

# ASSET PURCHASE AND SALE AGREEMENT

**This Asset Purchase and Sale Agreement (*Agreement*)** between and among, **Alto Lakes Water Corporation, (*Utility*)** a corporation organized and existing under the laws of New Mexico, of P.O. Box 750, Alto, New Mexico, 88312, and **Alto Lakes Golf & Country Club, Inc. (*Club*)**, a nonprofit corporation organized and existing under the laws of New Mexico, of P.O. Box 168, Alto, New Mexico, 88312, as sellers, and, **Alto Lakes Water and Sanitation District (*District*)**, a quasi-municipal corporation organized and existing under the laws of New Mexico, of P.O. Box 866, Alto, New Mexico, 88312, as buyer.

## RECITALS

1. Utility is currently engaged in the production and sale of water and wastewater services, within the area of Alto Village, New Mexico, and District desires to acquire and administer all property owned or used by Utility.
2. Club is the sole shareholder of Utility, is the owner of some real estate used in the production and sale of water and wastewater services by Utility, and owns some senior water rights which have been used by the Utility, and District desires to acquire this real estate in order to continue the business of Utility.
3. This is an asset purchase by the District, and other than payment of the purchase price, the District assumes no obligation to pay any amounts due or incurred prior to Closing, as hereinafter defined, in relation to any asset purchased.
4. Utility has developed its operations over a period of 40 years, and as the Alto Lakes Community grew, so have the utility plant and assets owned or used by the Utility. The intent of this Agreement is to transfer all such Utility assets, as more particularly set forth herein, including those which may lie in easements or rights-of-way which may not have been recorded in the deed records of the County as well as any real estate or personal property owned by the Utility whether or not used to provide services.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

## SECTION ONE. TRANSFER OF ASSETS

### A. Transfer by Utility.

Utility shall transfer to District, free and clear of any claims, assessments or encumbrances due or accrued prior to Closing, the following assets used in the production and sale of water and wastewater services:

1. All of the water rights and water wells owned by Utility. These conveyances will be evidenced by Assignments of Ownership of Water Rights on the forms promulgated by the New Mexico State Engineer;
2. All of the distribution and gathering lines of Utility including all pumps, tanks and all other items of personalty associated therewith. This conveyance will be evidenced by a blanket Bill of Sale;
3. The Wastewater Treatment Plant operated by Utility and real property owned by the Utility on which it is located, including all fixtures, pipelines, lift stations, equipment and other items of realty and personalty associated therewith. This conveyance will be evidenced by a Warranty Deed;
4. The Utility's Office Building as well as any vacant real estate owned by the Utility and all well sites, tank sites and other Utility assets located thereon, including all fixtures, equipment and other items of realty and personalty associated therewith. This conveyance will be evidenced by a Warranty Deed;
5. All documented rights-of-way and easements owned by the Utility, and all undocumented rights-of-way and easements which are located on property or operations of the Utility or Club. (Undocumented rights-of-way and easements shall include any areas where Utility assets are located but no right-of-way reservation or easement has been filed in the deed records of the County). This conveyance will be evidenced by an Assignment capable of being recorded in the County Records of Lincoln County;
6. All vehicles, tools, equipment, and inventory of every kind and character owned by Utility. The certificates of title to the vehicles will be endorsed over to the District and the remaining items will be conveyed to the District by Bill of Sale;
7. Any transferable regulatory permits necessary for the operation of the water and wastewater utility assets. The District, at its sole cost, will file the necessary Application and associated paperwork with the PRC seeking approval of this transfer in accord with §62-6-12 and 13 of the New Mexico Public Utility Act. Seller will provide any and all documents needed to pursue the transfer and Seller's personnel will provide time and assistance including all Seller's testimony and evidence needed to complete the transfer;
8. All Utility's rights in the executory contracts executed in the name of or assigned to Utility, all common law rights to easements and all covenant provisions held by the Utility, and used or useful in the production and sale of water and wastewater services. This conveyance will be evidenced by a blanket Assignment.
9. The Accounts Receivable and cash, as reflected on the books of the Utility on the date of Closing. This conveyance will be evidenced by blanket Assignment.

10. All studies and reports including but not limited to the Atkins and Livingston studies, the latter of which is entitled the "Alto Lakes Water Corporation Forty Year Master Plan."

11. Any assets and property used or useful either owned by the Utility and not used in its provision of water or wastewater services or used by the Utility in the production and sale of water or wastewater services shall be transferred to the District.

**B. Transfer by Club.**

Club shall transfer to District the Field Office and Yard, including all fixtures, equipment and other items of realty and personalty associated therewith. In connection with this conveyance District covenants and agrees:

1. The District will take responsibility for all solid waste disposal for the geographic area encompassed by the District;

2. The Field Office and the Yard will, for a period of three years from the date of the Closing of this Agreement, be used exclusively for those purposes authorized for such Districts under the Water and Sanitation Districts under the New Mexico Water and Sanitation District Act, as set forth in § 73-21-3 of that Act; and

3. **The Field Office and the Yard will not be transferred to private ownership at any time.**

**C. Transfer by Utility and Club**

1. The Unified Covenants of Alto Lakes Golf & Country Club, Inc. adopted August 16, 1993 applicable to the Alto Village subdivisions provides in Article III (PERMITTED USES): "All lots and tracts in these subdivisions are hereby declared to be residential unless otherwise designated below.\* \* \*" Section 2 of Article III contains exceptions to the residential designation, specifically including the following:

**THE FOLLOWING PARCELS MAY BE USED FOR CONSTRUCTION, OPERATION AND USE OF ADMINISTRATIVE OFFICES AND FOR FACILITIES FOR ALTO LAKES WATER CORPORATION AND/OR SECURED RECREATIONAL VEHICLES/TRAILER STORAGE/PARKING" (designating Deer Park Meadows, Unit 1, Lots 1,2,& 3).**

2. Article VI of the Unified Covenants (PROHIBITED USES/ACTIVITIES) in Section 6(J) prohibits drilling for water or minerals or other excavations, "except as may be incident to the installation of utility services . . . and the grading of roads and streets, and except for Alto Lakes Water Corporation, which may drill for water as approved by the Office of the State Engineer, and the land owner and with proper permits."

3. Club and Utility agree to make assignments or execute such conveyance documents, without warranty, as the District reasonably requests to convey title to the above covenants, and any other covenants running with the land as may be reflected in any Alto Lakes Plats or Subdivisions which contain or reference privileges, licenses, benefits or commitments to the Utility.

**D. Conveyance Documents and List of Assets to be Transferred.**

1. Utility and Club agree to execute such conveyance documents as are necessary to convey title to the above-described assets (*Assets*) to District. Apart from warranting marketable title to the Assets, the conveying documents will recite that they are conveyed "AS IS." Utility and Club will give no warranty for fitness for any purpose, and District agrees that District is acquiring the Assets based upon its own inspection thereof during the Due Diligence Period set forth below and not based upon any representation by Utility or Club. With respect to Utility property conveyed to the District which is subsequently discovered by the District to be located partially or entirely outside a documented easement or right-of-way transferred to the District (undocumented rights-of-way), the Utility and Club agree to use reasonable efforts to provide to the District sufficient easements or right-of-way to accommodate such property and, if owned by sellers or their successors in interest, at no cost to the District, or to work with owners of the underlying estate so as to induce them to do the same, it being recognized that the District will have and may exercise, if necessary, at its cost, the power of eminent domain as to any such easements or rights-of-way.

2. The Utility and Club will be responsible for providing to the District copies of all the underlying documents needed for preparation of the conveying documents at least thirty (30) days before the closing of this transaction for review, comment, and approval.

3. Within ninety (90) days of execution of this Agreement by the Club membership as contemplated herein, the Utility shall provide a listing of all of the water rights and water wells owned by Utility; a description of all of the distribution and gathering lines of Utility; the legal description of the Wastewater Treatment Plant operated by Utility and the real property owned by the Utility on which it is located; the legal descriptions of the Utility's Office Building as well as any vacant real estate owned by the Utility, and all well and tank sites; an inventory of known documented rights-of-way and easements; a listing of all vehicles, tools, equipment, and inventory owned by Utility to the District. It is expressly agreed and understood that the District is not only acquiring the assets which will be listed by Utility, but all other assets owned by the Utility.

Within ninety (90) days of execution of this Agreement by the Club membership as contemplated herein the Club shall provide to District a legal description of the Field Office and Yard.

**SECTION TWO.  
WATER RIGHTS**

**A. Club's Water Rights Lease.**

1. Club owns certain senior water rights, in the amount of 112 acre feet per year (*Leased Rights*). Club will lease these rights to the District for an initial ten year term, with an option to renew for an additional ten year term, with a second option to renew for another ten year term and with another option to renew for a ten year term for a total of four ten year leases with an annual rental of One Dollar (\$1.00). A copy of the lease is attached hereto as Exhibit A and incorporated herein by reference. District is solely responsible for seeking and obtaining the approval of the lease from the State Engineer. Club will assist District in this process in any manner reasonably necessary.

**[To the extent that the language in sections 2-6 below in any way conflict with the fully executed Lease, then the provisions of the Lease will control.]**

2. The lease will state that the District may adjust rates for golf course irrigation water by the change in the BLS Consumer Price Index, beginning from an index of 206.7. Any restructuring of rates by the District will be related to the District's costs of providing irrigation water. Irrigation water costs will include capital and lease costs, production costs, and transportation costs together with a reasonable allocation of District overhead expense related hereto.

3. The Leased Rights or any substitute rights, water or reuse water as determined by the District will be used to provide irrigation water to the Club's golf course, unless otherwise required by the office of the State Engineer (SEO). In the event that the District permanently ceases to provide irrigation water to the golf course for any reason, the Lease will terminate immediately. In the event the District acquires the ownership of the Leased Rights as set forth below, then the terms of this subsection (A) shall be contained in the conveying documents so that the District will continue to be required to provide irrigation water to the golf course. During the term or terms of the lease nothing shall prevent the District from satisfying its obligation to provide irrigation water from any lawful source, whether ground water, surface water or reuse water, and nothing shall prevent the District from using the Leased Rights or any portion thereof for domestic water supply.

4. The Lease will contain an option in favor of the District to purchase the Leased Rights at any time after twenty (20) years from the effective date of the Lease. This option will be conditioned upon District's substantial compliance with the terms of the Lease and this Agreement. The purchase price for the Leased Rights shall be negotiated between the parties at the time the District evidences its intent by written notice to Club to exercise the option. If an agreement cannot be reached between the parties as to the purchase price within 120 days following such written notice, then each party shall name a hydrologist or civil engineer in writing to the other party within sixty (60) days thereafter and shall instruct its expert to contact the other's expert and to jointly name a third hydrologist or civil engineer. The three named experts shall thereafter jointly consider the fair market value of the water

rights and shall issue a written report of the fair market value of the Leased Rights. The purchase price, which shall be such fair market value, shall be set by the majority of the experts so named. Within sixty (60) days of the issuance of this report the District shall obtain a financial commitment to finance the purchase of the water rights, and thereafter the District shall close on the purchase as soon as is reasonably possible to do so, but in any event within eight (8) months of obtaining the financial commitment to finance the purchase. At the closing the Club shall convey the Leased Rights to the District upon receipt of said payment. If the District fails to meet its obligations in the timeframe set forth herein, or if the Lease terminates at any time prior to the conveyance of the Leased Rights to the District, then this option to purchase shall terminate.

5. In the event that Club receives a bona fide written offer to purchase the Leased Rights which Club intends to accept, the Club will first provide written notice thereof, along with a copy of the offer, to the District. The District will then have sixty (60) days within which to evidence its intent to match the offer received and to purchase the Leased Rights by written notice thereof to Club, failing which Club will be free to close the sale of the Leased Rights. In the event that District exercises this option within sixty (60) days of the issuance of this written notice to the Club the District shall obtain a financial commitment to finance the purchase of the water rights, and thereafter the District shall close on the purchase as soon as is reasonably possible to do so, but in any event within eight (8) months of issuing the written notice to the Club. If the District fails to meet its obligations in the timeframe set forth herein, or if the District fails to so close, then the Lease will terminate and Club will be free to sell the Leased Rights to any third party free of the Lease and District's option to purchase. Sale by the Club of the Leased Rights to a third party shall be conditioned upon approval of the sale by the PRC, the SEO and any other regulatory agency having jurisdiction. The Club, the Utility and third party shall be required to release the District from any further obligation to serve customers previously served by the Leased Rights, the third party must agree to be bound by an enforceable obligation to serve the Club and those customers previously served by the leased rights, and the third party will be required to make arrangements reasonably satisfactory to the District for payment to the District for rental of the District water production, storage and transportation facilities in utilizing the Leased Rights. If the Lease terminates, then this option to purchase shall likewise terminate.

6. The District's obligation to provide water for irrigation shall be reduced by 112 Afy upon termination of the Lease for any reason, other than sale of the water rights to the District.

## **B. Documentation Of Water Rights Sold And/Or Leased**

1. **Water Quantity.** Within fifteen (15) days after the date hereof, Club and Utility shall provide to District descriptions of the water rights to be sold and/or leased under this Agreement (the "Water Rights"), including copies of any and all documents in their possession evidencing the existence and Club/Utility ownership of the Water Rights. Such documents shall include, but not be limited to, filings made with the SEO, other state and local agencies or courts, declarations, permits and licenses, and any other quantity studies, well capacity analyses, water use documents or any other evidence of placement of water to beneficial use or information pertaining to water used in Utility's or Club's business, including any such documents filed with the SEO, or the PRC.

2. **Water Quality.** Within fifteen (15) days after the date hereof, Club and Utility also shall provide copies of any existing water quality studies, water quality test results, and any other water quality studies or information pertaining to water used in the Utility's or Club's business, including any such documents filed with the NMED or the NMPRC.

### **SECTION THREE. CONDITIONS PRECEDENT**

The closing of this Agreement (the **Closing**) shall be subject to the satisfaction, at or prior to the Closing, of each of the following conditions:

A. **Approval by PRC.** Approval by the New Mexico State Public Regulation Commission (**PRC**) in accord with the New Mexico Public Utilities Act. District shall be solely responsible for applying for and prosecuting its application for approval of this transaction by the PRC. The Club and Utility shall be solely responsible for seeking approval of the abandonment of the CCN and of service by the PRC. The parties agree to assist each other by all reasonable means requested by the other. If the PRC does not approve of this Transaction within 180 days of the date of this Agreement, then this Agreement will terminate with no further liability to any Party;

B. **Approval by SEO.** Approval by the New Mexico State Engineer (**SEO**) in accord with the New Mexico Water Use Leasing Act of the Lease of the Club's senior water rights to District. District shall be solely responsible for applying for and prosecuting its application for approval of the lease of the Leased Rights transaction by the SEO. Utility and Club agree to assist the District by all reasonable means requested by District. If the SEO does not approve of this Transaction within 180 days of the date of this Agreement, then this Agreement will terminate with no further liability to any Party;

C. **Approval by New Mexico Environment Department (NMED).** Pursuant to Section 74-6-5, NMSA 1978 and associated regulations, the New Mexico Environment Department (NMED) must approve the sale of the wastewater utility system to the District, and the District shall be solely responsible for applying for and prosecuting its application to do so. Utility and Club agree to assist District by all reasonable means requested by District.

D. **Approval by Club Membership.** Members of Club in proceedings conducted by the Club must approve the transactions contemplated by this Agreement no later than ninety (90) days after execution of this Agreement. If the Club Membership does not approve of this Agreement within ninety (90) days of the date of this Agreement, then this Agreement will terminate with no further liability to any Party;

E. **Approval by Owners of Property in the District.** The owners of property in the District, by an informal advisory mail referendum (one lot, one vote) conducted by the District, must approve the

transactions contemplated by this Agreement no later than ninety (90) days after execution of this Agreement. If the owners of property in the District do not approve of this Agreement within ninety (90) days of the date of this Agreement, then this Agreement will terminate with no further liability to any Party;

F. **District Financing.** The District's obtaining a loan or loans upon terms acceptable to the District in the amount of \$4,000,000. The funds shall be applied by the District first to the purchase price, and secondly, to fund capital improvements for the water system acquired thereby.

G. **Utility Cash on Hand at Closing/Accounts Receivables/Accounts Payable.** At closing, all cash in the Utility's accounts shall be paid to the District, and the District shall be assigned all accounts receivable of Utility. From the \$4,000,000 available to the District, the District shall pay to the Utility, through the Closing Agent, an amount necessary to fund the repayment of all the Utility's borrowed funds. These payments shall be made on behalf of the Utility by the Closing Agent. On or before ten (10) days prior to the Closing hereof Utility shall provide to the Closing Agent and District the names of each such lender, and the amount necessary to payoff the indebtedness to such lender. District shall work with Utility to obtain the release of any of Club's guarantees on said borrowed funds. Since April 1, 2006, the Club or Utility has not and shall not declare any dividends or remove any cash from the Utility or remove from Utility ownership or transfer from the Utility any real estate or other assets except that Lincoln County Assessor Parcel #4071060047140 known as ALWC tank site #2 consisting of 0.167 acres located adjacent to #16 Tee has been transferred to the Club in exchange for access to the ALWC sewage treatment plant.

H. **Accuracy of Representations and Warranties.** Each of the representations and warranties of the parties in this Agreement must have been accurate in all material respects as of the date of this Agreement and must be accurate in all material respects as of the Closing as if made on said Closing date.

I. **Performance by Parties.** Each of the covenants and obligations that each party is required to perform or to comply with pursuant to this Agreement at or prior to the Closing must have been duly performed and complied with in all material respects.

J. **Regulatory Delays.** Notwithstanding any time limits set forth in this Section Three, this Agreement shall remain in full force and effect and any such time limits shall be waived during and for thirty (30) days following any regulatory proceedings that extend beyond such time limits, through no fault of the parties hereto, and the parties shall proceed to Closing promptly upon the resolution of any such regulatory proceedings.

#### **SECTION FOUR. CONSIDERATION AND CLOSING**

A. In consideration of the transfer of the Assets, and of the lease of the Leased Rights, District shall at the Closing pay to the Title Company the sum of **Nine Hundred Thousand Dollars (\$900,000)** in



good funds, plus an amount necessary to fund the repayment of all the Utility's borrowed funds as set forth in the forgoing Section. The Title Company shall disburse funds for Sellers' costs including the title insurance policy and all obligations necessary to allow transfer of assets pursuant to the provisions of Section Four B., including payoff of the Utility's lenders as set forth in the forgoing Section, and any obligations attaching to any water rights (excluding the Club's senior water rights) as well as the normal sellers closing costs. The remaining funds shall be disbursed to the Utility and Club jointly. The Closing shall take place at GSV Title Services in Ruidoso, New Mexico (the *Title Company*).

B. At the Closing, Utility and Club shall convey to District good and marketable title to the Assets, free and clear of liens and encumbrances, by Warranty Deed, and the leasehold estate on the Leased Rights.

C. Marketable title to the real estate to be conveyed will be confirmed by the following procedure:

1. At least 60 days prior to the Closing, Utility and Club shall obtain, at the Club's cost, a binder of a blanket policy of title insurance on the real estate and appurtenances, the utility owned site for a future water treatment plant, the Wastewater Treatment Plant (including lift stations feeding it), the Utility's Office Building, the Club owned Field Office and Yard, and solid waste site, well sites (including wells), tank sites (including tanks); easements on which wells and lift pump stations are constructed; and the well easement granted by the High Mesa RV Park (the Real Estate) in the amount of \$1, 500,000.00. The cost of surveys required to eliminate boundary exceptions shall be shared equally between District and Club.

2. In the event any bona fide defects of title which would render the title to the Real Estate unmarketable are discovered in the preparation of the title insurance binder by the Title Company, then Utility/Club shall have a reasonable time, not to exceed thirty (30) days from the date of receipt of written notice specifying such defect, within which to cure the same so that the Title Company agrees to insure title without any exception as to such defect, failing which, District, at District's sole discretion, shall have the option, by written notice to the Utility and the Club, to terminate this Agreement or to proceed with the closing without liability by the Club or the Utility for such defect.

D. At the Closing Utility/Club shall deliver to District the following fully executed, and acknowledged where required, documents:

1. Warranty Deeds to the Real Estate;

2. The title insurance policy as described above;

3. Assignment of the water rights and water wells owned by the Utility, including any return flow credits associated therewith, on an approved SEO form, to the extent such assignment may be required or requested by the SEO;

4. A blanket Bill of Sale conveying all of the distribution and gathering lines of Utility, including all pumps, tanks and all other items of personalty associated therewith;
  5. Warranty Deed or deeds to all water rights (except the Leased Rights) and all water wells;
  6. A recordable Assignment of all the rights-of-way and easements owned by the Utility;
  7. All the endorsed titles to the vehicles owned by the Utility;
  8. A blanket Bill of Sale conveying all the tools, equipment, and inventory of every kind and character owned by Utility;
  9. A blanket Assignment of all Utility's rights in the executory contracts executed in the name of or assigned to Utility, all insurance contracts and policies held by Utility, and all covenant provisions held by the Utility, and used in the production and sale of water and wastewater services;
  10. An Assignment of the Accounts Receivable, without warranty, and cash of the Utility, as reflected on the books of the Utility on the date of closing;
  11. The Lease of the Leased Rights from the Club to the District;
  12. An assignment, without warranty, of all the Utility's covenant rights with regard to the properties served by the Utility;
  13. A certified resolution of the members and directors of the Club approving this Agreement, accompanied by an opinion letter from the Club's counsel, confirming the validity of said resolution and the authority of the Club to so close;
  14. A certified resolution of the Board of Directors of Utility approving this Agreement, accompanied by an opinion letter from the Utility's counsel, confirming the validity of said resolution and the authority of the Utility to so close;
- E. At the Closing District shall deliver to Utility/Club the followings:
1. The Purchase Price in good funds; and
  2. A certified resolution of the Board of Directors of District approving this Agreement, and affirming the results of the referendum, accompanied by an opinion letter from the Districts' counsel, confirming the validity of said resolution and the authority of the District to so close;
- F. (Deleted)

G. On the Closing and as of the date of Closing, the parties shall prorate real property taxes and utility charges. With regard to the proration of taxes, the parties shall use the last available tax statement in the event a tax bill for the current year is not available.

H. District shall be entitled to immediate possession of the Assets upon the closing.

I. In the event of any damage to any of the improvements located on the Real Estate prior to Closing by fire or other casualty, if said improvements are insured for the replacement cost thereof, then this Agreement shall remain in full force and effect. District shall accept the conveyance of the Real Estate, and Utility/Club shall assign and transfer to District all of the policies of insurance covering such damage or casualty and the proceeds thereof. If the improvements are not so insured, then District shall reduce the amount of the Purchase Price by an amount equal to the value of any asset lost as agreed by the parties.

J. Utility will continue its normal operations prior to Closing and will not make distributions to its shareholders at or prior to closing. Prior to the closing, Utility will pay all its operating expenses and liabilities, to the extent possible. Upon Closing, all utility operating expenses which have not yet been invoiced to the Utility shall be assumed and paid by the District. All outstanding long or short term debt of Utility will be repaid by Utility utilizing the proceeds from Closing. It is specifically agreed that all deferred and current taxes on corporate income and/or sale of assets are the responsibility of the Club.

**SECTION FIVE.**  
**REPRESENTATIONS, WARRANTIES AND COVENANTS OF UTILITY AND CLUB**

Utility and Club (hereinafter sometimes jointly referred to as *Sellers*) make the following representations, warranties and covenants to District, each of which is material and is relied upon by District and each of which will survive any subsequent closing; Sellers represent and warrant as follows:

A. Sellers have good and marketable title to and are possessed of all of the Assets, and will convey the Assets free and clear of all encumbrances;

B. Sellers have the full power and lawful authority to enter into this Agreement and to fulfill Sellers' obligations;

C. Prior to the Closing Sellers will do all things necessary to keep unimpaired District's rights with respect to the Assets and prevent any forfeiture of any part of the Assets;

D. Sellers will, at Sellers' own expense, do or cause to be done all things reasonably necessary (reasonable wear and tear excepted) to preserve and keep in full repair, working order and efficiency all of the Assets, and from time to time will make all the needful and proper maintenance and repairs, renewals and replacements so that at all times the state and condition of the Assets shall be fully preserved and maintained in the same state as of the date of this Agreement;

- E. Sellers will promptly pay and discharge all scheduled payments on Sellers' indebtedness, and perform or cause to be performed each and every act, matter or thing required by any agreements affecting Sellers' interests in the Property, specifically including, but not limited, to any tax assessed by any governmental agency;
- F. Sellers will operate the Assets, or will cause them to be operated, in a careful and efficient manner in all material respects in accordance with the practices of the industry of Utility and in compliance with all applicable laws, rules and regulations of every agency and authority from time to time constituted to regulate the development and operation of the Utility's business;
- G. Sellers will permit District's agents to visit and inspect the Assets at such reasonable times or intervals as District may desire;
- H. Sellers will execute and deliver such further instruments and do such further acts as may be necessary or desirable or as may be reasonably requested by District to carry out more effectively the purposes of this Agreement;
- I. Sellers will ensure that the Assets will not be used to manufacture, store or dispose of toxic or hazardous substances, materials or wastes covered by the Resource Conservation and Recovery Act or the Comprehensive Environmental Response, Compensation and Liability Act of 1980;
- J. Sellers agree to fully defend, protect, indemnify, and hold harmless District, its employees, and agents, from and against each and every claim, demand, penalty, fine, lien, judgment, action, cause of action, or law suit and any liability, cost, expense, damage, or loss, including court costs and attorney's fees, that may be asserted by any third party, known or unknown, foreseen or unforeseen, arising from or on account of any activity or operation conducted by Sellers or for the benefit of Sellers relating to the Assets;
- K. No undisclosed litigation, investigation or proceeding of or before any arbitrator or governmental authority is pending or, to the knowledge of Sellers, threatened by or against Sellers or against the Assets;
- L. Sellers will not, without the prior written consent of District (which consent will not be unreasonably withheld), sell, trade, transfer, convey, assign, exchange, pledge, encumber, or create any lien with respect to or otherwise dispose of the Assets, or any part thereof, or any interest therein, except in the ordinary course of Sellers' business and except items of personal property which are replaced with items of similar quality and nature;
- M. No representation or warranty of Sellers in this Agreement contains a material misrepresentation or omits to state a material fact necessary to make the statements herein or therein, in light of the circumstances in which they were made, not misleading;

N. Sellers have incurred no obligation for brokerage commissions, finders' fees or rights to similar compensation on account of services rendered, to any third party in connection with this Agreement or the transactions contemplated hereby, and do hereby agree to indemnify and defend District from and against any such claims made by any third party;

O. Sellers will use their best efforts to continue to a favorable conclusion Utility's two rate cases currently pending before the New Mexico Public Regulation Commission; and

P. Sellers will use their reasonable efforts, and will take all steps reasonably necessary, to fulfill Sellers' obligations hereunder.

**SECTION SIX.  
REPRESENTATIONS, WARRANTIES AND COVENANTS OF DISTRICT**

District makes the following representations, warranties and covenants to Sellers, each of which is material and is relied upon by Sellers, and each of which will survive any subsequent closing:

A. District has the full power and lawful authority to enter into this Agreement and to fulfill its obligations hereunder;

B. District will execute and deliver such further instruments and do such further acts as may be necessary or desirable or as may be reasonably requested by Sellers to carry out more effectively the purposes of this Agreement;

C. District agrees to fully defend, protect, indemnify, and hold harmless Sellers, Sellers' employees, and agents, from and against each and every claim, demand, penalty, fine, lien, judgment, action, cause of action, or law suit and any liability, cost, expense, damage, or loss, including court costs and attorney's fees, that may be asserted by any third party, known or unknown, foreseen or unforeseen, arising from or on account of any activity or operation conducted by District or for District's benefit relating to the Assets for any such claim which originates subsequent to the Closing;

D. If applicable law or regulation requires a proposed action of the District Board to be authorized by a vote of the District's qualified electors; or the District Board elects to submit a question to the qualified electors of the District; or if the proposed action is to install a sewer system or a wastewater collection and treatment system (not including individual systems); the District's Board will not proceed with the election until it has first received approval to do so by a referendum of the owners of record of lots within the District's Boundaries. (The District's property owners also constitute the Club membership.) This provision shall not be applicable to any future action mandated by governmental authority, other than the District itself, and to elections for the District Board. Further, this provision shall not be applicable to expansion of the existing system required to meet new development which can not be served with compliant individual systems under applicable law or regulations. For the purposes of counting votes in such a referendum, the matter shall be decided by a majority of those property owners voting based on one vote per lot.

E. District will support applications by the Sellers to the PRC for cancellation of Certificates of Convenience and Necessity and for abandonment of service by the Sellers pursuant to NMSA 1978, Section 62-9-5.

F. District will use all reasonable efforts to provide water to the Club for the Club's golf course, subject, in event of shortage, to rights of residential customers. No curtailment of water for the Club shall occur except in the event of water shortage which results in insufficient water for both the golf course and residential consumers.

G. District will pursue aggressively Utility's pending applications before the SEO to deepen the water wells being conveyed hereby.

H. The parties hereto have agreed upon a five year capital improvements plan to the water system being acquired by District. This plan is attached hereto as **Exhibit B**. The capital improvement plan represents the best intentions of the District at the time of Closing. The capital improvement plan will be changed only if the Board of the District reasonably determines in good faith that such change is necessary and is in the best interests of the property owners of the District.

I. The "water situation" signs are to remain color coded or phased as in Ruidoso, Phase I, Phase II, Phase III, etc. If any change in signage is made, District will solicit input from the community to determine the method of communicating awareness of conservation needs.

J. The District will retain all current Utility employees at compensation and benefits and on terms at least as favorable as those existing at the time of Closing. It is specifically understood that this subparagraph is not intended to create, and does not create any contract of employment for any such employee and the Club and Utility state that they have not made any promises or representations to the employees regarding their employment with the District and have in fact informed them that it would be at will. An advisory committee composed of three Utility Board Members will assist in the transition for approximately six months after the Closing, and District will seek the input of this committee regarding any issues relating to former Utility employees.

K. No litigation, investigation or proceeding of or before any arbitrator or governmental authority is pending or, to the knowledge of District, threatened by or against District;

L. No representation or warranty of District in this Agreement contains a misrepresentation of material fact or omits to state a material fact necessary to make the statements herein or therein, in light of the circumstances in which they were made, not misleading;

M. District has incurred no obligation for brokerage commissions, finders' fees or rights to similar compensation on account of services rendered, to any third party in connection with this Agreement or the transactions contemplated hereby, and does hereby agree to indemnify and defend Seller from and against any such claims made by any third party;

N. If the Utility's two rate cases currently pending before the New Mexico Public Regulation Commission are decided in the favor of the Utility/District, District agrees to reduce the twenty percent (20%) increase in the water rate down to a twelve and 15/100 percent (12.15%) increase in the water rate in the billing period which begins following closing. District will not be obligated to reduce the rate increase for the sewer rate;

O. District will have a full Board of Directors (meaning a minimum of 5 directors) within thirty (30) days after the complete execution of this agreement;

P. It is the stated purpose of the District to finance its operations by generated fees and not by taxation. Accordingly, District plans to remove the current mil levy on or before July 1, 2008. However, this statement should not be construed to prohibit District, or the State Department of Finance (which has the final decision in these matters) from imposing a mil levy at any point in the future if, in the judgment of District, the need arises; and

Q. District will use its reasonable efforts, and will take all steps reasonably necessary, to fulfill its obligations hereunder.

#### **SECTION SEVEN. TERMINATION**

A. This Agreement may, by written notice given prior to the Closing, be terminated by either party if a material breach of any provision of this agreement has been made by the other party, and such breach has continued uncured after 15 days written notice thereof, or if any condition precedent to the terminating party's obligation to Close, has not been met.

B. Each party's right of termination is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies, or a waiver of any rights of recourse, unless this Agreement specifically so states. Specifically, if this Agreement is terminated by a party because of the breach of this Agreement by the other party, and such breach has continued uncured after 15 days written notice thereof, or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

#### **SECTION EIGHT. ARBITRATION**

A. The parties agree that any claim or dispute between them or against any agent, employee, officer, director, manager, member, successor or assign of the parties, related to this Agreement, the Lease or the relationship or duties contemplated under or alleged breach of this Agreement or the Lease, including

the validity of the mediation and arbitration provisions in this Section Eight (collectively, Disputes), shall be exclusively resolved as follows:

B. If a Dispute arises between the parties, the offended party shall give the other parties written notice thereof (Dispute Notice). If the Dispute cannot be settled informally within thirty (30) days (or any mutually agreed written extensions thereof) following the delivery of Dispute Notice then the parties shall proceed to mediation before a mutually agreeable mediator. Within forty (40) days following the delivery of the Dispute Notice, the District's Board shall appoint one person and identify said person to Club in writing, and the Club's Board shall appoint one person and identify said person to District in writing. Within fifty (50) days following the delivery of the Dispute Notice the two appointed persons shall meet and agree to the selection of the mediator. Said mediation must occur within seventy-five (75) days following delivery of the written notice of dispute.

C. If the Dispute is not resolved by mediation, then the parties will resolve the matter through binding arbitration in Lincoln County, New Mexico. The arbitrator shall be appointed by the State District Court Judge sitting in Lincoln County, for which Club and District will jointly petition the Court within ten (10) days following the failure of the mediation. The arbitrator shall hear and decide the Dispute within 120 days after the selection of the arbitrator. Arbitration under this Section Eight shall be governed by and interpreted under the New Mexico Uniform Arbitration Act, Sections 44-7A-1 through 44-7A-32 NMSA. Any award made by the arbitrator shall be final, binding, and conclusive on all parties hereto for all purposes, and judgment may be entered thereon in any court having jurisdiction thereof, with the exception that if one of the parties feels that the arbitrator's decision is in violation of a New Mexico State Statute, that person may appeal the decision to the District Court of Lincoln County.

D. Whenever any action is required to be taken under this Agreement within a specified period of time and the taking of such action is materially affected by a matter submitted to arbitration, such period shall automatically be extended by 10 days plus the number of days that are taken for the determination of the matter by arbitration.

E. Either party may seek in court provisional remedies under the Uniform Arbitration Act, Section 44-7A-9 NMSA, including but not limited to equitable relief, only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy. A party does not waive a right of arbitration by seeking provisional remedies.

F. The prevailing party as determined by the arbitrator will be entitled to recover the costs of the mediation and arbitration proceedings, any court costs and provisional remedies proceedings, the reasonable cost of experts, evidence preparation, and legal counsel.

G. Nothing contained in this Section Eight shall be deemed to give the arbitrator any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this Agreement



H. Subject to applicable law and subsection E above, the provisions of this Section Eight shall be a complete defense to any suit, action, or proceeding instituted in any federal, state, or local court or before any administrative tribunal with respect to any Dispute which is arbitrable as set forth in this Agreement.

## **SECTION NINE. GENERAL PROVISIONS**

A. All notices required to be given pursuant hereto shall be sent by United States registered or certified mail, return receipt requested, postage prepaid, addressed to the parties at their respective addresses shown in the first paragraph of this Agreement. All notices and demands which shall be served upon either party hereto shall be deemed sufficiently served or given for all purposes hereunder at the time such notice or demand shall have been so mailed.

B. This Agreement, as to execution, interpretation, enforceability, validity and performance, shall be governed by the laws of the State of New Mexico.

C. This Agreement fully and completely expresses the agreement of the parties, and all previous understandings to this transaction, are superseded and replaced by and are merged into this Agreement.

D. The terms of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, as the case may be.

E. Time shall be of the essence in the performance by the parties of all the terms, provisions and conditions herein contained.

F. One or more waivers of any covenant or condition by one party shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by one party to or of any act by the other shall not be deemed to waive or render unnecessary the other's consent or approval to or of any subsequent similar act by the other.

G. Each of the parties has had an opportunity to have this Agreement reviewed by legal counsel of its own choice and has had the opportunity to suggest changes and modifications as it deemed fit so that this is an arms-length contract. Therefore the parties hereto agree that in the event an ambiguity is determined to exist in the Agreement, it shall be construed in accord with the rules of contract construction without regard to the authorship of the Agreement.

H. No amendment, supplement or modification of this Agreement or any other related agreement or document shall be binding upon the parties unless it is in writing and signed by the Club, the Utility and the District or their successors or assigns, as the case may be.

I. The representations, warranties, and covenants of the parties hereto shall survive the Closing.

J. The parties hereto agree that there are no intended third party beneficiaries of this Agreement, and no person or entity not a party to this Agreement, or a successor or assign of a party, shall have any standing to enforce its terms.

IN WITNESS WHEREOF, the undersigned have executed this Agreement to be effective for all purposes as of July 14, 2007.

**ALTO LAKES GOLF & COUNTRY CLUB, INC.**

Dated \_\_\_\_\_

By: \_\_\_\_\_  
Joe Watson, its President

**ALTO LAKES WATER AND SANITATION DISTRICT**

Dated \_\_\_\_\_

By: \_\_\_\_\_  
Earl Adamy, its President

**ALTO LAKES WATER CORPORATION**

Dated \_\_\_\_\_

By: \_\_\_\_\_  
Roy Reynolds, its President

**WATER RIGHTS LEASE**

**This Indenture**, made this \_\_\_\_ day of \_\_\_\_\_, by and between the Alto Lakes Golf and Country Club, hereinafter, whether singular or plural, masculine, feminine, or neuter, designated as "Lessor," which expression shall include Lessor's heirs, personal representatives, assigns, and successors in interest, and the Alto Lakes Water and Sanitation District, hereinafter, whether singular or plural, masculine, feminine, or neuter, designated as "Lessee," which expression shall include all Lessees, jointly and severally, and shall include Lessee's heirs, personal representatives, assigns, and successors in interest, WITNESSETH:

**1. DEMISE OF PREMISES.**

Lessor, for and in consideration of the covenants and agreements herein contained to be kept and performed by Lessee, Lessee's heirs, personal representatives, assigns, and successors in interest, and upon the terms and conditions herein contained, does hereby let, lease, and demise to Lessee the following-described premises situated in Alto Lakes, in the County of Lincoln, State of New Mexico, to wit:

112 Afy of Senior Water Rights as described in Exhibit A attached hereto

**2. TERMS OF LEASE.**

First Lease 120 months beginning \_\_\_\_\_, ending \_\_\_\_\_.

Second Lease 120 months beginning \_\_\_\_\_ ending \_\_\_\_\_.

Third Lease 120 months beginning \_\_\_\_\_, ending \_\_\_\_\_.

Fourth Lease 120 months beginning \_\_\_\_\_, ending \_\_\_\_\_.

**3. RENT.**

Lessee, for and in consideration of four consecutive Leases of ten years each beginning \_\_\_\_\_, ending \_\_\_\_\_, and the demise of the said premises by Lessor to Lessee, hereby agrees and covenants with Lessor to pay as rent for the said premises, without notice or demand, the sum of \$1.00 per year which is in hand paid total of \$40.00, receipt of which is hereby acknowledged by Lessor.

**4. USE OF PREMISES.**

Lessee, for and in consideration of four ten-year leases and the demise of the water rights by Lessor to Lessee, hereby agrees and covenants with Lessor to use the water rights or any substitute rights, water or reuse water as determined by the Lessee

to provide irrigation water to the Lessors' golf course, unless otherwise required by the office of the State Engineer (SEO). In the event that the Lessee permanently ceases to provide irrigation water to the golf course for any reason, the Leases will terminate immediately. In the event the Lessee acquires the ownership of the Leased Rights as set forth below, then the terms of this paragraph 4 shall be contained in the conveying documents so that the Lessee will continue to be required to provide irrigation water to the golf course. During the term or terms of the leases nothing prevents the Lessee from satisfying its obligation to provide irrigation water from any lawful source, whether ground water, surface water or reuse water, and nothing prevents the Lessee from using the Leased Rights or any portion thereof for domestic water supply consistent with the requirements of the SEO.

The Lessee may adjust rates for golf course irrigation water by the change in the BLS Consumer Price Index, beginning from an index of 206.7. Any restructuring of rates by the Lessee will be related to the Lessee's costs of providing irrigation water. Irrigation water costs will include capital and lease costs, production costs, and transportation costs together with a reasonable allocation of Lessees' overhead expense related hereto.

The Lessee shall have an option to purchase the Leased Rights at any time after twenty (20) years from the effective date of the Lease. This option will be conditioned upon Lessee's **substantial** compliance with the terms of the Lease and the Asset Purchase and Sale Agreement dated \_\_\_\_\_ between Lessor and Alto Lakes Water Corporation on the one hand, and Lessee on the other. The purchase price for the Leased Rights shall be negotiated between the parties at the time the Lessee evidences its intent by written notice to Lessor to exercise the option. If an agreement cannot be reached between the parties as to the purchase price within 120 days following such written notice, then each party shall name a hydrologist or civil engineer in writing to the other party within sixty (60) days thereafter and shall instruct its expert to contact the other's expert and to jointly name a third hydrologist or civil engineer. The three named experts shall thereafter jointly consider the fair market value of the water rights and shall issue a written report of the fair market value of the Leased Rights. The purchase price, which shall be such fair market value, shall be set by the majority of the experts so named. Within sixty (60) days of the issuance of this report the Lessee shall obtain a financial commitment to finance the purchase of the water rights, and thereafter the Lessee shall close on the purchase as soon as is reasonably possible to do so, but in any event within eight (8) months of obtaining the financial commitment to finance the purchase. At the closing the Lessor shall convey the Leased Rights to the Lessee upon receipt of said payment. If the Lessee fails to meet its obligations in the timeframe set forth herein, or if the Lease terminates at any time prior to the conveyance of the Leased Rights to the Lessee, then this option to purchase shall terminate.

In the event that Lessor receives a bona fide written offer to purchase the Leased Rights which Lessor intends to accept, the Lessor will first provide written notice thereof,

along with a copy of the offer, to the Lessee. The Lessee will then have sixty (60) days within which to evidence its intent to match the offer received and to purchase the Leased Rights by written notice thereof to Lessor, failing which Lessor will be free to close the sale of the Leased Rights. In the event that Lessee exercises this option within sixty (60) days of the issuance of this written notice to the Lessor the Lessee shall obtain a financial commitment to finance the purchase of the water rights, and thereafter the Lessee shall close on the purchase as soon as is reasonably possible to do so, but in any event within eight (8) months of issuing the written notice to the Lessor. If the Lessee fails to meet its obligations in the timeframe set forth herein, or if the Lessee fails to so close, then the Lease will terminate and Lessor will be free to sell the Leased Rights to any third party free of the Lease and Lessee's option to purchase. Sale by the Lessor of the Leased Rights to a third party shall be conditioned upon approval of the sale by the PRC, the SEO and any other regulatory agency having jurisdiction. The Lessor shall be required to release the Lessee from any further obligation to serve customers previously served by the Leased Rights, the third party must agree to be bound by an enforceable obligation to serve the Lessor and those customers previously served by the leased rights, and the third party will be required to make arrangements reasonably satisfactory to the Lessee for payment to the Lessee for rental of the Lessee's water production, storage and transportation facilities in utilizing the Leased Rights. If the Lease terminates, then this option to purchase shall likewise terminate.

The Lessee's obligation to provide water for irrigation shall be reduced by 112 Afy upon termination of the Lease for any reason, other than sale of the water rights to the Lessee.

## **5. CONDITION OF PREMISES AND REPAIRS.**

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that Lessee has examined the water rights prior to the execution hereof, knows the condition thereof, and acknowledges that Lessee has received the water rights in good order and condition, and that no representation or warranty as to the condition or status of the water rights has been made by Lessor, and, at the expiration of the term of this Lease, or any renewal or extension thereof, Lessee will yield up peaceably the water rights to Lessor in as good order and condition as when the same were entered upon by Lessee, that Lessee will keep, use and protect the water rights during the terms of the Leases, or any extension renewal thereof.

## **6. LIABILITY OF LESSOR.**

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that Lessor shall not be liable for any damage to persons or property arising from any cause whatsoever, which shall result in any manner from the use of the water rights, and Lessee hereby agrees to indemnify and save harmless Lessor from any and all claims and liability for damage to

persons or property arising from any cause whatsoever, which shall occur in any manner from the use of the water rights.

## **7. REQUIREMENTS OF PUBLIC AUTHORITY.**

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that during the term of this Lease, Lessee shall, at its own cost and expense, promptly observe and comply with all present and future, state laws or rules, and regulations of the SEO affecting the water rights, Lessee hereby agrees and covenants with Lessor that if Lessee fails to comply promptly with any present or future state, laws or rules, and regulations of the SEO or fails to comply by such time that compliance may be required by law, Lessor may, at Lessor's option, take such actions as may be necessary to comply with all present and future state laws or rules, and regulations of the SEO and Lessee hereby agrees and covenants to repay the cost incurred by Lessor in taking such action to Lessor on demand.

## **8. OWNERSHIP OF RETURN FLOW CREDITS.**

Lessee shall be the owner of any return flow credits developed or to be developed in relation to the Leased rights.

## **9. HOLDING OVER.**

Lessee, for and in consideration of this Lease and the demise of the water rights, agrees and covenants with Lessor that no holding over by Lessee after the expiration of this Lease, or any renewal or extension thereof, whether with or without the consent of Lessor, shall operate to extend or renew this Lease, and that any such holding over shall be construed as a tenancy from year to year at the yearly rental which shall have been payable at the time immediately prior to when such holding over shall have commenced, and such tenancy shall be subject to all the terms, conditions, covenants, and agreements of this Lease.

## **10. WAIVERS.**

The parties, for and in consideration of this Lease and the demise of the said premises, agree and covenant with each other that the delay or omission in the enforcement of any of the agreements and covenants herein contained, or in the exercise of any of the rights hereunder, shall not affect the duty of the other to thereafter faithfully fulfill and perform all of the agreements and covenants herein contained, and that the failure, neglect, or omission of Lessor to terminate this Lease for any one or more breaches of any agreements and covenants hereof, shall not be deemed a consent by Lessor of such breach and shall not impede, impair, estop, bar, or prevent Lessor from thereafter terminating this Lease, either for such violation, or for prior or subsequent violations of any covenant or agreement hereof.

**11. ADDRESSES FOR NOTICES.**

Any and all notices required or permitted to be given hereunder shall be considered to have been given if in writing and delivered to the respective party designated below upon the date of such personal delivery, or upon a date three (3) days following the mailing of any such notice by first class mail, addressed to the respective party at the respective address set forth below, or at such other address as either party may furnish the other for this purpose by written notification delivered or mailed to the other as herein provided:

**NOTICES TO LESSOR:**

Alto Lakes Golf and Country Club  
P.O. Box 168,  
Alto, New Mexico, 88312

**NOTICES TO LESSEE:**

Alto Lakes Water and Sanitation District  
P.O. Box 866  
Alto, New Mexico 88312

**12. COVENANT TO EXECUTE ADDITIONAL INSTRUMENTS.**

The parties hereto hereby agree to execute and deliver any instruments in writing necessary to carry out any agreement, covenant, term, condition, or assurance in this Lease whenever an occasion shall arise and request for such instrument shall be made.

**13. SEVERABILITY.**

If any provision of this Lease, or any application thereof, shall be declared invalid or unenforceable by any court of competent jurisdiction, the remainder of this Lease, and any other application of such provision, shall continue in full force and effect.

**14. CAPTIONS.**

The section headings are for convenience of reference only and shall not otherwise affect the meaning hereof.

**15. GOVERNING LAW.**

This Lease shall be governed by and construed in accordance with the laws of the State of New Mexico and shall not take effect until approval by the SEO.

**16. AMENDMENTS.**

It is understood and agreed by and between the parties hereto that this Lease shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto.





This Water Rights Lease has been approved by the Office of the State Engineer.

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

T:\FRC\MISC\3883Y.Water Rights Lease (07)

Alto Lakes Water and Sanitation District  
Five Year Capital Improvement Program

Source & Program	Objective	Source	Purchase 2008	2008-2009 Improve % Tot	2010-2012 Improve % Tot
<b>Community funded improvements</b>					
<b>System Purchase</b>	Convert system to public ownership	NMFA	\$2,700,000		
<b>Water Supply</b>	Improve drought resistance of water supply	NMFA		\$200,000 13%	\$500,000 12%
	Deepen E-5 \$100,000				
	Exploratory to San Andres \$100,000				
	Legal work on well locations and rights	NMFA		\$50,000 3%	
<b>Distribution</b>	Rehabilitate Distribution System	NMFA ALWSD		\$920,000 61% \$200,000 13%	\$2,430,000 59% \$300,000 7%
	Replace mains				
	Rezone				
	Improve storage				
	Upgrade meters for remote reading	NMFA		\$30,000 2%	\$70,000 2%
	Well monitoring - SCADA System Phase II \$100,000	NMFA		\$100,000 7%	
<b>Water Quality</b>	Improve water quality, reduce total water losses (via water softeners) by 20%+-				
	Engineering (if no grant)	RIP			\$150,000 4%
	Construction	ACOE/RIP			\$700,000 17%
	<b>Totals</b>		<b>\$2,700,000</b>	<b>\$1,500,000</b>	<b>\$4,150,000</b>
<b>State/Federal Grant Funding</b>					
<b>Water Quality</b>	Improve water quality, reduce total water losses (via water softeners) by 20%+-				
	Design Engineering/Environmental	Grant		\$150,000	
<b>WW Reuse</b>	Collect and treat wastewater for irrigation use				
	Prel. engineering/environmental	Grant			\$150,000

# Alto Lakes Water and Sanitation District Five Year Capital Improvement Program

## Source of funds

NMFA

NMFA Loans or administered programs. DWRL Fund (2% for 20 years) and SRL Fund (approximately 4.5% for 7-20 years)

RIP

Rural Infrastructure Program loans at 3%

ACOE

Army Corps Of Engineers

Grant

Legislative Capital Outlay, Water Trust Board, Federal, Other agencies

ALWSD

ALWSD cash flow from operations

## Program notes

Water Supply

District will continue to invest in projects intended to improve drought resistance and serve new construction

Distribution

Preliminary Engineering Reviews will provide recommendations for prioritizing distribution system upgrades

Re-zoning to maintain proper and more uniform pressure

Line replacement to provide adequate flows for residential and fire fighting use

Looping of lines to eliminate sitting water during off-season

Additional water storage

Water Quality

Significantly improve water quality and reduce water losses (via water softeners)

High probability of obtaining grant to fund design and engineering for FY beginning July 1, 2008

Construction deferred to allow time for land acquisition, engineering, and brine pond environmental compliance

Investigate turn-key project by Army Corps of Engineers with 25% paid by District

If COE funding not available, fund construction with Rural Infrastructure Program at 3%

WW Reuse

Grant for Preliminary Engineering Review

Meet anticipated NMED groundwater protection mandates

Use the treated wastewater for irrigation. Grant is intended to provide information on design, phasing and costs.