

[\$ Total Amount of Loan/Grant]

**COLONIAS INFRASTRUCTURE PROJECT FUND
LOAN/GRANT AGREEMENT**

dated

[insert closing date]

by and between the

NEW MEXICO FINANCE AUTHORITY

and [the]

[insert GOVERNMENTAL UNIT'S NAME], NEW MEXICO

**COLONIAS INFRASTRUCTURE PROJECT FUND
LOAN/GRANT AGREEMENT**

THIS LOAN/GRANT AGREEMENT (the “Loan Agreement”) dated the Closing Date, is entered into by and between the **NEW MEXICO FINANCE AUTHORITY** (the “NMFA”), and the [insert **GOVERNMENTAL UNIT’S NAME**] in [insert county], New Mexico, (the “Governmental Unit”) for the benefit of the Colonia, as applicable and shown on the Term Sheet (the “Colonia”).

W I T N E S S E T H:

WHEREAS, the NMFA is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized and created under and pursuant to the laws of the State, particularly Section 6-21-1 et seq., NMSA 1978, as amended (the “NMFA Act”); and

WHEREAS, the Colonias Infrastructure Act, NMSA 1978, Sections 6-30-1 through 6-30-8, as amended (the “Colonias Infrastructure Act” or the “Act”) creates the Colonias Infrastructure Project Fund (the “Fund”) in the NMFA, to be administered by the NMFA to originate grants or loans to Qualified Entities for Qualified Projects recommended by the Colonias Infrastructure Board (the “CIB”); and

WHEREAS, the Governmental Unit is a political subdivision duly organized and existing under and pursuant to the laws of the State and is a Qualified Entity under the Act; and

WHEREAS, there exists within the boundaries or Service Area of the Governmental Unit, the Colonia, a community that has been designated as a Colonia within the meaning of the Act, as applicable and shown on the Term Sheet; and

WHEREAS, the Governmental Unit will be receiving the Loan/Grant for the benefit of the Colonia and the constituents the Governmental Unit serves or the Governmental Unit is a community that is a Colonia within the meaning of the Act, as applicable and shown on the Term Sheet; and

WHEREAS, pursuant to the Act, Board Rules and the Policies, the CIB authorizes the NMFA to make loans/grants to Qualified Entities from the Fund for recommended Qualified Projects; and

WHEREAS, the Governmental Unit submitted an application for the Project, as shown on the Term Sheet (“Project Application Date”); and

WHEREAS, the CIB has determined that the Project is a Qualified Project and that the Governmental Unit is a Qualified Entity under the Board Rules; and

WHEREAS, the CIB recommended to the NMFA that the Governmental Unit receive financial assistance from the Fund in the form of the Loan/Grant, for the benefit of the Colonia, if applicable, and the CIB has recommended that the NMFA enter into and administer this Loan Agreement, as shown on the Term Sheet (“CIB Approval Date”); and

WHEREAS, the NMFA approved the Loan/Grant Amount from the Fund to the Governmental Unit, as shown on the Term Sheet (“NMFA Board Approval Date”); and

WHEREAS, pursuant to the Board Rules and the Policies, the Governmental Unit will receive a percentage of its funding as a loan, in order to ensure the long-term solvency of the Fund by providing annual streams of revenue available to fund additional Qualified Projects; and

WHEREAS, the Governmental Unit is willing to pledge the Pledged Revenues to the payment of the Loan Payments and Administrative Fee, with a super subordinate lien (but not an exclusive super subordinate lien) on the Pledged Revenues on parity with the Super Subordinate Obligations and subordinate to the lien on the Pledged Revenues of the Senior Obligations and the Subordinate Obligations; and

WHEREAS, the obligation of the Governmental Unit under this Loan Agreement shall constitute a special, limited obligation of the Governmental Unit, limited to the Pledged Revenues, and shall not constitute a general obligation or other indebtedness of the Governmental Unit or a charge upon the general credit or ad valorem taxing power of the Governmental Unit, or the State; and

WHEREAS, the execution, performance, and delivery of this Loan Agreement have been authorized, approved, and directed by the Governing Body pursuant to the Authorizing Legislation; and

WHEREAS, the execution and performance of this Loan Agreement have been authorized, approved, and directed by all necessary and appropriate action of the CIB and the NMFA and their respective officers.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants contained in this Loan Agreement, the parties agree:

ARTICLE I DEFINITIONS

Capitalized terms defined in the recitals shall have the same meaning when used in this Loan Agreement unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Loan Agreement including the recitals, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined).

“ACH Authorization” means the authorization for direct payment to the NMFA by ACH made by the Governmental Unit on the form required by the bank or other entity at which the account is held, from which the Pledged Revenues will be paid, as applicable and shown on the Term Sheet.

“Act” means the general laws of the State, including the laws and enactments of the Governing Body relating to this Loan Agreement and the Intercept Agreement, including the Authorizing Legislation, as shown on the Term Sheet, all as amended and supplemented.

“Administrative Fee” means the 0.25% annual fee payable to the NMFA calculated on the amount of the outstanding principal balance, as shown on Exhibit “C”.

“Application” means the Colonias Infrastructure Project Fund Application for Funding of the Governmental Unit and pursuant to which the Governmental Unit requested funding for the Project, as shown as the “Project Application Date” on the Term Sheet.

“Authorizing Legislation” means the Ordinance or Resolution, as shown on the Term Sheet, adopted by the Governing Body, approving this Loan Agreement, and pledging the Pledged Revenues to the payment of the Loan/Grant.

“Authorized Officers” means, in the case of the Governmental Unit, the persons as shown on the Term Sheet and, in the case of the NMFA, the Chair, Vice-Chair and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the NMFA designated in writing by an Authorized Officer.

“Board Rules” means Review and Selection of Colonias Infrastructure Projects, New Mexico Colonias Infrastructure Board, Sections 2.91.2.1 through 2.91.2.18 NMAC.

“Closing Date” means the date of execution of this Loan Agreement by the Governmental Unit and the NMFA, as shown on the Term Sheet.

“Colonia” or “Colonias” means a Colonia as defined in the Act, and more particularly in NMSA 1978, Section 6-30-3(C), as amended, as applicable and shown on the Term Sheet.

“Conditions” means (1) all readiness to proceed requirements established for the Loan/Grant by the NMFA and the CIB; (2) all requirements shown on the Term Sheet; (3) all requirements outlined in Section 2.1(p) and Section 5.1; (4) a determination that the disbursement applied for does not exceed any limitation upon the amount payable for any Eligible Item pursuant to the Act, the Board Rules, and the Policies; and (5) approval of the plans and specifications for the Project by all entities required by the CIB or the NMFA in their sole discretion to approve such plans and specifications; provided that Section 5 of this definition does not apply to design or planning-only projects, as shown as Project Phase on the Term Sheet.

“County Gross Receipts Tax” means the revenues of a county local option gross receipts tax imposed pursuant to the Act and enacted by the Tax Ordinance on the gross receipts of all persons engaging in business within the Governmental Unit which provides for the Pledged Revenues, if applicable.

“Distributing State Agency” means the department or agency of the State, as shown on the Term Sheet, authorized to distribute the Pledged Revenues to or on behalf of the Governmental Unit.

“DFA” means the department of finance and administration of the State.

“Eligible Fiscal Agent Fees” means fees and costs incurred by a fiscal agent for the administration of Project funds, including the collection and reporting of Project information as

required by this Loan Agreement in an amount not exceeding five percent (5%) of the Loan/Grant Amount.

“Eligible Items” means eligible Project costs for which loans/grants may be made pursuant to Title 2, Chapter 91, Part 2 NMAC, the Board Rules and applicable Policies, and includes costs of acquiring and completing the Project, and, without limitation, Eligible Legal Costs, Eligible Fiscal Agent Fees, and Eligible Project Management Fees.

“Eligible Legal Costs” means legal fees and costs for services rendered by legal counsel on behalf of the Governmental Unit for transaction of the Project and those directly associated with the Qualified Project in an amount not exceeding ten percent (10%) of the Loan/Grant Amount, but does not include adjudication services.

“Eligible Project Management Fees” means the fees and costs associated with the planning, implementation and technical oversight of the project management costs for services rendered to the Governmental Unit for the transaction of the Project and those directly associated with the Project in an amount up to ten percent (10%) of the Loan/Grant Amount.

“Event of Default” means one or more events of default as defined in Section 9.1.

“Final Debt Service Schedule” means the schedule of Loan Payments due on this Loan Agreement following the Final Requisition, as determined on the basis of the Loan Amount and Administrative Fee.

“Final Requisition” means the final requisition of moneys to be submitted by the Governmental Unit, which shall be submitted by the Governmental Unit on or before the expiration of the Interim Period as provided in Section 4.4.

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

“Force Majeure” means acts of God and natural disasters; strikes or labor disputes; war, civil strife or other violence; an order of any kind of the Government of the United States or of the State or civil or military authority or any court of competent jurisdiction; or any other act or condition that was beyond the reasonable control of, without fault or negligence of, or not reasonably foreseeable by the party claiming the Force Majeure event; except for (i) general economic conditions; or (ii) an inability of a party claiming the Force Majeure event to pay any debts when due.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Governmental Unit consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the NMFA establishing accounting principles applicable to the Governmental Unit.

“Governing Body” means the duly organized governing body of the Governmental Unit and any successor governing body of the Governmental Unit as shown on the Term Sheet.

“Grant” or “Grant Amount” means the amount provided to the Governmental Unit as a grant pursuant to this Loan Agreement for the purpose of funding the Project and shall not exceed the total amount of the grant, as shown on the Term Sheet.

“Hardship Waiver” means a determination by the NMFA pursuant to Section 4.1(a)(iii) that the annual principal payment by the Governmental Unit should be forgiven because such payment would cause undue hardship for the Governmental Unit or the constituents it serves.

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

“Interim Debt Service Schedule” means the anticipated schedule of Loan Payments due on this Loan Agreement following the Final Requisition, assuming disbursement of the entire Loan Amount within twenty-four (24) months of the Closing Date. The Interim Debt Service Schedule is attached as Exhibit “C”.

“Interim Period” means the period no greater than twenty-four (24) months, unless a longer period is approved by the NMFA as provided in Section 4.4, beginning on the Closing Date, during which the NMFA will disburse moneys to the Governmental Unit to pay costs of the Project.

“Lien Status” means the designation of this Loan Agreement as a Senior Obligation, Subordinate Obligation, or Super Subordinate Obligation, as shown on the Term Sheet.

“Loan Agreement Term” means the term of this Loan Agreement as provided under Article III.

“Loan” or “Loan Amount” means the amount disbursed to the Governmental Unit during the Interim Period for the purpose of funding the Project and shall not equal more than the total amount of the loan, as shown on the Term Sheet.

“Loan/Grant” or “Loan/Grant Amount” means the combined amount distributed to the Governmental Unit during the Interim Period partially as the Grant Amount and partially borrowed by the Governmental Unit as the Loan Amount pursuant to this Loan Agreement for the purpose of funding the Project and shall not equal more than the total amount of the loan/grant amount, as shown on the Term Sheet.

“Loan Payments” means, collectively, the Principal Component, Administrative Fee and Interest Component, if any, to be paid by the Governmental Unit as payment of this Loan Agreement as shown on Exhibit “C”.

“Local Match” means the amount determined pursuant to the Policies to be provided by the Governmental Unit which includes the total value of the soft or hard match (each as defined in the Policies) which, in combination with the Loan/Grant Amount and other monies available to the Governmental Unit, is sufficient to complete the Project, as shown on the Term Sheet.

“Municipal Gross Receipts Tax” means the revenues of a municipal local option gross receipts tax imposed pursuant to the Act and enacted by the Tax Ordinance on the gross receipts

of all persons engaging in business within the Governmental Unit which provides for the Pledged Revenues, if applicable.

“Parity Obligations” means any obligations of the Governmental Unit under this Loan Agreement and any other obligations now outstanding or subsequently issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with this Loan Agreement, consistent with the Lien Status of this Loan Agreement.

“Pledged Revenues” means revenues distributed to the Governmental Unit pledged to payment of the Loan Payments pursuant to the Authorizing Legislation, as shown on the Term Sheet.

“Policies” means the Colonias Infrastructure Project Fund Project Selection and Management Policies, approved by the CIB.

“Political Subdivision of the State” means a municipality, a county, a water and sanitation district, an association organized and existing pursuant to the Sanitary Projects Act, NMSA 1978, Sections 3-29-1 through 3-29-21, as amended, or any other entity recognized by statute as a political subdivision of the State.

“Principal Component” means the portion of each Loan Payment paid as principal on this Loan Agreement as shown on Exhibit “C”.

“Project” means the project(s) shown on the Term Sheet.

“Project Account” means the book account, if any, established by the NMFA in the name of the Governmental Unit for purposes of tracking expenditure of the Loan/Grant Amount by the Governmental Unit to pay for the costs of the Project, which shall be kept separate and apart from all other accounts of the NMFA.

“Project Phase” means the design and/or construction phase of the Project, as shown on the Term Sheet.

“Qualified Entity” means a county, municipality, or other entity recognized as a Political Subdivision of the State pursuant to NMSA 1978, Section 6-30-3(F), as amended.

“Qualified Project” means a capital outlay project recommended by the CIB to the NMFA for financial assistance that is primarily intended to develop Colonias infrastructure. A Qualified Project may include a water system, a wastewater system, solid waste disposal facilities, flood and drainage control, roads or housing infrastructure pursuant to NMSA 1978, Section 6-30-3(G), as amended, but does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies.

“Senior Obligations” means the outstanding “Senior Obligations” shown on the Term Sheet, and any other obligations now outstanding or hereafter issued or incurred, payable from or secured by a senior lien (but not an exclusive senior lien) on the Pledged Revenues and issued with

a lien on the Pledged Revenues senior to the lien on the Pledged Revenues of any Subordinate Obligations and Super Subordinate Obligations.

“Service Area” means the area served by the System, whether situated within or without the limits of the Governmental Unit.

“Subordinate Obligations” means the outstanding “Subordinate Obligations” shown on the Term Sheet, and any other obligations now outstanding or hereafter issued or incurred, payable from or secured by a subordinate lien (but not an exclusive subordinate lien) on the Pledged Revenues and issued with a lien on the Pledged Revenues subordinate to the lien on the Pledged Revenues of any Senior Obligations and senior to the lien on the Pledged Revenues of any Super Subordinate Obligations.

“Super Subordinate Obligations” the outstanding Super Subordinate Obligations shown on the Term Sheet and any other obligations, now outstanding or hereafter issued or incurred, payable from or secured by a super subordinate lien (but not an exclusive super subordinate lien) on the Pledged Revenues and issued with a lien on the Pledged Revenues subordinate to the lien on the Pledged Revenues of any Senior Obligations and Subordinate Obligations.

“State” means the State of New Mexico.

“State Shared Gross Receipts Tax” means the revenues from the State gross receipts tax derived pursuant to Section 7-9-4, NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted monthly by the Distributing State Agency to the Governmental Unit as authorized by Sections 7-1-6.1, 7-1-6.4 and 7-1-6.15 NMSA 1978, all as amended, and which remittances as of the date of adoption of the Resolution are equal to the product of the quotient of one and two hundred twenty-five thousandths percent (1.225%) divided by the tax rate imposed by Section 7-9-4, NMSA 1978, as amended, multiplied by the net receipts, except net receipts attributable to a nonprofit hospital licensed by the department of health, for the month attributable to the gross receipts tax from business locations pursuant to Section 7-1-6.4, NMSA 1978, as amended, subject to any increase or decrease made pursuant to Section 7-1-6.15, NMSA 1978, as amended, which revenues are designated as the “state-shared gross receipts tax,” which provides for the Pledged Revenues, if applicable.

“System” means the Governmental Unit owned public utility designated as the Governmental Unit’s system shown on the Term Sheet consisting of all properties, real, personal, mixed or otherwise, now owned or subsequently acquired by the Governmental Unit through purchase, condemnation, construction or otherwise, including all expansions, extensions, enlargements and improvements of or to the system, and used in connection with or relating to the system, and any other related activity or enterprise of the Governmental Unit designated by the Governing Body as part of the system, whether situated within or without the limits of the Governmental Unit.

“Supplemental Municipal Gross Receipts Tax” means the revenues of a supplemental municipal gross receipts tax imposed pursuant to the Act and enacted by the Tax Ordinance on the gross receipts of all persons engaging in business within the Governmental Unit which provides for the Pledged Revenues, if applicable.

“Tax Ordinance” means, if any, the ordinance passed and approved by the Governmental Unit pursuant to the Act, as shown on the Term Sheet.

“Term Sheet” means Exhibit “A”.

“Useful Life” means the period during which the Project is expected to be usable for the purpose for which it was acquired and/or constructed, as shown on the Term Sheet.

ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE GOVERNMENTAL UNIT

Section 2.1 Representations, Covenants and Warranties of the Governmental Unit: The Governmental Unit represents, covenants and warrants for the benefit of the NMFA as follows:

(a) Binding Nature of Covenants; Enforceability. All representations, covenants, stipulations, obligations and agreements of the Governmental Unit contained in this Loan Agreement shall be deemed to be the representations, covenants, stipulations, obligations and agreements of the Governmental Unit to the full extent authorized or permitted by law, and such representations, covenants, stipulations, obligations and agreements shall be binding upon the Governmental Unit and its successors and enforceable in accordance with their terms, and upon any board or body to which any powers or duties affecting such representations, covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Loan Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Governmental Unit by the provisions of this Loan Agreement and the Authorizing Legislation shall be exercised or performed by the Governmental Unit or by such members, officers, or officials of the Governmental Unit as may be required by law to exercise such powers and to perform such duties.

(b) Authorization of Loan Agreement. The Governmental Unit is a Qualified Entity as defined in the Act and the Board Rules. Pursuant to the Act, the Governmental Unit is authorized to enter into the transactions contemplated by this Loan Agreement and to carry out its special, limited obligations. The Governmental Unit has duly authorized and approved its acceptance of the Loan/Grant and the execution and delivery of this Loan Agreement and the other documents related to the transaction described in this Loan Agreement, and this Loan Agreement and the other documents related to the transaction to which the Governmental Unit is a party constitute legal, valid and binding special obligations of the Governmental Unit enforceable against the Governmental Unit in accordance with their respective terms.

(c) Necessity of Project. The completion and operation of the Project under the terms and Conditions provided in this Loan Agreement are necessary, convenient, and in furtherance of the governmental purposes of the Governmental Unit and are in the best interest of the Governmental Unit and, if applicable, the Colonia and the constituents Governmental Unit serves.

(d) Useful Life. The Loan Agreement Term is not greater than the Useful Life of the Project, and in any event shall not exceed thirty (30) years.

(e) Nature and Use of Loan Agreement Proceeds. The Governmental Unit acknowledges that the proceeds of the Loan/Grant Amount shall be distributed pro rata as the Loan Amount and Grant Amount. The Governmental Unit shall apply the proceeds of the Loan/Grant solely to Eligible Items that will facilitate the completion of the Project, and shall not use the Loan/Grant proceeds for any other purpose. The Loan/Grant Amount, together with the Local Match and other moneys reasonably expected to be available to the Governmental Unit, is sufficient to complete the Project in its entirety.

(f) Lien. The Loan Payments constitute an irrevocable lien on the Pledged Revenues, the priority of which is consistent with the Lien Status.

(g) Payment of Loan Amount and Administrative Fee. The Governmental Unit shall promptly pay the Loan Payments as provided in this Loan Agreement, except when a Hardship Waiver is obtained pursuant to Section 4.1(a)(ii). The Loan Payments shall be payable solely from Pledged Revenues and nothing in this Loan Agreement shall be construed as obligating the Governmental Unit to make the Loan Payments from any general or other fund of the Governmental Unit other than the Pledged Revenues; however, nothing in this Loan Agreement shall be construed as prohibiting the Governmental Unit in its sole and absolute discretion, from making such payments from any moneys which may be lawfully used, and which are legally available, for that purpose.

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

(i) Irrevocable Enactments. While this Loan Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for payment of this Loan Agreement, including the Authorizing Legislation, shall be irrevocable until the Project has been fully acquired and completed, and the Loan Amount, including all Principal Components, the Administrative Fee and Interest Components, if any, that has been repaid, or provision made for payment, shall not be subject to amendment or modification in any manner which would in any way jeopardize the timely payment of the Loan Payments or which would result in any use of the proceeds of this Loan Agreement in a manner not permitted or contemplated by the terms of this Loan Agreement. The Governmental Unit shall not impair the rights of the NMFA or of any holders of bonds or other obligations payable from the Pledged Revenues while this Loan Agreement is outstanding.

(j) No Litigation. To the knowledge of the Governmental Unit, no litigation or proceeding is pending or threatened against the Governmental Unit or any other person affecting the right of the Governmental Unit to execute or deliver this Loan Agreement and the other

documents related to the transaction or to comply with its obligations under this Loan Agreement and the other documents related to the transaction.

(k) Agency Approval. Neither the execution and delivery of this Loan Agreement and the other documents related to the transaction by the Governmental Unit nor compliance by the Governmental Unit with the obligations under this Loan Agreement and the other documents related to the transaction, requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(l) No Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Loan Agreement, would constitute an Event of Default on the part of the Governmental Unit under this Loan Agreement.

(m) Pledged Revenues Not Budgeted. The portion of the Pledged Revenues necessary to pay the Loan Payments, as and when due, is not needed or budgeted to pay current or future System and/or Project-related expenses of the Governmental Unit.

(n) Governmental Unit's Existence. The Governmental Unit will maintain its legal identity and existence so long as this Loan Agreement remains outstanding unless another Political Subdivision of the State, State agency, or other entity by operation of law succeeds to the liabilities, rights and duties of the Governmental Unit under this Loan Agreement without adversely affecting to any substantial degree the privileges and rights of the CIB and NMFA.

(o) Budgeting of Pledged Revenues. The Pledged Revenues will be sufficient to make the Loan Payments, as and when due. The Governmental Unit will adequately budget for the Loan Payments and other amounts payable by the Governmental Unit under this Loan Agreement.

(p) Use of Project; Continuing Covenant. During the Loan Agreement Term, the Governmental Unit will at all times use the Project for the benefit of the Governmental Unit and the constituents it serves.

(i) If the Project is design-only as shown as Project Phase on the Term Sheet, the engineering design or engineering feasibility reports shall not involve or anticipate a sale, lease, mortgage, pledge, or the relocation or disposal of any part of the Project or System designed during its Useful Life; provided, however, that if the Project is a joint project of the Governmental Unit and other Qualified Entities (as defined by the Act), the Governmental Unit and the other Qualified Entities may, with the express written approval of the NMFA and not otherwise, enter into an agreement allocating ownership and operational and maintenance responsibilities for the Project during the term of the Loan Agreement. Any such agreement shall provide that the NMFA shall have the power to enforce the terms of this Loan Agreement, without qualification, as to each and every Qualified Entity (as defined by the Act) other than the Governmental Unit, owning or operating any portion of the Project during the term of the Loan Agreement. The Governmental Unit will operate and maintain the Project, so that it will function properly over its Useful Life.

(ii) If the Project includes construction as shown as Project Phase on the Term Sheet, the Governmental Unit shall not sell, lease, mortgage, pledge, relocate or otherwise dispose of or transfer the Project or System, or any part of the Project or System so long as this Loan Agreement is outstanding; provided, however, that if the Project is a joint project of the Governmental Unit and other Qualified Entities (as defined by the Act), the Governmental Unit and the other Qualified Entities may, with the express written approval of the NMFA and not otherwise, enter into an agreement allocating ownership and operational and maintenance responsibilities for the Project during the term of the Loan Agreement. Any such agreement shall provide that the NMFA shall have the power to enforce the terms of this Loan Agreement, without qualification, as to each and every Qualified Entity (as defined by the Act) other than the Governmental Unit, owning or operating any portion of the Project during the term of the Loan Agreement. The Governmental Unit will operate and maintain the Project, so that it will function properly over its Useful Life.

(q) Expected Coverage Ratio. The Pledged Revenues from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed, the amount shown on the Term Sheet, of the of the maximum annual principal and interest due on all outstanding obligations of the Governmental Unit payable from the Pledged Revenues.

(r) Right to Inspect. The NMFA shall have the right to inspect at all reasonable times all records, accounts and data relating to the System and/or Project and to inspect the System and/or Project and all properties comprising the System and/or Project.

(s) Pledged Revenue Covenants. As shown on the Term Sheet:

(i) The Governing Body has duly adopted the Tax Ordinance imposing the County Gross Receipts Tax, the Municipal Gross Receipts Tax or the Supplemental Municipal Gross Receipts Tax, as applicable, which constitutes the Pledged Revenues. The Tax Ordinance has not been repealed or superseded and is in full force and effect; or

(ii) The Governmental Unit is entitled to and receives gross receipts tax distributions each month pursuant the State Shared Gross Receipts Tax.

(t) Records and Reporting. The Governmental Unit shall maintain financial records in accordance with Generally Accepted Accounting Principles throughout the Loan Agreement Term, and in the event that the State Audit Act, NMSA 1978, Sections 12-6-1 through 12-6-14 does not apply, conduct an audit of the Project's financial records if requested by the CIB or the NMFA and provide any and all other information and access to the Project as requested by the CIB or the NMFA.

(u) Acquisition and Completion. The Governmental Unit shall proceed expeditiously to complete the Project and shall commence the Project in a commercially reasonable timeframe following the Closing Date. Further, the Governmental Unit agrees that in order to effectuate the purposes of this Loan Agreement and to acquire and complete the Project it shall take such steps as are necessary and appropriate to acquire, complete, (operate and maintain for construction Projects as shown on the Term Sheet) the Project lawfully and efficiently in accord

with all applicable laws, ordinances, resolutions and regulations relating to the acquisition, operation, (maintenance and completion for construction Projects as shown on the Term Sheet) of the Project and use of the Loan/Grant proceeds. The Governmental Unit shall exercise its power of eminent domain, if needed to comply with this Section 2.1(t) and Section 5.1.

(i) If the Project is construction-only as shown as Project Phase on the Term Sheet, the Project shall be constructed, installed and completed substantially in accordance with the approved plans and specifications, and shall fully incorporate the available technologies and operational design for water use efficiency described in the approved plans and specifications. No Loan/Grant funds shall be used for items not constituting Eligible Items.

(ii) If the Project is design-only as shown as Project Phase on the Term Sheet, the plans and specifications for the Project shall incorporate available technologies and operational design for water use efficiency described in the approved plans and specifications. No Loan/Grant funds shall be used for items not constituting Eligible Items.

(iii) If the Project includes both design and construction as shown as Project Phase on the Term Sheet, the Project shall be designed to incorporate the available technologies and operational design for water use efficiency. The plans and specifications shall be approved by all entities required by the CIB or NMFA in their sole discretion to approve such plans and specifications prior to the disbursement of any part of the Loan/Grant Amount for construction of the Project, and the Project shall be constructed and completed substantially in accordance with the approved plans and specifications. No Loan/Grant funds shall be used for items not constituting Eligible Items.

(v) Use of Grant Proceeds for Construction; Other Qualified Entities. If any of the proceeds of the Loan/Grant are used for construction, the Governmental Unit shall operate and maintain the Project in good operating condition and repair at all times during the Useful Life of the Project, so that the Project will function properly over the Useful Life of the Project; provided, that if any portion of the Project will be constructed, installed, located, completed or extended on real property owned by a Qualified Entity (as defined by the Act) other than the Governmental Unit, the Governmental Unit may, prior to any use of the Loan/Grant funds for the Project on such real property, obtain the written agreement of such other Qualified Entity to perform these obligations with respect to such real property (and the portion of the Project to be constructed, installed, located, completed or extended on such real property), which written agreement shall be subject to approval by the NMFA and shall include an express statement by such other Qualified Entity that the NMFA is a third party beneficiary of such written agreement.

(w) Local Match. The Local Match is legally available for the Project, has been applied or set aside by the Governmental Unit solely for the purposes of the Project and sufficient evidence of the Local Match has been provided and will be continued to be provided as part of the Governmental Unit's quarterly reporting as outlined in Section 7.1 and as otherwise requested by the NMFA. If the Local Match includes a soft match as shown on the Term Sheet, the Governmental Unit covenants that the value of labor and/or equipment at fair market rates is sufficient to meet the required Local Match and the labor and/or equipment has been or will be donated for the scope of work on the proposed Project, as shown on the Term Sheet.

(x) Audit Requirement. During the Loan Agreement Term the Governmental Unit shall comply with the requirements of the State Audit Act, NMSA 1978, Sections 12-6-1 through 12-6-15, as amended, and upon request, provide the NMFA with a copy of any review or audit, report of agreed upon procedures, or any other document prepared pursuant to or required by the State Audit Act.

(y) Executive Order 2013-006 Requirements. The Governmental Unit has and will meet the requirements of Executive Order 2013-006 prior to the first disbursement of any portion of the Loan/Grant Amount, the Conditions and the readiness to proceed requirements established for the Loan/Grant by the NMFA and the CIB.

(z) Additional Debt. Except for any Senior Obligations, Subordinate Obligations, and Super Subordinate Obligations shown on the Term Sheet, there are currently no outstanding bonds, notes or other obligations of the Governmental Unit which are payable from and secured by a lien on the Pledged Revenues superior to or on a parity with the lien of this Loan Agreement. Prior to entering into additional indebtedness secured by a lien on the Pledged Revenues that is senior to or on parity with this Loan Agreement, the Governmental Unit will seek the written consent of the NMFA, which consent will not be unreasonably withheld. Prior to entering into additional indebtedness secured by a lien on the Pledged Revenue subordinate to this Loan Agreement or a lien on any revenues of the Governmental Unit other than the Pledged Revenues, the Governmental Unit will notify the NMFA in writing of such indebtedness.

(aa) Other Liens. Other than as shown on the Term Sheet, there are no liens or encumbrances of any nature, whatsoever, on or against the Pledged Revenues.

ARTICLE III LOAN AGREEMENT TERM

The Loan Agreement Term shall commence on the Closing Date and shall terminate upon the earliest of the following events: (a) submission and acceptance of a completed Form of Certificate of Completion, Exhibit "D", and repayment of the Loan Amount, the Administrative Fee and Interest Component, if any, or (b) the exercise by the NMFA of its right to terminate the Loan Agreement pursuant to an Event of Default as outlined in Article IX.

ARTICLE IV LOAN/GRANT TO THE GOVERNMENTAL UNIT; INVESTMENT OF MONEYS

Section 4.1 Loan and Grant to the Governmental Unit.

(a) Loan to the Governmental Unit. The NMFA lends to the Governmental Unit and the Governmental Unit borrows from and agrees to pay to the order of the NMFA, an amount equal to the Loan Amount, with the principal amount of the Loan Amount being payable as provided by Article VI and Exhibit "C". The Loan Amount shall be pre-payable by the Governmental Unit at the conclusion of the Interim Period without penalty.

(i) Super Subordinate Nature of Loan Amount and Administrative Fee. The obligation of the Governmental Unit to make the Loan Payments and to pay the Administrative

Fee shall be subordinate to all other Senior Obligations and Subordinate Obligations and shall be on a parity with all Super Subordinate Obligations.

(ii) Administrative Fee. The Governmental Unit shall, on an annual basis beginning on the first payment date following the completion of the Project or exhaustion of all Loan/Grant Amounts as set out in Section 4.4, pay to the NMFA the Administrative Fee, taking into account both payments made by the Governmental Unit and Hardship Waivers granted to the Governmental Unit as provided by this Loan Agreement. Any such Administrative Fee payment shall be due irrespective of whether or not a Hardship Waiver is granted to the Governmental Unit for the principal payment otherwise due on June 1 of the applicable year or any other year.

(iii) Hardship Waivers of Payment. Each year while any portion of the Loan Amount remains outstanding, if a Governmental Unit has encountered an unforeseeable hardship, the Governmental Unit may apply in writing on or before April 1st to the NMFA for forgiveness of the annual Loan Payment coming due on June 1 of the same year. The Governmental Unit shall submit its application to the NMFA for a determination by the NMFA, in cooperation with DFA, and shall submit sufficient documentation of the existence of the unforeseeable hardship as is reasonably required by the NMFA, in cooperation with DFA, to make a determination. The Governmental Unit shall promptly respond to additional requests for information from the NMFA or DFA. Such application for a Hardship Waiver shall be executed by the Authorized Officers of the Governmental Unit. The NMFA shall communicate the decision to the Governmental Unit in writing. In the event of a determination of unforeseeable hardship, the Loan Payment otherwise due on June 1 of that year shall be forgiven. If no unforeseeable hardship is found to exist, the Loan Payment shall remain outstanding and due and payable in accordance with the terms of this Loan Agreement.

(iv) Constitutional and Statutory Debt Limitations. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the CIB, the NMFA, the State or the Governmental Unit within the meaning of any constitutional or statutory debt limitation.

(b) Grant to the Governmental Unit. The CIB has granted to the Governmental Unit and the Governmental Unit accepts from the NMFA and the CIB an amount equal to the Grant Amount subject to the terms of this Loan Agreement.

(c) Project Account. The NMFA may establish and maintain the Project Account as a book account only, on behalf of the Governmental Unit, which account shall be kept separate and apart from all other accounts of the NMFA.

Section 4.2 Investment of Governmental Unit's Accounts. Money on deposit in the Governmental Unit's accounts created and held by the NMFA may be invested by the NMFA for the credit of the Fund.

Section 4.3 Loan/Grant Amount Does Not Exceed Total Cost. The sum of the Grant Amount, the Loan Amount, and the Local Match (and as shown on the Term Sheet) does not exceed the cost of the Project, which, along with other moneys reasonably expected to be available to the Governmental Unit, is sufficient to complete the Project.

Section 4.4 Final Requisition. The Final Requisition shall be submitted by the Governmental Unit within the Interim Period. The Interim Period may be extended only as approved in writing by an Authorized Officer of the NMFA, based on the Governmental Unit's demonstration, to the reasonable satisfaction of the Authorized Officer of the NMFA, that unanticipated circumstances resulted in delaying the acquisition and completion of the Project and submission of the Governmental Unit's Final Requisition.

ARTICLE V

LOAN/GRANT AMOUNT DISBURSEMENT CONDITIONS

Section 5.1 Conditions Precedent to Disbursement of Loan/Grant Amount. Prior to the payment of any requisition of the Loan/Grant Amount or any portion thereof by the NMFA from the Fund, the following conditions shall be satisfied:

(a) The NMFA shall have determined that the Governmental Unit has met the Conditions established for the Loan/Grant;

(b) Prior to disbursement of any portion of the Loan/Grant Amount for acquisition, planning, design or survey, the Governmental Unit shall have provided written assurance addressed to the NMFA and signed by an attorney (or shall have provided a title insurance policy) that the Governmental Unit, or the benefiting Colonia, is the owner in fee simple of the lands needed for the facilities to be designed with the proceeds of the Loan/Grant, or that the Governmental Unit, or the benefiting Colonia, has or will acquire proper title to or easements, rights of way, permits or the requisite access needed, on the real property upon or through which the planning, design or survey phase is to be conducted by right of use or adverse possession, by legal conveyances such as right-of-way, easements, deeds, permits or other instruments, or will acquire any necessary titles or access rights by exercise of its power of eminent domain. If acquisition and completion of the Project does not require physical or visual access to existing lands or facilities, the Governmental Unit shall have provided written assurance addressed to the NMFA and signed by an attorney certifying that no title to, easements, rights-of-way, or permits are necessary to acquire and complete the Project;

(c) Prior to disbursement of any portion of the Loan/Grant Amount for installation or construction, the plans and specifications for the Project shall have been approved by all entities required by the CIB or the NMFA in their sole discretion to approve such plans and specifications and the Governmental Unit shall have provided written assurance addressed to the NMFA and signed by an attorney (or shall have provided a title insurance policy) that the Governmental Unit has proper title to or easements, rights of way, or permits on the real property upon or through which the Project is to be installed, constructed, located, completed or extended by right of use or adverse possession, by legal conveyances such as right-of-way, easements, deeds, permits or other instruments, or will acquire any necessary titles or access rights by exercise of its power of eminent domain;

(d) If any portion of the Project will be installed, constructed, located, completed or extended on real property owned by a Qualified Entity (as defined by the Act) other than the Governmental Unit, the Governmental Unit shall have provided written assurance

addressed to the NMFA and signed by an attorney (or shall have provided a title insurance policy) that such other Qualified Entity has proper title to such real property;

(e) The Governmental Unit is in compliance with the provisions of this Loan Agreement;

(f) No Event of Default has occurred; and

(g) The Governmental Unit shall have provided any other information requested by the NMFA in its absolute discretion including documentation sufficient to make a determination whether any requested disbursement is for payment of Eligible Items and is fully consistent with the Act, the Board Rules, and the Policies, as applicable.

Section 5.2 Accounting for Amounts Credited to the Project Account. So long as Section 5.1 has been complied with and all Conditions to the disbursement of the Loan/Grant Amount have been satisfied (including approval of all plans and specifications), upon receipt by the NMFA of a requisition substantially in the form of Exhibit "B" signed by an Authorized Officer of the Governmental Unit, supported by certification by the Governmental Unit's project architect, engineer, or such other authorized representative of the Governmental Unit that the amount of the disbursement request represents the progress of design, installation, construction, acquisition or other Project-related activities accomplished as of the date of the disbursement request, the NMFA shall seek funds sufficient to satisfy the request and, upon receipt of those funds disburse from the Fund, amounts which together are sufficient to pay the requisition in full or that portion approved by the NMFA in its sole discretion. The certification provided pursuant to this Section 5.2 in support of the requisition must be acceptable in form and substance to the NMFA. The Governmental Unit shall provide such records or access to the Project as the NMFA, and, at its request, the CIB, in the discretion of each, may request in connection with the approval of the Governmental Unit's requisition requests made in this Loan Agreement.

Section 5.3 Acknowledgment and Non-liability for Funding Interruption. The Governmental Unit acknowledges that the NMFA and the CIB may be required to seek or request funds to satisfy the request outlined in Section 5.2 from an agency, instrumentality or other Political Subdivision of the State and that the NMFA and the CIB may have no control or authority over those entities. The Governmental Unit agrees to waive on behalf of itself and indemnify and hold the NMFA and the CIB harmless from any and all third party claims, liability or damage that may or could be caused as a result of a delay or denial of funds related to or arising from the procedure described above or any other mechanism necessary or required to request, secure or process funds.

Section 5.4 No Disbursement for Prior Expenditures Except upon Approval. No disbursement shall be made from the Fund or the Loan/Grant Amount without the approval of the NMFA to reimburse any expenditure made prior to the approval date of the award by the NMFA Board.

Section 5.5 Completion of Disbursement of Loan/Grant Funds. Upon completion of the Project an Authorized Officer of the Governmental Unit shall deliver a certificate to the NMFA, substantially in the form of Exhibit "E" attached, stating that, to his or her knowledge, that the

Project has been completed. No portion of the Loan/Grant Amount shall be disbursed after the expiration of the Interim Period.

Section 5.6 Application of Project Account Subsequent to Disbursement of Loan/Grant Amount; Termination of Pledge. Upon the first to occur of either (a) completion of the disbursement of the Loan/Grant Amount as signified by delivery of the completion certificate contemplated in Section 5.5; or (b) the earlier expiration of the time allowed for disbursements of Loan/Grant funds as provided in Section 5.5, the NMFA shall transfer the amounts remaining on deposit in the Project Account, if any, to such other fund permitted by law. Upon such entry, the pledge of the Project Account, if any, established in this Loan Agreement shall terminate.

ARTICLE VI LOAN PAYMENTS BY THE GOVERNMENTAL UNIT

Section 6.1 Loan to the Governmental Unit; Payment Obligations Limited to Pledged Revenues; Pledge of Pledged Revenues. The NMFA lends to the Governmental Unit and the Governmental Unit borrows from the NMFA an amount not to exceed the Loan Amount. The Governmental Unit promises to pay, but solely from the sources pledged in this Loan Agreement, the Loan Payments and other amounts owed by the Governmental Unit as provided in this Loan Agreement. Subject to any outstanding Parity Obligations, Senior Obligations, Subordinate Obligations, and Super Subordinate Obligations, the Governmental Unit does grant a lien on and a security interest in and does convey, assign and pledge unto the NMFA and unto its successors in trust forever all right, title and interest of the Governmental Unit in and to (i) the Pledged Revenues to the extent required to pay the Loan Payments, and other amounts owed by the Governmental Unit, subject to and subordinate to all other pledges of the Pledged Revenues existing on the Closing Date and, further, that may exist in the future (except only that the pledge of the Pledged Revenues shall be on a parity with any other pledge of the Pledged Revenues by the Governmental Unit to repay any obligations issued by the NMFA pursuant to the Act or the Water Project Finance Act); (ii) the Loan/Grant Amount including the Project Account; and (iii) all other rights granted in this Loan Agreement, for the securing of the Governmental Unit's obligations under this Loan Agreement, including payment of the Loan Payments and other amounts owed by the Governmental Unit; however, if the Governmental Unit, its successors or assigns, shall pay, or cause to be paid, all Loan Payments at the time and in the manner contemplated by this Loan Agreement, and shall pay all other amounts due or to become due under this Loan Agreement in accordance with its terms and provisions then, upon such final payment, this Loan Agreement and the rights created shall terminate; otherwise, this Loan Agreement shall remain in full force and effect.

The schedule of Loan Payments, assuming the disbursal of the entire Loan/Grant Amount within twenty-four (24) months after the Closing Date, identified as the Interim Debt Service Schedule, is attached to this Loan Agreement as Exhibit "C". Within thirty (30) days after the Final Requisition is made, the NMFA shall provide a Final Debt Service Schedule, reflecting the amount of the Loan/Grant Amount actually disbursed to the Governmental Unit pursuant to this Loan Agreement. Such Final Debt Service Schedule shall supersede the schedule attached as Exhibit "C".

The pledge of the Pledged Revenues and the lien on the Pledged Revenues shall be effective upon the Closing Date. The Governmental Unit and the NMFA acknowledge and agree that the obligations of the Governmental Unit are limited to the Pledged Revenues; and that this Loan Agreement with respect to the Loan Amount and other amounts owed by the Governmental Unit, and that the Loan Agreement shall constitute a special, limited obligation of the Governmental Unit. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Governmental Unit or the State within the meaning of any constitutional or statutory debt limitation. No provision of this Loan Agreement shall be construed to pledge or to create a lien on any class or source of Governmental Unit moneys other than the Pledged Revenues, nor shall any provision of this Loan Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Governmental Unit moneys other than the Pledged Revenues. In addition, to the extent not required for the payment of obligations of the Governmental Unit, the Pledged Revenues may be utilized by the Governmental Unit for any other purposes permitted by law.

Section 6.2 Deposit of Payments of Loan Amount to Colonias Infrastructure Project Fund. All Loan Payments made by the Governmental Unit to the NMFA to repay the Loan Amount and Interest Components, if any, shall be deposited into the Colonias Infrastructure Project Fund.

Section 6.3 Manner of Payment. The Loan Amount shall be payable by the Governmental Unit to the NMFA in annual installments of principal payable on June 1 after expiration of the Interim Period and continuing through the expiration of the last Loan Payment due as outlined in the Final Debt Service Schedule. All payments of the Governmental Unit shall be paid in lawful money of the United States of America to the NMFA at the address designated in Section 10.1 or by electronic debit of the account identified in the ACH Authorization, as shown on the Term Sheet. The obligation of the Governmental Unit to make payments, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided in this Loan Agreement. Notwithstanding any dispute between the Governmental Unit and the NMFA, any vendor or any other person, the Governmental Unit shall make all deposits, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit pending final resolution of such dispute, nor shall the Governmental Unit assert any right of set-off or counterclaim against its obligation to make such deposits required in this Loan Agreement.

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

Section 6.5 NMFA's Release of Lien and Further Assurances. Upon payment in full of the Loan Amount, Administrative Fee and other amounts owed by the Governmental Unit as provided in this Loan Agreement and upon written request from the Governmental Unit, the NMFA agrees to execute a release of lien and to give such further assurances as are reasonably

necessary to ensure that the NMFA no longer holds or maintains any lien or claim against the Pledged Revenues.

ARTICLE VII ADMINISTRATION

Section 7.1 Governmental Unit Reporting to the NMFA. The Governmental Unit shall provide the NMFA with a quarterly written report substantially in the form of Exhibit "D", or other report format as designated by the NMFA, and signed by an Authorized Officer of the Governmental Unit. The first quarterly report shall be due on the date shown on the Term Sheet, and subsequent reports shall be due on each March 31, June 30, September 30 and December 31 until the report date next following final distribution of the Loan/Grant funds. The description of the status of the Project in each quarterly report shall include, among other information, (a) a comparison of actual and anticipated requests for distributions of Loan/Grant funds as of the report date with those anticipated as of the Closing Date, (b) a description of actual and anticipated changes in the cost estimates for the Project as of the report date compared with those anticipated as of the Closing Date, and (c) a description of the percentage of completion of the Project.

Section 7.2 Application of Project Account Subsequent to Disbursement of Loan/Grant Funds. Upon the completion of the Project as signified by delivery of the completion certificate required by Section 5.5, the NMFA shall determine, by reference to the Project Account, if any, whether any portion of the authorized Loan/Grant Amount remains unexpended. If any of the Loan/Grant Amount remains unexpended, the funds shall be transferred by the NMFA to the appropriate account or fund in accordance with applicable law and the Governmental Unit shall have no right to access the funds.

Section 7.3 Further Assurances and Corrective Instruments. The NMFA and the Governmental Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues.

Section 7.4 Representatives of the NMFA or of Governmental Unit. Whenever under the provisions of this Loan Agreement the approval of the NMFA or the Governmental Unit is required, or the Governmental Unit, or the NMFA is required to take some action at the request of any of them, such approval or such request shall be given for the NMFA or for the Governmental Unit, by an Authorized Officer of the NMFA or the Governmental Unit, as the case may be, and any party shall be authorized to act on any such approval or request.

Section 7.5 Selection of Contractors. All contractors providing services or materials in connection with the Project shall be selected in accordance with applicable provisions of the New Mexico Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, as amended, or, if the Governmental Unit is not subject to the New Mexico Procurement Code, shall be selected in accordance with a documented procurement process duly authorized and established pursuant to laws and regulations applicable to the Governmental Unit.

Section 7.6 Required Contract Provisions. The Governmental Unit shall require the following provisions in any contract or subcontract executed in connection with the Project to which the Governmental Unit is a party:

(a) There shall be no discrimination against any employee or applicant for employment because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability, serious medical condition or military status, or, if the employer has fifty or more employees, spousal affiliation;

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

(c) Any contractor or subcontractor providing construction services in connection with the Project shall comply with the prevailing wage laws in accordance with the requirements of NMSA 1978, Section 13-4-11, as amended.

Section 7.7 Little Miller Act. To the extent NMSA 1978, Section 13-4-1 et seq., (the “Little Miller Act”) is applicable to the Project, the Governmental Unit shall comply with the requirements of the “Little Miller Act”. If bonding requirements of the Little Miller Act are not applicable to the Project, the Governmental Unit will require that the contractor to whom is given any contract for construction appertaining to the Project supply a performance bond or bonds satisfactory to the Governmental Unit. Any sum or sums derived from said performance bond or bonds shall be used within six (6) months after such receipt for the completion of said construction, and if not so used within such period, shall be treated as Gross Revenues.

ARTICLE VIII INSURANCE; NON-LIABILITY OF THE NMFA

Section 8.1 Insurance. The Governmental Unit shall carry general liability insurance or participate in the State’s risk-management program and, to the extent allowed by the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1 through 41-4-30, as amended, shall and agrees to name the NMFA as an additional insured with respect to all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition, completion or implementation of the Project or otherwise during the Loan Agreement Term; provided, that if any portion of the Project will be constructed, located, completed or extended on real property owned by a Qualified Entity (as defined by the Act) other than the Governmental Unit, the Governmental Unit may obtain the written agreement of such other Qualified Entity to perform these insurance/risk-management program requirements for Governmental Unit with respect to such real property (and the portion of the Project to be constructed, located, completed or extended on such real property), which written agreement shall include an express statement by such other Qualified Entity that the NMFA is a third party beneficiary of such written agreement.

Section 8.2 Non-Liability of the NMFA and the CIB.

(a) The NMFA and the CIB shall not be liable in any manner for the Project, Governmental Unit's use of the Loan/Grant, the acquisition, implementation, construction, installation, ownership, operation or maintenance of the Project, or any failure to act properly by the Governmental Unit or any other owner or operator of the Project.

(b) The NMFA and the CIB shall not be liable for the refusal or failure of any other agency of the State to transfer any portion of the Loan/Grant Amount in its possession, custody and control to the NMFA for disbursement to the Governmental Unit, or to honor any request for such transfer or disbursement of the Loan/Grant Amount.

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

ARTICLE IX EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Events of Default Defined. Any one of the following shall be an "Event of Default" under this Loan Agreement:

(a) Failure by the Governmental Unit to pay any amount required to be paid under this Loan Agreement on the date on which it is due and payable;

(b) Failure by the Governmental Unit to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Governmental Unit by the NMFA, unless the NMFA shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the NMFA but cannot be cured within the applicable thirty (30) day period, the NMFA will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Governmental Unit within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of Force Majeure the Governmental Unit is unable to carry out the agreements on its part contained in this Loan Agreement, the Governmental Unit shall not be deemed in default under this Section 9.1(b) during the continuance of such inability (but Force Majeure shall not excuse any other Event of Default);

(c) Any warranty, representation or other statement by or on behalf of the Governmental Unit contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is determined to be false or misleading in any material respect in the sole discretion of the NMFA;

(d) A petition is filed against the Governmental Unit under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or later in effect, and is not dismissed within thirty (30) days after such filing, but the NMFA shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests;

(e) The Governmental Unit files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or later in effect, or consents to the filing of any petition against it under any such law;

(f) The Governmental Unit admits insolvency or bankruptcy or its inability to pay its debt as they become due or is generally not paying its debt as such debt become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Governmental Unit for any of its property is appointed by court order or takes possession and such order remains in effect or such possession continues for more than thirty (30) days, but the NMFA shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests; or

(g) Default by the Governmental Unit in performance or observance of any covenant contained in any other loan agreement, document or instrument of any type whatsoever evidencing or securing obligations of the Governmental Unit to the NMFA.

Section 9.2 Limitations on Remedies. A judgment requiring payment of money entered against the Governmental Unit shall be paid only from available Pledged Revenues unless the Governmental Unit in its sole discretion pays the judgment from other available funds.

Section 9.3 Remedies on Default. Whenever any Event of Default has occurred and is continuing, and subject to Section 9.4, the NMFA may take whatever of the following actions may appear necessary or desirable to enforce performance of any agreement of the Governmental Unit in this Loan Agreement:

(a) File a mandamus proceeding or other action or proceeding or suit at law or in equity to compel the Governmental Unit to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained in this Loan Agreement;

(b) Terminate this Loan Agreement;

(c) Cease disbursing any further amounts from the Project Account;

(d) Demand that the Governmental Unit immediately repay the Loan/Grant Amount or any portion of the Fund if such funds were not utilized in accordance with this Loan Agreement;

(e) File a suit in equity to enjoin any acts or things which are unlawful or violate the rights of the NMFA;

(f) Intervene in judicial proceedings that affect this Loan Agreement or the Pledged Revenues;

(g) Cause the Governmental Unit to account as if it were the trustee of an express trust for all of the Pledged Revenues;

(h) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts due and to become due under this Loan Agreement or to enforce any other of their rights; or

(i) Apply any amounts in the Project Account toward satisfaction of any and all fees and costs incurred in enforcing the terms of this Loan Agreement.

The Governmental Unit shall be responsible for reimbursing the NMFA for any and all fees and costs incurred in enforcing the terms of this Loan Agreement.

Section 9.4 No Remedy Exclusive. No remedy conferred upon or reserved to the NMFA is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given or existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Governmental Unit or the NMFA to exercise any remedy reserved in this Article IX, it shall not be necessary to give any notice, other than such notice as may be required in this Article IX.

Section 9.5 Waivers of Events of Default. The NMFA may, in its discretion, waive any Event of Default and the consequences of any such Event of Default; provided, however, all expenses of the NMFA in connection with such Event of Default shall have been paid or provided for. Such waiver shall be effective only if made by a written statement of waiver issued by the NMFA. In case of any such waiver or rescission, or in case any proceeding taken by the NMFA on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the NMFA shall be restored to its former position and rights, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent.

Section 9.6 No Additional Waiver Implied by One Waiver. In the event that any agreement contained in this Loan Agreement should be breached by either party and waived by the other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach.

Section 9.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Governmental Unit shall default under any of the provisions of this Loan Agreement, and the NMFA shall employ attorneys or incur other expenses for the collection of payments, or the enforcement of performance or observance of any obligation or agreement on the part of the Governmental Unit contained in this Loan Agreement, the Governmental Unit agrees that it shall, on demand therefor, pay to the NMFA the fees of such attorneys and such other expenses so incurred, to the extent such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Governmental Unit under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

ARTICLE X MISCELLANEOUS

Section 10.1 Notices. All notices, certificates or other communications shall be sufficiently given and shall be deemed given when delivered as shown on the Term Sheet. The Governmental Unit and the NMFA may, by notice given, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 10.2 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the NMFA and the Governmental Unit and their respective successors and assigns, if any.

Section 10.3 Integration. This Loan Agreement and any other agreements, certifications and commitments entered into between the NMFA and the Governmental Unit on the Effective Date constitute the entire agreement of the parties regarding the Loan/Grant and the funding of the Project through the Loan/Grant as of the Effective Date, and the terms of this Loan Agreement supersede any prior applications, discussions, understandings or agreements between or among the parties in connection with the Loan/Grant, to the extent such prior applications, discussions, understandings or agreements are inconsistent with this Loan Agreement.

Section 10.4 Amendments. This Loan Agreement may be amended only with the written consent of all of the parties to this Loan Agreement. The consent of the NMFA for amendments not affecting the terms of payment of the loan component of this Loan Agreement may be given by an Authorized Officer of the NMFA. The execution of any such consent by an Authorized Officer of the NMFA shall constitute his or her determination that such amendment does not affect the terms of payment of the loan component of this Loan Agreement.

Section 10.5 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the NMFA or the CIB, or against any officer, employee, director or member of the Governmental Unit, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director or member of the Governmental Unit, the CIB or of the NMFA is expressly waived and released by the Governmental Unit, the

CIB and the NMFA as a condition of and in consideration for the execution of this Loan Agreement.

Section 10.6 Severability. In the event that any provision of this Loan Agreement, other than the obligation of the Governmental Unit to make the Loan Payments, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Loan Agreement.

Section 10.7 Execution in Counterparts. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.8 Compliance with Governing Law. It is declared by the Governing Body that it is the intention of the Governmental Unit by the execution of this Loan Agreement to comply in all respects with the provisions of the New Mexico Constitution and statutes as the same govern the pledge of the Pledged Revenues to payment of all amounts payable under this Loan Agreement.

Section 10.9 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. Pursuant to NMSA 1978, Section 6-21-26, as amended, the venue for any proceedings or any other action or procedure against the NMFA shall be in Santa Fe County.

Section 10.10 Captions. The captions or headings are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

Section 10.11 Application of Act and Board Rules. The NMFA and the Governmental Unit expressly acknowledge that this Loan Agreement is governed by provisions and requirements of the Act and the Board Rules, as amended and supplemented, and all applicable provisions and requirements of the Act and the Board Rules are incorporated into this Loan Agreement by reference.

Section 10.12 Photographs and Other Media. Borrower hereby authorizes NMFA to reproduce and display any media (including, without limitation, photographs, video recordings, electronic images, illustrations and brief biographical information) of the Project, its principals and/or the Project Business submitted to the NMFA by Borrower, in connection with publicizing and promoting the NMFA, the Opportunity Enterprise Revolving Fund or for any other lawful purpose. Borrower represents and warrants to the NMFA that Borrower has obtained any and all licenses and/or permissions necessary for Borrower's and NMFA's use of such media.

Section 10.13 CONSENT TO JURISDICTION. THE GOVERNMENTAL UNIT IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS LOAN AGREEMENT OR THE DOCUMENTS SIGNED IN CONNECTION WITH THIS TRANSACTION WILL BE LITIGATED IN THE FIRST JUDICIAL DISTRICT COURT, SANTA FE COUNTY, NEW MEXICO, PURSUANT TO SECTION 6-21-26, NMSA.

[Remainder of page intentionally left blank.]

[Signature pages follow.]

SAMPLE

IN WITNESS WHEREOF, the NMFA, on behalf of itself, and as approved by the Board of Directors of the NMFA on the NMFA Board Approval Date, and approved by the CIB on the CIB Approval Date, has executed this Loan Agreement in its corporate name by its duly authorized officer; and the Governmental Unit has caused this Loan Agreement to be executed in its corporate name and the seal of the Governmental Unit affixed and attested by its duly authorized officers. All of the above are effective as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By _____
Marquita D Russel, Chief Executive Officer

Prepared for Execution by Officers of the
New Mexico Finance Authority:

SUTIN, THAYER & BROWNE
A PROFESSIONAL CORPORATION

By _____
Suzanne Wood Bruckner

Approved for Execution by Officers of the
New Mexico Finance Authority:

By _____
Mark Chaiken, General Counsel

**[NAME OF GOVERNMENTAL UNIT],
[COUNTY], NEW MEXICO**

By _____
**[Name of Governmental Unit's Chief
Officer], [Governmental Unit's Chief Officer]**

ATTEST:

By _____
**[Name of Governmental Unit's Clerk or Other Record-Keeping Officer],
[Governmental Unit's Clerk or Other Record-Keeping Officer]**

4960601_5

SAMPLE

EXHIBIT “A”

TERM SHEET

[insert Governmental Unit]

New Mexico Finance Authority Loan No. CIF-[insert number]

First Interest Payment Date: [insert First Interest Payment Date]

First Principal Payment Date: [insert First Principal Payment Date]

Final Payment Date: [insert Final Payment Date]

Article I, Definitions

ACH Authorization: **[insert ACH authorization, if applicable]**

Act: Colonias Infrastructure Act, NMSA 1978, Sections 6-30-1 through 6-30-8; **[if municipality:** Sections 3-31-1 through 3-31-12] **OR [if county:** Sections 4-62-1 through 4-62-10] and **[if municipal or county GRT: if municipality:** Section [7-19D-9, 14 or 16,] **if county:** Section [7-20E-9, 13, 18, 20, 22, 23 or 26,] **OR [if state shared GRT:** Sections 7-1-6.4 and 7-1-6.15,] **OR [if supplemental GRT:** Sections 7-19-10 through 7-19-18,] NMSA 1978, as amended

Authorized Officers: **[insert governmental unit’s authorized officers]**

Authorizing Legislation: **[insert if Ordinance:** Ordinance No. [insert number] adopted on [insert date of adoption] **OR [insert if Resolution:** Resolution No. [insert number] adopted on [insert date of adoption]

CIB Approval Date: **[insert CIB approval date]**

Colonias: **[insert colonias]**

Closing Date: **[insert closing date]**

Distributing State Agency: State of New Mexico Taxation and Revenue Department

Governing Body: **[insert name of Governing Body]**

Grant Amount: **[insert total grant amount]**

Lien Status: This Loan Agreement is a [Senior Obligation, Subordinate Obligation, or Super Subordinate Obligation.]

Loan Amount: [insert total loan amount]

Loan/Grant Amount: [insert loan/grant amount]

Local Match: **[Amount of Local Match, [for soft match add: provided by [list equipment/labor] as calculated pursuant to Section 2.3 of the Policies]**

NMFA Board Approval Date: [insert the board approval date]

Pledged Revenues: **[If municipal, county or supplemental GRT use: The revenues of the [insert] of one percent ([insert]%) of [County] [Municipal] [Supplemental Municipal] Gross Receipts Tax imposed pursuant to the Act, and enacted by the Tax Ordinance passed and approved by the Governmental Unit, and pledged to the payment of the Loan Payments pursuant to the Authorizing Legislation and this Loan Agreement.] OR [If State Shared GRT use: The State Shared Gross Receipts Tax]**

Project: The Project is infrastructure development in accordance with the Act consisting of improvements to **[Insert applicable description: a water system, a wastewater system, solid waste disposal facilities, flood and drainage control, roads or housing infrastructure]**, but does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies and is more specifically described as **[Insert description of the Project from Application and Staff Report]** and shall include such other related work and revisions necessary to complete the Project.

Project Application Date: [insert date of project application]

Project Phase: **[E.g., Design, Construction, Design and Construction, Planning, etc.]**

Currently Outstanding Senior Obligations: **[Describe Senior Obligations]**

Currently Outstanding Subordinate Obligations: **[Describe Subordinate Obligations]**

Currently Outstanding Super Subordinate Obligations: **[Describe Super Subordinate Obligations]**

System: **[insert System description from NMFA Staff Report, e.g., water system, wastewater system, etc.]**

Tax Ordinance: **[insert if applicable: Ordinance No. [insert number] passed and approved by the Governmental Unit pursuant to the Act on [insert adoption date], with an effective date of [insert effective date], which imposes [insert] of one percent ([insert]%) increment of [Short Title of Tax Imposed] Gross Receipts Tax of the gross receipts of all persons engaging in business within the Governmental Unit. [insert de-earmarking if applicable: Pursuant to Laws 2019, Chapter 274, Section 16, the [Short Title of Tax Imposed] Gross Receipts Tax is no longer identifiable as the [first, second, etc.] increment of [Short Title of Tax Imposed] Gross Receipts Tax and instead comprises [insert] of one percent ([insert]%) of the maximum rate of [County] [Municipal] Gross Receipts Tax that may be imposed under Section [insert statute], NMSA 1978, as amended, of [if County: one and three-quarters percent (1.75%)] OR [if municipality: two and one-half percent (2.50%)], which is pledged to the Loan Payments.]**

Useful Life: **[insert useful life]**

Article II, Representations, Covenants and Warranties

Expected Coverage Ratio
Section 2.1(q): **[insert from NMFA Staff Report]**

Pledged Revenue Covenants
Section 2.1(s): **[insert if municipal, county or supplemental GRT is applicable: Section 2.1(s)(i) is applicable to this Loan Agreement.] OR [insert if State Shared GRT is applicable: Section 2.1(s)(ii) is applicable to this Loan Agreement.]**

Article VII, Administration

First Quarterly Report
Section 71: **[next March 31, June 30, September 30, or December 31 falling 1 month or more after Closing Date]**

Article X, Miscellaneous

Notices

Section 10.1:

Governmental Unit, **[obtain address from Governmental Unit]**, Attention: **[obtain title from Governmental Unit]**

New Mexico Finance Authority, 810 W. San Mateo Road,
Santa Fe, New Mexico 87501, Attention: Chief Executive
Officer

Conditions to be satisfied prior to first disbursement of the Loan/Grant Amount:

Delivery to NMFA of (i) a copy of the agenda of the meeting of the Governing Body at which the Authorizing Legislation was adopted and at which this Loan Agreement, the Authorizing Legislation and all other Loan/Grant documents were authorized by the Governing Body (the “Meeting”), certified as a true and correct copy by the Governmental Unit’s Clerk of the Governmental Unit, (ii) a copy of the minutes or record of proceedings of the Meeting, approved and signed by the Governmental Unit’s Authorized Officer and attested to by the Governmental Unit’s Clerk of the Governmental Unit, and (iii) a copy of the notice of meeting for the Meeting evidencing compliance with the Governmental Unit’s Open Meetings standards in effect on the date of the Meeting.

Other Conditions applicable to the Loan/Grant:

[ADD IF NO PLANS AND SPECS: Verification of complete and approved plans/specification prior to disbursement of construction funds; and] All Conditions defined in the Loan Agreement.

EXHIBIT “B”
FORM OF REQUISITION
(Colonias Infrastructure Project Fund)

RE: **[Total Amount of Loan/Grant]** Loan/Grant Agreement by and between the New Mexico Finance Authority and the **[Name of Governmental Unit]**, as Governmental Unit (the “Loan Agreement”).

Loan/Grant No. CIF-**[Loan/Grant Number]** Closing Date: **[Date of Closing]**

TO: NEW MEXICO FINANCE AUTHORITY, colonias@nmfa.net

You are authorized to disburse from the Project Account – **[Name of Governmental Unit]** with regard to the above-referenced Loan Agreement, the following:

I. PAYMENT INFORMATION

REQUISITION NO. _____ PAYMENT AMOUNT: \$ _____

Payee's Name:	
Address line 1 (no P.O. Boxes)	
Address line 2 (optional)	
City	
State	
Postal Code	
Country	US

II. REQUISITION INFORMATION (complete for all payments)

- *Attach proof of expenditures (cancelled check, wire transfer receipt, bank ledger, etc.).*
- *List all Vendors, Payment Purposes, or Eligible Item Categories below or attach separate page or spreadsheet if needed.*

Vendor Name _____
Total Amount \$ _____ Invoice No.(s) _____
Purpose of Payment _____
Eligible Item Category _____

Vendor Name _____
Total Amount \$ _____ Invoice No.(s) _____
Purpose of Payment _____
Eligible Item Category _____

Vendor Name _____
Total Amount \$ _____ Invoice No.(s) _____
Purpose of Payment _____
Eligible Item Category _____

III. WIRING INFORMATION:

BANK NAME:	
ROUTING NUMBER:	
ACCOUNT NUMBER:	

IV. MATCH INFORMATION

AMOUNT OF LOCAL MATCH EXPENDED SINCE LAST REQUISITION: \$ _____
Attach proof of expenditures for hard match (detailed invoices, cancelled checks, wire transfer receipt, bank statement, etc.) and written certification of type and value of any soft match.

AMOUNT OF LOCAL MATCH EXPENDED TO DATE: \$ _____

TOTAL REQUIRED MATCH: \$[Local Match Amount]

V. VERIFICATION AND AUTHORIZATION

Each obligation, item of cost or expense mentioned in this Loan Agreement is for a loan/grant made by the NMFA pursuant to the Colonias Infrastructure Act to the Governmental Unit within the State of New Mexico, is due and payable, has not been the subject of any previous requisition and is a proper charge against the Project Account – [Name of Governmental Unit]. All representations contained in the Loan Agreement, the related closing documents remain true and correct, and the Governmental Unit is not in breach of any of the covenants contained in the closing documents.

The proceeds of the Loan/Grant are to be used to pay the costs of Eligible Items, as defined in the Loan Agreement. Eligible Items include (1) planning, designing, construction, improving or expanding a qualified project; (2) developing engineering feasibility reports for Qualified Projects; (3) inspecting construction of Qualified Projects; (4) providing professional services; (5) completing environmental assessments or archeological clearances and other surveys for Qualified Projects; (6) acquiring land, water rights, easements or rights of way; (7) eligible legal costs and eligible fiscal agent fees associated with development of Qualified Projects, within limits set by the Colonias Infrastructure Board (“CIB”).

All construction and all installation of equipment with proceeds of the Loan/Grant has or will be used in accordance with plans and/or specifications approved by all entities required by the CIB and the New Mexico Finance Authority in their sole discretion to approve such plans and specifications, has or will be acquired in compliance with applicable procurement laws and regulations and has or will be inspected and approved in accordance with applicable laws and regulations.

Capitalized terms used in this Loan Agreement, are used as defined or used in the Loan Agreement.

DATE: _____

AUTHORIZED OFFICER

(As Provided in the Loan Agreement)

Print Name: _____

Print Title: _____

EXHIBIT “C”

PAYMENT PROVISIONS OF THE LOAN

The Loan Amount and Administrative Fee shall be payable by the Governmental Unit to the NMFA in [**thirty (30) or (insert term if less than 30 years)**] annual installments of principal pursuant to the attached debt service schedule, beginning [**June 1,**] [**Year of First Payment**] and ending June 1, [**Year of Last Payment**]. The Loan Amount and Administrative Fee shall be pre-payable upon expiration of the Interim Period without penalty.

[ATTACH FINAL DEBT SERVICE SCHEDULE AND INTERIM DEBT SERVICE SCHEDULE]

SAMPLE

EXHIBIT “D”

**COLONIAS INFRASTRUCTURE PROJECT FUND STATUS REPORT
PREPARED FOR THE
NEW MEXICO FINANCE AUTHORITY**

Fund Recipient: [Name of Governmental Unit] Contact Name: _____ Title: _____ Email Address: _____	Project Number: [Loan/Grant Number] Project Name: [Project Name] Project Type: [Project type]
Reporting Period: From _____ To _____ ☐ Quarterly Project Report: ☐ 1 st ☐ 2 nd ☐ 3 rd ☐ 4 th ☐ Final Project Report ☐ Other _____	
CIF Funding Expiration: _____ Total CIF Award: \$ _____ Current Balance: \$ _____ Loan _____% Grant _____% Match \$[Local Match Amount] Expected CIF Award Expenditure Next Quarter: \$ _____ Local Match Expenditure: To Date \$ _____ Next Quarter \$ _____	
Project Phase: ☐ Planning ☐ Design ☐ Construction	
PROJECT COMPLETION: Original Date _____ Current Date _____ _____ % Complete Days Remaining to Complete _____ On Schedule? ☐ Yes ☐ No	
Briefly Describe Project Progress During This Reporting Period: 	
Issues Addressed During This Reporting Period, including any current or anticipated issues that remain unresolved: 	
Goals/Milestones, With Timeline or Dates, For The Next Reporting Period: 	
Authorized Officer PRINT NAME: _____ PRINT TITLE: _____	
SIGNATURE: _____	Date: _____

****All fields must be completed***

EXHIBIT "E"

FORM OF CERTIFICATE OF COMPLETION

RE: **[Total Amount of Loan/Grant]** Agreement by and between the NMFA and the **[Name of Governmental Unit]**, as Governmental Unit (the "Loan Agreement")

Loan/Grant No. CIF-**[Loan/Grant Number]**

Closing Date: **[Date of Closing]**

TO: NEW MEXICO FINANCE AUTHORITY, colonias@nmfa.net

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

Governmental Unit certifies as follows:

1. The project described in the Loan Agreement (the "Project"), or the applicable phase of the project if funding was for a phased Project, was completed and placed in service on _____, 20__.

2. The total cost of the Project was \$ _____.

3. Cost of the Project paid from the Loan/Grant Amount was \$ _____.

4. The portion of the Loan/Grant Amount unexpended for the Project is \$ _____.

5. The Project was completed and is and shall be used consistent with and subject to the covenants set forth in the Loan Agreement.

This certificate shall not be deemed to prejudice or affect any rights of or against third parties which exist at the date of this certificate or which may subsequently come into being.

**[NAME OF GOVERNMENTAL UNIT], [COUNTY],
NEW MEXICO**

By: _____

Its: _____

EXHIBIT “F”

DOCUMENTS

1. Open Meetings Act Resolution No. [**add Resolution number**] adopted by the Governmental Unit on [**add date of adoption**];
2. Ordinance or Resolution No. [**add number**] adopted on [**add date of adoption**], Agenda, and Affidavits of Publication of [**Notice of Intent to Adopt Ordinance and**] Notice of Adoption of [**Ordinance or**] Resolution in the [*name of newspaper*];
3. [**Loan/Grant**] Agreement
4. General and No Litigation Certificate of the Governmental Unit;
5. Delivery, Deposit and Cross-Receipt Certificate;
6. Right of Way Certificate (to be executed prior to construction funding)
7. Governmental Unit’s Counsel Opinion
8. Approving Opinion of Sutin, Thayer & Browne A Professional Corporation, Loan/Grant Counsel to the NMFA
9. NMFA Application and Project Approval (informational only)
10. [**Written consent of existing lenders to Colonias loan, if required**];
11. [**ONLY WHEN-RATE COVENANT: Governmental Unit Resolution No. verifying a rate increase, with attachment**]
12. [**ACH Authorization**].