

2011 AMENDED BYLAWS  
OF  
LA UNION MDW & SA

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A Non-Profit Association Formed Under the Sanitary Projects Act.

ARTICLE I  
Names, Objects, Purposes, Principal Place of Business and Boundaries

The corporate name, the objects and purposes, and the principal place of business of the association will be as stated and provided in the Certificate of Incorporation of the association. **The boundaries of this association shall be as indicated on the attached map and shall be part of these bylaws.**

ARTICLE II  
Seal

The Seal of the association will have inscribed in it the name of the association and the words "Non-Profit Association." The secretary of the association shall have custody of the seal.

ARTICLE III  
Fiscal Year

The fiscal year of the association shall begin on the first day of **JULY** of each year.

ARTICLE IV  
Membership

Section 1. Membership Application. Property owners, who have service or have paid for service within the community of La Union, County of, Dona Ana, New Mexico, **being within the established boundaries of the association or within an area reasonably accessible to the system** and who are in need of water for domestic purposes and/or the collection and disposal of sewage, and who are eligible for membership as provided by the Articles of Incorporation, may be admitted to membership upon application, **proof of property ownership, and the payment of a non-refundable membership fee in the amount specified in the Rules and Regulations of the Association.** Provided, however, that membership may be denied if the capacity of the association's system is exhausted by the need of its existing members, and if it is financially impossible for the association to acquire additional facilities to accommodate new members. In the event of a shortage of water, the association will take appropriate measures to provide water to meet the needs of the association.

Section 2. Membership Application Approval. All applications for membership shall be passed by the board of directors. Applications, for or subscriptions to, membership in this association will be in the form approved and provided by the Board of Directors. Membership will not be denied because of the applicant's race, color, creed, national origin or sex.

Section 3. Rights, Privileges and Obligations of Members. The rights, privileges and obligations of all members of this association will be equal, provided that a member's right to delivery of water and/or collection of sewage and the amount thereof will be based upon the number of service connections with the distribution and/or collection system of the association.

Section 4. Voting. Each member will be entitled to one vote only. Voting by proxy and by mail will NOT be permitted.

#### ARTICLE V Meeting of Members

Section 1. Date and Time of Membership Meeting. The meeting of the members of this association will be held biennially in La Union, County of Dona Ana, State of New Mexico, at a time designated by the Board, on the third week in June of every other year. In the event that such meeting cannot be held on this date, the meeting will be rescheduled and held within thirty (30) days of the date specified above.

Section 2. Calling for Special Meetings. Special meetings of the members of the association may be called at any time by the President, or upon resolution of the Board of Directors, upon a written petition to the President of the Board, signed by one (1%) percent of the members. The purpose of every special meeting will be stated in the notice thereof, and no business will be transacted thereat, except such as is specified in the notice.

Section 3. Notice of Meetings. Notice of the biennial, special, and emergency meetings of the members of the association, will be given by a notice posted at various locations determined by the Board or by a notice mailed to each member of record at least ten (10) days prior to the membership meeting; three (3) days prior to a special meeting; one (1) day prior to an emergency meeting. Such a notice will state the nature, time, place and purpose of the meeting.

Section 4. Quorum. At least six (6) members of the total membership of the association will constitute a quorum at any meeting of the association for the transaction of business. If no quorum is determined, another meeting will be held within thirty (30) days. At that meeting the members present will constitute a quorum of the transaction of business. The arrangement for such a meeting will follow Sections 2 and 3 of Article V above of these Bylaws.

Section 5

Meeting Agenda. The order of business at the biennial meetings, and as far as possible, at the other meetings, shall be:

1. Calling to order and proof of the quorum
2. Proof of notice of meeting
3. Reading and action of any approved minutes
4. Reports of officers and committees
5. Election of directors
6. Unfinished business
7. New business
8. Adjournment

**ARTICLE VI**  
**Board of Directors**

Section 1.

Functions of the Board of Directors. A board of five (5) directors will govern the business and affairs of this association. The functions of such board include:

- (1) The selection of, and delegation of authority to, officers necessary for the management of the association's business;
- (2) The determination of policies for guidance of the management of the association;
- (3) The control of expenditures by authorizing budgets;
- (4) The keeping of members fully informed of business of the association;
- (5) The causing of audits to be made from time to time as is necessary or required by the USDA/Rural Utilities Services and/or the Laws of the State of New Mexico;
- (6) The studying of the requirements of members and promoting good membership regulations;
- (7) The prescribing of the form of Membership Certificates;
- (8) The establishing of water and/or sewer charges and the levying of assessments and the enforcement and collection thereof, in accordance with the provisions of these bylaws, equitable uniform rules and regulations and the Laws of the State of New Mexico.

Section 2.

Election and Term of Board Members. The business and affairs of this association shall be conducted and governed by a board of directors, consisting of five (5) members, all of whom shall be members of this association. The members of the board of directors shall be elected **biennially** (every two years) from the membership of the association, for staggered terms of four (4) years each. The purpose of the election every two (2) years is to provide a system of staggered four (4) year terms, so that three (3) directors will be elected in one (1) year and two (2) years later the other two (2) directors shall be elected.

- Section 3. Election of Officers. The board of directors shall meet as soon as possible after the holding of the membership meeting, and in any event within ten (10) days of that time, and will elect a President, Vice-President, and Secretary-Treasurer from among themselves, each of whom shall hold office until the next membership meeting and until the election and qualification of his or her successor unless sooner removed by death, resignation, or for cause.
- Section 4. Compensation of Officers. The members of the board of directors will receive no compensation for their services as directors. **With proper documentation and / or receipts, directors may be reimbursed for per diem/mileage expenses at the state's current rate.** The Secretary – Treasurer shall be paid for his/her services at the rate to be fixed at any regular or special meeting of Board of Directors of the association.
- Section 5. Meetings of the Board of Directors. In addition to the biennial and any special or emergency meeting, the board shall hold meetings at such regular intervals as the board may determine. A majority of the board present at any meeting will constitute a quorum for the conduct of business thereat.
- Section 6. Powers of the Board The board of directors shall have the general power to act for the association in any manner not prohibited by Statute or the Articles of Incorporation. If the association shall, at any time, borrow or receive by way of grant, any property of the United States, through any of its agencies, the board of directors shall pursue such management methods, including accounting and audits, as such agency may prescribe.
- Section 7. Vacancies If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification or otherwise, except by removal from office, a majority of the remaining directors, though less than a quorum shall by a majority vote, choose a successor who shall hold office until the next biennial meeting of the unexpired term or terms, providing that in the call of such regular meeting a notice of such election shall be given.
- Section 8A. Removal of Directors and Officers Any director or officer of the association may be removed from office with cause, by a vote of not less than two-thirds(2/3) of the members of the association present at any biennial meeting, or at any special meeting called for that purpose, provided that a quorum is present. The director or officer shall be informed in writing of the charges against him/her at least ten (10) days before such meeting in person or by counsel, and to present witnesses in his/her behalf. Employees or agents, other than directors and officers, may be removed from office or employment at any time by action of the board of directors.

Section 8.B. Removal of Directors and Officers. Any director or officer, who fails to attend as many as three regularly scheduled monthly meetings in any one year without prior notification and approval of absence by the Board, may be dropped as Board member if such action is approved by a majority of the remaining members of the Board.

The Board will select an interim appointee to serve until the next **biennial** membership meeting at which time the general membership meeting will elect a member to complete the unexpired term of the original Board member.

Section 9. Vacancy of Entire Board/Appointment of Entire Board. In the event of vacancy of the entire Board of Directors or appointment of entire Board of Directors requiring election, the general membership will elect a new Board of Directors as outlined in Article VI: Section 1. And in turn the elected Board of Directors shall elect officers as outlined in Article VI: Section 3.

## ARTICLE VII Duties of Officers

Section 1. Duties of the President The President shall preside over all meetings of the association and board of directors, shall call special meetings of the board of directors and perform all acts and duties usually performed by an executive and presiding officer. He/ she shall sign all membership certificates, notes, bonds, mortgages, contracts, and other instruments on behalf of the association. He/she shall be an ex-officio member of all standing committees and shall have such powers and shall perform such other duties as may be properly required of him or her by the board of directors.

Section 2. Duties of the Vice- President The Vice-President, in the absence or disability of the President, shall perform the duties of the President. However, in case of death, resignation or disability of the President, the board of directors may declare the office vacant and elect his or successor, to fill the unexpired portion of the president's term.

Section 3. Duties of the Secretary and Treasurer The Secretary and/or Treasurer shall:

- (1) keep a complete record of all meetings of the association and of the board of directors;
- (2) have general charge and supervision of the books and records of the association;
- (3) attest the President's signature on all membership certificates and other papers pertaining to the association unless otherwise directed by the Board of Directors;
- (4) serve, mail, or deliver all notices required by law and by these bylaws;
- (5) make a full report of all matters and business pertaining to his or her office to the members at the annual meeting, or at such other time or times as the Board of Directors may require;

- (6) keep the corporate seal and membership certificate records of the association complete and attest all certificates issued and affix said association seal to all papers requiring seal;
- (7) keep a proper membership certificate record, showing the name of each member of the association and date of issuance, surrender, transfer, termination, cancellation or forfeiture
- (8) make all reports required by law and shall perform such other duties as may be required of him or her by the association or the board of directors;
- (9) collect all assessments and monies due the association and deposit same in the depository designated by the board of directors; and,
- (10) shall disburse funds on the proper order of the Board of Directors and shall make a report on the business transacted by him or her as requested.

Upon the election of his or her successor, the Secretary-Treasurer shall turn over to him or her all books and other property belonging to the association that he or she may have in his or her possession.

The Secretary-Treasurer shall be covered in the performance of his or her duties by a surety bond in an amount to be determined by the Board of Directors. The premium for such bond shall be paid by the association.

#### Section 4.

Other Employees or Agents. The board of directors shall appoint, in addition to the officers named above, a foreman and other agent or employees which may be necessary to superintend the water and/or sewer system of the association and its construction, maintenance and repair. Such agents or employees may be authorized by the Board of Directors under its direction and pursuant to its rules and regulations to provide for the delivery of water and/or sewer service to the members of the association. Such agents or employees shall be paid a compensation for the performance of their duties in an amount to be determined by the Board of Directors.

### ARTICLE VIII

#### Water and/or Sewer Charges, Assessments, and Distribution of Services

#### Section 1.

Providing Water Services. Water will not be delivered and/or sewer collected by the systems of the association, except to users who are members of the association. If any member needs and desires service connections with the system in excess of one, such excess connections will be made only upon application to, and approval of, the board of directors and upon payment of **a fee specified in the association's Rules and Regulations.** Only one water/sewer service and meter shall be permitted per residence and/or per dwelling and/or per commercial unit.

#### Section 2.

Establishing Rates and Budget. The board of directors shall establish a rate schedule to be charged the members for services provided by the association. The rate schedule currently in effect will apply to each service connection. Annually the Board of Directors shall review the established rate schedule of charges to assure that sufficient income shall be generated for the coming year to cover anticipated expenses. This determination shall be based on the previous year's actual expenses and the estimated

budget for the coming year. The board of directors may, but need not establish different rate schedules for commercial use and residential use.

Section 3. Establishing Reserve Funds. Although this association is a non-profit cooperative association for the mutual benefit of its members, the board shall establish rates at a level which provides for no less than ten (10%) percent of annual operating expenses to be placed in a fund to be used for the purpose of meeting contingent and unforeseen expenses of the association. The Board of Directors shall determine the total amount of such contingent fund and at which amount it shall be maintained.

Section 4. Assessments. If at any time prior to the end of any fiscal year, it appears in the judgment of the board of directors that the amount derived, or which shall be derived, from the collection of water and/or sewer charges during any fiscal year shall be insufficient to pay, when due, all costs incident to the operation of the association's system(s) and the payment of all debts of the association, the Board shall make and levy an assessment against each member of the association so that the total amount reasonably expected to be collected from water and/or sewer charges fully pay, when due, all cost of operation, maintenance, replacement and repayments on indebtedness, or other expenses of the year's operation.

Section 5. Terminating the Supply of Water/Water Service. The Board of Directors shall have the authority to terminate the supply of water and/or sewer service to a delinquent member, **in accordance with the Rules and Regulations of the Association**, thirty (30) days after written notice of the delinquency or violation has been sent to the member by mail and/or by posting on premises.

Section 6. Terminating Membership. The Board of Directors shall have the additional rights to terminate the membership of any member in the event of non-payment of any water and/or sewer charges or assessments owing by such member or for violating the Association's bylaws, rules and regulations or policies. The Board shall act thirty (30) days after written notice of the delinquency or violation has been sent to the member by mail and/or by posting on premises.

## ARTICLE IX

### Other

Section 1. Form of Certificate. The Board of Directors will determine the form of membership certificate and the same shall be signed by the President and his or her signature attested by the Secretary-Treasurer, who shall impress thereon the Corporate Seal of the association, provided that the form of certificate, in addition to any other matters required by the board of directors to appear therein, shall contain the statements as required by the Laws of the State of New Mexico.

Section 2. Membership Book. As part of the records of the association, there shall be kept a Membership Book, which will contain a list of the certificates of membership which have been issued, noting the number of the certificate, the date thereof, the number of service connections, and the name and address of the person to whom issued.

Section 3. Transfer of Membership. Certificates of membership may be transferred to another Property owner but not another property (See Section 4 below), provided that any required transfer fee has been paid to the Association and that the transferee shall be eligible for membership and shall be approved by the Board of Directors. The transfer shall be noted on the books of the association.

Section 4. Transfer of Meter. All the meters are the property of the Association and are permanently fixed at their respective service locations. Therefore, no meter is transferable from the property that it is intended to serve to any other location. Thus, in the event of the sale, transfer, assignment, lease or conveyance of the subject property by the owner of record, all of the rights to service from the meter that serves the subject property shall automatically be included in the sale, transfer, assignment, lease or conveyance of that property. This also applies to all duly authorized service connections that have inoperable meters or where no meters exist. In the event that a dwelling or place of service is permanently discontinued or eliminated by the owner of record, the Association may, in its sole discretion, elect to either remove the meter or leave the meter to provide service for possible future users.

**ARTICLE X**  
**Amendments**

These bylaws may be repealed or amended by a vote of the majority of members present at any biennial meeting of the association, or at any special meeting of the association called for that purpose, except that so long as any indebtedness is held by or guaranteed by the USDA/Rural Utilities Services, the members shall not have the power to change the purpose of the association so as to decrease its rights and powers under the laws of the state, or to waive any requirement of bond or other provision for the safety and security of the property and funds of the association or its members, or so to amend the bylaws as to effect a fundamental change in the policies of the corporation without the prior approval of the USDA/Rural Utilities Services in writing.

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I, Evangelina G. Martinez, Secretary of the **La Union Mutual Domestic Water & Sewer Association**, an association existing under the laws of the State of New Mexico, hereby certify that the above is a true and correct copy of the bylaws, together with all amendments thereto, as this 12<sup>th</sup> day of March 10, 2011, which were duly adopted on November 2011.

Jose Villalobos  
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President

(Seal)

Evangelina G. Martinez  
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Secretary