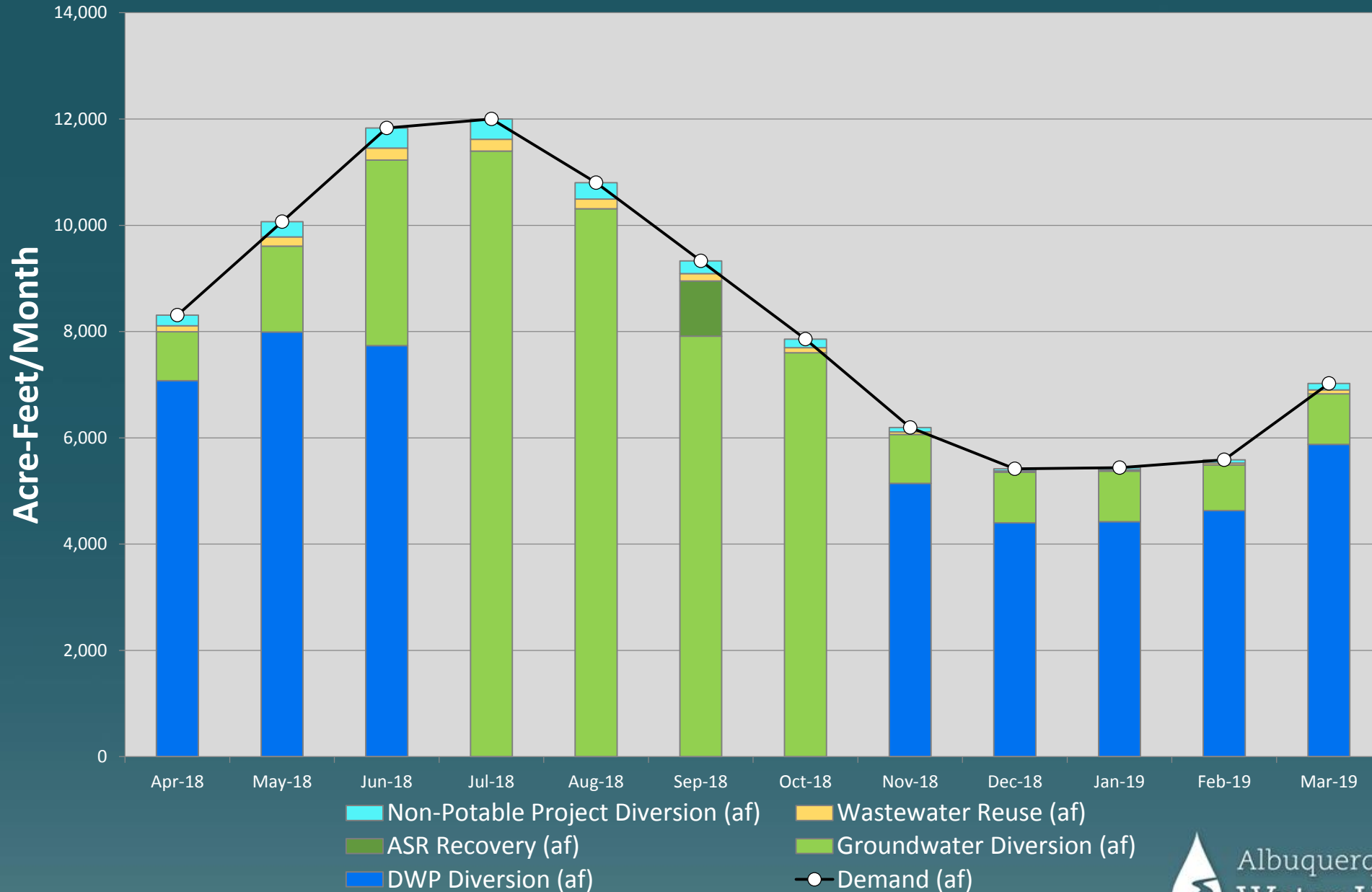
Flows at Central gage projected to be below 100 cfs (mid-July 2018)

Diversion may need to be curtailed from July to October – ground water use in accordance with policies in Water 2120

In mid-May, Water Authority participated in spring “pulse” flows to assist silvery minnow spawning



# Water Monthly Diversions



Albuquerque Bernalillo County  
Water Utility Authority

Thank you

Any questions?