



VILLAGE OF MAGDALENA
PO BOX 145, MAGDALENA, NM 87825
P. 575.854.2261 F. 575.854.2273
WWW.VILLAGEOFMAGDALENA.COM

AGENDA
NOTICE OF REGULAR MEETING OF THE VILLAGE OF MAGDALENA BOARD OF TRUSTEES
MONDAY, MAY 8, 2017
VILLAGE HALL 108 N. MAIN STREET 6:00 PM

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES
 - a. REGULAR MEETING -- APRIL 24, 2017
 - b. SPECIAL WORK SESSION -- MAY 3, 2017
6. APPROVAL OF CASH BALANCE REPORT
7. APPROVAL OF BILLS
8. MAYOR'S REPORT
9. CLERK'S REPORT
10. DEPARTMENT REPORTS
 - a. EMS
 - b. FIRE
 - c. MARSHAL
 - d. JUDGE
 - e. PUBLIC WORKS
 - f. LIBRARY
11. JIM NELSON -- MAGDALENA REJUVENATION GROUP -- DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF PREPARATION & USE OF VILLAGE OWNED NONPOTABLE WATER, PARK WELL, ON SENIOR CENTER PROPERTY TO IRRIGATE A PROPOSED COMMUNITY GARDEN
12. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF ASSISTANT FIRE CHIEF

- 13. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL TO SCHEDULE PUBLIC HEARING FOR USDA RURAL DEVELOPMENT COMMUNITY FACILITIES GRANT APPLICATION**
- 14. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF RESOLUTION #2017-09, A RESOLUTION OF THE VILLAGE OF MAGDALENA NEW MEXICO DECLARING ITS OFFICIAL INTENT TO REIMBURSE-ITSELF WITH THE PROCEEDS OF A LOAN AGREEMENT BETWEEN THE VILLAGE OF MAGDALENA AND THE NEW MEXICO FINANCE AUTHORITY FOR CERTAIN CAPITAL EXPENDITURES THAT WILL BE MADE BY THE VILLAGE; IDENTIFYING SAID CAPITAL EXPENDITURES AND THE FUNDS USED FOR SUCH PAYMENT; AND PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH**
- 15. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF FISCAL YEAR 2017 AUDIT CONTRACT BETWEEN THE VILLAGE OF MAGDALENA AND RICE & ASSOCIATES, CPA**
- 16. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF RESOLUTION #2017-10, A RESOLUTION AUTHORIZING REPRESENTATIVES FOR SPECIAL APPROPRIATION PROJECT 15-0558-STB**
- 17. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF 15-0558-STB CAPITAL APPROPRIATION GRANT AGREEMENT**
- 18. PUBLIC INPUT – 1 TOPIC PER PERSON – 3 MINUTE LIMIT**
- 19. EXECUTIVE SESSION – 10-15-1(H)(2), LIMITED PERSONNEL MATTERS**
 - a. DEPUTY CLERK**
 - b. TRANSFER STATION ATTENDANT**
- 20. ADJOURNMENT**

NOTE: THIS AGENDA IS SUBJECT TO REVISION UP TO 72 HOURS PRIOR TO THE SCHEDULED MEETING DATE AND TIME (NMSA 10-15-1 F). A COPY OF THE AGENDA MAY BE PICKED UP AT THE VILLAGE OFFICE, 108 N. MAIN STREET, MAGDALENA, NM 8725. IF YOU ARE AN INDIVIDUAL WITH A DISABILITY WHO IS IN NEED OF A READER, AMPLIFIER, QUALIFIED SIGN LANGUAGE INTERPRETER OR ANY OTHER FORM OF AUXILIARY AID OR SERVICE TO ATTEND OR PARTICIPATE IN THE MEETING, PLEASE CONTACT THE VILLAGE CLERK AT 575-854-2261 AT LEAST ONE WEEK PRIOR TO THE MEETING OR AS SOON AS POSSIBLE.

**Minutes of the Regular Meeting of the Village of Magdalena
Board of Trustees
Held Monday, April 24, 2017 at 6:00 p.m.**

DRAFT

Mayor Richard Rumpf called the meeting to order at 6:02 p.m.

Present: Mayor Richard Rumpf, Lynda Middleton, Donna Dawson, Jose Castanon, Stephanie Finch - Clerk/Treasurer, Attorney Kathy Riley

Absent: Tyler Scartaccini

Guests: Dolly Dawson, Sally Rogers, Jim Nelson, Antonio R. Martinez, Mike Daniels, Larry Cearley, Bryan Romkey, Sarita Johnson, John Lee, Carleen Gomez - Deputy Clerk

Mayor Richard Rumpf requested that Attorney Kathy Riley lead the gallery in reciting the Pledge of Allegiance.

Approval of Agenda: Ms. Dawson motioned to approve the agenda as presented, seconded by Mr. Castanon. The motion carried unanimously.

Approval of Minutes: Mrs. Middleton motioned to approve the minutes of the regular meeting of April 10, 2017, as presented, seconded by Ms. Dawson. The motion carried unanimously.

Approval of Cash Balance Report: Mrs. Middleton asked why the Capital Projects Fund was currently negative. Clerk Finch stated that the Village is currently awaiting reimbursement on SCADA. Mrs. Middleton also questioned if there would be enough money in the Library Fund to get through the fiscal year. Clerk Finch stated that she did believe so.

Mrs. Middleton motioned to approve the cash balance report as presented, seconded by Ms. Dawson. The motion carried unanimously.

Approval of Bills: Ms. Dawson motioned to approve the bills, as presented, seconded by Mr. Castanon. The motion carried unanimously.

Mayor's Report

Mayor Rumpf reported that the plants that were in the lobby area of Village Hall were taken to the Village Library. Mayor Rumpf

stated that he would be at the EMS Conference in Ruidoso from April 27th-30th, 2017.

Clerk's Report

Clerk Finch reported that the Village is coming along with the Drinking Water Revolving Loan Fund. Clerk Finch stated that the Environment Department and the Finance Authority both say that it appears that there is a good chance that the Village will receive the funding for radio read water meters.

Clerk Finch stated that the Village's Audit was turned in on April 18, 2017 and is in review by the State Auditor's Office. Clerk Finch reminded the Mayor and Board that there will be a Budget Hearing on May 3rd at 9:00 a.m.

First Reading - Discussion & Possible Decision Regarding Approval To Publish Ordinance No. 2017-02, Establishing The Village Cemetery Board; Providing For Acquisition And Condemnation Of Cemeteries; And, Imposing Penalties For Violation Of Rules And Regulations Of The Board

Ms. Dawson began by saying that the reason for having a cemetery board and regulations is to help keep the cemetery clean and maintained. Ms. Dawson stated that in Section 1 (D.) the word review should replace adopt. She stated that (G.) should be added to Section 1 stating that one of the Trustees shall serve as a Cemetery Board Member. Ms. Dawson stated that in Section 3 (D.) the word and should replace ad and add that this will be with the assistance of the Village and residents. She stated that in Section 4 it should read that already designated areas will be grandfathered in.

Mrs. Dolly Dawson stated that the Ordinance should include requirements to have families notify the Village as to where their family member will be buried.

Mrs. Middleton stated that maintenance costs money and so a small fee would probably have to be charged. Mr. Ray Martinez stated that there was a deed that was given with the cemetery land giving stipulations as to not charging for plots. Mrs. Dawson stated that there is no deed stating that the Village could not charge for a plot that she knows of. Mr. Bryan Romkey stated that no money should be spent on the cemetery. Mrs. Sally Rogers asked if there are any State laws on this issue. Ms. Sarita Johnson asked Ms. Dawson what she is protecting the cemetery for and for who? Ms. Dawson stated that she is protecting the cemetery for the Village residents, surrounding residents and their families as well as protecting their family

plots. Mayor Rumpf stated that he believes that Village needs to do something to regulate where people are. Mr. Castanon stated that having an Ordinance would allow for areas already plotted out to be protected.

Ms. Dawson motioned to publish the first reading in the paper with the suggested changes and place the item on the agenda in two regular meetings from now, seconded by Mr. Castanon.

Mayor Rumpf requested that Clerk Finch get a roll call vote:

Mr. Scartaccini ABSENT

Mrs. Middleton AYE

Ms. Dawson AYE

Mr. Castanon AYE

The motion carried by majority.

Discussion & Possible Decision Regarding Request Of Funds For The Magdalena Summer Youth Program

Mr. Ray Martinez stated that the request came through the Rejuvenation Group who met with the school who is very supportive of a Summer Youth Program. He stated that the school took a survey of what the youth would like to see in a summer program. Mr. Martinez stated that the program would be handled mostly by volunteers but they are requesting a total of \$1,800.00 between the school, the county and the village, being \$600.00 for each entity. He stated that the cost would cover the cost of a bus and bus driver. He stated that the program would be twice a week between July and the beginning of August. Mr. Martinez stated this would be a place to start and it would only be fixed to be better for the coming years with more educational stuff gradually integrated into the program.

Mrs. Middleton motioned to approve \$600.00 for the Summer Youth Program, seconded by Mr. Castanon. The motion carried unanimously.

Mr. Castanon and the Board thanked Mr. Martinez and the Rejuvenation Group for getting this together. Mr. Martinez thanked the Board for their support.

Discussion & Possible Decision Regarding Approval Of Use Of Lodger's Tax Monies

Clerk Finch stated that the Lodger's Tax Fund has \$1,500.00 to spend until the end of the fiscal year. She added that the Old Timer's Association is requesting \$1,400.00 to help pay for port-a-potties and advertising.

Mrs. Middleton motioned to approve \$1,400.00 for the Old Timer's Association, seconded by Ms. Dawson. The motion carried unanimously.

Discussion & Possible Decision Regarding Approval Of Budget Adjustment Resolution No. 2017-02

Clerk Finch requested the approval of Budget Adjustment Resolution No. 2017-02 and explained the reasons for said transfers and/or increases.

An increase in revenues in the General Fund by \$45,000 to account for extra monies received from Small Cities Assistance.

An increase in expenditures in the General Fund by \$13,000 to account for unanticipated costs.

The creation of a Court Fees Fund due to the request made by the Auditor and approved by the Village Board.

The creation of a Court Bonds Fund due to the request made by the Auditor and approved by the Village Board.

Changing the Agency Fund number from 702 to 703 to help in reconciling of band accounts approved by the Village Board.

Changing the Meter Deposit Fund number from 701 to 706 to help reconcile bank accounts approved by the Village Board.

An increase in revenues in Court Fees Fund by \$3,500 to have a budget in this new fund.

An increase in expenditures in Court Fees Fund by \$3,500 to have a budget in this new fund.

Ms. Dawson motioned to approve Budget Adjustment Resolution No. 2017-02, seconded by Mrs. Middleton.

Mayor Rumpf requested that Clerk Finch get a roll call vote:

Mr. Scartaccini ABSENT

Mrs. Middleton AYE

Ms. Dawson AYE

Mr. Castanon AYE

The motion carried by majority.

Public Input - 1 Topic Per Person - 3 Minute Limit

Mr. Jim Nelson stated that he would like to establish a community garden at the Senior Center and will be requesting use

of the Park Well on the property to irrigate. Mr. Nelson questioned if the well could be used. Ms. Dawson stated that the issue is with the asbestos lines. Mr. Nelson stated that he would like to put the request on the next agenda, if possible.

Mr. Ray Martinez asked what the status was on the Road Project. Mrs. Middleton stated that they are hoping to get three bids. She stated that the vendors will have to be pre-qualified. She stated that we are already approved of next year's funding and if we continue applying we can continue to repair roads and keep them maintained. Mrs. Middleton added that it is all a long process but it is being worked on.

Mr. John Lee stated that there is a wonderful article in the New Mexico Magazine on Mr. Steve Bodio and Magdalena. He reported that the Old Timers' Association is working on a project to get solar lighting for both ends of the arena at the Rodeo grounds. Mr. Lee stated that the gate at the east end for the ambulance is being worked on now and will offer easier access. Mr. Lee stated that he would like to see something put in to keep kids from going under the grandstands such as chain link fencing. Mr. Lee asked if the Village could clean out the brush and weeds at the Community Center. Mayor Rumpf stated that there is a list of things for the Village Joint Utility Workers to begin working on including the weeds. He also reported that there is someone who is interested in working on the old jail house as far as cleaning weeds out and installing plexiglass windows.

Ms. Dawson motioned to adjourn the meeting at 6:55 p.m., seconded by Mr. Castanon. The motion carried unanimously.

Respectfully Submitted,

Stephanie Finch
Clerk/Treasurer

Richard Rumpf
Mayor

Minutes Taken By:

Carleen Gomez, CMC
Deputy Clerk

**Minutes of the Special Work Session of the Village of Magdalena
Board of Trustees
Held Wednesday, May 3, 2017 at 9:00 a.m.**

DRAFT

Mayor Richard Rumpf called the meeting to order at 9:05 a.m.

Present: Mayor Richard Rumpf, Lynda Middleton, Donna Dawson,
Stephanie Finch - Clerk/Treasurer

Absent: Tyler Scartaccini, Jose "Artie" Castanon, Attorney Kathy
Riley

Guests: Larry Cearley, Carleen Gomez - Deputy Clerk

Mayor Rumpf announced that there were not enough members of the
Village Board present to have a quorum and adjourned the Special
Work Session at 9:05 a.m.

Approval of Agenda

**Discussion & Possible Decision Regarding Revision Of Position
Description(s)**

**Public Hearing - Discussion & Possible Decision Regarding
Approval Of FY 18 Interim Budget**

Public Input - 1 Topic Per Person - 3 Minute Limit

Respectfully Submitted,

Stephanie Finch
Clerk/Treasurer

Richard Rumpf
Mayor

Minutes Taken By:

Carleen Gomez, CMC
Deputy Clerk

Magdalena Marshal's Office

Monthly Report	Month: April	Year: 2017
Marshal's Office		
Total Miles Driven: 4695		
GENERAL CALLS:	AMOUNT	REVENUE
TRAFFIC CITATIONS: Village Ordinances	33	\$2,194.00/Court
TRAFFIC CITATIONS: State Statutes	11	Court
CRIMINAL CITATIONS	4	Court
ANIMAL CONTROL	2	Closed
TRAFFIC ACCIDENTS	4	Closed
D.W.I. ARRESTS		
FELONY ARRESTS		
MISDEMEANOR ARRESTS	15	Closed
12 HOUR HOLD ARRESTS		
CRIMINAL INVESTIGATIONS	13	
JUVENILE CASES	1	Closed
DOMESTIC CASES	4	Closed
CRIMINAL DAMAGE / PROPERTY	2	Closed
ASSISTANCE CALLS:		
AMBULANCE/FIRE	11	
PUBLIC SERVICE	35	
NM STATE POLICE	5	
SHERIFF'S OFFICE	2	
NM FISH & GAME	2	
US BORDER PATROL		
FOREST SERVICE		
OTHER:		
ALARM CALLS	4	
FINGERPRINTING	3	
DRIVING TESTS	3	
MISCELLANEOUS SERVICE	4	
TOTALS:	158	\$2,194.00



Magdalena Marshal's Office

Monthly Report	<u>Month: April</u>	<u>Year: 2017</u>
Larry Cearley	ID#:Mag-1	
Total Miles Driven: 752		
GENERAL CALLS:	AMOUNT	REVENUE
TRAFFIC CITATIONS: Village Ordinances	4	Court
TRAFFIC CITATIONS: State Statutes	3	Court
CRIMINAL CITATIONS	1	Court
ANIMAL CONTROL	2	Closed
TRAFFIC ACCIDENTS	2	Closed/ Other Agency
D.W.I. ARRESTS		
FELONY ARRESTS		
MISDEMEANOR ARRESTS	1	Closed
12 HOUR HOLD ARREST		
CRIMINAL INVESTIGATIONS	5	Closed
JUVENILE CASES	1	Closed
DOMESTIC CASES	2	Closed
CRIMINAL DAMAGE / PROPERTY	1	Closed
ASSISTANCE CALLS:		
AMBULANCE/FIRE	5	
PUBLIC SERVICE	10	
NM STATE POLICE	3	
SHERIFF'S OFFICE	2	
NM FISH & GAME	2	
US BORDER PATROL		
US FOREST SERVICE		
OTHER:		
ALARM CALLS	3	
FINGERPRINTING	2	
Driving Tests	2	
Misc. Cases		
TOTALS:	51	0

MAGDALENA MARSHAL DEPARTMENT
MONTHLY VEHICLE EXPENDITURE REPORT
For the month of : April year: 2017

License Number: G-93062
Make and Model: 2015 Ford Expedition

Report due in NO LATER THAN THE 10th OF THE MONTH

Date	Beginning Mileage	Ending Mileage	Miles Traveled	Fuel Gallons	Amount	Motor Oil Quarts	Amount	Maintenance Section
1	30213							01 Chassis Maintenance
2								02 Electrical Maintenance
3								03 Engine Maintenance
4	30213	30380	167	14.7				04 General Supplies
5								05 Interior Maintenance
6								06 Lubrication
7								07 Miscellaneous
8								09 Tire Purchase
9								10 Tire Repair
10	30380	30605	225	17.6				11 Wash and Wax
11								(Attach Copy of Invoices)
12								Invoice No.: _____ Amt.\$ _____
13	30605	30787	182	13.3				Date: _____
14								Invoice No.: _____ Amt.\$ _____
15								Date: _____
16								Invoice No.: _____ Amt.\$ _____
17								Code: _____ Date: _____
18								Invoice No.: _____ Amt.\$ _____
19								Code: _____ Date: _____
20								Invoice No.: _____ Amt.\$ _____
21								Code: _____ Date: _____
22								Invoice No.: _____ Amt.\$ _____
23								Code: _____ Date: _____
24	30787	30965	178	14.1				Invoice No.: _____ Amt.\$ _____
25								Code: _____ Date: _____
26								Invoice No.: _____ Amt.\$ _____
27								Code: _____ Date: _____
28								Invoice No.: _____ Amt.\$ _____
29								Code: _____ Date: _____
30								Invoice No.: _____ Amt.\$ _____
31								
Totals			752	59.7			0	

I certify that the above is correct to the best of my knowledge.

Signature:  Title: Marshal

Magdalena Marshal's Office

<i>Monthly Report</i>	<i>Month: April</i>	<i>Year: 2017</i>
Marshal's Office - W. Melton ID#:Mag-2		
Total Miles Driven:	1090	
<u>GENERAL CALLS:</u>	<u>AMOUNT</u>	<u>REVENUE</u>
TRAFFIC CITATIONS: Village Ordinances	17	1104
TRAFFIC CITATIONS: State Statutes	7	
CRIMINAL CITATIONS	3	
ANIMAL CONTROL CITATIONS	0	
TRAFFIC ACCIDENTS	2	
D.W.I. ARRESTS		
FELONY ARRESTS	0	
MISDEMEANOR ARRESTS	6	
12 HOUR HOLD ARREST		
CRIMINAL INVESTIGATIONS	7	
JUVENILE CASES	0	
DOMESTIC CASES	2	
CRIMINAL DAMAGE / PROPERTY	1	
<u>ASSISTANCE CALLS:</u>		
AMBULANCE/FIRE	5	
PUBLIC SERVICE	15	
NM STATE POLICE	2	
SHERIFF'S OFFICE		
NM FISH & GAME	0	
US BORDER PATROL		
US FOREST SERVICE		
<u>OTHER:</u>		
ALARM CALLS	1	
FINGERPRINTING	1	
Driving Tests	1	
Misc. Cases	3	
TOTALS:	73	1104

MAGDALENA MARSHAL DEPARTMENT
MONTHLY VEHICLE EXPENDITURE REPORT
For the month of : April year: 2017 M-2

License Number: _ G97489
Make and Model: _ 2016 Silverado

Report due in NO LATER THAN THE 10th OF THE MONTH

Date	Beginning Mileage	Ending Mileage	Miles Traveled	Fuel Gallons	Amount	Motor Oil Quarts	Amount	Maintenance Section
1	18593	18714	121	11.2				01 Chassis Maintenance
2								02 Electrical Maintenance
3								03 Engine Maintenance
4								04 General Supplies
5	18714	18848	134	15.1				05 Interior Maintenance
6								06 Lubrication
7	18848	19003	155	12.9				07 Miscellaneous
8								09 Tire Purchase
9								10 Tire Repair
10								11 Wash and Wax
11	19003	19183	180	18.5				(Attach Copy of Invoices)
12								Invoice No.: _____ Amt.\$ _____
13								Date _____
14								Invoice No.: _____ Amt.\$ _____
15								Date _____
16								Invoice No.: _____ Amt.\$ _____
17								Code: _____ Date: _____
18	19183	19425	242	16.5				Invoice No.: _____ Amt.\$ _____
19								Code: _____ Date: _____
20								Invoice No.: _____ Amt.\$ _____
21	19425	19576	151	15.3				Code: _____ Date: _____
22								Invoice No.: _____ Amt.\$ _____
23								Code: _____ Date: _____
24								Invoice No.: _____ Amt.\$ _____
25	19576	19692	116	15				Code: _____ Date: _____
26								Invoice No.: _____ Amt.\$ _____
27								Code: _____ Date: _____
28	19692	19804	112	12.9				Invoice No.: _____ Amt.\$ _____
29								Code: _____ Date: _____
30								Invoice No.: _____ Amt.\$ _____
31								
Totals			1090	117.4			0	

I certify that the above is correct to the best of my knowledge.

Signature:  Title: Deputy

Magdalena Marshal's Office

<i>Monthly Report</i>	<u>April</u>	<u>Year: 2017</u>
Marshal's Office - M. Apachito		
Total Miles Driven:		
<u>GENERAL CALLS:</u>	<u>AMOUNT</u>	<u>REVENUE</u>
TRAFFIC CITATIONS: Village Ordinances	12	1034
TRAFFIC CITATIONS: State Statutes	1	
CRIMINAL CITATIONS	0	
ANIMAL CONTROL CITATIONS	0	
TRAFFIC ACCIDENTS	0	
D.W.I. ARRESTS	0	
FELONY ARRESTS	0	
MISDEMEANOR ARRESTS	8	
12 HOUR HOLD ARREST	0	
CRIMINAL INVESTIGATIONS	1	
JUVENILE CASES	0	
DOMESTIC CASES	0	
CRIMINAL DAMAGE / PROPERTY	0	
<u>ASSISTANCE CALLS:</u>		
AMBULANCE/FIRE	1	
PUBLIC SERVICE	10	
NM STATE POLICE	0	
SHERIFF'S OFFICE	0	
NM FISH & GAME	0	
US BORDER PATROL	0	
US FOREST SERVICE	0	
<u>OTHER:</u>		
ALARM CALLS	0	
FINGERPRINTING	0	
Driving Tests	0	
Misc. Cases	4	
<u>TOTALS:</u>	37	1034

MAGDALENA MARSHAL DEPARTMENT
MONTHLY VEHICLE EXPENDITURE REPORT
For the month of : April Year: 2017

License Number: _g97490
Make and Model: _ 2016 Silverado

Report due in NO LATER THAN THE 10th OF THE MONTH

Date	Beginning Mileage	Ending Mileage	Miles Traveled	Fuel Gallons	Amount	Motor Oil Quarts	Amount	Maintenance Section
1	14610	14866	256	20.4				01 Chassis Maintenance
2								02 Electrical Maintenance
3	14866	15106	240	19.6				03 Engine Maintenance
4								04 General Supplies
5								05 Interior Maintenance
6								06 Lubrication
7	15106	15287	181	13.2				07 Miscellaneous
8	15287	15517	230	18.4				09 Tire Purchase
9								10 Tire Repair
10	15517	15687	170	11.5				11 Wash and Wax
11								(Attach Copy of Invoices)
12								Invoice No.: _____ Amt.\$ _____
13	15687	15937	250	16.6				Date: _____
14								Invoice No.: _____ Amt.\$ _____
15	15937	16153	216	16.3				Date: _____
16								Invoice No.: _____ Amt.\$ _____
17	16153	16446	293	20.3				Code: _____ Date: _____
18								Invoice No.: _____ Amt.\$ _____
19								Code: _____ Date: _____
20								Invoice No.: _____ Amt.\$ _____
21	16446	16695	249	20				Code: _____ Date: _____
22								Invoice No.: _____ Amt.\$ _____
23	16695	16960	265	18.5				Code: _____ Date: _____
24	16960	17225	265	17.8				Invoice No.: _____ Amt.\$ _____
25								Code: _____ Date: _____
26								Invoice No.: _____ Amt.\$ _____
27								Code: _____ Date: _____
28								Invoice No.: _____ Amt.\$ _____
29	17225	17463	238	18.5				Code: _____ Date: _____
30								Invoice No.: _____ Amt.\$ _____
31								
Totals			2853	211.1			0	

I certify that the above is correct to the best of my knowledge.

Signature:  Title: Deputy Marshal

Stephanie Finch

From: donotreply@godaddy.com
Sent: Monday, April 24, 2017 11:23 AM
To: Stephanie Finch
Subject: villageofmagdalena.com Request to be Placed on Agenda: Form Submission

Date of Meeting Requested:

05/08/2017

Name:

Jim Nelson

Phone

854-2259

Email:

jcnelson@gilanet.com

Subject:

Use of village water well on Senior Center property for watering a community garden

Item request will be:

Discussion/Action

Brief description of topic to be discussed:

With members of the Magdalena Rejuvenation Group and approval of the County commission, I wish to prepare a community garden area on Magdalena Senior Center property for the use of Center clients and village residents. Initially we propose to irrigate this garden from the nonpotable water well on the Center grounds. If this well is not presently operable, we would like to know what it will take to make it so and whether the Council would approve this use. We will not be requesting any funds from the Village.

Submitted File 1:

This message was submitted from your website contact form:

<https://www.villageofmagdalena.com/request-to-be-placed-on-agenda.html>

Use your free GoDaddy Email Marketing Starter account to follow up with contacts who agreed to receive email campaigns! Click [here](#) to get started.



Stephanie Finch

From: Jim Nelson <jcnelson@gilanet.com>
Sent: Monday, April 24, 2017 11:53 AM
To: Stephanie Finch
Subject: Council agenda request for May 8

Subject for discussion and action: Preparation and use of the village-owned nonpotable-water well on Senior Center property to irrigate a proposed community garden

Description: With the Magdalena Rejuvenation Group and the approval of the County Commission, I wish to establish a community garden on the grounds of the Senior Center for use by Center clients and village residents. Initially we propose to irrigate it using the nonpotable-water well on the property. I have been informed by the Mayor that the well is not presently operable. So we would like to know what it will take to make it so, and whether the Council approves of this proposed activity.

--

James Nelson
P.O. Box 1222
Magdalena NM 87825
854-2259

RESOLUTION NO. 2017-09

A RESOLUTION OF THE VILLAGE OF MAGDALENA NEW MEXICO DECLARING ITS OFFICIAL INTENT TO REIMBURSE-ITSELF WITH THE PROCEEDS OF A LOAN AGREEMENT BETWEEN THE VILLAGE OF MAGDALENA AND THE NEW MEXICO FINANCE AUTHORITY FOR CERTAIN CAPITAL EXPENDITURES THAT WILL BE MADE BY THE VILLAGE; IDENTIFYING SAID CAPITAL EXPENDITURES AND THE FUNDS USED FOR SUCH PAYMENT; AND PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Village of Magdalena in the State of New Mexico is duly organized and existing pursuant to the Constitution and laws of the State; and

WHEREAS, the Board of Trustees is the governing body of the Village; and

WHEREAS, the Board of Trustees has determined that it is the best interest of the Village to make certain capital expenditures on the project; and

WHEREAS, the Board of Trustees currently intends and reasonably expects to enter into a loan agreement with the New Mexico Finance Authority (the "Loan Agreement") to finance the Project, including an amount not to exceed \$33,692.00 for reimbursing the Villages General Fund for capital expenditures subsequent to the date which is 60 days prior to the date hereof but before borrowing, within 18 months of the date of such capital expenditures or the placing in service of the Project, whichever is later (but in no event more than three years after the date of the original expenditure of such money's); and

WHEREAS, the Board of Trustees hereby desires to declare its official intent, pursuant to 26 C.F.R. 1.150.2, to reimburse the Village's Fund for such capital expenditures with the proceeds of the Loan Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF MAGDALENA THAT:

- 1. Declaration of Official Intent. The Village will finance the purchase of a tractor (the "Project") with moneys currently contained in its funds and known as the General Fund.**
- 2. Dates of Capital Expenditures. All of the capital expenditures covered by this Resolution were not made earlier than 60 days prior to the date of this Resolution.**
- 3. Issuance of Loan Agreement. The Village presently intends and reasonably expects to enter into the Loan Agreement within 18 months of the date of the expenditures of moneys on the Project or the date upon which the Project was placed in service or abandoned. Whichever is later (but in no event more than three years after the date of the original expenditure of such moneys), and to allocate an amount not to exceed \$33,692.00 of the proceeds thereof to reimburse the Village's General Fund for its expenditures in connection with the Project.**
- 4. Confirmation of Prior Acts. All prior acts and doings of the officials, agents, and employees of the Village which are in conformity with the purpose and intent of this Resolution, and in furtherance of the Project, shall be and the same hereby in all respects ratified, approved and confirmed.**

5. **Repeal of Inconsistent Resolutions.** All other resolutions of the Board of Trustees, or parts of resolutions, inconsistent with this Resolution are hereby repealed to the extent of such inconsistency.
6. **Effective Date of Resolution.** This Resolution shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this 8th day of May, 2017.

Richard Rumpf, Mayor

ATTEST:

Stephanie Finch, Village Clerk

STATE OF NEW MEXICO AUDIT CONTRACT

Village of Magdalena

hereinafter referred to as the "Agency," and

Rice & Associates, CPA

hereinafter referred to as the "Contractor," agree:

As required by the Audit Rule, NMAC Section 2.2.2.1 et seq., Contractor agrees to, and shall, inform the Agency of any restriction placed on Contractor by the Office of the State Auditor pursuant to NMAC Section 2.2.2.8, and whether the Contractor is eligible to enter into this Contract despite the restriction.

1. SCOPE OF WORK (Include in Paragraph 25 any expansion of scope)

- A. The Contractor shall conduct a financial and compliance audit of the Agency for Fiscal Year 2017 in accordance with auditing standards generally accepted in the United States of America, *Government Auditing Standards, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, the Audit Act and the Audit Rule (NMAC Section 2.2.2.1 et seq.).

2. DELIVERY AND REPRODUCTION

- A. In order to meet the delivery terms of this Contract, the Contractor shall deliver the following documents to the State Auditor on or before the deadline set forth for the Agency in NMAC Section 2.2.2.9:
1. an organized, bound and paginated hard copy of the Agency's audit report for review;
 2. a copy of the signed management representation letter provided to the IPA by the Agency as required by AU-C580; and
 3. a copy of the completed State Auditor Report Review Guide available at www.osanm.org;
- B. Reports postmarked by the Agency's due date will be considered received by the due date for purposes of NMAC Section 2.2.2.9. Unfinished or excessively deficient reports will not satisfy this requirement; such reports will be rejected and returned to the Contractor and the State Auditor may take action in accordance with NMAC Section 2.2.2.13. If the State Auditor does not receive copies of the management representation letter and the completed Report Review Guide with the audit report or prior to submittal of the audit report, the State Auditor will not consider the report submitted to the State Auditor.
- C. As soon as the Contractor becomes aware that circumstances exist that will make the Agency's audit report late, the Contractor shall immediately provide written notification of the situation to the State Auditor. The notification shall include an explanation regarding why the audit report will be late, when the IPA expects to submit the report and a concurring signature by the Agency.
- D. Pursuant to NMAC Section 2.2.2.10, the Contractor shall prepare a written and dated engagement letter that identifies the specific responsibilities of the Contractor and the Agency.
- E. After its review of the audit report pursuant to NMAC Section 2.2.2.13, the State Auditor shall authorize the Contractor to print and submit the final audit report. Within five business days after the date of the authorization to print and submit the final audit report, the Contractor shall provide the State Auditor an electronic version of the audit report, in PDF format, and the electronic copy of the Excel version of the Summary of Findings Form, Vendor Schedule, Fund Balances, and any GASB 77 data (if applicable). After the State Auditor officially releases the audit report by issuance of a release letter, the Contractor shall deliver 7 copies of the audit report to the Agency. The Agency or Contractor shall ensure that every member of the Agency's governing authority shall receive a copy of the report.
- F. The Agency, upon delivery of its audit report, shall submit to the Federal Audit Clearinghouse (FAC) the completed dated collection form and the reporting package described in Section 200.512 of Uniform Guidance for Federal Awards. The submission is required to be made within 30 calendar days of receipt of the auditor's report, or nine months after the end of the audit period.

3. COMPENSATION

- A. The total amount payable by the Agency to the Contractor under this Contract shall not exceed ~~\$10,280.38~~ plus applicable gross receipts tax.
- B. Contractor agrees not to, and shall not, perform any services in furtherance of this Contract prior to approval by the State Auditor. Contractor acknowledges and agrees that it will not be entitled to payment or compensation for any services performed by Contractor pursuant to this Contract prior to approval by the State Auditor.
- C. Total Compensation will consist of the following:

SERVICES	AMOUNTS
(1) Financial statement audit	\$7,580.38
(2) Federal single audit	\$0.00
(3) Financial statement preparation	\$2,700.00
(4) Other nonaudit services, such as depreciation schedule updates	\$0.00
(5) Other (i.e., component units, specifically identified)	\$719.62

Total Compensation = ~~\$11,000.00~~ plus applicable gross receipts tax

- D. The Agency shall pay the Contractor the New Mexico gross receipts tax levied on the amounts payable under this Contract and invoiced by the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below.
- E. The State Auditor may authorize progress payments to the Contractor by the Agency; provided that the authorization is based upon evidence of the percentage of audit work completed as of the date of the request for partial payment. Progress payments up to 70% do not require State Auditor approval, provided that the Agency certifies receipt of services. The Agency must monitor audit progress and make progress payments only up to the percentage that the audit is completed prior to making such payment. Progress payments of 70% or more but less than or equal to 90% require State Auditor approval after being approved by the Agency. If requested by the State Auditor, the Agency shall provide a copy of the approved progress billings. The State Auditor may allow only the first 50% of progress payments to be made without State Auditor approval if the Contractor's previous audits were submitted after the due date. Final payment for services rendered by the Contractor shall not be made until a determination and written finding is made by the State Auditor in the release letter that the audit has been made in a competent manner in accordance with the provisions of this Contract and applicable rules of the State Auditor.

4. TERM. Unless terminated pursuant to Paragraphs 5 or 19, this Contract shall terminate one calendar year after the latest date on which it is signed.

5. TERMINATION, BREACH AND REMEDIES

- A. This Contract may be terminated:
1. By either party without cause, upon written notice delivered to the other party and the State Auditor at least ten (10) days prior to the intended date of termination.
 2. By either party, immediately upon written notice delivered to the other party and the State Auditor, if a material breach of any of the terms of this Contract occurs. Unjustified failure to deliver the report in accordance with Paragraph 2 shall constitute a material breach of this Contract.
 3. By the Agency pursuant to Paragraph 19, immediately upon written notice to the Contractor and the State Auditor.
 4. By the State Auditor, immediately upon written notice to the Contractor and the Agency after determining that the audit has been unduly delayed, or for any other reason.
- B. By termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. If the Agency or the State Auditor terminates this Contract, the Contractor shall be entitled to compensation for work performed prior to termination in the amount of earned, but not yet paid, progress payments, if any, that the State Auditor has authorized to the extent required by Paragraph 3(E). If the Contractor terminates this Contract for any reason other than Agency's breach of this Contract, the Contractor shall repay to the Agency the full amount of any progress payments for work performed under the terms of this Contract.
- C. Pursuant to NMAC Section 2.2.2.8, the State Auditor may disqualify the Contractor from eligibility to contract for audit services with the State of New Mexico if the Contractor knowingly makes false statements, false assurances or false disclosures under this Contract. The State Auditor on behalf of the Agency or the Agency may bring a civil action for damages or any other relief against a Contractor for a material breach of this Contract.

D. THE REMEDIES HEREIN ARE NOT EXCLUSIVE, AND NOTHING IN THIS SECTION 5 WAIVES OTHER LEGAL RIGHTS AND REMEDIES OF THE PARTIES.

6. STATUS OF CONTRACTOR

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to employees of the Agency as a result of this Contract. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed under this Contract unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract.

8. SUBCONTRACTING

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Agency and the State Auditor. An agreement between the Contractor and a subcontractor to subcontract any portion of the services under this Contract shall be completed on a form prescribed by the State Auditor. The agreement shall be an amendment to this Contract and shall specify the portion of the audit services to be performed by the subcontractor, how the responsibility for the audit will be shared between the Contractor and the subcontractor, the party responsible for signing the audit report and the method by which the subcontractor will be paid. Pursuant to NMAC Section 2.2.2.8, the Contractor may subcontract only with independent public accounting firms that are on the State Auditor's List of Approved Firms, and that are not otherwise restricted by the Office from entering into such a contract.

9. RECORDS

The Contractor shall maintain detailed time records that indicate the date, time, and nature of services rendered during the term of this Contract. The Contractor shall retain the records for a period of at least five (5) years after the date of final payment under this contract. The records shall be subject to inspection by the Agency and the State Auditor. The Agency and the State Auditor shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the Agency or the State Auditor on behalf of the Agency to recover excessive or illegal payments.

10. RELEASE

The Contractor, upon receiving final payment of the amounts due under the Contract, releases the State Auditor, the Agency, their respective officers and employees and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Contract. This paragraph does not release the Contractor from any liabilities, claims or obligations whatsoever arising from or under this Contract.

11. CONFIDENTIALITY

All information provided to or developed by the Contractor from any source whatsoever in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor, except in accordance with this Contract or applicable standards, without the prior written approval of the Agency and the State Auditor.

12. PRODUCT OF SERVICES: COPYRIGHT AND REPORT USE

Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. The Agency and the State Auditor may post an audited financial statement on their respective websites once it is publicly released by the State Auditor. For District Courts and District Attorneys only, the contractor agrees that the Financial Control Division of the Department of Finance and Administration (DFA) is free to use the audited financial statements in the statewide Comprehensive Annual Financial Report (CAFR) and that the Contractor's audit report may be relied upon during the audit of the statewide CAFR, if applicable. However, DFA should not provide to any third party, other than the CAFR auditor, the District Courts' or District Attorneys' draft audit reports or their opinion letters or findings.

13. CONFLICT OF INTEREST

The Contractor represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. Each of the Contractor and the Agency certifies that it has followed the requirements of the Governmental Conduct Act, Section 10-16-1, et seq., NMSA 1978, regarding contracting with a public officer, state employee or former state employee, as required by the applicable professional standards.

14. INDEPENDENCE

The Contractor represents and warrants its personal, external and organizational independence from the Agency in accordance with the *Government Auditing Standards 2011 Revision*, issued by the Comptroller General of the United States, and NMAC Section 2.2.2.8. The Contractor shall immediately notify the State Auditor and the Agency in writing if any impairment to the Contractor's independence occurs or may occur during the period of this Contract.

15. AMENDMENT

This Contract shall not be altered, changed or amended except by prior written agreement of the parties and with the prior written approval of the State Auditor. Any amendments to this Contract shall comply with the Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978.

16. MERGER

This Contract supersedes all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract. Contractor and Agency shall enter into and execute an engagement letter pursuant to NMAC Section 2.2.2.10, consistent with Generally Accepted Auditing Standards (GAAS) and Government Auditing Standards (GAGAS). The engagement letter and any associated documentation included with or referenced in the engagement letter shall not be interpreted to amend this Contract. Conflicts between the engagement letter and this Contract are governed by this Contract, and shall be resolved accordingly.

17. APPLICABLE LAW

The laws of the State of New Mexico shall govern this Contract. By execution of this Contract, Contractor irrevocably consents to the exclusive personal jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising from or related to this Contract.

18. AGENCY BOOKS AND RECORDS

The Agency is responsible for maintaining control of all books and records at all times and the Contractor shall not remove any books and records from the Agency's possession for any reason.

19. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the legislature or the Agency's governing body for the performance of this Contract. If sufficient appropriations and authorization are not made by the legislature or the Agency's governing body, this Contract shall terminate upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. This section of the Contract does not supersede the Agency's requirement to have an annual audit pursuant to Section 12-6-3(A) NMSA 1978.

20. PENALTIES FOR VIOLATION OF LAW

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

21. EQUAL OPPORTUNITY COMPLIANCE

The Contractor shall abide by all federal and state laws, rules and regulations, and executive orders of the Governor of the State of New Mexico pertaining to equal employment opportunity. In accordance with all such laws, rules, regulations and orders, the Contractor assures that no person in the United States shall, on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation or gender identity be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If the Contractor is found not to be in compliance with these requirements during the life of this Contract, the Contractor shall take appropriate steps to correct these deficiencies.

22. WORKING PAPERS

A. The Contractor shall retain its working papers of the Agency's audit conducted pursuant to this Contract for a period of at least five (5) years after the date shown on the opinion letter of the audit report, or longer if requested by the federal cognizant agency for audit, oversight agency for audit, pass through-entity or the State Auditor. The State Auditor shall have access to the working papers at the State Auditor's discretion. When requested by the State Auditor, the Contractor shall deliver the original or clear, legible copies of all working papers to the requesting entity.

B. The Contractor should follow the guidance of AU-C 210 A.27 to A.31 and AU-C 510 .A3 to .A11 in communications with the predecessor auditor and to obtain information from the predecessor auditor's audit documentation.

23. DESIGNATED ON-SITE STAFF

The Contractor's on-site individual auditor responsible for supervision of work and completion of the audit is Pamela Rice. The Contractor shall notify the Agency and the State Auditor in writing of any changes in staff assigned to perform the audit.

24. INVALID TERM OR CONDITION

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected.

25. OTHER PROVISIONS

SIGNATURE PAGE

This Contract is made effective as of the date of the latest signature.

AGENCY

Village of Magdalena

CONTRACTOR

Rice & Associates, CPA

**PRINTED
NAME:** _____

**PRINTED
NAME:** _____

SIGNATURE: _____

SIGNATURE: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

**VILLAGE OF MAGDALENA
BOARD OF TRUSTEES
RESOLUTION № 2017-10**

**VILLAGE OF MAGDALENA
RESOLUTION AUTHORIZING REPRESENTATIVES FOR SPECIAL APPROPRIATION
PROJECT 15-0558-STB**

WHEREAS, the Board of Trustees of the Village of Magdalena of Socorro County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

WHEREAS, the Agreement is identified as 15-0558-STB Grant Agreement; and

WHEREAS, pursuant to Executive Order 2013-006, "Establishing Uniform Funding Criteria and Grant Management and Oversight Requirements for Grants of State Capital Outlay Appropriations by State Agencies to Other Entities," the New Mexico Environment Department has determined that the Village of Magdalena is required to have a fiscal agent for the grant.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE VILLAGE OF MAGDALENA, that:

Richard Rumpf, Mayor, is authorized to sign the agreement for this project, and

Official Representative, Stephanie Finch, Clerk-Treasurer, and Alternate, Carleen Gomez, Deputy Clerk, or her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests and act as a point of contact in conjunction with the designated signatory authority for the Fiscal Agent concerning all matters related to the grant agreement; and

Jay Armijo, Executive Director, or his successors of South Central Council of Governments is the FISCAL AGENT and is hereby appointed as the Administrative Authority and is authorized by the MOU between the Village of Magdalena and South Central Council of Governments to administer the Grant Agreement and is authorized to sign reimbursement requests along with the designated signatory authority for reimbursement requests from the Village of Magdalena and other documents requiring a signature for submittal to the New Mexico Environment Department.

PASSED, APPROVED and ADOPTED BY THE GOVERNING BODY OF THE VILLAGE OF MAGDALENA this 8th day of May, 2017.

Richard Rumpf, Mayor of Magdalena

ATTEST:

Stephanie Finch, Clerk-Treasurer



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

NEW MEXICO ENVIRONMENT DEPARTMENT

Harold Runnels Building

1190 St. Francis Drive

PO Box 5469

Santa Fe, NM 87502

Phone (505) 827-2806 Fax (505) 827-2837

www.enr.nm.gov



BUTCH TONGATE
Cabinet Secretary
J.C. Borrego
Deputy Secretary

April 28, 2017

Ms. Stephanie Finch
Village of Magdalena
P.O. Box 145
Magdalena, NM 87825

Special Appropriation Project:
15-0558-STB Magdalena Water System & Well
Improve \$40,000

Enclosed you will find two original grant agreements for the above-mentioned grant. Please read the grant agreement carefully. The grant should be signed by your community's chief executive who has signatory authority provided by law (charter, ordinance or resolution).

Prior to signing the grant agreement, your local governing body must meet and pass a resolution similar to the resolution enclosed. The purpose of this resolution is to designate an individual to sign the grant agreement and also to designate an official representative(s) who will act as the point of contact and who is authorized to sign reimbursement requests and other documents requiring a signature for submittal to the New Mexico Environment Department (NMED). Please note that successors to the designee(s) are also eligible as designees in case of staff replacements. NMED must also have a current W-9 form on file. The most recent revision of the W-9 form (as approved by the Department of Finance and Administration) and instructions are also enclosed.

Please return both signed original grant agreements including Project Description (Attachment A), the completed W-9 form, passed resolution and signature page to NMED. Upon the NMED Secretary's signature, one original grant agreement will be returned to you. We recommend that duplicate copies of all documents be made prior to returning them to NMED.

Your project manager, Steven Deal at (575) 647-7952 or steven.deal@state.nm.us, will be glad to answer any questions you may have regarding the technical aspects of your project. Disbursement request questions and other financial matters can be directed to the program administrator, Valerie Trujillo at (505) 827-2958 or valerie.trujillo@state.nm.us.

We are looking forward to working with you on this project and will do whatever we can to help make it a worthwhile improvement to your community.

Sincerely,

Valerie Trujillo, Program Administrator
Construction Programs Bureau
New Mexico Environment Department

Enclosures: Two Grant Agreements, Attachments A&B, Exhibits 1, 2, 3 & 4, W-9 Form and Instructions, Signature Page

cc: Steven Deal, Project Manager
Valerie Trujillo, Program Administrator

Village of Magdalena
New Grant Agreement Checklist

Return the following to:

Valerie Trujillo

**New Mexico Environment Department
Construction Programs Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469**

- ☐ **Two original signed Grant Agreements for:
15-0558-STB Magdalena Water System & Well Improve \$40,000**
- ☐ **Attachment A (Project Description):**
- ☐ **Completed W-9 form**
- ☐ **Resolution**
- ☐ **Signature Page for Official Representative(s) - (Signatures of Official Representative(s) listed
on page 4 of the Grant Agreement)**

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT
FUND 89200 CAPITAL APPROPRIATION PROJECT
15-0558-STB**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, by and between the Department of Environment, Harold Runnels Building, Room S-2072, 1190 St. Francis Drive, Santa Fe, New Mexico, 87505, hereinafter called the "Department" or abbreviation such as "NMED", and Village of Magdalena, hereinafter called the "Grantee". This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2015, Chapter 3, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

15-0558 (\$40,000) APPROPRIATION REVERSION DATE: June 30, 2019
Laws of 2015, Chapter 3, Section 20, Paragraph 71, forty thousand dollars (\$40,000), to plan, design, construct and equip water system and well improvements in Magdalena in Socorro county

The Grantee's total reimbursements shall not exceed the appropriation amount forty thousand dollars (\$40,000) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, zero (\$0), which equals forty thousand dollars (\$40,000) (the "Adjusted Appropriation Amount").

¹ The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Attachments A and B set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachments A and B impose more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachments A and B shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse² Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement ;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

² "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- a. must be approved by the applicable oversight entity (if any) in accordance with law; or
- b. if no oversight entity is required to approve of the transaction, the Department must approve of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:

- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.
- c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 4.
- d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs including, but not limited to any costs associated with the Fiscal Agent.

**ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT
DESIGNATED REPRESENTATIVES**

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: _____	Grantee: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
Email: _____	Email: _____
Telephone: _____	Telephone: _____
FAX: _____	FAX: _____

Fiscal Agent: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____
FAX: _____

Department: NMED
Name: Valerie Trujillo
Title: Project Administrator
Address: Construction Programs Bureau
Harold Runnels Bldg. Room S-2072
PO Box 5469
Santa Fe, NM 87502
Email: valerie.trujillo@state.nm.us
Telephone: (505) 827-2958
FAX: (505) 827-2837

Department: NMED
Name: Steven Deal
Title: Project Manager
Address: Construction Programs Bureau
2301 Entrada del Sol
Las Cruces, NM 88001
Email: steven.deal@state.nm.us
Telephone: (575) 647-7952
FAX: (505) 526-6162

The Grantee's designee in combination with the Fiscal Agent's designee shall have authority from Grantee to request disbursements. The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to

have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2019 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be "expended" on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to "encumber" the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are "expended" and an "expenditure" has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* "expended" and an "expenditure" has *not* occurred as of the date they are "encumbered" by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article

VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Paper Periodic Reports

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 2. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

B. Paper Final Report

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 2. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, whichever ever first occurs.

C. Paperless Reporting

In lieu of the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The information currently required to be reported into the database is set forth in Exhibit 1. The Department shall

give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

D. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 3. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing.

B. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or

- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).
 - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
 - (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."

- (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, written approval.
- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which it is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to co-sign Requests for Payment along with the Fiscal Agent.
- (vi) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including

subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS: PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

Attachments A and B are incorporated by reference and made part of the Agreement. This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Village of Magdalena may immediately terminate this Agreement by giving Contractor written notice of such termination. The Village of Magdalena's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the Village of Magdalena or the NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Village of Magdalena or the Department"

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under a NMED Grant Agreement. Should the NMED early terminate the grant agreement, the Village of Magdalena may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Village of Magdalena's only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;

2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

Signature of Official with Authority to Bind Grantee

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Deputy Cabinet Secretary

Date

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

ARTICLE 1 REVIEW

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

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

- F. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, and any addenda for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval before the project is advertised for construction bids.
- G. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- H. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- I. The selected contractor will submit a construction schedule to the Grantee and NMED if requested at the pre-construction conference with a copy to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.
- J. The Grantee will provide a full-time construction inspector during construction of the project. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- K. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- L. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.

- M. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.

ARTICLE 2 NMED OVERSIGHT

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

ARTICLE 3 CLOSEOUT

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and NMED.
- B. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- C. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- D. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
- i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
 - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
 - iii. A certificate of substantial completion including punch list items;

- iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
- v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
- vi. Record drawings prepared by the Grantee's project engineer or a letter from the owner certifying receipt and acceptance of the record drawings;
- vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;
- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

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

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
DATABASE PERIODIC REPORT
EXHIBIT 1**

The Capital Projects Monitoring Systems (CPMS) can be found at: <http://cpms.dfa.state.nm.us>. Below are screenshots from the website on required fields for Local Entities. Please contact your program manager for Login and Password information.

Local Data	
ICIP Project #	
ICIP Priority	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

	Date Completed, Expected Completion Date or N/A	Amount Funded to Date	Future Funding Amounts	Funding Sources	Contractor Name	Contract Amount	Comments
Grant Agreement Issued							
Water Rights Easement & ROW							
Acquisition							
Archaeological Studies							
Environmental Studies							
Planning							
Design							
Construction							
Furnish/Equipment							
Total							

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
PAPER PERIODIC/FINAL REPORT
EXHIBIT 2**

☐ **PERIODIC REPORT** ☐ **FINAL REPORT**

Grantee: _____

Project Number: _____ **Reporting Period:** _____

1. Please provide a detailed status of project referenced above.

A. Third Party Obligations

Purchase Order or Contract # _____

Name of Contractor or Vendor: _____

Amount of Third Party Obligation: _____

Date Executed: _____

Termination Date: _____

B. Project Phase

Bonds Sold ☐ Plan/Design ☐ Bid Documents ☐ Construction ☐
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: _____

Total Amount of all Notices of Obligation to Reimburse: _____

Total Grant Amount Expended by Grantee to Date: _____

Grant Balance as of this Date: _____

Amount of Other Unexpended Funding Sources: _____

☐ **PERIODIC REPORT**

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

☐ **FINAL REPORT**

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

Grantee Representative/Title

Date

NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAUDISBURSEMENT REQUEST FOR PROJECTS WITH FISCAL AGENTS
SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY _____

B. PROJECT NUMBER _____

C. DISBURSEMENT REQUEST NUMBER _____

D. GRANT AMOUNT _____

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Administrative Expenses	XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX	\$ -
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti-donation" clause.

Signature of Authorized Official:

X

Typed or Printed Name:

Phone:

Date:

Signature of Fiscal Agent:

X

Typed or Printed Name:

Phone:

Date:

For Fiscal Agent Signature:

SWORN TO AND SUBSCRIBED before me on this _____ day of _____ 20____

Notary Public _____

My Commission expires _____

NMED Project Managers will complete this form based on executed contracts provided by Grantee

STATE OF NEW MEXICO

Exhibit 4

CAPITAL GRANT PROJECT

INITIAL Notice of Obligation to Reimburse Grantee # 1

DATE: _____

TO: Grantee: _____

Grantee Official Representative: _____

FROM: Department Representative: _____

_____, NMED/CPB Project Manager

SUBJECT: Notice of Obligation to Reimburse¹ Grantee

Project Number: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Termination Date: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Termination Date: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Termination Date: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount adjusted for AIPP if applicable: _____

The Amount of this Notice of Obligation: _____

\$0.00

The Total Amount of all Previously Issued Notices of Obligation: _____

N/A

The Total Amount of all Notices of Obligation to Date: _____

N/A

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: _____

Title: _____

Signature: _____

Date: _____

¹ "Reimburse" as used throughout this Notice of Obligation to Reimburse includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of the Grant Agreement and are a valid liability of the Grantee.

Construction Programs Bureau Signature Page

Project Name:	Village of Magdalena		
Project Number:	15-0558-STB		
Official Representative:		Alternate - Official Representative:	
Name		Name	
Title		Title	
Signature		Signature	
Address		Address	
E-mail		E-mail	
Phone		Phone	

Fiscal Agent:	
Name	
Title	
Signature	
Address	
E-mail	
Phone	

**MEMORANDUM OF UNDERSTANDING
BETWEEN
Village of Magdalena (Grantee)**

AND

(Fiscal Agent)

The purpose of this Memorandum of Understanding (hereinafter "MOU") is to confirm that the Grantee, Village of Magdalena (hereinafter "Grantee") is working in collaboration with _____, the designated Fiscal Agent (hereinafter "Fiscal Agent"), for the administration of a New Mexico legislative special appropriation to the New Mexico Environment Department (hereinafter "NMED"). The special appropriation grant agreement number is 15-0558-STB in the amount of \$40,000 and has been appropriated to plan, design, construct and equip water system and well improvements in Magdalena in Socorro county (hereinafter "Project").

It is mutually agreed that Village of Magdalena will determine the specific work to be completed, will oversee construction, and will own and operate the improvements resulting from completion of the Project. By this MOU, it is understood between the parties that _____ (Fiscal Agent) is authorized to act as the Fiscal Agent for the project, and will be responsible for administration, procurement, and payments related to the project. The governing board of Village of Magdalena will adopt a resolution appointing _____ (Fiscal Agent) as its Fiscal Agent and designating a signatory authority from _____ (Fiscal Agent) and a signatory authority from Village of Magdalena in accordance with terms of the NMED Grant Agreement. The resolution shall also designate a grantee representative from Village of Magdalena that is knowledgeable about the day to day activities relating to the Project.

The Fiscal Agent shall not be compensated from any grant funds for services rendered, or credited for services rendered, during the term of this MOU or during the duration of the Project.

This MOU shall be in effect for the duration of the grant agreement and terminates if the Grantee designates a new Fiscal Agent, or when the grant agreement expires or the project is complete and all appropriate close out documents are received, whichever comes first. The parties affirm their understanding and agreement by their signatures below. The parties may enter into a contractual agreement related to this project, but the terms of the agreement shall not conflict with the terms of this MOU or the Resolution.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this MOU as of the date of execution by the Fiscal Agent.

GRANTEE:

Signature of Official with Authority to Bind Grantee

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

FISCAL AGENT:

Signature of Official with Authority to Bind Grantee

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date