



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 19

Ordinance/Resolution# 11-124

Council District: ALL

For Meeting of November 15, 2010

(Adoption Date)

TITLE: A RESOLUTION IN SUPPORT OF THE CREATION OF THE LOWER RIO GRANDE STORMWATER MANAGEMENT DISTRICT FOR FLOOD CONTROL PURSUANT TO THE CONDITIONS OUTLINED HEREIN.

PURPOSE(S) OF ACTION: Support the creation of the Lower Rio Grande Stormwater Management District as outlined herein and in accordance with the South-Central New Mexico Stormwater Coalition and the City of Las Cruces.

| | | | | | |
|---|------------------|------------------------------------|------------------------|---------------------------------|--------------|
| Drafter and Staff Contact: AV Jaime Rodriguez, EI | | Department: Public Works | | Phone: (575) 528-3171 | |
| Department | Signature | Phone | Department | Signature | Phone |
| Public Works Director | | 528-3125 | Budget | | 541-2107 |
| Other | | | Assistant City Manager | | 541-2271 |
| Legal | | 541-2128 | City Manager | | 541-2076 |

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces (City) has a well established stormwater management and flood control program that has been in existence since 1970. This program has effectively minimized flood events through master planning and infrastructure improvements over the past forty (40) years and has established a framework within which development can occur while protecting the citizenry, public infrastructure and private property from flooding.

One of the distinct elements of the City's comprehensive approach to stormwater management and flood control is a dedicated funding source. The City's current flood control fund is a two mil tax levy which generates approximately three million dollars annually. The flood control fund was established circa 1970. The flood control fund revenue is utilized for necessary drainage infrastructure projects that prevent and alleviate flooding as well as operation and maintenance of existing flood control facilities within the corporate limits of Las Cruces. Future projects are outlined in the City's Five Year Capital Improvements Program.

The South-Central New Mexico Stormwater Coalition (Coalition), formerly known as the Storm Water Infrastructure Management Taskforce (SWIM), is a collaborative effort between local entities charged with management of stormwater to form a regional stormwater management and flood control entity. The Coalition began meeting in early 2010 to discuss the need for a regional approach to managing stormwater

and the need for a local flood control authority. The Coalition has drafted legislation that would form the Lower Rio Grande Stormwater Management District (District), an entity similar to a flood control authority. The draft legislation identifies the boundary of the District as approximately 2,400 square miles of Rio Grande River watershed that stretches from Elephant Butte Dam to the New Mexico-Texas state line, including Las Cruces (See Exhibit A). The legislation would require all property within the District be subject to taxation to fund the financial operations of the District as well as flood control projects throughout the District. The immediate goal of the Coalition is to present the legislation to the New Mexico legislature in January 2011.

Public Works Department staff (PW staff) has attended and participated in the Coalition meetings throughout the entire process. PW staff has provided input that outlines serious concerns with the creation of the District and how it will impact the City's current stormwater management and flood control program. The creation of the District, if the city of Las Cruces (city) is included within its boundaries, raises serious concerns regarding the City's flood control tax remaining intact, a redundancy of taxation on city residents for flood control, and the allocation of funds outside the corporate city limits generated by taxation of city residents.

The Public Works Department recommends the City Council support the concept of various agencies and entities working in concert to improve stormwater management and flood control and the creation of the Lower Rio Grande Stormwater Management District with the following conditions:

1. City of Las Cruces included as a planning partner and made eligible to partner on projects mutually beneficial to city residents and other members of the Lower Rio Grande Stormwater Management District.
2. Exclusion of the corporate limits of the city of Las Cruces from District boundaries.
3. The City of Las Cruces' two mil tax levy will remain intact.
4. Las Cruces residents will not be taxed for the financial operations of the District.
5. Any future city of Las Cruces annexed property will modify the boundary and be excluded from the District.

PW staff will continue to attend the Coalition meetings to provide input and expertise into this process and other stormwater management and flood control issues.

SUPPORT INFORMATION:

1. Resolution.
2. Map of the Lower Rio Grande Stormwater Management District Boundaries, Exhibit "A".
3. Draft Legislation, Exhibit "B".

SOURCE OF FUNDING:

| | | |
|---|---|--|
| Is this action already budgeted? | N/A | |
| | Yes | <input type="checkbox"/> See fund summary below |
| | No | <input type="checkbox"/> If No, then check one below: |
| | <i>Budget Adjustment Attached</i> | <input type="checkbox"/> Expense reallocated from: _____ |
| | | <input type="checkbox"/> Proposed funding is from a new revenue source (i.e. grant; see details below) |
| | <input type="checkbox"/> Proposed funding is from fund balance in the _____ Fund. | |
| Does this action create any revenue? | | |
| | Yes | <input type="checkbox"/> Funds will be deposited into this fund: _____ in the amount of \$ _____. |
| | No | <input checked="" type="checkbox"/> There is no new revenue generated by this action. |

FUND EXPENDITURE SUMMARY:

| Fund Name(s) | Account Number(s) | Expenditure Proposed | Available Budgeted Funds in Current FY | Remaining Funds | Purpose for Remaining Funds |
|--------------|-------------------|----------------------|--|-----------------|-----------------------------|
| N/A | N/A | N/A | N/A | N/A | N/A |

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will support the creation of the Lower Rio Grande Stormwater Management District with the stated conditions as outlined in the Resolution.
2. Vote "No"; this will not support the creation of the Lower Rio Grande Stormwater Management District with the stated conditions as outlined in the Resolution. This action will not establish the City's position regarding the creation of the Lower Rio Grande Stormwater Management District.
3. Vote to "Amend"; this could support the creation of the Lower Rio Grande Stormwater Management District with additional conditions or change the purpose of the Resolution to accept the creation of the Lower Rio Grande Stormwater Management District without conditions and as proposed by the South Central New Mexico Stormwater Coalition.
4. Vote to "Table"; this could delay establishing the City's position regarding the creation of the Lower Rio Grande Stormwater Management District.

REFERENCE INFORMATION

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. N/A

RESOLUTION NO. 11-124**A RESOLUTION IN SUPPORT OF THE CREATION OF THE LOWER RIO GRANDE STORMWATER MANAGEMENT DISTRICT FOR FLOOD CONTROL PURSUANT TO THE CONDITIONS OUTLINED HEREIN.**

The City Council is informed that:

WHEREAS, the City of Las Cruces (City) has a well established stormwater management and flood control program that has been in existence since 1970; and

WHEREAS, this program has effectively minimized flood events through master planning and infrastructure improvements over the past forty (40) years and has established a framework within which development can occur while protecting the citizenry, public infrastructure and private property from flooding; and

WHEREAS, one of the distinct elements of the City's comprehensive approach to stormwater management and flood control is a dedicated funding source, a two mil tax levy which currently generates approximately three million dollars annually; and

WHEREAS, the two mill levy is utilized for necessary drainage infrastructure projects, operation and maintenance of existing flood control facilities within the corporate limits of Las Cruces; and

WHEREAS, the South-Central New Mexico Stormwater Coalition (Coalition), formerly known as the Storm Water Infrastructure Management Taskforce (SWIM), is a collaborative effort between local entities charged with management of stormwater to form a regional stormwater management and flood control entity; and

WHEREAS, the Coalition has drafted legislation that would form the Lower Rio Grande Stormwater Management District (District), with boundaries identified as approximately 2,400 square miles of Rio Grande River watershed that stretches from Elephant Butte Dam to the New Mexico-Texas state line, including Las Cruces (See Exhibit A); and

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WHEREAS, the legislation would require all property within the District be subject to taxation to fund the financial operations of the District as well as flood control projects throughout the District; and

WHEREAS, Public Works Department staff has attended Coalition meetings and has provided input that outlines serious concerns with the creation of the District and how it will impact the City's current stormwater management and flood control program; and

WHEREAS, the creation of the District, if the city of Las Cruces (city) is included within its boundaries, raises serious concerns regarding the City's flood control tax remaining intact, a redundancy of taxation on city residents for flood control, and the allocation of funds outside the corporate city limits generated by taxation of city residents.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT, the City Council hereby supports the concept of various agencies and entities working in concert to improve stormwater management and flood control and the creation of the Lower Rio Grande Stormwater Management District with the following conditions:

- City of Las Cruces included as a planning partner and made eligible to partner on projects mutually beneficial to city residents and other members of the Lower Rio Grande Stormwater Management District.
- Exclusion of the corporate limits of the city of Las Cruces from the Lower Rio Grande Stormwater Management District boundaries.
- The City of Las Cruces' two mil tax levy will remain intact.
- Las Cruces residents will not be taxed for the financial operations of the District.
- Any future city of Las Cruces annexed property will modify the boundary and be excluded from the District.

(II)

THAT, City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPORVED this ____ day of _____, 20__.

APPROVED:

(SEAL)

Mayor

ATTEST:

City Clerk

Moved by: _____

Seconded by: _____

VOTE:

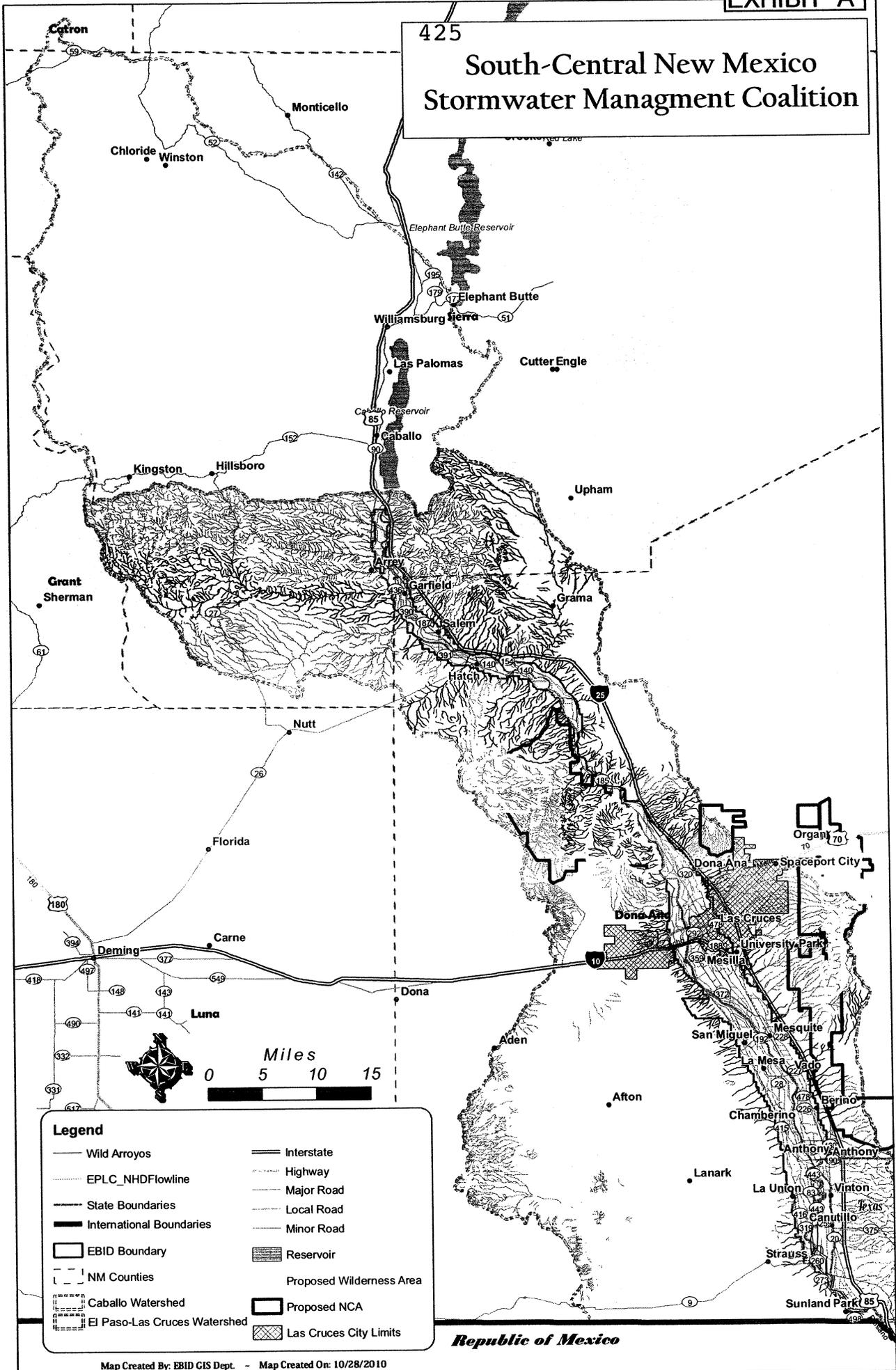
- Mayor Miyagishima: _____
- Councillor Silva: _____
- Councillor Connor: _____
- Councillor Pedroza: _____
- Councillor Small: _____
- Councillor Sorg: _____
- Councillor Thomas: _____

AS APPROVED TO FORM:



City Attorney

425 South-Central New Mexico Stormwater Management Coalition



Legend

| | |
|--------------------------------|----------------------------|
| — Wild Arroyos | — Interstate |
| --- EPLC_NHDFlowline | --- Highway |
| --- State Boundaries | --- Major Road |
| --- International Boundaries | --- Local Road |
| □ EBID Boundary | --- Minor Road |
| --- NM Counties | ▒ Reservoir |
| ▒ Caballo Watershed | ▒ Proposed Wilderness Area |
| ▒ El Paso-Las Cruces Watershed | ▒ Proposed NCA |
| | ▒ Las Cruces City Limits |

Republic of Mexico

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for review and comment

ARTICLE 16

Lower Rio Grande Stormwater Management District (District)

Section72-??-1 Short title.72-??-2. Legislative declaration.72-??-3. Decision of board or governing body final.72-??-4. Definitions.72-??-5. Creation of District.72-??-6. Boundaries of District.72-??-7. Provision for remonstrances.72-??-8. Board of directors.72-??-9. Appointment of first board.72-??-10. Election of directors.72-??-11. Nomination of directors.72-??-12. Filling vacancies on board.72-??-13. Organizational meetings.72-??-14. Board's administrative powers.72-??-15. Records of board.72-??-16. Meetings of board.72-??-16.1. Joint powers agreement authorized.72-??-17. Compensation of directors.72-??-18. Interest in contracts and property disqualifications.72-??-19. Flood control system; hearings thereon.72-??-20. Implementing powers.72-??-21. Protection of property rights.72-??-22. Additional powers of the District.72-??-23. Levy and collection of taxes.72-??-24. Levies to cover deficiencies.72-??-25. Sinking fund.72-??-26. Manner of levying and collecting taxes.72-??-27. Delinquent taxes.72-??-28. Elections.72-??-29. Election resolution.72-??-30. Conduct of election.72-??-31. Notice of election.72-??-32. Polling places.72-??-33. Election supplies.72-??-34. Election returns.72-??-35. Dissolution of District.72-??-36. Filing of dissolution resolution.72-??-37. Disposition of property, funds and taxes of District.72-??-38. Powers of public bodies.72-??-39. Effect of extraterritorial functions.72-??-40. Forms of borrowing.72-??-41. Issuance of notes.

- 72-??-43. Maturities of notes and warrants.
- 72-??-44. Issuance of bonds and incurrence of debt.
- 72-??-45. Issuance of temporary bonds.
- 72-??-46. Issuance of interim debentures.
- 72-??-47. Payment of securities.
- 72-??-48. Additionally secured securities.
- 72-??-49. Pledge of revenues.
- 72-??-50. Ranking among different issues.
- 72-??-51. Ranking among securities of same issue.
- 72-??-53. Incontestable recital in securities.
- 72-??-54. Limitations upon payment of securities.
- 72-??-55. Limitations upon incurring any debt.
- 72-??-56. Security details.
- 72-??-57. Capitalization of costs.
- 72-??-58. Other security details.
- 72-??-59. Reissuance of securities.
- 72-??-60. Negotiability.
- 72-??-61. Single bonds.
- 72-??-62. Lost or destroyed securities.
- 72-??-63. Execution of securities.
- 72-??-64. Interest coupons.
- 72-??-65. Facsimile signatures.
- 72-??-66. Facsimile seal.
- 72-??-67. Signatures of predecessors in office.
- 72-??-68. Facsimile signatures of predecessors.
- 72-??-69. Repurchase of securities.
- 72-??-70. Customary provisions.
- 72-??-71. Sale of securities.
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- 72-??-73. Application of proceeds.
- 72-??-74. Use of unexpended proceeds.
- 72-??-75. Validity unaffected by use of proceeds.
- 72-??-76. Covenants in security proceedings.
- 72-??-77. Remedies of security holders.
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- 72-??-79. Cancellation of paid securities.
- 72-??-80. Interest after maturity.
- 72-??-81. Refunding bonds.
- 72-??-82. Method of issuance.
- 72-??-83. Limitations upon issuance.
- 72-??-84. Use of refunding bond proceeds.
- 72-??-85. Payment of refunding bonds.
- 72-??-86. Combination of refunding and other bonds.
- 72-??-87. Supplemental provisions.
- 72-??-88. Board's determination final.
- 72-??-89. Issuance of interim debentures and pledge of bonds as collateral security.
- 72-??-90. Interim debentures not to be extended.

72-??-91. Funding.

72-??-92. Publication of resolution or proceedings.

72-??-93. Failure to contest legality constitutes bar.

72-??-94. Confirmation of contract proceedings.

72-??-95. Review and judgment of court.

72-??-96. Purpose of tax exemptions.

72-??-97. Property exempt from general taxes.

72-??-98. Securities and income therefrom exempt.

72-??-99. Freedom from judicial process.

72-??-100. Resort to judicial process.

72-??-101. Legal investments in securities.

72-??-102. Civil rights.

72-??-103. Liberal construction.

72-??-1 Short title.

This act [72-??-1 to 72-??-103 NMSA 1978] may be cited as the "Lower Rio Grande Stormwater Management District Act."

72-??-2. Legislative declaration.

It is hereby declared as a matter of legislative determination:

A. that the organization of the District hereby created having the purposes, powers, duties, privileges, immunities, rights, liabilities and disabilities provided in this act [72-??-1 to 72-??-103 NMSA 1978] will serve a public use and will promote the health, safety, prosperity, security and general welfare of the inhabitants thereof and of the state of New Mexico;

B. that the acquisition, improvement, maintenance and operation of any project authorized in this act is in the public interest and constitutes a part of the established and permanent policy of the state;

C. that the District hereby organized shall be a body corporate and politic, and a political subdivision of the state;

D. that the floodwater management system hereby authorized and directed to be acquired will be of special benefit to the property within the boundaries of the District hereinafter organized and created;

E. that the notice provided for in this act for each hearing and action to be taken is reasonably calculated to inform any person of interest in any proceedings hereunder which may directly and adversely affect his legally protected interests;

F. that a general law cannot be made applicable to the designated floodwater management system and the provisions herein appertaining thereto because of a number of atypical and special conditions concerning them;

G. that for the accomplishment of these purposes, the provisions of this act shall be broadly construed.

72-??-3. Decision of board or governing body final.

The action and decision of the board as to all matters passed upon by it in relation to any action, matter or thing provided herein shall be final and conclusive unless arbitrary, capricious or fraudulent.

72-??-4. Definitions.

Except where the context otherwise requires, the definitions in this section govern the construction hereof:

A. "act" means this Lower Rio Grande Stormwater Management District Act [72-??-1 to 72-??-103 NMSA 1978];

B. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government, any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract, or other acquirement (or any combination thereof) of facilities, other property, any project or an interest therein, herein authorized;

C. "district" means the Lower Rio Grande Stormwater Management District hereby created;

D. "board" means the board of directors of the Lower Rio Grande Stormwater Management District;

E. "chairman" means the chairman of the board and president of the district;

F. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property, project, or an interest therein, herein authorized. The District may exercise in the state the power of eminent domain, either within or without the District, and in the manner provided by law for the condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes hereof. In the event the construction of any facility or project herein authorized, or any part thereof, shall make necessary the removal and relocation of any public utilities, whether on private or public right-of-way, the District shall reimburse the owner of such public utility facility for the expense of such removal and relocation, including the cost of any necessary land or rights in land;

G. "cost" or "cost of the project," or words of similar import, means all or any part designated by the board of the cost of any facilities, project, or interest therein, being acquired, and of all or any property, rights, easements, privileges, agreements and franchises deemed by the District to be necessary or useful and convenient thereof or in connection therewith, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including, without limiting the generality of the foregoing, preliminary expenses advanced by any municipality from funds available for use therefore in the making of surveys, preliminary plans, estimates of cost, other preliminaries, the costs of appraising, printing, employing engineers, architects, fiscal agents, attorneys at law, clerical help, other agents or employees, the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the District prior to the levy and collection of taxes, and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments, the levy and collection of taxes and installments thereof, the costs of reimbursements by the District to any public body, the federal government or any person of any moneys theretofore expended for or in connection with any facility or project, and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

H. "director" means a member of the board;

- I. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition (or any combination thereof) of facilities, other property, any project or an interest therein, herein authorized;
- J. "engineer" means any engineer in the permanent employ of the District or any independent competent engineer or firm of such engineers employed by the District in connection with any facility, property, project or power herein authorized;
- K. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant, facilities or any combination thereof, appertaining to any facilities, property, project or interest therein, herein authorized;
- L. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the District;
- M. "federal government" means the United States of America or any agency, instrumentality or corporation thereof;
- N. "federal securities" means the bills, certificates of indebtedness, notes or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America;
- O. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding hereunder in which body the legislative powers of the public body are vested;
- P. "hereby," "herein," "hereinabove," "hereinafter," "hereinbefore," "hereof," "hereto" and "hereunder" refer to this act and not solely to the particular portion thereof in which such word is used;
- Q. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement (or any combination thereof) of facilities, other property, project or any interest therein, herein authorized;
- R. "mailed notice" or notice by "mail" means the giving by the engineer, secretary, or any deputy thereof, as determined by the board, of any designated written or printed notice addressed to the last-known owner or owners of each tract of real property in question or other designated person at his or their last-known address or addresses, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mails, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail any such notice shall not invalidate any proceedings hereunder. The names and addresses of such property owners shall be obtained from the records of the county assessor or from such other source or sources as the secretary or the engineer deem reliable. Any list of such names and addresses may be revised from time to time, but such a list need not be revised more frequently than at twelve-month intervals. Any mailing of any notice herein required shall be verified by the affidavit or certificate of the engineer, secretary, the deputy or other person mailing the notice, which verification shall be retained in the records of the District at least until all taxes and securities appertaining thereto have been paid in full, or any claim is barred by a statute of limitations;
- S. "may" is permissive;
- T. "municipality" means any other incorporated city, town or Village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains thereto;
- U. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;
- V. "president" means the president of the district and the chairman of the board;

W. "project" means any structure, facility, undertaking or system which the district is herein authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system which the district is hereby authorized and directed to provide within and without the district's boundaries;

X. "property" means real property and personal property;

Y. "publication" or "publish" means publication in at least the one newspaper designated as the District's official newspaper and published in the district in the English language at least once a week and of general circulation in the District. Except as herein otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise so stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication herein required shall be verified by the affidavit of the publisher and filed with the secretary;

Z. "public body" means the state of New Mexico or any agency, instrumentality or corporation thereof, or any municipality, school district, other type district or any other political subdivision of the state, excluding the district and excluding the federal government;

AA. "qualified elector" means a person qualified to vote in general elections in the state of New Mexico, who is a resident of the District at the time of any election held under the provisions of this act or at any other time in reference to which the term "qualified elector" is used;

BB. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and improvements on land;
- (3) any property appurtenant to or used in connection with land;

(4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights-of-way, terms for years, and liens, charges or encumbrances by way of judgment, mortgage or otherwise, and the indebtedness secured by such liens;

CC. "secretary" means the secretary of the District; DD. "secretary of state" means the secretary of the state of New Mexico; EE. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the District or any public body appertaining to any project or interest therein, herein authorized;

FF. "sewer facilities" means any one or more of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof, and any and all rights or interest in such sewer facilities;

GG. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement, or repair of any storm sewer, or combination storm and sanitary

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sewer, including but not limited to collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations, and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

HH. "shall" is mandatory;

II. "state" means the state of New Mexico, or any agency, instrumentality, or corporation thereof;

JJ. "street" means any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic; KK. "taxes" means general (ad valorem) taxes pertaining to any project herein authorized;

LL. "taxpaying elector" means a qualified elector of the District who is an owner of real or personal property within the boundaries of the District, which property is subject to general (ad valorem) taxation at the time of any election held under the provisions of this act or at any other time in reference to which the term "taxpaying elector" is used. A person who is obligated to pay general (ad valorem) taxes under a contract to purchase real property in the District shall be considered as such an owner. The ownership of any property subject to the payment of a specific ownership tax on a motor vehicle or trailer or of any other excise or property tax other than such general (ad valorem) taxes shall not constitute the ownership of property subject to taxation as herein provided;

MM. "treasurer" means the treasurer of the District.

NN. Definition of watershed boundary, 10? digit watersheds (if needed)

72-??-5. Creation of District.

There is hereby created a stormwater control District to be known and designated as the Lower Rio Grande Stormwater Management District. (District)

72-??-6. Boundaries of District.

The boundaries of the District are:

The watersheds or portions thereof flowing into the Rio Grande River from Elephant Butte Dam south to the state boundary with Texas, designated by the United States Geological Survey by a [ten?] digit hydrologic unit code;

72-??-7. Provision for remonstrances.

Within sixty days from the time any resolution for taxation is passed and enacted, a written, signed and acknowledged remonstrance against the acquiring of the flood control system provided for in Section 19 [72-??-19 NMSA 1978] herein may be filed with the board hereinafter created by the owners of property of the value of at least thirty percent of the value of the property herein provided to be taxed, based upon the assessed valuation of said property for general taxes for the year proceeding the year of making such remonstrance. If there is real estate in the District that has not been separately assessed by the taxing authorities, the board shall value such real estate for the purpose of such remonstrance on the same basis of valuation as other real estate similarly situated that has been separately assessed. The board shall, as soon as possible, examine such remonstrance, if made, and canvass and pass upon and determine its sufficiency, and its action thereon shall be final. If the petition is found to contain the names of the owners of property of fifty percent of the total valuation of said real estate in the District and is found to be sufficient, then the flood control system herein provided for shall not be acquired;

provided, that no action under the terms of this act [72-??-1 to 72-??-103 NMSA 1978] shall be delayed during the period of sixty days, except that no bonds shall be issued during said time.

72-??-8. Board of directors.

The governing body of the District hereby created is a board of directors consisting of five qualified electors of the District. All powers, rights, privileges and duties vested in or imposed upon the district are exercised and performed by and through the board of directors; provided, that the exercise of any and all executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the District. Except for the first directors appointed as hereinafter provided and except for any director chosen to fill an unexpired term, the term of each director commences on the first day of January next following a general election in the state and runs for six years. Each director, subject to said exceptions, shall serve such a six-year term ending on the first day of January next following a general election; and each director shall serve until his successor has been duly chosen and qualified.

72-??-9. Appointment of first board.

When this act goes into effect, the governor shall forthwith appoint five qualified electors of the District as the directors comprising the first board. They shall serve until their successors have been elected and qualified. Immediately upon their appointment the five directors shall meet, qualify and choose officers, as provided for organizational meetings thereafter in Section 13 [72-??-13 NMSA 1978] hereof.

72-??-10. Election of directors.

A. At each general election, directors shall be elected from single-member districts in which they reside. The board shall ensure that the districts remain contiguous, compact and as equal in population as is practicable, assessing the existing districts following each federal decennial census to accomplish that objective. A redistricting shall be effective at the following regular board election. Incumbent board members whose residences are redistricted out of their districts may serve out their term of office.

B. The qualified electors of the District shall elect similarly one or two qualified electors as directors to serve six-year terms as directors and as successors to the directors whose terms end on the first day of January next following each election. Nothing herein may be construed as preventing a qualified elector of the District from any single-member district from being elected or reelected as a director to succeed himself.

72-??-11. Nomination of directors.

The first election of district officers shall be held at the next general election following the effective date of the Lower Rio Grande Stormwater Management District Act. Written nominations of any candidate as director may be filed with the secretary of the board. Each nomination of any candidate shall be signed by not less than fifty taxpaying electors who reside within the district for which the candidate has been nominated, shall designate therein the name of the candidates thereby nominated and shall recite that the subscribers are taxpaying electors of the district for which the candidate is nominated and that the candidate or candidates designated therein are qualified electors of the District and reside within the district for which they are

nominated. No taxpaying elector may nominate more than one candidate for any vacancy. If a candidate does not withdraw his name before the time established by the county for purposes of absentee ballots or as set forth in the Election Code, whichever is earlier, his name shall be placed on the ballot. For any election held after the first general election following the effective date of the Lower Rio Grande Stormwater Management District Act [72-??-1 NMSA 1978], nominations shall be made by qualified electors in accordance with the procedures and limitations of this section, except that such nominations shall be filed with the secretary of the board not later than the fourth Tuesday in June preceding the general election.

72-??-12. Filling vacancies on board.

Upon a vacancy occurring in the board by reason of death, change of residence, resignation or for any other reason, the governor shall appoint a qualified elector of the District who resides within the district where the vacancy exists as successor to serve the unexpired term.

72-??-13. Organizational meetings.

Except for the first board, each board shall meet on the first business day next following the first day of January in each odd-numbered year, at the office of the board within the District. Each member of the board, before entering upon his official duties, shall take and subscribe an oath that he will support the constitution of the United States and the constitution and laws of New Mexico, and that he will faithfully and impartially discharge the duties of his office to the best of his ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon his official duties, give a bond to the District in the sum of ten thousand dollars [(\$10,000)] with good and sufficient surety, conditioned for the faithful performance of each and all of the duties of his office, without fraud, deceit or oppression, and the accounting for all moneys and property coming into his hands, and the prompt and faithful payment of all moneys and the delivering of all property coming into his custody or control belonging to the District to his successors in office. Premiums on all bonds provided for in this section shall be paid by the district, and all such bonds shall be kept on file in the office of the secretary of state.

72-??-14. Board's administrative powers.

The board may exercise the following powers:

- A. fix the time and place, at which its regular meetings will be held within the district and provide for the calling and holding of special meetings;
- B. adopt and amend or otherwise modify bylaws and rules for procedure;
- C. select one director as chairman of the board and president of the district, and another director as chairman pro tem of the board and president pro tem of the District, and choose a secretary and a treasurer of the board and District, each of which two positions may be filled by a person who is, or is not, a director, and both of which positions may or may not, be filled by one person;
- D. prescribe by resolution a system of business administration and create all necessary offices, and establish and reestablish the powers, duties, and compensation of all officers and employees;
- E. require and fix the amount of all official bonds necessary or desirable and convenient in the opinion of the board for the protection of the funds and property of the district, subject to the provisions of Section 13 [72-??-13 NMSA 1978] hereof;
- F. prescribe a method of auditing and allowing or rejecting claims and demands;

G. provide a method for the letting of contracts on a fair and competitive basis for the construction of works, any facility, or any project, or any interest therein, or the performance or furnishing of labor, materials or supplies as required herein;

H. designate an official newspaper published in the District in the English language and direct additional publication in any newspaper where it deems that the public necessity may so require;

I. make and pass resolutions and orders on behalf of the district not repugnant to the provisions of this act [72-??-1 to 72-??-103 NMSA 1978], necessary or proper for the government and management of the affairs of the District, for the execution of the powers vested in the district, and for carrying into effect the provisions of this act.

72-??-15. Records of board.

On all resolutions and orders, the roll shall be called, and the ayes and noes shall be recorded. All resolutions and orders, as soon as may be after their passage, shall be recorded in a book kept for that purpose and be authenticated by the signature of the presiding officer of the board and the secretary. Every legislative act of the board of a general or permanent nature shall be by resolution. The book of resolutions and orders is a public record. A record shall also be made of all other proceedings of the board, minutes of all meetings, certificates, contracts, bonds given by officers, employees, and any other agents of the district, and all corporate acts, which record is also a public record. The treasurer shall keep strict and accurate accounts of all moneys received by and disbursed for and on behalf of the District, in a permanent record, which is also a public record. Any permanent record of the District shall be open for inspection by any qualified elector thereof, by any other interested person, or by any representative of the federal government or any public body. All records are subject to audit as provided by law for political subdivisions.

72-??-16. Meetings of board.

All meetings of the board shall subject to the Open Meetings Act [10-15-1 to 10-15-4 NMSA 1978].

72-??-16.1. Joint powers agreement authorized.

A. A joint powers agreement (JPA) may be signed between the District, Dona Ana and Sierra Counties, the city of Las Cruces, Elephant Butte Irrigation District, and other municipalities, special districts or governmental authorities within the district boundaries that wish to enter into a JPA. JPAs shall be designed to ensure the sovereignty of those government bodies, their ability to tax for and maintain flood control structures and operations within their sovereign boundaries. The JPAs may define explicit roles for each signatory within the management, planning, and operations of the District.

72-??-17. Compensation of directors.

Directors shall receive no compensation for their services as a director, officer, engineer, attorney, employee or other agent of the District. Directors may be reimbursed for expenses incurred by them on District business with approval of the board.

72-??-18. Interest in contracts and property disqualifications.

No director nor officer, employee or agent of the district may be interested in any contract or transaction with the District except in his official representative capacity or as provided, except

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for any contract of employment with the District. Neither the holding of any office or employment in the government of any public body or the federal government nor the owning of any property within the state, within or without the District, may be deemed a disqualification for membership on the board or employment by the District, nor a disqualification for compensation for services as an officer, employee or agent of the District, except as provided in Section 17 [72-??-17 NMSA 1978] hereof.

72-??-19. Flood control system; hearings thereon.

The District is hereby authorized, empowered and directed, subject to the provisions of Section 7 [72-??-7 NMSA 1978] hereof, to acquire, equip, maintain and operate a floodwater management system for the benefit of the District and the inhabitants thereof, after the board has made such preliminary studies and otherwise taken such action as it determines to be necessary or desirable as preliminaries thereto. The floodwater management system consists of such facilities as the board may determine. When a comprehensive program for the acquisition of the floodwater management system satisfactory to the board is available, it shall be tentatively adopted. The program need only describe the proposed floodwater management system in general terms and not in detail. A public hearing on the proposed program shall be scheduled, and notice of the hearing shall be given by publication. After the hearing and any adjournments thereof which may be ordered, the board may either require changes to be made in the program as the board may consider desirable, or the board may approve the program as prepared. If any substantial changes to the program are ordered at any time, a further hearing shall be held pursuant to notice which shall be given by publication.

72-??-20. Implementing powers.

The board may:

- A. acquire, improve, equip, maintain and operate any project or facility for the control of flood and storm waters of the District and the flood and storm waters of streams which have their sources outside of the District but which streams and the flood waters thereof flow into the District;
- B. protect from such floods or storm waters the watercourses, watersheds, public highways, life and property in the District;
- C. exercise the right of eminent domain, either within or without the District, in the manner provided by law for the condemnation of private property for public use.
- D. cooperate in any incident command system (ICS) for emergency response, and through agreements with other local public bodies delegate management of the system as needed during emergencies to protect the public health, safety and general welfare.

72-??-21. Protection of property rights.

It is hereby declared that the use of the property, lands, rights-of-way, easements or materials which may be condemned, taken or appropriated under the provisions of this act [72-??-1 to 72-??-103 NMSA 1978] is a public use subject to the regulation and control of the state in the manner prescribed by law; but nothing herein shall be deemed to authorize the District or public body or person to divert the waters of any river, creek, stream, irrigation system, canal or ditch from its channel to the detriment of any person, any public body or the federal government having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters

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thereof or therein, unless compensation is ascertained and paid therefore under the laws authorizing the taking of private property for public use.

72-??-22. Additional powers of the District.

The District may exercise the following duties, privileges, immunities, rights, liabilities and disabilities appertaining to a public body politic and corporate and constituting a political subdivision of the state established as an instrumentality exercising public and essential governmental and proprietary functions to provide for the public health, safety and general welfare:

- A. perpetual existence and succession;
- B. adopt, have and use a corporate seal and alter the same at pleasure;
- C. sue and be sued and be a party to suits, actions and proceedings;
- D. commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise, and otherwise participate in, and assume the cost and expense of, any and all actions and proceedings now or hereafter begun and appertaining to the District, its board, its officers, agents or employees, or any of the District's duties, privileges, immunities, rights, liabilities and disabilities, or the District's flood control system, other property of the District or any project;
- E. enter into contracts and agreements, including but not limited to contracts with the federal government, the state and any other public body;
- F. borrow money and issue securities evidencing any loan to or amount due by the District, provide for and secure the payment of any securities and the rights of the holders thereof, and purchase, hold and dispose of securities, as hereinafter provided;
- G. refund any loan or obligation of the District and issue refunding securities to evidence such loan or obligation without any election;
- H. purchase, trade, exchange, encumber and otherwise acquire, maintain and dispose of property and interests therein;
- I. levy and cause to be collected general (ad valorem) taxes on all property subject to property taxation within the District; provided that the total tax levy, excluding any levy for the payment of any debt of the District authorized pursuant to the Lower Rio Grande Stormwater Management District Act [72-??-1 to 72-??-103 NMSA 1978], for any fiscal year shall not exceed an aggregate total of five dollars or any lower amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this tax levy, for each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code [Chapter 7, Articles 35 through 38 NMSA 1978], by certifying, on or before the fifteenth day of July in each year in which the board determines to levy a tax, to the board of county commissioners of any affected county, or by such other date as the laws of the state may prescribe to such other body having authority to levy taxes within each county wherein the District has any territory, the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such body having authority to levy taxes shall levy the tax upon the net taxable value of all property subject to property taxation within the District, in addition to such other taxes as may be levied by such body, as provided in Sections 72-??-23 through 72-??-27 NMSA 1978.
- J. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes hereof, defray any expenses incurred thereby in connection with the District, and acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, workmen's compensation insurance, property damage insurance, public liability insurance for the

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District and its officers, agents and employees, and other types of insurance, as the board may determine; provided, however, that no provision herein authorizing the acquisition of insurance shall be construed as waiving any immunity of the District or any director, officer or agent thereof and otherwise existing under the laws of the state;

K. condemn property for public use;

L. acquire, improve, equip, hold, operate, maintain and dispose of a floodwater Management system, storm sewer facilities, project and appurtenant works, or any interest therein, wholly within the District, or partially within and partially without the District and wholly within, wholly without or partially within and partially without any public body all or any part of the area of which is situated within the District;

M. pay or otherwise defray the cost of any project;

N. pay or otherwise defray and contract so to pay or defray, for any term not exceeding fifty years, without an election, except as hereinafter otherwise provided, the principal of, any interest on, and any other charges appertaining to, any securities or other obligations of the federal government, any public body or person incurred in connection with any such property so acquired by the District;

O. establish and maintain facilities within or without the District, across or along any public street, highway, bridge, viaduct or other public right-of-way, or in, upon, under or over any vacant public lands, which public lands are now, or may become, the property of the state, or across any stream of water or water course, without first obtaining a franchise from the municipality, county or other public body having jurisdiction over the same; provided that the District shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct or other public right-of-way to its former state of usefulness as nearly as may be and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof;

P. deposit any money of the District, subject to the limitations in Article 8, Section 4 of the constitution of New Mexico, in any banking institution within or without the state and secured in such manner and subject to such terms and conditions as the board may determine, with or without the payment of any interest on any such deposit;

Q. invest any surplus money in the District treasury, including such money in any sinking or reserve fund established for the purpose of retiring any securities of the District, not required for the immediate necessities of the District, in its own securities or in federal securities, by direct purchase of any issue of such securities, or part thereof, at the original sale of the same, or by the subsequent purchase of such securities;

R. sell any such securities thus purchased and held, from time to time;

S. reinvest the proceeds of any such sale in other securities of the District or in federal securities, as provided in Subsection Q of this section;

T. sell in season from time to time such securities thus purchased and held, so that the proceeds may be applied to the purposes for which the money with which such securities were originally purchased was placed in the treasury of the District;

U. accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance and operation of any enterprise in which the District is authorized to engage, and enter into contracts and cooperate with, and accept cooperation and participation from, the federal government for these purposes;

V. enter, without any election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other arrangements, for any term not exceeding fifty years, with the federal government, any public body or any person

concerning storm sewer facilities, or any project, whether acquired by the District or by the federal government, any public body or any person, and accept grants and contributions from the federal government, any public body or any person in connection therewith;

W. enter into and perform, without any election, when determined by the board to be in the public interest and necessary for the protection of the public health, contracts and agreements, for any term not exceeding fifty years, with the federal government, any public body or any person for the provision and operation by the District of storm sewer facilities;

X. enter into and perform, without any election, contracts and agreements with the federal government, any public body or any person for or concerning the planning, construction, lease or other acquisition, improvement, equipment, operation, maintenance, disposal, and the financing of any project, including but not necessarily limited to any contract or agreement for any term not exceeding fifty years;

Y. enter upon any land, make surveys, borings, soundings and examinations for the purposes of the District, and locate the necessary works of any project and roadways and other rights-of-way appertaining to any project herein authorized; acquire all property necessary or convenient for the acquisition, improvement or equipment of such works;

Z. cooperate with and act in conjunction with the state, or any of its engineers, officers, boards, commissions or departments, or with the federal government or any of its engineers, officers, boards, commissions or departments, or with any other public body or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the District, or for the protection of life or property therein, or for any other works, acts or purposes provided for herein, and adopt and carry out any definite plan or system of work for any such purpose;

AA. cooperate with the federal government or any public body by an agreement therewith by which the District may:

(1) acquire and provide, without cost to the operating entity, the land, easements and rights-of-way necessary for the acquisition, improvement or equipment of the flood control system or any project;

(2) hold and save harmless the cooperating entity free from any claim for damages arising from the acquisition, improvement, equipment, maintenance and operation of the flood control system or any project;

(3) maintain and operate any project in accordance with regulations prescribed by the cooperating entity; and

(4) establish and enforce flood channel limits and regulations, if any, satisfactory to the cooperating entity;

BB. carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies and inspections pertaining to control of floods, sewer facilities, and any project, both within and without the District, and for this purpose the District has the right of access through its authorized representative to all lands and premises within the state;

CC. have the right to provide from revenues or other available funds an adequate fund for the improvement and equipment of the District's flood control system or of any parts of the works and properties of the District;

DD. prescribe and enforce reasonable rules and regulations for the prevention of further encroachment upon existing defined waterways, by their enlargement or other modification, for additional waterway facilities to prevent flooding;

EE. require any person desiring to make a connection to any storm water drain or flood control facility of the District or to cause storm waters to be emptied into any ditch, drain, canal, floodway or other appurtenant structure of the District firstly to make application to the board to make the connection, to require the connection to be made in such manner as the board may direct;

FF. refuse, if reasonably justified by the circumstances, permission to make any connection designated in Subsection DD or Subsection EE of this section;

GG. make and keep records in connection with any project or otherwise concerning the District;

HH. arbitrate any differences arising in connection with any project or otherwise concerning the District;

II. have the management, control and supervision of all the business and affairs appertaining to any project herein authorized, or otherwise concerning the District, and of the acquisition, improvement, equipment, operation and maintenance of any such project;

JJ. prescribe the duties of officers, agents, employees and other persons and fix their compensation; provided that the compensation of employees and officers shall be established at prevailing rates of pay for equivalent work;

KK. enter into contracts of indemnity and guaranty, in such form as may be approved by the board, relating to or connected with the performance of any contract or agreement which the District is empowered to enter into under the provisions hereof or of any other law of the state;

LL. provide, by any contract for any term not exceeding fifty years, or otherwise, without an election:

(1) for the joint use of personnel, equipment and facilities of the District and any public body, including without limitation public buildings constructed by or under the supervision of the board of the District or the governing body of the public body concerned, upon such terms and agreements and within such areas within the District as may be determined, for the promotion and protection of health, comfort, safety, life, welfare and property of the inhabitants of the District and any such public body; and

(2) for the joint employment of clerks, stenographers and other employees appertaining to any project, now existing or hereafter established in the District, upon such terms and conditions as may be determined for the equitable apportionment of the expenses therefrom resulting;

MM. obtain financial statements, appraisals, economic feasibility reports and valuations of any type appertaining to any project or any property pertaining thereto;

NN. adopt any resolution authorizing a project or the issuance of securities, or both, or otherwise appertaining thereto, or otherwise concerning the District;

OO. make and execute a mortgage, deed of trust, indenture or other trust instrument appertaining to a project or to any securities herein authorized, or to both, except as provided in Subsection PP of this section and in Section 72-??-54 NMSA 1978;

PP. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted herein, or in the performance of the District's covenants or duties, or in order to secure the payment of its securities; provided, no encumbrance, mortgage or other

pledge of property, excluding any money, of the District is created thereby and provided no property, excluding money, of the District is liable to be forfeited or taken in payment of such securities;

QQ. have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent hereof; and RR. exercise all or any part or combination of the powers herein granted.

72-??-23. Levy and collection of taxes.

To levy and collect taxes, the board shall determine in each year the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the District, and shall fix a rate of levy, without limitation as to rate or amount, except for the limitation in Subsection I of Section 72-??-22 NMSA 1978 and for any constitutional limitation, which, when levied upon the net taxable value, as that term is defined in the Property Tax Code [Chapter 7, Articles 35 through 38 NMSA 1978], of all property subject to property taxation within the District, and together with other revenues, will raise the amount required by the District annually to supply funds for paying expenses of organization and the costs of acquiring, improving, equipping, operating and maintaining any project or facility of the District, and promptly to pay in full, when due, all interest on and principal of bonds and other securities of the District, and in the event of accruing defaults or deficiencies, an additional levy may be made as provided in Section 72-??-24 NMSA 1978.

72-??-24. Levies to cover deficiencies.

The board, in certifying annual levies, shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, maturing securities and interest on securities, and deficiencies and defaults of prior years and shall make ample provision for the payment thereof. In case the money produced from such levies, together with other revenues of the District, is not sufficient punctually to pay the annual installments of its contracts or securities, and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and notwithstanding any limitations, except the limitation in Subsection I of Section 72-??-22 NMSA 1978, and any constitutional limitation, such taxes shall be made and continue to be levied until the indebtedness of the District is fully paid.

72-??-25. Sinking fund.

Whenever any indebtedness has been incurred by the District, it shall be lawful for the board to levy taxes and to collect revenue for the purpose of creating a reserve fund in such amount as the board may determine, which may be used to meet the obligations of the District, for maintenance and operating charges and depreciation, and to provide improvements for the District.

72-??-26. Manner of levying and collecting taxes.

It is the duty of the body having authority to levy taxes within each county to levy the taxes provided in Subsection I of Section 72-??-22 NMSA 1978, and elsewhere in the Lower Rio Grande Stormwater Management District Act [72-??-1 to 72-??-103 NMSA 1978]. It is the duty of all officials charged with collecting taxes to collect such taxes at the time and in the form and

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manner and with like interest and penalties as other general (ad valorem) taxes are collected, and when collected, to pay the same to the District. The payment of such collection shall be made monthly to the treasurer of the District and paid into the depository thereof to the credit of the District. All general (ad valorem) taxes levied under that act, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same constitute until paid a perpetual lien on and against the property taxed, and such lien is on a parity with the tax lien of other general (ad valorem) taxes.

72-??-27. Delinquent taxes.

If the general (ad valorem) taxes levied are not paid, then delinquent real property shall be sold at the regular tax sale for the payment of said taxes, interest and penalties, in the manner provided by the statutes of the state for selling real property for the nonpayment of general taxes. If there are no bids at said tax sale for the property so offered, said property shall be struck off to the county, and the county shall account to the District in the same manner as provided by law for accounting for school, town and city taxes. Delinquent personal property shall be distrained and sold as provided by law.

72-??-28. Elections.

Each biennial election of directors, each election proposition to issue bonds and all other elections shall be conducted at the time of the general election under the direction of the Dona Ana and Sierra County clerks and in accordance with the election laws of New Mexico.

72-??-29. Election resolution.

The board shall call any election by resolution adopted at least one hundred eighty days prior to the election. Such resolution shall recite the objects and purposes of the election and the date upon which such election shall be held.

72-??-30. Conduct of election.

An election held pursuant hereto shall be conducted in the manner provided by the laws of the state for the conduct of general elections.

72-??-31. Notice of election.

Notice of such election shall be given by publication. No other notice of an election held hereunder need be given unless otherwise provided by the board.

72-??-32. Polling places.

All polling places shall be within the area included within the District.

72-??-33. Election supplies.

The secretary of the District shall provide to the county clerks such supplies and assistance as necessary to conduct elections authorized by the Lower Rio Grande Stormwater Management District Act [72-??-1 to 72-??-103 NMSA 1978].

72-??-34. Election returns.

In those polling places where the county precincts coincide with the boundaries of the District, the regular general election precinct board shall certify the results of the District election to the county canvassing board. The county canvassing board shall certify directly to the secretary of the District that portion of the returns pertaining to the District election. In those polling places where the precincts are partly within and partly without the District's district, the District shall appoint a separate District precinct board at the District's expense, which shall be provided space in the polling places where the general election is being conducted. The District precinct board shall conduct the election as provided in the Election Code [Chapter 1 NMSA 1978. The separate District precinct board shall certify the results of the election in that precinct to the secretary of the District within twelve hours after the close of the polls. The secretary of the District shall canvass the results of the District election as certified by the county canvassing board and as certified by each of the separate District precinct boards and shall declare the results of the election at any regular or special meeting held not less than five days following the date of the election. Except as herein otherwise provided, any proposal submitted at any election hereunder shall not carry unless the proposal has been approved by a majority of the qualified electors of the district voting thereon.

72-??-35. Dissolution of District.

A dissolution resolution petition consisting of 25 percent of the qualified electors within the District will qualify for a resolution to be voted upon. The resolution must receive a favorable vote by a majority of the qualified electors within the District. The board shall then proceed to dissolve the District.

72-??-36. Filing of dissolution resolution.

Within thirty days after the effective date of any resolution dissolving the District, the secretary shall file a copy of the resolution in the office of the county clerk and shall cause to be filed an additional copy of the resolution in the office of the secretary of state, which filings shall be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under the laws of the state.

72-??-37. Disposition of property, funds and taxes of District.

All property and all funds remaining in the treasury of the District so dissolved shall be surrendered and transferred to the county in which the District is located and shall become a part of the general fund of the county.

72-??-38. Powers of public bodies.

The governing body of any municipality, or other public body, upon its behalf and in its name, for the purpose of aiding and cooperating in the determination of any District boundary or any project herein authorized, upon the terms and with or without consideration and with or without an election, as the governing body determines, may exercise the following powers:

A. sell, lease, loan, donate, grant, convey, assign, transfer and otherwise dispose to the District, sewer facilities or any other property, or any interest therein, appertaining to a flood control system;

B. make available for temporary use or otherwise dispose to the District of any machinery, equipment, facilities and other property, and any agents, employees, persons with professional training, and any other persons, to effect the purposes hereof. Any such property and persons owned or in the employ of any public body while engaged in performing for the District any service, activity or undertaking herein authorized, pursuant to contract or otherwise, shall have and retain all of the powers, privileges, immunities, rights and duties of, and shall be deemed to be engaged in the service and employment of such public body, notwithstanding such service, activity or undertaking is being performed in or for the District;

C. enter into any agreement or joint agreement between or among the federal government, the District and any other public body, or any combination thereof, extending over any period not exceeding fifty years, which is mutually agreed to thereby, notwithstanding any law to the contrary, respecting action or proceedings appertaining to any power herein granted, and the use or joint use of any facilities, project or other property herein authorized;

D. sell, lease, loan, donate, grant, convey, assign, transfer or pay over to the district any facilities or any project herein authorized, or any part thereof, or any interest in real or personal property, or any funds available for acquisition, improvement or equipment purposes, including the proceeds of any securities previously or hereafter issued for acquisition, improvement or equipment purposes which may be used by the District in the acquisition, improvement, equipment, maintenance or operation of any facilities or project herein authorized;

E. transfer, grant, convey or assign and set over to the District any contracts which may have been awarded by the public body for the acquisition, improvement or equipment of any project not begun or if begun, not completed;

F. budget and appropriate, and each municipality or other public body is hereby required and directed to budget and appropriate, from time to time, general (ad valorem) tax proceeds, and other revenues legally available there to pay all obligations arising from the exercise of any powers herein granted as such obligations shall accrue and become due;

G. provide for an agency, by any agreement herein authorized, to administer or execute that or any collateral agreement, which agency may be one of the parties to the agreement, or a commission or board constituted pursuant to the agreement;

H. provide that any such agency shall possess the common power specified in the agreement, and may exercise it in the manner or according to the method provided in the agreement. Such power is subject to the restrictions upon the manner of exercising the power of any one of the contracting parties, which party shall be designated by the agreement; and

I. continue any agreement herein authorized for a definite term not exceeding fifty years, or until rescinded or terminated, which agreement may provide for the method by which it may be rescinded or terminated by any party.

72-??-39. Effect of extraterritorial functions.

All of the powers, privileges, immunities and rights, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of officers, agents or employees of the District or any such public body when performing their respective functions within the territorial limits of the respective public agencies apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially hereunder.

72-??-40. Forms of borrowing.

Upon the conditions and under the circumstances set forth in this act [72-??-1 to 72-??-103 NMSA 1978], the District, to carry out the purposes hereof, from time to time may borrow money to defray the cost of any project, or any part thereof, as the board may determine, and issue the following securities to evidence such borrowing:

- A. notes;
- B. warrants;
- C. bonds;
- D. temporary bonds; and
- E. interim debentures.

72-??-41. Issuance of notes.

The District is authorized to borrow money without an election in anticipation of taxes or other revenues, or both, and to issue notes to evidence the amount so borrowed.

72-??-42. Issuance of warrants.

The District is authorized to defray the cost of any services, or supplies, equipment or other materials furnished to or for the benefit of the District by the issuance of warrants to evidence the amount due there, without an election, in anticipation of taxes or other revenues, or both.

72-??-43. Maturities of notes and warrants.

Notes and warrants may mature at such time or times not exceeding one year from the respective dates of their issuance as the board may determine. They shall not be extended or funded except by the issuance of bonds or interim debentures in compliance with Sections 44 or 46 [72-??-44 or 72-??-46 NMSA 1978] hereof.

72-??-44. Issuance of bonds and incurrence of debt.

The District is authorized to borrow money in anticipation of taxes or other revenues, or both, and to issue bonds to evidence the amount so borrowed. No bonded indebtedness or any other indebtedness not payable in full within one year, except for interim debentures as provided in Sections 72-??-46 and 72-??-89 through 72-??-91 NMSA 1978, shall be created by the District without first submitting a proposition of issuing the bonds to the qualified electors of the District and being approved by a majority of electors voting at an election held for that purpose in accordance with Sections 72-??-28 through 72-??-34 NMSA 1978 and all laws amendatory thereof and supplemental thereto. Bonds so authorized may be issued in one series or more and may mature at such times not exceeding forty years from their issuance as the board may determine. The total of all outstanding indebtedness at any one time shall not exceed eighty million dollars (\$80,000,000) without prior approval of the state legislature.

72-??-45. Issuance of temporary bonds.

The District is authorized to issue temporary bonds, pending preparation of definitive bond or bonds and exchangeable for the definitive bond or bonds when prepared, as the board may determine. Each temporary bond shall set forth substantially the same conditions, terms and provisions as the definitive bond for which it is exchanged. Each holder of any such temporary

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security shall have all the rights and remedies which he would have as a holder of the definitive bond or bonds.

72-??-46. Issuance of interim debentures.

The District is authorized to borrow money and to issue interim debentures evidencing "construction" or short-term loans for the acquisition or improvement and equipment of the flood water control system or any project in supplementation of long term financing and the issuance of bonds, as provided in Sections 89, 90, and 91 [72-??-89 to 72-??-91 NMSA 1978] hereof.

72-??-47. Payment of securities.

All securities issued by the District shall be authorized by resolution. The District may pledge its full faith and credit for the payment of any securities herein authorized, the interest thereon, any prior redemption premium or premiums, and any charges appertaining thereto. Securities may constitute the direct and general obligations of the District. Their payment may be secured by a specific pledge of tax proceeds and other revenues of the District (in this act [72-??-1 to 72-??-103 NMSA 1978] sometimes referred to as "revenues" of the District) as the board may determine.

72-??-48. Additionally secured securities.

The board, in connection with such additionally secured securities, in the resolution authorizing their issuance or other instrument appertaining thereto, may pledge all or a portion of such revenues (subject to any prior pledges) as additional security for such payment of said securities, and at its option may deposit such revenues in a fund created to pay the securities or created to secure additionally their payment.

72-??-49. Pledge of revenues.

Any such revenues pledged directly or as additional security for the payment of securities of any one issue or series which revenues are not exclusively pledged therefore, may subsequently be pledged directly or as additional security for the payment of the securities of one or more issue or series subsequently authorized.

72-??-50. Ranking among different issues.

All securities of the same issue or series shall, subject to the prior and superior rights of outstanding securities, claims and other obligations, have a prior, paramount and superior lien on the revenues pledged for the payment of the securities over and ahead of any lien there against subsequently incurred of any other securities; provided, however, the resolution authorizing, or other instrument appertaining to, the issuance of any securities may provide for the subsequent authorization of bonds or other securities the lien for the payment of which on such revenues is on a parity with the lien thereon of the subject securities upon such conditions and subject to such limitations as said resolution or other instrument may provide.

72-??-51. Ranking among securities of same issue.

All securities of the same issue or series shall be equally and ratably secured without priority by reason of number, date of maturity, date of securities, of sale, of execution, or of delivery, by a

lien on said revenues in accordance with the provisions of this act [72-??-1 to 72-??-103 NMSA 1978] and the resolution authorizing, or other instrument appertaining to, said securities, except to the extent such resolution or other instrument shall otherwise expressly provide.

72-??-53. Incontestable recital in securities.

Any resolution authorizing, or other instrument appertaining to, any securities hereunder may provide that each security therein authorized shall recite that it is issued under authority hereof. Such recital shall conclusively impart full compliance with all of the provisions hereof, and all securities issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

72-??-54. Limitations upon payment of securities.

The payment of securities shall not be secured by an encumbrance, mortgage, or other pledge of property of the District, except for revenues, income, tax proceeds and other moneys pledged for the payment of securities. No property of the District, subject to said exception, shall be liable to be forfeited or taken in payment of the securities.

72-??-55. Limitations upon incurring any debt.

Nothing in this act [72-??-1 to 72-??-103 NMSA 1978] contained shall be construed as creating or authorizing the creation of an indebtedness on the part of any municipality or other public body included in the District, or elsewhere located.

72-??-56. Security details.

Any securities herein authorized to be issued shall bear the date or dates, shall be in the denomination or denominations, shall mature at the time or times but in no event exceeding forty years from their date or any shorter limitation herein provided, shall bear interest which may be evidenced by one or two sets of coupons, payable annually or semiannually, except that the first coupon or coupons, if any, appertaining to any security may represent interest for any period not in excess of one year, as may be prescribed by resolution or other instrument; and the securities and any coupons shall be payable in the medium of payment at any banking institution or other place or places within or without the state, including but not limited to the office of the treasurer of the county in which the District is located wholly or in part, as determined by the board, and the securities at the option of the board may be in one or more series, may be made subject to prior redemption in advance of maturity in the order or by lot or otherwise at the time or times without or with the payment of the premium or premiums not exceeding six percent of the principal amount of each security so redeemed, as determined by the board.

72-??-57. Capitalization of costs.

Any resolution authorizing the issuance of securities or other instrument appertaining thereto may capitalize interest on any securities during any period of construction or other acquisition estimated by the board and one year thereafter and any other cost of any project, by providing for the payment of the amount capitalized from the proceeds of the securities.

72-??-58. Other security details.

Securities may be issued in such manner, in such form, with such recitals, terms, covenants and conditions and with such other details as may be provided by the board in the resolution authorizing the securities, or other instrument appertaining thereto, except as herein otherwise provided.

72-??-59. Reissuance of securities.

Any resolution authorizing the issuance of securities or any other instrument appertaining thereto may provide for their reissuance in other denominations in negotiable or nonnegotiable form and otherwise in such manner and form as the board may determine.

72-??-60. Negotiability.

Subject to the payment provisions herein specifically provided, said notes, warrants, bonds, any interest coupons thereto attached, temporary bonds, and interim debentures shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code [Chapter 55 NMSA 1978], except as the board may otherwise provide; and each holder of such security, or of any coupon appertaining thereto, by accepting such security or coupon shall be conclusively deemed to have agreed that such security or coupon (except as otherwise provided) is and shall be fully negotiable within the meaning and for all purposes of said code.

72-??-61. Single bonds.

Notwithstanding any other provision of law, the board in any proceedings authorizing securities hereunder:

- A. may provide for the initial issuance of one or more securities (in this Section 61 called "bond") aggregating the amount of the entire issue, or a designated portion thereof;
- B. may make such provisions for installment payments of the principal amount of any such bond as it may consider desirable;
- C. may provide for the making of any such bond payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing thereon is not represented by interest coupons, for the endorsing of payments of interest on such bonds;
- D. may further make provision in any such proceedings for the manner and circumstances in and under which any such bond may in the future, at the request of the holder thereof, be converted into securities of smaller denominations, which securities of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal, or principal and interest, or both.

72-??-62. Lost or destroyed securities.

If lost or completely destroyed, any security may be reissued in the form and tenor of the lost or destroyed security upon the owner furnishing, to the satisfaction of the board:

- A. proof of ownership;
- B. proof of loss or destruction;
- C. a surety bond in twice the face amount of the security and any coupons; and
- D. payment of the cost of preparing and issuing the new security.

72-??-63. Execution of securities.

Any security shall be executed in the name of and on behalf of the District and signed by the chairman of the board, with the seal of the District affixed thereto and attested by the secretary of the District, except for securities issued in book entry or similar form without the delivery of physical securities.

72-??-64. Interest coupons.

Except for any bonds which are registrable for payment of interest, interest coupons payable to bearer and appertaining to the bonds shall be issued and shall bear the original or facsimile signature of the chairman of the board.

72-??-65. Facsimile signatures.

Any of said officers, after filing with the secretary of state his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature any security herein authorized; provided, that such a filing is not a condition of execution with a facsimile signature of any interest coupon and provided that at least one signature required or permitted to be placed on each such security (excluding any interest coupon) shall be manually subscribed. An officer's facsimile signature has the same legal effect as his manual signature.

72-??-66. Facsimile seal.

The secretary of the District may cause the seal of the district to be printed, engraved, stamped or otherwise placed in facsimile on any security. The facsimile seal has the same legal effect as the impression of the seal.

72-??-67. Signatures of predecessors in office.

The securities and any coupons bearing the signatures of the officers in office at the time of the signing thereof shall be the valid and binding obligations of the District, notwithstanding that before the delivery thereof and payment therefore, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices.

72-??-68. Facsimile signatures of predecessors.

Any officer herein authorized or permitted to sign any security or interest coupon, at the time of its execution and of the execution of a signature certificate, may adopt as and for his own facsimile signature the facsimile signature of his predecessor in office in the event that such facsimile signature appears upon the security or coupons appertaining thereto, or upon both the security and such coupons.

72-??-69. Repurchase of securities.

The securities may be repurchased by the District out of any funds available for such purpose from the project to which they pertain at a price of not more than the principal amount thereof and accrued interest, plus the amount of the premium, if any, which might on the next redemption date of such securities be paid to the holders thereof if such securities should be

called for redemption on such date pursuant to their terms, and all securities so repurchased shall be cancelled.

72-??-70. Customary provisions.

The resolution authorizing the securities or other instrument appertaining thereto may contain any agreement or provision customarily contained in instruments securing securities, including without limiting the generality of the foregoing, covenants designated in Section 76 [72-??-76 NMSA 1978] hereof.

72-??-71. Sale of securities.

Any securities herein authorized, except for warrants not issued for cash and except for temporary bonds issued pending preparation of definitive bond or bonds, shall be sold at public or private sale at, above or below par at a net effective interest rate not exceeding the maximum net effective interest rate permitted by the Public Securities Act [6-14-1 to 6-14-3 NMSA 1978], as hereafter amended and supplemented.

72-??-72. Sale discount or commission prohibited.

No discount (except as hereinabove provided) or commission shall be allowed or paid on or for any security sale to any purchaser or bidder, directly or indirectly; but nothing herein contained shall be construed as prohibiting the board from employing legal, fiscal, engineering and other expert services in connection with any project or facilities herein authorized and with the authorization, issuance and sale of securities.

72-??-73. Application of proceeds.

All moneys received from the issuance of any securities herein authorized shall be used solely for the purpose (or purposes) for which issued and the cost of any project thereby delineated. Any accrued interest and any premium shall be applied to the payment of the interest on or the principal of the securities, or both interest and principal, or shall be deposited in a reserve therefore, as the board may determine.

72-??-74. Use of unexpended proceeds.

Any unexpended balance of such security proceeds remaining after the completion of the acquisition or improvement and equipment of the project or the completion of the purpose or purposes for which such securities were issued shall be paid immediately into the fund created for the payment of the principal of said securities and shall be used therefore, subject to the provisions as to the times and methods for their payment as stated in the securities and the proceedings authorizing or otherwise appertaining to their issuance, or so paid into a reserve therefore.

72-??-75. Validity unaffected by use of proceeds.

The validity of said securities shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement and equipment of the project or the proper completion of any project for which the securities are issued. The purchaser or

purchasers of the securities shall in no manner be responsible for the application of the proceeds of the securities by the District or any of its officers, agents and employees.

72-??-76. Covenants in security proceedings.

Any resolution or trust indenture authorizing the issuance of securities or any other instrument appertaining thereto may contain covenants and other provisions (notwithstanding such covenants and provisions may limit the exercise of powers conferred hereby), in order to secure the payment of such securities, in agreement with the holders and owners of such securities, as the board may determine, including without limiting the generality of the foregoing, all such acts and things as may be necessary or convenient or desirable in order to secure the District's securities, or in the discretion of the board tend to make the securities more marketable, notwithstanding that such covenant, act or thing may not be enumerated herein, it being the intention hereof to give the District power to do all things in the issuance of securities and for their security except as herein specifically limited.

72-??-77. Remedies of security holders.

Subject to any contractual limitations binding upon the holders of any issue or series of securities, or trustee therefore, including but not limited to the restriction of the exercise of any remedy to a specified proportion, percentage or number of such holders, and subject to any prior or superior rights of others, any holder of securities, or trustee therefore, shall have the right and power, for the equal benefit and protection of all holders of securities similarly situated:

- A. by mandamus or other suit, action or proceeding at law or in equity to enforce his rights against the District and its board and any of its officers, agents and employees, and to require and compel the District or its board or any such officers, agents or employees to perform and carry out its and their duties, obligations or other commitments hereunder and its and their covenants and agreements with the holder of any security;
- B. by action or suit in equity to require the District and its board to account as if they were the trustee of an express trust;
- C. by action or suit in equity to have appointed a receiver, which receiver may enter and take possession of any system, or project or services revenues from which are pledged for the payment of the securities, prescribe sufficient fees derived from the operation thereof, and collect, receive and apply all revenues or other moneys pledged for the payment of the securities in the same manner as the District itself might do in accordance with the obligations of the District;
- D. by action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the holder of any security and to bring suit thereupon.

72-??-78. Limitations upon liabilities.

Neither the directors nor any person executing securities issued hereunder shall be liable personally on the securities by reason of the issuance thereof. Securities issued pursuant to this act [72-??-1 to 72-??-103 NMSA 1978] shall not be in any way a debt or liability of the state or of any municipality or other public body and shall not create or constitute any indebtedness, liability or obligation of the state or of any such municipality or other public body, either legal, moral or otherwise, and nothing in this act contained shall be construed to authorize the District to incur any indebtedness on behalf of or in any way to obligate the state or any municipality or

other public body, except the District and except as herein otherwise expressly stated or necessarily implied.

72-??-79. Cancellation of paid securities.

Whenever the treasurer of the District shall redeem and pay any of the securities issued under the provisions hereof, he shall cancel the same by writing across the face thereof or stamping thereon the word "paid," together with the date of its payment, sign his name thereto, and transmit the same to the secretary of the District, taking his receipt therefore, which receipt shall be filed in the records of the District. The secretary shall credit the treasurer on his books for the amount so paid.

72-??-80. Interest after maturity.

No interest shall accrue on any security herein authorized after it becomes due and payable, provided funds for the payment of the principal of and the interest on the security and any prior redemption premium due are available to the paying agent for such payment without default.

72-??-81. Refunding bonds.

Any bonds issued hereunder may be refunded, without an election, but subject to provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise appertaining thereto, pursuant to a resolution or resolutions to be adopted by the board in the manner herein provided for the issuance of other securities, to refund, pay or discharge all or any part of the District's outstanding bonds, heretofore or hereafter issued, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs or effecting other economies or of modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or any project (or any combination thereof).

72-??-82. Method of issuance.

Any bonds issued for refunding purposes may either be delivered in exchange for the outstanding bonds authorized to be refunded or may be sold as provided in this act [72-??-1 to 72-??-103 NMSA 1978] for the sale of other bonds.

72-??-83. Limitations upon issuance.

No bonds may be refunded hereunder unless the holders thereof voluntarily surrender them for exchange or payment, or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds. Provision shall be made for paying the bonds within that period of time. No maturity of any bonds refunded may be extended over fifteen years nor may any interest thereon be increased to any coupon rate exceeding the maximum net effective interest rate permitted by the Public Securities Act [6-14-1 to 6-14-3 NMSA 1978]. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds refunded so long as provision is duly and sufficiently made for their payment.

72-??-84. Use of refunding bond proceeds.

The proceeds of refunding bonds shall either be immediately applied to the retirement of the bonds to be refunded or be placed in escrow to be applied to the payment of the bonds upon their presentation therefore; provided, however, any accrued interest and any premium appertaining to a sale of refunding bonds may be applied to the payment of the interest thereon and the principal thereof or both interest and principal or may be deposited in a reserve therefore as the board may determine. The escrow shall not necessarily be limited to refunding bond proceeds but may include other money made available for such purpose. Any escrowed proceeds pending such use may be invested or reinvested in federal securities. Such escrowed proceeds and investments, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds refunded as they become due at their respective maturities or due at designated prior redemption date or dates upon which the board shall exercise a prior redemption option. Upon establishment of such escrow in accordance with this section, the refunded bonds payable therefrom no longer shall constitute outstanding indebtedness of the District.

72-??-85. Payment of refunding bonds.

Refunding revenue bonds may be made payable from any revenues derived from the operation of the flood control system or any project, notwithstanding the pledge of such revenues for the payment of the outstanding bonds issued by the District which are to be refunded is thereby modified. Any refunding revenue bonds shall not be made payable from taxes unless the bonds thereby refunded are payable from taxes.

72-??-86. Combination of refunding and other bonds.

Bonds for refunding and bonds for any other purpose or purposes herein authorized may be issued separately or issued in combination in one series or more.

72-??-87. Supplemental provisions.

Except as in this act [72-??-1 to 72-??-103 NMSA 1978] specifically provided or necessarily implied, the relevant provisions herein pertaining to bonds generally shall be equally applicable in the authorization and issuance of refunding bonds, including their terms and security, the bond resolution, trust indenture, taxes and service charges, and other aspects of the bonds.

72-??-88. Board's determination final.

The determination of the board that the limitations hereunder imposed upon the issuance of refunding bonds have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

72-??-89. Issuance of interim debentures and pledge of bonds as collateral security.

Notwithstanding any limitation or other provision herein, whenever a majority of the taxpaying electors of the District voting on a proposal to issue bonds has authorized the District to issue bonds for any purpose herein authorized, the District is authorized to borrow money without any

other election in anticipation of taxes, the proceeds of said bonds or any other revenues of the District, or any combination thereof, and to issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time or times not exceeding a period of time equal to the estimated time needed to effect the purpose or purposes for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this Section 89 and in Sections 90 and 91 [72-??-90 and 72-??-91 NMSA 1978] hereof, interim debentures shall be issued as provided herein for securities in Sections 47 to 80 [72-??-47 to 72-??-80 NMSA 1978], both inclusive. Taxes, other revenues of the District, including without limiting the generality of the foregoing, proceeds of bonds to be thereafter issued or reissued, or bonds issued for the purpose of securing the payment of interim debentures, may be pledged for the purpose of securing the payment of the interim debentures. Any bonds pledged as collateral security for the payment of any interim debentures shall mature at such time or times as the board may determine, but in no event exceeding forty years from the date of either any of such bonds or any of such interim debentures, whichever date be the earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture or interim debentures secured by a pledge of such bonds, nor shall they bear interest at any time which with any interest accruing at the same time on the interim debenture or interim debentures so secured exceeds six percent per annum.

72-??-90. Interim debentures not to be extended.

No interim debenture issued pursuant to the provisions of Section 89 [72-??-89 NMSA 1978] hereof shall be extended or funded except by the issuance or reissuance of a bond or bonds in compliance with Section 91 [72-??-91 NMSA 1978] hereof.

72-??-91. Funding.

For the purpose of funding any interim debenture or interim debentures, any bond or bonds pledged as collateral security to secure the payment of such interim debenture or interim debentures may be reissued without an election, and any bonds not previously issued but authorized to be issued at an election for a purpose the same as or encompassing the purpose for which the interim debentures were issued may be issued for such a funding. Any such bonds shall mature at such time or times as the board may determine, but in no event exceeding forty years from the date of either any of the interim debentures so funded or any of the bonds so pledged as collateral security, whichever date be the earlier. Bonds for funding (including but not necessarily limited to any such reissued bonds) and bonds for any other purpose or purposes herein authorized may be issued separately or issued in combination in one series or more. Except as herein otherwise provided in Sections 89 and 90 [72-??-89, 72-??-90 NMSA 1978] and in this Section 91, any such funding bonds shall be issued as is provided herein for refunding bonds in Sections 81, 82, 84, 85, 87, and 88 [72-??-81, 72-??-82, 72-??-84, 72-??-85, 72-??-87 and 72-??-88 NMSA 1978] hereof, and provided herein for securities in Sections 47 to 80 [72-??-47 to 72-??-80 NMSA 1978], both inclusive.

72-??-92. Publication of resolution or proceedings.

In its discretion the board may provide for the publication once in full of either any resolution or other proceedings adopted by the board ordering the issuance of any securities or, in the alternative, of notice thereof, which resolution, other proceedings or notice so published shall

state the fact and date of such adoption and the place where such resolution or other proceedings has been filed for public inspection and also the date of the first publication of such resolution, other proceedings or notice, and also state that any action or proceeding of any kind or nature in any court questioning the validity of the creation and establishment of the District, or the validity or proper authorization of securities provided for by the resolution or other proceedings, or the validity of any covenants, agreements or contracts provided for by the resolution or other proceedings, shall be commenced within twenty days after the first publication of such resolution, other proceedings or notice.

72-??-93. Failure to contest legality constitutes bar.

If no such action or proceedings shall be commenced or instituted within twenty days after the first publication of such resolution, other proceedings or notice, then all residents and taxpayers and owners of property in the District and all public bodies and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court or from pleading any defense to any action or proceedings questioning the validity of the creation and establishment of the District, the validity or proper authorization of such securities, or the validity of any such covenants, agreements or contracts; and said securities, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

72-??-94. Confirmation of contract proceedings.

In its discretion the board may file a petition at any time in the district court in and for any county in which the District is located wholly or in part, praying a judicial examination and determination of any power conferred or of any tax or rates or charges levied or of any act, proceeding or contract of the District, whether or not said contract shall have been executed, including proposed contracts for the acquisition, improvement, equipment, maintenance, operation or disposal of any project for the District. Such petition shall set forth the facts whereon the validity of such power, assessment, act, proceeding or contract is founded and shall be verified by the chairman of the board. Such action shall be in the nature of a proceeding in [REDACTED] and jurisdiction of all parties interested may be had by publication and posting, as hereinafter provided. Notice of the filing of said petition shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract therein mentioned may be examined. The notice shall be served by publication in at least five consecutive issues of a weekly newspaper of general circulation published in the county in which the principal office of the District is located, and by posting the same in the office of the District at least thirty days prior to the date fixed in said notice for the hearing on said petition. Jurisdiction shall be complete after such publication and posting. Any owner of property in the District or person interested in the contract or proposed contract or in the premises may appear and move to dismiss or answer said petition at any time prior to the date fixed for said hearing or within such further time as may be allowed by the court; and the petition shall be taken as confessed by all persons who fail so to appear.

72-??-95. Review and judgment of court.

The petition and notice shall be sufficient to give the court jurisdiction, and upon hearing the court shall examine into and determine all matters and things affecting the question submitted, shall make such findings with reference thereto and render such judgment and decree thereon as

the case warrants. Costs may be divided or apportioned among any contesting parties in the discretion of the trial court. Review of the judgment of the court may be had as in other similar cases, except that such review must be applied for within thirty days after the time of the rendition of such judgment or within such additional time as may be allowed by the court within thirty days. The Rules of Civil Procedure shall govern in matters of pleading and practice where not otherwise specified herein. The court shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties.

72-??-96. Purpose of tax exemptions.

The effectuation of the powers herein authorized shall and will be in all respects for the benefit of the people of the state, including but not necessarily limited to those residing in the District exercising any power hereunder, for the improvement of their health and living conditions and for the increase of their commerce and prosperity.

72-??-97. Property exempt from general taxes.

Thus, the District shall not be required to pay any general (ad valorem) taxes upon any property appertaining to any project herein authorized and acquired within the state, nor the District's interest therein.

72-??-98. Securities and income therefrom exempt.

Securities issued hereunder and the income therefrom shall forever be and remain free and exempt from taxation by the state, the District and any other public body, except transfer, inheritance and estate taxes.

72-??-99. Freedom from judicial process.

Execution or other judicial process shall not issue against any property herein authorized of the District, nor shall any judgment against the District be a charge or lien upon its property.

72-??-100. Resort to judicial process.

Section 99 [72-??-99 NMSA 1978] hereof does not apply to or limit the right of the holder of any security, his trustee, or any assignee of all or part of his interest, the federal government when it is a party to any contract with the District, and any other obligee hereunder to foreclose, otherwise to enforce, and to pursue any remedies for the enforcement of any pledge or lien given by the District on the proceeds of taxes, service charges or other revenues.

72-??-101. Legal investments in securities.

It shall be legal for the state and any of its agencies, departments, instrumentalities, corporations, or political subdivisions, or any political or public corporation, any bank, trust company, banker, savings bank, or institution, any building and loan association, savings and loan association, investment company and any other person carrying on a banking or investment business, any insurance company, insurance association, or any other person carrying on an insurance business, and any executor, administrator, curator, trustee or any other fiduciary, to invest funds or moneys in their custody in any of the securities authorized to be issued pursuant to the provisions hereof. Such securities shall be authorized security for all public deposits. Nothing

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contained in this Section 101 with regard to legal investments shall be construed as relieving any public body or other person of any duty of exercising reasonable care in selecting securities.

72-??-102. Civil rights.

The District damaged by any such act may also bring a civil action for damages sustained by any such act, and in such proceeding the prevailing party shall also be entitled to reasonable attorneys' fees and costs of court.

72-??-103. Liberal construction.

This act [72-??-1 to 72-??-103 NMSA 1978] being necessary to secure and preserve the public health, safety and general welfare, the rule of strict construction shall have no application hereto, but it shall be liberally construed to effect the purposes and objects for which this act is intended.