

**NMED ATTACHMENT B – NMENV TECHNICAL REQUIREMENTS
TO
STATE OF NEW MEXICO
CAPITAL APPROPRIATION FUND AGREEMENT**

REVIEW

Upon execution of the agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit a detailed project description to NMED Construction Programs Bureau prior to committing to expenditures from these funds. The detailed description will be provided on the Attachment A form. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee prior to this agreement, that are related to the project, for review and, if appropriate, approval.
- B. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit documentation regarding the hiring process to be used and the Request for Proposals (RFP), if applicable, to NMED for review and approval **prior to** selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If, for any one circumstance, engineering fees will exceed \$60,000, excluding gross receipt taxes, the Grantee is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- C. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit a draft of any engineering agreement and/or other professional services contract, or a letter certifying that the Grantee's staff will be used for design, to NMED for review and approval **prior to** executing the agreement/contract or using Grantee's staff. The required engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at www.nmenv.state.nm.us/cpb/cbptop.html.
- D. A preliminary engineering report (PER) or study by a registered New Mexico Professional Engineer may be required. If a PER or study is to be prepared, the Grantee and their consultant shall meet with NMED before starting any work for a "scoping" meeting to fully discuss the scope and extent of the PER. The consultant shall present their preliminary outline for the PER, including the alternatives to be considered. The Grantee must submit the final PER and/or study to NMED for review and approval before preparation of plans and specifications. The purpose of the PER and/or study is to analyze and choose the most technically feasible and cost effective solution for the project. The PER must follow USDA RUS Bulletin 1780-2.
- E. Grantee agrees not to start the preparation of plans and specifications until NMED approval of the PER, study, or waiver of the report requirement has been received.
- F. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, and any addenda for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval **before** the project is advertised for construction bids.

- G. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- H. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- I. The selected contractor will submit a construction schedule to the Grantee and NMED if requested at the pre-construction conference with a copy to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.
- J. The Grantee will provide a full-time construction inspector during construction of the project. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- K. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- L. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- M. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.
- N. NMED will reimburse the grantee its actual costs when NMED determines, in its sole discretion, that expenditures were appropriate under the terms of the Agreement and that the expenditures were properly documented.

NMED OVERSIGHT

NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures, statutes and regulations. NMED approval will not be interpreted as any warranty or guarantee of any kind. Approval of plans and design of the project means only that plans are complete and in compliance with applicable state grant requirements, procedures and regulations. NMED will bring to the Grantee's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction will be the responsibility of the Grantee and its contractors and consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and consultants will remain responsible for the completion and success of the project. Approval does not relieve the owner or engineer of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

CLOSEOUT

- O. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and NMED.
- P. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- Q. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- R. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
 - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
 - iii. A certificate of substantial completion including punch list items;
 - iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
 - v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
 - vi. Record drawings prepared by the Grantee's project engineer or a letter from the owner certifying receipt and acceptance of the record drawings;
 - vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish

receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;

- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

With the exception of easements (See Article 1.G above), when real property is acquired by the Grantee, either through purchase or donation as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED **prior to** the acquisition of any real property. After real property acquisition, the Grantee will make available to NMED all documents of title pertaining to the acquired property and all easements or rights-of-way necessary for the completion of work under this grant agreement.

NMED Attachment C
NMED Contact Information Sheet
Project Number SAP 19-D2555-GF
Grantee

Project Manager: Andrea Telmo
Project Manager Address: 121 Tijeras Ave NE, Ste 1000
Albuquerque, NM 87102
Phone: 505-222-9512
Email: andrea.telmo@state.nm.us

Project Administration: Paulette Ortiz
Project Admin Address: 1190 St. Francis Drive S-2072
Santa Fe, NM 87502
Phone: 505-827-0548
Email: paulette.ortiz@state.nm.us

For General Assistance, please call 505-827-2806 and ask for “Special Appropriations” or email:
NMENV-cpbsap@state.nm.us

Rev. May 2018

NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU

NMED ATTACHMENT D DISBURSEMENT REQUEST
SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY

C. DISBURSEMENT REQUEST NUMBER

B. PROJECT NUMBER

D. GRANT AMOUNT

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<p>Article IX.A. (ii). By checking this box you are stating that payment has NOT been paid to the vendors associated with this request. Upon receipt of payment from NMED, certification of payment will be sent within 10 days from the date of receiving reimbursement.</p>								
<p>Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti-donation" clause.</p>								

Article IX.A. (ii). By checking this box you are certifying that the vendors associated with this request have been paid.

Signature of Authorized Official:	Typed or Printed Name:	Phone:	Date:
X			

NMED Attachment E
New Mexico Environment Department (NMED)
Capital Appropriations Certification Document
Article IX. A. (ii) and (iii)
Project SAP 19-D2555-GF
Grantee
Payment Request No _____

I certify that payment to all vendors on the above referenced payment request were paid no more than five (5) days after receiving reimbursement from NMED.

Official Representative, Signed Name, Printed Name, Date

NMED Attachment F
SAMPLE Resolution Resolution Number

Whereas, the Board of Directors / Council / Commission of Community / Utility of County Name County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

Whereas, the Agreement is identified as SAP Project Number Grant Agreement.

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Name, Mayor / Chair / Director, is authorized to sign the agreement for this project, and

Signatory Name and Signatory Title, or his/her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests and act as a single point of contact concerning all matters related to the grant agreement.

PASSED, APPROVED, AND ADOPTED: _____.

Name, Mayor/ Chair, Community / Utility

(Signature)

Date

(SEAL)

ATTEST:

Notary Name, Notary Title

(Signature)

Date

NMED Attachment G
SAP Signature Page

Project Name:	TAOS GUNSIGHT SPRINGS WATER SYS DIST INFRA DEVELOP
Project Number:	SAP 19-D2555-GF
Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	-
Phone	

Alternate - Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	-
Phone	