



QUAY COUNTY GOVERNMENT
300 South Third Street
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AGENDA
REGULAR SESSION
QUAY COUNTY BOARD OF COMMISSIONERS
July 24, 2017

9:00 A.M. Call Meeting to Order

Pledge of Allegiance

Approval of Minutes-Regular Session July 10, 2017

Approval/Amendment of Agenda

Public Comment

Ongoing Business

New Business

I. Angie Coburn, Presbyterian Medical Services, Central Region Director

- Presentation of **Monthly RPHCA Reports**
- Discussion of the **Home Visiting Program**

II. Alan Hall, Attorney

- **Update Caprock Solar Project**
- Request Approval of **FY 2017-2018 Resolution No. 8 – Amending IRB for Caprock Solar Project**

III. Curtis Simpson, Emergency Management Coordinator

- **Emergency Management Operations Plan Update**

IV. Bryan Rinstine, Quay County DWI Coordinator Administrator

- Presentation of **FY 2016-2017 4th Quarter Statistics Report**
- Presentation of **FY2016-2017 Annual Statistics Report**
- Presentation of **FY 2016-2017 4th Quarter Financial Report**



DOC #CM-00421

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Fee (No FieldTag Finance Total Fees found)

Quay County, NM

Pages 79

Ellen White - County Clerk, County Cle



- V. Larry Moore, Quay County Road Superintendent**
- Request Approval of **FY2017-2018 Resolution No. 1 – Participation in Local Government Road Fund Program CAP-4-18(456)**
 - Request Approval of **FY2017-2018 Resolution No. 2 – Participation in Local Government Road Fund Program SP-4-18(906)**
 - Request Approval of **FY2017-2018 Resolution No. 3 – Participation in Local Government Road Fund Program SB-7731(957)18**
 - Request Approval of **FY2017-2018 Resolution No. 4 – Match Waiver Request in the amount of \$59,027.00**
 - Request Approval of **FY2017-2018 Resolution No. 5 – Match Waiver Request in the amount of \$ 29,053.00**
 - **Road Update**
- VI. Richard Primrose, Quay County Manager**
- Request Approval of **FY 2017-2018 Resolution No. 6 – Final Quarter Financial Report**
 - Request Approval of **FY 2017-2018 Resolution No. 7 – Budget Adoption**
 - **Correspondence**
- VII. Indigent Claims Board**
- **Call Meeting to Order**
 - **Request Approval of Indigent Minutes for the June 30, 2017 Meeting**
 - **Review July Claims Prepared by Sheryl Chambers**
 - **Adjourn**
- VIII. Request Approval of Accounts Payable**
- IX. Request for Closed Executive Session**
- Pursuant to Section 10-15-1(H) 7. The New Mexico Open Meetings Act Pertaining to Threatened or Pending Litigation
- X. Other Quay County Business That May Arise During the Commission Meeting and/or Comments from the Commissioners**

Adjourn

Lunch-Time and Location to be Announced.

REGULAR SESSION-BOARD OF QUAY COUNTY COMMISSIONERS

July 24, 2017

9:00 A.M.

BE IT REMEMBERED THE HONORABLE BOARD OF QUAY COUNTY COMMISSIONERS met in regular session the 24th day of July, 2017 at 9:00 a.m. in the Quay County Commission Chambers, Tucumcari, New Mexico, for the purpose of taking care of any business that may come before them.

PRESENT & PRESIDING:

Franklin McCasland, Chairman
Mike Cherry, Member
Sue Dowell, Member
Ellen L. White, County Clerk
Richard Primrose, County Manager

OTHERS PRESENT:

Daniel Zamora, Quay County Rural Addressing
Alan Hall, Attorney regarding Caprock Solar Project
Gail Houser, Tucumcari MainStreet Director
Curtis Simpson, Emergency Management Coordinator
Bryan Rinestine, Quay County DWI Coordinator
Angie Coburn, Presbyterian Medical Services Region Director
Cheryl Simpson, Quay County Manager's Office
Larry Moore, Quay County Road Superintendent
Vic Baum, Quay County Assessor
Thomas Garcia, Quay County Sun

Chairman Franklin McCasland called the meeting to order. Gail Houser led the Pledge of Allegiance.

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the minutes from the July 10, 2017 regular session as printed. MOTION carried with Cherry voting "aye", McCasland voting "aye", and Dowell "aye".

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the Agenda as presented. MOTION carried with Cherry voting "aye", Dowell voting "aye" and McCasland voting "aye".

PUBLIC COMMENTS: NONE

ONGOING BUSINESS: NONE

NEW BUSINESS:

Angie Coburn, Presbyterian Medical Services Regional Director presented the monthly RPHCA Report for July and gave the following clinic update:

1. Coburn stated the search for a facility administrator is ongoing. Three candidates have submitted applications.
2. The Home Visiting Program's budget has been cut in half due to the lack of State/Federal funding. The program employed two people and they expected to lay someone off to make the budget. However, one person left voluntarily to another city. Coburn is looking into the possibility of housing this program at the Clinic to cut the costs of rental fees.
3. Coburn reported that with the budget cuts, the program will be cutting services to about half of the families they served last year.

Commissioner Dowell asked if the Clinic had any positions open. Coburn said they have a "temp-on-call medical assistant" opening.

Commissioner Cherry asked of the families that will lose services, how many reside in Quay County. Coburn said the program in Curry County was dissolved leaving all services in Quay County intact at 28 families.

Chairman McCasland thanked Coburn for the reports and stated he believes moving the Home Visiting Program to the Clinic is a great solution.

Alan Hall, Attorney representing Quay County regarding the IRB's for the Caprock Solar Project requested approval of Resolution No. 8; Amending IRB for Caprock Solar Project. Hall explained this Resolution is necessary to address financial lending changes. It was noted that additional documents will require the Chairman's signature later this month and will be attached to these minutes. (First Amendment to Sublease Agreement; First Amendment to IRB Lease Agreement; Consent and Agreement) A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve Resolution No. 8 and authorize Chairman McCasland to execute the remaining documents at the appropriate time. MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting "aye". Copies of documents are attached and made a part of these minutes.

Curtis Simpson, Emergency Management Coordinator gave an annual report. Simpson covered the reimbursement from the State for the 2015 winter storm, updates on several County plans and upcoming events. Simpson's report is attached and made a part of these minutes.

Commissioner Dowell asked if Simpson coordinated training events and assisted with emergencies regarding local schools. Simpson replied that he was in constant contact with the schools, hospital and college.

Chairman McCasland inquired about grant funding for local programs. Simpson said he did not meet the deadlines last year for grant opportunities because of a lack of information, but intended to apply this year. Simpson stated items that would be addressed for grant purposes would be the Palomas Repeater and a mass notification system for emergencies.

Bryan Rinestine, Quay County DWI Coordinator presented the 4th Quarter DWI Statistics and the 2017 Annual Data Statistics. Both reports are attached and made a part of these minutes. Also included with Rinestine's presentation was the FY 2017 Distribution Financial Summary.

Chairman McCasland requested a ten minute break. Time noted 10:00 a.m.

Return to regular session. Time noted 10:10 a.m.

Larry Moore, Quay County Road Superintendent requested approval of the following items:

1. Request Approval of FY2017-2018 Resolution No. 1 – Participation in Local Government Road Fund Program CAP-4-18(456), and supporting Agreement.
2. Request Approval of FY2017-2018 Resolution No. 2 – Participation in Local Government Road Fund Program SP-4-18(906), and supporting Agreement.
3. Request Approval of FY2017-2018 Resolution No. 3 – Participation in Local Government Road Fund Program SB-7731(957)18, and supporting Agreement.

A MOTION was made by Mike Cherry SECONDED by Sue Dowell to approve Resolutions No. 1, 2, and 3 with the Agreements as presented. MOTION carried with Cherry voting “aye”, Dowell voting “aye” and McCasland voting “aye”. Copies of said Resolutions are attached and made a part of these minutes.

4. Request Approval of FY2017-2018 Resolution No. 4 – Match Waiver Request in the amount of \$59,027.00.
5. Request Approval of FY2017-2018 Resolution No. 5 – Match Waiver Request in the amount of \$ 29,053.00.

A MOTION was made by Mike Cherry SECONDED by Sue Dowell to approve Resolutions No. 4 and 5 as presented. MOTION carried with Cherry voting “aye”, Dowell voting “aye” and McCasland voting “aye”. Copies of said Resolutions are attached and made a part of these minutes.

Moore gave the following roads update:

1. The close-out process for the 2016-2017 Coop projects has been submitted to the State.
2. The CAP project in House on Quay Road BH is underway.
3. The close-out for Lot 1 of Quay Road 63 is being prepared by the Engineer.
4. The RPO meeting will be held in Santa Rosa on July 26.

Richard Primrose, Quay County Manager presented the following items for approval:

1. Request Approval of FY 2017-2018 Resolution No. 6 – Final Quarter Financial Report

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve Resolution No. 6 as presented. MOTION carried with Dowell voting “aye”, Cherry voting “aye” and McCasland voting “aye”. A copy is attached to these minutes.

2. Request Approval of FY 2017-2018 Resolution No. 7 – Budget Adoption

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve Resolution No. 7 as presented. MOTION carried with Dowell voting “aye”, Cherry voting “aye” and McCasland voting “aye”. A copy is attached to these minutes.

Primrose distributed the following correspondence:

1. July 2017 monthly GRT Report.
2. Informed those in attendance of the dedication of the Vic Breen Memorial at the District Attorney's Office scheduled for Friday, July 28 from 11:00 a.m. to 1:00 p.m.

3. Reported the Department of Health is hosting immunization shots and recognizing World Breast Feeding Week.

Chairman McCasland called the Indigent Claims Board portion of the meeting to order. Time noted 10:30 a.m.

-----INDIGENT CLAIMS-----

Return to regular session. Time noted 10:35 a.m.

ACCOUNTS PAYABLE: A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the expenditures included in the Accounts Payable Report ending July 20, 2017. MOTION carried with Dowell voting "aye", Cherry voting "aye" and McCasland voting "aye".

A MOTION was made by Mike Cherry SECONDED by Sue Dowell to go into Executive Session pursuant to the Open Meetings Act pursuant to Section 10-15-1(H)7 to discuss Threatened or Pending Litigation MOTION carried with Cherry voting "aye", McCasland voting "aye" and Dowell voting "aye".

Time noted 10:45 a.m.

-----EXECUTIVE SESSION-----

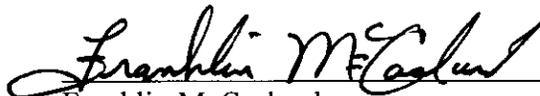
Return to regular session. Time noted 11:45 a.m.

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry that only the items listed above were discussed during Executive Session and no action was taken. MOTION carried with Cherry voting "aye", Dowell voting "aye" and McCasland voting "aye".

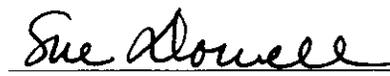
There being no further business, a MOTION was made by Mike Cherry, SECONDED by Sue Dowell to adjourn. MOTION carried with Cherry voting "aye", McCasland voting "aye" and Dowell voting "aye". Time noted 11:50 a.m.

Respectfully submitted by Ellen White, County Clerk.

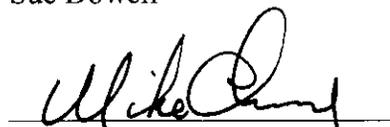
BOARD OF QUAY COUNTY COMMISSIONERS



Franklin McCasland

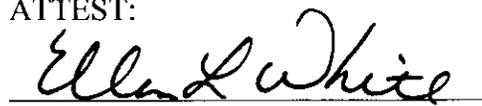


Sue Dowell



Mike Cherry

ATTEST:



Ellen L. White, County Clerk



QUAY COUNTY
2017-2018
RESOLUTION NO. 8

A RESOLUTION RELATING TO THE PERMANENT FINANCING OF THE \$55,000,000 QUAY COUNTY, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (CAPROCK SOLAR 1 LLC PROJECT) SERIES 2016A; APPROVING AMENDMENTS TO THE INDUSTRIAL REVENUE BOND LEASE AND A RELATED SUBLEASE IN CONNECTION WITH THE FINANCING; APPROVING A SUBORDINATION OF CERTAIN BONDHOLDER RIGHTS TO THE FINANCING PARTIES AND AGREEING TO CERTAIN NOTICE AND OTHER PROCEDURAL PROVISIONS FOR THE BENEFIT OF THE FINANCING PARTIES.

WHEREAS, on November 23, 2015, the Commission (the "Commission") of Quay County, New Mexico (the "County") adopted Ordinance No. 50 (the "Ordinance"), authorizing the issuance of two series of industrial revenue bonds, pursuant to the County Industrial Revenue Bond Act, Ch. 4., Art. 59 NMSA 1978 (the "Act"), to finance the development of two solar electric generation projects within the County for the benefit of Caprock Solar 1 LLC, a Delaware limited liability company (the "Company"); and

WHEREAS, on April 25, 2016, the County issued its \$55,000,000 aggregate principal amount Taxable Industrial Revenue Bonds (Caprock Solar 1 LLC Project), Series 2016A (the "2016A Bonds") in connection with the development of the first such solar electric generation project (the "2016A Project"); and

WHEREAS, the 2016A Project was located on a property (the "Original Project Site") leased from the fee owners under a certain ground lease (the "Primary Lease"); and

WHEREAS, simultaneously with the issuance of the 2016A Bonds, the County entered into (i) a certain Sublease (the "Sublease"), under which the Company subleased the Original Project Site to the County, (ii) a certain Lease (the "IRB Lease") under which the County leased back to the Company the Original Project Site and the Project improvements and equipment to be located thereon, and (iii) an Indenture (the "Indenture") between the County and the purchaser of the Bond, Caprock Solar Holdings 1, LLC, a Delaware limited liability company (the "Purchaser"), under which the County conveyed to the Purchaser certain of the County's rights under the IRB Lease in order to secure the payment of the 2016A Bonds; and

WHEREAS, the 2016A Project has been constructed and is currently in operation; and

WHEREAS, the Company anticipates locating the second solar electric generation project (the "2016B Project", and together with the 2016A Project, the "Projects") on the

Original Project Site adjacent to the 2016A Project, and the Company had expected to secure a single credit facility as permanent financing for both of the Projects; and

WHEREAS, the Company has now determined to finance the two Projects separately; and

WHEREAS, the lenders for the 2016A Project require, as a condition for extending credit, that the 2016A Project be located on a leasehold that is separate from the 2016B Project, and in order to meet this requirement, the Company has proposed to amend the Primary Lease, the Sublease and the IRB Lease to reduce the Original Project Site to the portion of the property on which the 2016A Project is located (the "2016A Project Site"), with the remainder of the Original Project Site being reserved for future use by the 2016B Project under separate leases; and

WHEREAS, in connection with the permanent financing of the 2016A Project, the Company has requested the County's approval of (i) a First Amendment to Sublease Agreement (the "Sublease Amendment"), revising the Original Project Site to correspond to the 2016A Project Site, (ii) a First Amendment to IRB Lease Agreement (the "IRB Lease Amendment"), making the same change to the IRB Lease leasehold, and (iii) a Consent and Agreement (the "Consent", and together with the Sublease Amendment and the IRB Lease Amendment, the "Amendments") between the Company, the County, the Purchaser and the collateral agent for the lenders for the 2016A Project (the "Lenders"), under which certain rights of the Company and the Purchaser under the IRB Lease and the Indenture are subordinated to the interests of the Lenders, and the Lenders are provided notification and other procedural assurances; and

WHEREAS, forms of the Amendments have been presented to the Commissioners for their review; and

WHEREAS, the Commission has determined (i) that the Amendments are consistent with the provisions of Ordinance No. 50 and the Act, (ii) that the Amendments will not impair the rights of the County or the Tucumcari School District under the IRB Lease and other IRB documents, and (iii) that the Amendments will facilitate the legitimate business interests of the Company and the Lenders, and will encourage the development of the 2016B Project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, THE GOVERNING BODY OF THE COUNTY OF QUAY, NEW MEXICO:

Section 1. All actions (not inconsistent with the provisions hereof) heretofore taken by the Commission and the officers and employees of the County, related to the Amendments, be, and the same hereby are, ratified, approved and confirmed.

Section 2. The Amendments are approved in the forms that have been provided to the Commission, subject to completion of the legal description of the 2016A Project Site and such other changes, not inconsistent with the intent of this Resolution, as may be approved by the Commission Chair. The Commission Chair is authorized to sign and deliver the Amendments.

Section 3. The County Commissioners and other appropriate County officials and employees are hereby authorized and empowered to take such steps and to do such things as may be necessary to achieve the purposes of this Resolution.

Section 4. This Resolution shall not give rise to a pecuniary liability of the County and shall not give rise to a charge against its general credit or taxing powers.

Section 5. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 6. All orders and resolutions, or parts thereof, in conflict with this Resolution are hereby repealed; provided, however, this repealer shall not be construed to revive any order, resolution or part thereof, heretofore repealed.

Section 7. This Resolution shall take effect immediately upon its adoption and approval by the Commission.

PASSED, ADOPTED, SIGNED AND APPROVED this 24th day of July, 2017.

BOARD OF COUNTY COMMISSIONERS
QUAY COUNTY, NEW MEXICO


Franklin McCasland, Chairman

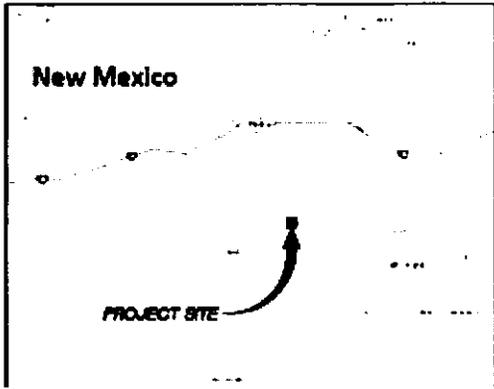

Sue Dowell, Commissioner


Mike Cherry, Commissioner

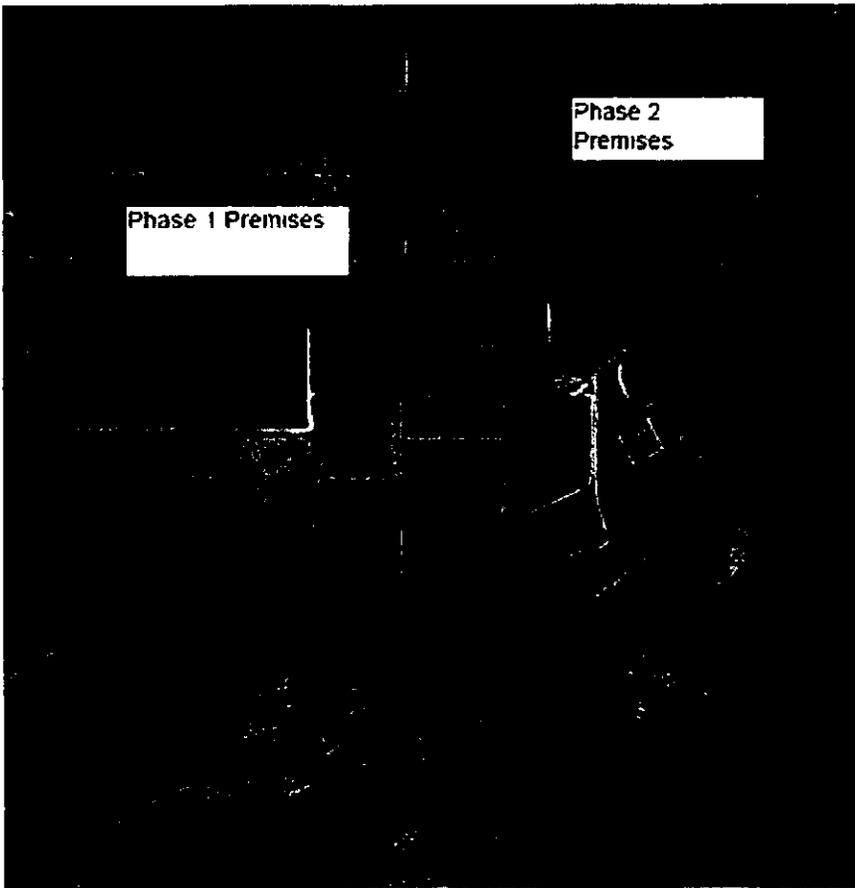


ATTEST:


Ellen L. White, County Clerk



VICINITY MAP



Yours,
Matt

Matt Kim-Miller
Holland & Hart LLP
Mail: P.O. Box 68
Overnight: 25 South Willow St., Suite 200
Jackson, Wyoming 83001
Phone: (307) 734-4504
Fax: (866) 928-0986
mwkimmiller@hollandhart.com

CONSENT AND AGREEMENT

This **CONSENT AND AGREEMENT**, dated as of August __, 2017 (as amended, supplemented or otherwise modified from time to time, this "**Consent**") is entered into by **CAPROCK SOLAR 1 LLC**, a Delaware limited liability company (the "**Company**"), **CAPROCK SOLAR HOLDINGS 1 LLC**, a Delaware limited liability company (the "**Purchaser**") and **QUAY COUNTY, NEW MEXICO**, a political subdivision of the State of New Mexico (the "**Issuer**"), for the benefit of **WILMINGTON TRUST, NATIONAL ASSOCIATION**, in its capacity as the collateral agent (together with its successors in such capacity, the "**Collateral Agent**") for the Secured Parties (as defined below).

RECITALS

WHEREAS, in connection with the development of the solar photovoltaic generating facility in Quay County, New Mexico, the Issuer issued the Bond in respect of the Project;

WHEREAS, pursuant to that certain Bond Purchase Agreement, dated as of April 1, 2016, by and among the Company, the Issuer and the Purchaser, the Purchaser agreed to purchase the Bond by making advances to fund acquisition, development and construction of the Project;

WHEREAS, the Issuer and the Company entered into (i) that certain Bill of Sale, pursuant to which the Company sold all of its right title and interest to the Project Property to the Issuer, and (ii) that certain Lease Agreement, dated as of April 25, 2016 (as amended, the "**IRB Lease**") pursuant to which the Issuer leased the Project Property to the Company and the Company agreed to make rental payments in amounts sufficient to pay the principal of, interest on and redemption price of the Bond;

WHEREAS, the Issuer, the Company, the Purchaser and BOFK, N.A., as the depository, entered into that certain Indenture, dated as of April 1, 2016 (the "**Indenture**"), pursuant to which the Issuer granted the Purchaser a security interest in the IRB Lease, including rent and the Project Property;

WHEREAS, High Noon Solar, LLC ("**High Noon**") directly owns 100% of all issued and outstanding membership interests in the Company and the Company directly owns 100% of all issued and outstanding membership interests in the Purchaser;

WHEREAS, High Noon, the Company, the Purchaser, certain other guarantors party thereto (the "**Project Owners**"), the Collateral Agent, the note purchasers party thereto (the "**Note Purchasers**"), and certain other parties thereto have entered into that certain Note Purchase Agreement, dated as of August __, 2017 (as amended, amended and restated, supplemented, or otherwise modified from time to time, the "**Note Purchase Agreement**"), pursuant to which the Note Purchasers will purchase senior secured notes of High Noon (the "**Notes**");

WHEREAS, High Noon, the Company, the Purchaser, certain other guarantors party thereto, certain letter of credit lenders party thereto (the "**LC Lenders**"), certain issuing banks party thereto (the "**Issuing Banks**") and Citibank, N.A., in its capacity as administrative agent,

have entered into a Credit Agreement, dated as of August __, 2017 (as amended, amended and restated, supplemented, or otherwise modified from time to time, the “**Credit Agreement**”), pursuant to which the Issuing Banks will issue for the benefit of High Noon, the Company, the Purchaser and the Project Owners certain letters of credit, and the LC Lenders will make other extensions of credit to High Noon;

WHEREAS, the Company and the Purchaser will receive substantial direct or indirect benefits from the transactions contemplated by the Note Purchase Agreement and the Credit Agreement;

WHEREAS, the Company, the Purchaser and the Project Owners have guaranteed all of High Noon’s obligations to the Note Purchasers under the Note Purchase Agreement and all of High Noon’s obligations to the LC Lenders and Issuing Banks under the Credit Agreement;

WHEREAS, in consideration of the extensions of credit and other financial accommodations made by the Note Purchasers as set forth in the Note Purchase Agreement, and by the LC Lenders and Issuing Banks as set forth in the Credit Agreement, and as security for the Company’s, the Purchaser’s, and the Project Owners’ guarantee obligations in respect of the Note Purchase Agreement and the Credit Agreement, the Company and the Purchaser have entered into that certain Security Agreement, dated as of August __, 2017 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Security Agreement**” and, together with the Note Purchase Agreement, the Credit Agreement and other related financing documents, the “**Financing Documents**”), among High Noon, the Company, the Purchaser, the Project Owners, the Collateral Agent and the other parties thereto, for the benefit of the Note Purchasers, the LC Lenders, the Issuing Banks and certain other secured parties referred to therein (collectively, the “**Secured Parties**”), pursuant to which the each of the Company and the Purchaser guaranteed the obligations of High Noon under the Note Purchase Agreement and the Credit Agreement and assigned, as collateral security, all of their right, title and interest in, to and under, and granted a first priority security interest in the IRB Documents; and

WHEREAS, it is a condition precedent to the obligations of the Secured Parties to make loans, purchase the Notes, issue letters of credit and extend certain other credit to High Noon that the Issuer shall have executed and delivered this Consent.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

ARTICLE 1. DEFINED TERMS

1.1 DEFINITIONS.

Unless otherwise defined herein, capitalized terms used but not defined herein shall have the meanings set forth for such terms in the IRB Lease. The following terms when used herein, shall have the following meanings:

“Bond” means that certain \$55,000,000 Quay County, New Mexico Taxable Industrial Revenue Bonds (Caprock Solar 1 LLC Project) Series 2016A, No. R-1, issued on April 25, 2016 by the Issuer.

“First Lender Prime Lease Mortgage” means a Mortgage or Deed of Trust, Assignment of Leases and Rents and Revenues, Financing Statement, Security Agreement and Fixture Filing, or other similar agreement, that creates a first mortgage lien in favor of the Lender that provides construction or other financing for the Project on (i) the Company’s tenant interest under the Prime Lease, as to which the Issuer’s interest is a sublease and to which the Issuer’s interest in the Project Site is subject, and (ii) any interest that the Company acquires in the Project Property.

“IRB Documents” means the Bond Purchase Agreement, the Indenture, the IRB Lease, the Sublease Agreement, and any other document related to the Bond.

“IRB Leasehold Mortgage” means a Mortgage or Deed of Trust, Assignment of Leases and Rents and Revenues, Financing Statement, Security Agreement and Fixture Filing, or other similar agreement, made by the Company for the benefit of the Lender or Lenders and creating among other things, a lien on the Company’s leasehold estate under the IRB Lease.

“Loan Agreement” means collectively, the Financing Agreement, Credit Agreement, Equity Capital Contribution Agreement or other similar agreements dated on or about the date hereof, as from time to time amended, modified, or supplemented, among the Lender (or Lenders) and the Company, as borrower, and any other parties to such agreements, which agreements provide for the financing of the Project.

“Lender” or **“Lenders”** means any and all persons or successors in interest thereof who (a) extend credit (including without limitation any financing lease, monetization of tax benefits, backleverage financing or credit derivative arrangement) to the Company or to an affiliate of the Company (i) for the construction, permanent or interim financing or refinancing of the Project, (ii) for working capital or other ordinary business requirements of the Project (including without limitation the maintenance, repair, replacement or improvement of the Project), (iii) for any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Project, (iv) for any capital improvement or replacement related to the Project, or (v) for the purchase of the Project and related right from the Company, and/or (b) participate (directly or indirectly) as an equity investor in the Project primarily in connection with the utilization of applicable federal tax credits (or grant in lieu thereof) or tax depreciation benefits associated with holding an ownership interest in the Project, or (c) participate as a lessor (including without limitation as equity participant owning the beneficial interest of lessor) under a lease finance arrangement relating to the Project (which such person or persons shall not include the Company or any of its affiliates).

“Prime Lease” means that certain Solar Energy Ground Lease and Easement Agreement dated August 4, 2015 between Robert E. Abercrombie and Billie D. Abercrombie, as landlord, and the Company, as tenant, as amended.

“Project Property” means the property described and defined in the IRB Lease, which includes the real property defined on Exhibit A attached hereto.

“Sublease Agreement” means that certain Sublease, dated as of April 25, 2016, between the Company and the Issuer, as amended.

ARTICLE 2. CONSENT AND ACKNOWLEDGMENT, ETC.

2.1 CONSENT AND ACKNOWLEDGMENT; LENDER MORTGAGES.

2.1.1 Subject to (i) the rights of the Issuer and the School District in the IRB Lease, including without limitation the rights provided in Sections 4.4, 4.5, 4.6, 4.7, 4.8, 4.12, 4.13, 4.14, 4.15, 4.16, 5.3(b), 6.3, 6.4, 6.5, 6.6, 6.7, 8.3(a) and 8.5, and Article X, and (ii) the obligation of the Company to purchase the Project Property pursuant to Article X of the IRB Lease, the Company and the Issuer agree that so long as the First Lender Prime Lease Mortgage and/or the IRB Leasehold Mortgage are not discharged or reconveyed, or until written notice of discharge and reconveyance is given by the Company to the Issuer, the following provisions will apply:

1. Upon the Company’s or the Lender or Lenders’ request, the Issuer agrees to waive for the benefit of the Lender or Lenders any landlord’s lien that arises by virtue of the agreements of the Company under the IRB Lease or pursuant to NMSA 1978, Section 48-3-5 or similar or successor statutes, and enter into a commercially standard access agreement as to collateral on which the Lender or Lenders have a lien to the extent the collateral secures the obligations of the Company under the Loan Agreement.

2. The Issuer and the Company expressly acknowledge the priority of the lien of each Lender or the Lenders on the Prime Lease under the First Lender Prime Lease Mortgage. The Issuer and the Company expressly acknowledge and consent to the following: pursuant to the IRB Leasehold Mortgage, the Purchaser and the Company have granted liens on the Purchaser’s and Company’s interest in the Project Property, the IRB Lease, the Indenture, and the Bond, including, but not limited to, all rights of the Issuer under the IRB Lease and Indenture that have been assigned to the Purchaser pursuant to the IRB Lease and Indenture, including, but not limited to the security interests granted to the Purchaser created under the Indenture as set forth in Section 301 of the Indenture, and the purchase right of the Company pursuant to Article X of the Lease to purchase the Project Property upon the expiration or sooner termination of the IRB Lease. The Issuer consents to the Lender or Lenders foreclosing upon such liens. The Issuer does not require the delivery of a securities exemption opinion or representations from the Lender or Lenders for the granting of a lien in the Bond, but any foreclosure by the Lender or Lenders on the Purchaser’s interest in the Bond must meet the securities laws exemption requirements set forth in the Bond and Section 404 of the Indenture.

3. No termination, cancellation, surrender, amendment modification or supplement of the IRB Lease or the Sublease Agreement by the Company, nor the waiver

by the Company of any of the provisions of the IRB Lease or the Sublease Agreement nor the giving by the Company of any consent, will be effective as to the Lender or Lenders unless consented to in writing by the Lender or Lenders.

4. The Issuer, upon providing the Company any notice of (i) default under the IRB Lease or the Sublease Agreement or (ii) a matter on which the Issuer may predicate or claim a default, will at the same time provide a copy of such notice to the Lender or Lenders. The Issuer will have no liability for the failure to give any such notice, except that no such notice by the Issuer to Company will be deemed to have been duly given to the Lender or Lenders unless and until a copy thereof has been so provided to the Lender or Lenders. The Company will provide the Lender or Lenders with copies of all notices delivered to the Issuer under the IRB Lease, the Sublease Agreement and the Indenture.

5. So long as the IRB Leasehold Mortgage and the IRB Lease are in existence, unless the Lender or Lenders otherwise expressly consent in writing, title to the Project held by the Issuer and the leasehold estate of the Company created by the IRB Lease will not merge but will remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by the Issuer or by the Company or by a third party, by purchase or otherwise.

6. Notices from the Issuer to the Lender or Lenders will be mailed to the address furnished the Issuer and those from the Lender or Lenders to the Issuer will be mailed to the address designated pursuant to the provisions of the IRB Lease. Such notices, demands and requests will be given in the manner described in the IRB Lease.

7. The Issuer acknowledges that, in the event of damage to the Improvements on the Project due to casualty or condemnation, the casualty insurance proceeds or condemnation proceeds, as the case may be, will be applied, pursuant to Section 4.11 of the IRB Lease, at the election of the Company and that the Company has agreed that casualty insurance proceeds or condemnation proceeds, as the case may be will be applied in accordance with the terms of the First Lender Prime Lease Mortgage. In the event of any conflict between the provisions of the IRB Lease and the provisions of the First Lender Prime Lease Mortgage with respect to application of casualty and condemnation proceeds, the provisions of the First Lender Prime Lease Mortgage will control.

8. Notwithstanding any provisions of the IRB Lease to the contrary, no default or event of default under the Loan Agreement or any other document or instrument evidencing or securing the indebtedness secured by the First Lender Prime Lease Mortgage or the IRB Leasehold Mortgage will, in and of itself, constitute a default or event of default under the IRB Lease.

9. The Issuer will not encumber the Issuer's interest in the Project Property or assign the Issuer's interest in the IRB Lease, except as the Issuer has previously done pursuant to the Indenture or as permitted under Section 7.1 of the IRB Lease.

10. Subject to the provisions of Section 7.3 of the IRB Lease, the Company, from time to time and without the consent of the Issuer, will have (i) the right to assign its right, title, and interest in the IRB Lease and in the Project, (ii) the right to sublease all or any part of the Project, (iii) the right to mortgage or otherwise encumber its right, title and interest in this Consent and in the IRB Lease, and (iv) the right to use the Project for any lawful purpose provided that any such use could not reasonably be expected to cause the Project to cease being qualified as a "project" as defined in and as contemplated by the Act.

11. As long as the Lender or Lenders (including without limitation any of their successors and assigns) holds any mortgages, security deeds or deeds of trust, including without limitation the IRB Leasehold Mortgage, in the leasehold estate of the Company hereunder, such Lender or Lenders (or any of their successors and assigns, as applicable) will have the right, but not the obligation to cure any defaults under the IRB Lease as provided in Section 8.6 of the IRB Lease.

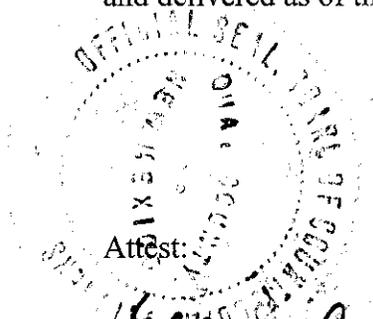
12. In the event of the foreclosure upon the rights of the Company in the IRB Lease (or acceptance of a deed in lieu of foreclosure), if the interests of the Issuer thereunder are not foreclosed, the IRB Lease shall remain in full force and effect, and the purchaser at foreclosure shall succeed to all of the rights and obligations of the Company hereunder without consent of any person. In that event, the Issuer will execute and deliver any reasonably requested documents to confirm such succession and the rights and obligations of the succeeding party, at the sole expense of the succeeding party.

13. The Company's obligations to make Basic Rent payments under the IRB Lease are subordinate to the Company's obligations under the Loan Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the parties to this Consent have caused it to be duly executed and delivered as of the date first written above.

QUAY COUNTY, NEW MEXICO,
as the Issuer



Attest:

Ellen L. White
Ellen L. White, Quay County Clerk

By Franklin McCasland
Franklin McCasland, Chairman

CAPROCK SOLAR 1 LLC,
as the Company

By: _____
Name: Brian K. Stallman
Title: Vice President

CAPROCK SOLAR HOLDINGS 1, LLC,
as the Purchaser

By: _____
Name: Brian K. Stallman
Title: Vice President

Accepted and Agreed:

WILMINGTON TRUST, NATIONAL ASSOCIATION,
not in its individual capacity, but solely
as the Collateral Agent for the Secured Parties

By: _____
Name:
Title:

STATE OF NEW MEXICO)
) ss.
COUNTY OF QUAY)

This instrument was acknowledged before me on this 7th day of August, 2017, by Franklin McCasland as Chair of the Board of County Commissioners of Quay County, New Mexico.



Ellen Perkins
Notary Public
My Commission Expires: 3-21-19

STATE OF OHIO

COUNTY OF HAMILTON

I, _____, a Notary, do hereby certify that Brian K. Stallman personally appeared before me this day and acknowledged that he is a Vice President of Caprock Solar 1 LLC, a Delaware limited liability company, and that by authority duly given, and as the act of said limited liability company, he has executed the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 2017.

Notary Public
Print/Type Name: _____

[NOTARIAL SEAL]

My Commission Expires:

STATE OF OHIO

COUNTY OF HAMILTON

I, _____, a Notary, do hereby certify that Brian K. Stallman personally appeared before me this day and acknowledged that he is a Vice President of Caprock Solar Holdings 1, LLC, a Delaware limited liability company, and that by authority duly given, and as the act of said limited liability company, he has executed the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 2017.

Notary Public
Print/Type Name: _____

[NOTARIAL SEAL]

My Commission Expires:

STATE OF _____

COUNTY OF _____

I, _____, a Notary, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is a _____ of Wilmington Trust, National Association, and that by authority duly given, and as the act of said limited liability company, he/she has executed the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 2017.

Notary Public
Print/Type Name: _____

[NOTARIAL SEAL]

My Commission Expires:

EXHIBIT A

REAL PROPERTY THAT IS PART OF THE PROJECT PROPERTY

A parcel of land being a portion of Sections 23 and 26 in Township 9 North Range 31 East of the New Mexico Principal Meridian in Quay County, New Mexico. Said parcel being described as follows:

Beginning at a found aluminum cap being stamped MUTH 2004 PLS 13239 and being the west quarter corner of Section 23, Township 9 North, Range 31 East of the N.M.P.M.;

Thence along the north line of the south half of said Section 23, N89°04'44"E, a distance of 2685.05 feet;

Thence leaving said line, S29°28'54"E, a distance of 2356.55 feet;

Thence S70°13'54"E, a distance of 493.80 feet;

Thence S03°34'45"W, a distance of 696.44 feet;

Thence S48°16'32"W, a distance of 1239.73 feet;

Thence S89°29'33"W, a distance of 2075.94 feet;

Thence N00°30'27"W, a distance of 881.64 feet;

Thence, S89°29'33"W, a distance of 1232.11 feet to a point on the west line of the northwest quarter of Section 26, Township 9 North, Range 31 East of the N.M.P.M.;

Thence along said west line, N00°21'06"W, a distance of 153.52 feet to a found aluminum cap being stamped MUTH 2004 PLS 13239 and being the common corners of Section 22, 23, 27 and 29, Township 9 North, Range 31 East of the N.M.P.M.;

Thence along the west line of the south half of said Section 23, N00°30'20"W, a distance of 2689.72 feet to the point of beginning.

Said parcel contains 12,340,226 square feet or 283.29 acres more or less.

FIRST AMENDMENT TO SUBLEASE AGREEMENT

\$55,000,000
Quay County, New Mexico
Taxable Industrial Revenue Bonds
(Caprock Solar 1 LLC Project)
Series 2016A

THIS FIRST AMENDMENT TO SUBLEASE AGREEMENT (this "**Amendment**") is dated as of August __, 2017, and is made by and between CAPROCK SOLAR 1 LLC, a Delaware limited liability company (together with its successors and assigns, the "**Company**"), as sublessor, and QUAY COUNTY, NEW MEXICO, a political subdivision of the State of New Mexico (together with its successors and assigns, the "**Issuer**"), as sublessee. The Issuer and the Company are referred to herein, collectively, as "**Parties**" and individually as a "**Party**."

RECITALS:

A. The Company, as sublessor, and the Issuer, as sublessee, entered into that certain Sublease dated as of April 25, 2016 (the "**Sublease**"), which Sublease was recorded with the Quay County, New Mexico, County Clerk on October 4, 2016 as Document No. 201610040003.

B. Pursuant to the Sublease, the Company subleased to the Issuer certain real property located in Quay County, State of New Mexico, which is described in the Corrected Memorandum of Lease and Easement Agreement that was attached as Exhibit A to the Sublease (the "**Original Premises**").

C. The Sublease relates to a certain "Lease" as defined in the Sublease (the "**Prime Lease**"), between the Company, as tenant, and Robert E. Abercrombie and Billie D. Abercrombie, as landlord ("**Abercrombie**").

D. The Company and Abercrombie have agreed to amend the legal description of the property that is subject to the Prime Lease, and correspondingly, the Company and the Issuer desire to amend the definition of the "Project Site" that is being subleased by pursuant to the Sublease, pursuant to this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the Parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Defined Terms; Recitals.** Capitalized terms used but not defined herein shall have the meanings given to such terms in the Sublease. The above recitals are incorporated into the body of this Amendment and affirmed by the Issuer and the Company.

2. **Amended Definition of "Project Site."** The term "Project Site" as used in the Sublease is hereby amended and restated to reflect the definition of Project Site set forth on Exhibit A attached to this Amendment.

3. **Recording of this Amendment.** Either party may record this Amendment in the real property records of Quay County, New Mexico.

4. **Ratification of Sublease.** Except as modified by this Amendment, the terms, covenants and conditions of the Sublease are ratified and confirmed and the parties executing this Amendment shall be bound by, and shall have the benefits of, all of the terms, covenants and conditions of the Sublease.

5. **Counterparts.** This Amendment may be executed in any number of identical counterparts, any or all of which may contain the signatures of less than all of the parties, and all of which shall be construed together as a single instrument.

6. **Conflicts.** If any of the terms, covenants or conditions of this Amendment conflict with the terms, covenants or conditions of the Sublease, the terms, covenants and conditions of this Amendment shall control.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

COMPANY:

CAPROCK SOLAR 1 LLC,
a Delaware limited liability company

By _____
Name: Brian K. Stallman
Its: Vice President

STATE OF OHIO

COUNTY OF HAMILTON

I, _____, a Notary, do hereby certify that Brian K. Stallman personally appeared before me this day and acknowledged that he is a Vice President of Caprock Solar 1 LLC, a Delaware limited liability company, and that by authority duly given, and as the act of said limited liability company, he has executed the foregoing instrument.

Witness my hand and official seal this ____ day of _____, 2017.

Notary Public
Print/Type Name: _____

[NOTARIAL SEAL]

My Commission Expires:

(Company Signature Page for First Amendment to Sublease)

Exhibit A

Amended and Restated Definition of Project Site

A parcel of land being a portion of Sections 23 and 26 in Township 9 North Range 31 East of the New Mexico Principal Meridian in Quay County, New Mexico. Said parcel being described as follows:

Beginning at a found aluminum cap being stamped MUTH 2004 PLS 13239 and being the west quarter corner of Section 23, Township 9 North, Range 31 East of the N.M.P.M.;

Thence along the north line of the south half of said Section 23, N89°04'44"E, a distance of 2685.05 feet;

Thence leaving said line, S29°28'54"E, a distance of 2356.55 feet;

Thence S70°13'54"E, a distance of 493.80 feet;

Thence S03°34'45"W, a distance of 696.44 feet;

Thence S48°16'32"W, a distance of 1239.73 feet;

Thence S89°29'33"W, a distance of 2075.94 feet;

Thence N00°30'27"W, a distance of 881.64 feet;

Thence, S89°29'33"W, a distance of 1232.11 feet to a point on the west line of the northwest quarter of Section 26, Township 9 North, Range 31 East of the N.M.P.M.;

Thence along said west line, N00°21'06"W, a distance of 153.52 feet to a found aluminum cap being stamped MUTH 2004 PLS 13239 and being the common corners of Section 22, 23, 27 and 29, Township 9 North, Range 31 East of the N.M.P.M.;

Thence along the west line of the south half of said Section 23, N00°30'20"W, a distance of 2689.72 feet to the point of beginning.

Said parcel contains 12,340,226 square feet or 283.29 acres more or less.

Together with:

A Right-of-Way in part of the North Half (N1/2) and the Northwest of the Southwest (NW1/4SW1/4) of Section 24 and Part of the South Half (S1/2) of Section 23, Township Nine (9) North, Range Thirty-one (31) East, N.M.P.M., Quay County, New Mexico.

A STRIP OF LAND traversing a portion of a tract deeded to Robert Abercrombie, as recorded in Deeds Book 128, Page 559, of the Quay County Records, being 30.00 feet wide and extending at right angles 15.00 feet on each side of the centerline herein described with the right-of-way lines lengthening and shortening to eliminate gaps and overlaps at angle points and points where the

centerline intersects Section lines, property boundaries, easement boundaries and other right-of-way lines, said centerline being more particularly described as follows:

BEGINNING at point on the line between Sections 13 and 24 from whence the corner of Sections 13, 24, 23, and 14 (a set 2 inch aluminum cap marked "MUTH PLS 13239") bears S.88°42'51"W., 29.22 feet;

THENCE S.38°06'51"E., along said centerline a distance of 40.67 feet to a point of curvature; THENCE along said centerline being a tangential curve to the right having a Radius of 290.63 feet, a Length of 210.31 feet to a point of tangency;

THENCE S.19°34'38"W., along said centerline a distance of 114.50 feet to a point of curvature; THENCE along said centerline being a tangential curve to the left having a Radius of 200.00 feet, a Length of 71.91 feet to a point of tangency;

THENCE S.01°01'27" E., along said centerline a distance of 963.24 feet to a surveyed point of intersection;

THENCE S.00°25'53"E., along said centerline a distance of 1030.89 feet to a point of curvature; THENCE along said centerline, being a curve to the right having a Radius of 400.00 feet, a Length of 277.22 feet to a point of tangency;

THENCE S.39°16'41"W., along said centerline a distance of 270.90 feet to a point of curvature; THENCE along said centerline, being a curve to the left having a Radius of 500.00 feet, a Length of 166.52 feet to point of tangency;

THENCE S.20°11'47"W., along said centerline a distance of 783.85 feet to a point of curvature; THENCE along said centerline, being a curve to right having a Radius of 1037.44 feet, a Length of 628.84 feet to a point of tangency;

THENCE S.55°07'55"W., along said centerline a distance of 430.50 feet to a point of curvature; THENCE along said centerline, being a curve to the left having a Radius of 200.00 feet, a Length of 291.77 feet to a point of tangency;

THENCE S.29°35'36"E., along said centerline a distance of 215.93 feet to a point of termination. Said Right-of-Way Contains 5.20 acres, more or less.

FIRST AMENDMENT TO IRB LEASE AGREEMENT

\$55,000,000
Quay County, New Mexico
Taxable Industrial Revenue Bonds
(Caprock Solar 1 LLC Project)
Series 2016A

THIS FIRST AMENDMENT TO IRB LEASE AGREEMENT (this "**Amendment**") is dated as of August __, 2017, and is made by and between QUAY COUNTY, NEW MEXICO, a political subdivision of the State of New Mexico (together with its successors and assigns, the "**Issuer**"), as lessor, and CAPROCK SOLAR 1 LLC, a Delaware limited liability company (together with its successors and assigns, the "**Company**"), as lessee. The Issuer and the Company are referred to herein, collectively, as "**Parties**" and individually as a "**Party**."

RECITALS:

A. The Issuer, as lessor, and the Company, as lessee, entered into that certain Lease Agreement dated as of April 25, 2016 (the "**IRB Lease**"), which IRB Lease was recorded with the Quay County, New Mexico, County Clerk on October 4, 2016 as Document No. 201610040004.

B. Pursuant to the IRB Lease, the Issuer leased to the Company certain real property located in Quay County, State of New Mexico, which is described in Exhibit A that was attached to the IRB Lease (the "**Original Premises**").

C. Exhibit A to the IRB Lease provides that a portion of the "Project Site" as described in Exhibit A to the IRB Lease may be removed from the description of the Project Site as defined in the IRB Lease, at the election of the Company and with the consent of the Issuer, and become the project site for the Series 2016B Bonds, as described in the Ordinance, subject to the terms of the Ordinance, including, but not limited to, that any such Series 2016B Bonds be issued within the timelines set forth in the Ordinance.

D. The Company has elected to have a portion of the "Project Site" as described in Exhibit A to the IRB Lease removed from the description of the Project Site as defined in the IRB Lease, pursuant to this Amendment. The Issuer has consented to such removal, as provided in this Amendment.

E. The Issuer and the Company desire to amend the IRB Lease to revise the legal description attached to the IRB Lease to reflect the definition of Project Site that is more particularly described on Exhibit A that is attached to this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the Parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Defined Terms; Recitals.** Capitalized terms used but not defined herein shall have the meanings given to such terms in the IRB Lease. The above recitals are incorporated into the body of this Amendment and affirmed by the Issuer and the Company.

2. **Amended Definition of "Project Site."** The term "Project Site" as used in the IRB Lease is hereby amended and restated to reflect the definition of Project Site set forth on Exhibit A attached to this Amendment. The definition of "Project Property" set forth on Exhibit A to the IRB Lease shall remain unamended.

3. **Recording of this Amendment.** Either party may record this Amendment in the real property records of Quay County, New Mexico.

4. **Ratification of Lease.** Except as modified by this Amendment, the terms, covenants and conditions of the Lease are ratified and confirmed and the parties executing this Amendment shall be bound by, and shall have the benefits of, all of the terms, covenants and conditions of the IRB Lease.

5. **Counterparts.** This Amendment may be executed in any number of identical counterparts, any or all of which may contain the signatures of less than all of the parties, and all of which shall be construed together as a single instrument.

6. **Conflicts.** If any of the terms, covenants or conditions of this Amendment conflict with the terms, covenants or conditions of the IRB Lease, the terms, covenants and conditions of this Amendment shall control.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

COMPANY:

CAPROCK SOLAR 1 LLC,
a Delaware limited liability company

By _____
Name: Brian K. Stallman
Its: Vice President

STATE OF OHIO

COUNTY OF HAMILTON

I, _____, a Notary, do hereby certify that Brian K. Stallman personally appeared before me this day and acknowledged that he is a Vice President of Caprock Solar 1 LLC, a Delaware limited liability company, and that by authority duly given, and as the act of said limited liability company, he has executed the foregoing instrument.

Witness my hand and official seal this ____ day of _____, 2017.

Notary Public
Print/Type Name: _____

[NOTARIAL SEAL]

My Commission Expires:

(Company Signature Page for First Amendment to IRB Lease Agreement)

Pursuant to Section 11.14 of the IRB Lease, the Purchaser hereby consents to this Amendment.

PURCHASER:

CAPROCK SOLAR HOLDINGS 1 LLC,
a Delaware limited liability company

By _____
Name: Brian K. Stallman
Its: Vice President

STATE OF OHIO

COUNTY OF HAMILTON

I, _____, a Notary, do hereby certify that Brian K. Stallman personally appeared before me this day and acknowledged that he is a Vice President of Caprock Solar Holdings 1 LLC, a Delaware limited liability company, and that by authority duly given, and as the act of said limited liability company, he has executed the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 2017.

Notary Public
Print/Type Name: _____

[NOTARIAL SEAL]

My Commission Expires:

(Purchaser Signature Page for First Amendment to IRB Lease Agreement)

Exhibit A

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Thence along the north line of the south half of said Section 23, N89°04'44"E, a distance of 2685.05 feet;

Thence leaving said line, S29°28'54"E, a distance of 2356.55 feet;

Thence S70°13'54"E, a distance of 493.80 feet;

Thence S03°34'45"W, a distance of 696.44 feet;

Thence S48°16'32"W, a distance of 1239.73 feet;

Thence S89°29'33"W, a distance of 2075.94 feet;

Thence N00°30'27"W, a distance of 881.64 feet;

Thence, S89°29'33"W, a distance of 1232.11 feet to a point on the west line of the northwest quarter of Section 26, Township 9 North, Range 31 East of the N.M.P.M.;

Thence along said west line, N00°21'06"W, a distance of 153.52 feet to a found aluminum cap being stamped MUTH 2004 PLS 13239 and being the common corners of Section 22, 23, 27 and 29, Township 9 North, Range 31 East of the N.M.P.M.;

Thence along the west line of the south half of said Section 23, N00°30'20"W, a distance of 2689.72 feet to the point of beginning.

Said parcel contains 12,340,226 square feet or 283.29 acres more or less.

Together with:

A Right-of-Way in part of the North Half (N1/2) and the Northwest of the Southwest (NW1/4SW1/4) of Section 24 and Part of the South Half (S1/2) of Section 23, Township Nine (9) North, Range Thirty-one (31) East, N.M.P.M., Quay County, New Mexico.

A STRIP OF LAND traversing a portion of a tract deeded to Robert Abercrombie, as recorded in Deeds Book 128, Page 559, of the Quay County Records, being 30.00 feet wide and extending at right angles 15.00 feet on each side of the centerline herein described with the right-of-way lines lengthening and shortening to eliminate gaps and overlaps at angle points and points where the

centerline intersects Section lines, property boundaries, easement boundaries and other right-of-way lines, said centerline being more particularly described as follows:

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THENCE S.38°06'51"E., along said centerline a distance of 40.67 feet to a point of curvature; THENCE along said centerline being a tangential curve to the right having a Radius of 290.63 feet, a Length of 210.31 feet to a point of tangency;

THENCE S.19°34'38"W., along said centerline a distance of 114.50 feet to a point of curvature; THENCE along said centerline being a tangential curve to the left having a Radius of 200.00 feet, a Length of 71.91 feet to a point of tangency;

THENCE S.01°01'27" E., along said centerline a distance of 963.24 feet to a surveyed point of intersection;

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THENCE S.39°16'41"W., along said centerline a distance of 270.90 feet to a point of curvature; THENCE along said centerline, being a curve to the left having a Radius of 500.00 feet, a Length of 166.52 feet to point of tangency;

THENCE S.20°11'47"W., along said centerline a distance of 783.85 feet to a point of curvature; THENCE along said centerline, being a curve to right having a Radius of 1037.44 feet, a Length of 628.84 feet to a point of tangency;

THENCE S.55°07'55"W., along said centerline a distance of 430.50 feet to a point of curvature; THENCE along said centerline, being a curve to the left having a Radius of 200.00 feet, a Length of 291.77 feet to a point of tangency;

THENCE S.29°35'36"E., along said centerline a distance of 215.93 feet to a point of termination. Said Right-of-Way Contains 5.20 acres, more or less.

Emergency Management Update Report

- Winter Storm 2015 reimbursement was received on February 22, 2017 in the amount of \$66,382.79 which represented 75% of the total eligible costs incurred from the storm, which totaled \$88,510.38.
- In the past year there was only one incident that occurred that required a shelter to be opened which was led by the City of Tucumcari.
- There has been a total of 44.0 Education hours earned over that past year in emergency management related fields. 12.0 education hours earned in the floodplain management field.
- The Emergency Operations Plan for Tucumcari/Quay County was updated to reflect more current information in terms of phone numbers and changing the location of the Emergency Operations Center to the courthouse.
- Plans to update the EOP are to include primary and secondary shelter locations in each municipality and the utilization of sirens in an emergency situation. There will also be a review and update of the Agricultural ESF. Those updates will occur in the next couple of quarters.
- The final meeting for the Quay County Hazard Mitigation plan is tentatively scheduled for August 24, 2017. This will be a public meeting to go over the plan and offer any comment before it is finalized for review by the State and FEMA.
- Quay County Emergency Management has been focusing on the processes of an Emergency Operations Center over the last 2 months, participating in 2 exercises in coordination with the State EOC and will be participating as an EOC at the beginning of August in the statewide Vigilant Guard exercise.

- For the upcoming year Quay County in coordination with the 64th Civil Service Team, Clovis HAZMAT, Environmental Protection Agency, and the local fire depts. will be conducting a full-scale exercise. This was originally scheduled to take place in the 3rd week of August but was requested to be moved back by the 64th.

QUAY COUNTY DWI PROGRAM

STATISTICS

4th Quarter Report

April 17 thru June 17

Total Number of Arrests: 15

DWI 1st: 11

DWI 2nd: 2

DWI 3rd: 2

DWI 4th:

DWI 5th or Subsequent:

Aggravated DWIs: 5

Average BAC: 0.13

Minimum: 0.04

Maximum: 0.22

Blood Draws: 5

Refusals: 2

Average Age: 49.7

Youngest: 24

Oldest: 70

Sex of Offenders

Male: 14

Female: 1

Accidents: 2

Fatalities: 0

Arrests by Agency:

New Mexico State Police: 13

Tucumcari Police Department: 2

Quay County Sheriff's Department:

Logan Police Department:

Ute Lake State Park:

Monthly Arrests

April: 4

May: 3

June: 8

FROM FINAL COURT DATES:

Number of Cases Completed: 10

Number of Convictions/Pleas: 5

Number of Dismissals: 5

Number of Offenders Placed on DWI Compliance: 5

DWI 1st: 5

DWI 2nd:

DWI 3rd:

DWI 4th:

DWI 5th of Subsequent:

Number of Offenders who Successfully Completed DWI Compliance: 5

Number of Offenders who Unsuccessfully Completed DWI Compliance: 1

Number of Community Service Hours Ordered: 120

Number of DWI Offenders Being Supervised: 51

Number of Misdemeanor Offenders Being Supervised: 57

QUAY COUNTY DWI PROGRAM

STATISTICS

FY 2017 Annual stats

July 2016 thru June 2017

Total Number of Arrests: 50

DWI 1st: 38

DWI 2nd: 5

DWI 3rd: 3

DWI 4th: 4

DWI 5th or Subsequent:

Aggravated DWIs: 13

Average BAC: 0.135

Minimum: 0.04

Maximum: 0.22

Blood Draws: 18

Refusals: 10

Average Age: 42.5

Youngest: 22

Oldest: 78

Sex of Offenders

Male: 42

Female: 8

Accidents: 11

Fatalities: 0

Arrests by Agency:

New Mexico State Police: 35

Tucumcari Police Department: 13

Quay County Sheriff's Department: 2

Logan Police Department:

Ute Lake State Park:

FROM FINAL COURT DATES:

Number of Cases Completed: 55

Number of Convictions/Pleas: 42

Number of Dismissals: 13

Number of Offenders Placed on DWI Compliance: 42

DWI 1st: 35

DWI 2nd: 7

DWI 3rd: 1

DWI 4th:

DWI 5th of Subsequent:

Number of Offenders who Successfully Completed DWI Compliance: 28

Number of Offenders who Unsuccessfully Completed DWI Compliance: 6

Number of Community Service Hours Ordered: 1248



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2017-2018
RESOLUTION NO. 1

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM
ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation have entered into a joint and coordinated effort.

WHERE AS, the total cost of the project will be **\$236,109.00** to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or **\$177,082.00**

and

- b. **Quay County's** proportional matching share shall be 25% or **\$59,027.00**

TOTAL PROJECT COST IS **\$236,109.00**.

Quay County shall pay all costs, which exceed the total amount of **\$236,109.00**.

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That the project for this Cooperative Agreement is adopted and has priority standing.

The agreement terminates on December 31, 2018 and **Quay County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by **Quay County** to enter into Cooperative Agreement Project Number CAP-4-18(456) Control Number L400335 with the New Mexico Department of Transportation for LGRF Project for year 2017-2018 to

SCOPE: Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads.

TERMINI: Quay Road AI (Blocks 6300-6640) 3.4 miles

Within the control of **Quay County** in Quay County, New Mexico.

DONE AND RESOLVED this 24th day of July 2017.



Franklin McCasland
Franklin McCasland, Chairman

Sue Dowell
Sue Dowell, Member

Mike Cherry
Mike Cherry, Member

Attest:

Ellen White
Ellen White, Quay County Clerk

Contract No. _____
Vendor No. 54395
Project No. CAP-4-18(456)
Control No. L400335

**LOCAL GOVERNMENT ROAD FUND
COOPERATIVE AGREEMENT**

This Agreement is between the **New Mexico Department of Transportation** (Department) and **Quay County** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2 and the State Transportation Commission Policy No. 44-12, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the **Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads**, as described in Project No. **CAP-4-18(456)**, Control No. **L400335**, and the Public Entity's resolution attached as **Exhibit C** (Project). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. The estimated total cost for the Project is **Two Hundred Thirty Six Thousand, One Hundred Nine Dollars (\$ 236,109.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 75% **\$ 177,082.00**

**Plan design, construction management, construction, reconstruction,
pavement rehab, drainage improvements and miscellaneous construction to
various county roads**

2. The Public Entity's required proportional matching
Share shall be 25% **\$ 59,027.00**
For purpose stated above

3. Total Project Cost **\$ 236,109.00**

- b. The Public Entity shall pay all Project costs, which exceed the total amount of **Two Hundred Thirty Six Thousand, One Hundred Nine Dollars (\$ 236,109.00)**.

- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a Notice of Award and Notice to Proceed; and,
- b. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2.
- c. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
- c. Be solely responsible for all local matching funds identified in Section 2. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
- d. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances
- f. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
 - 1. Utility Certification,
 - 2. Drainage and storm drain design,
 - 3. Geotechnical design,
 - 4. Pavement design,
 - 5. Environmental and archaeological clearances Certification,
 - 6. Right of-way acquisition Certification,
 - 7. Hazardous substance/waste site(s) contamination,
 - 8. Railroad Certification,
 - 9. Intelligent Transportation System (ITS) Certification
- g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
- h. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- i. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, will result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
- j. Complete the project within eighteen (18) months of approval of funding by the State

Transportation Commission.

- k. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.
- l. Within thirty (30) days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **Project Certification of Design, Construction, and Cost form**.
- m. Failure to provide the **Project Certification of Design, Construction, and Cost form** and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
- n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision can not be used by the Public Entity to meet a required match under any other program.
- e. That the provisions of the Local Government Road Fund Project Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **December 31, 2018**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.
- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4n and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless embodied in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is be proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

The remainder of this page in intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

Quay County

By: Franklin McCarroll
Title: Chairman

Date: 7/24/17

Attest: Elle L White
County Clerk



**EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST**

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____
state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Local Government Road Fund Project Handbook (Current Edition);
2. Construction of the project was performed in accordance with standards and specifications set forth in:

And completed on _____, 20____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name Date

Print Name

Title



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2017-2018

RESOLUTION NO. 2

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM
ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation have entered into a joint and coordinated effort.

WHEREAS, the total cost of the project will be **\$116,213.00** to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or **\$87,160.00**

and

- b. **Quay County's** proportional matching share shall be 25% or **\$29,053.00**

TOTAL PROJECT COST IS **\$116,213.00**

Quay County shall pay all costs, which exceed the total amount of **\$116,213.00**.

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That the project for this Cooperative Agreement is adopted and has priority standing.

The agreement terminates on December 31, 2018 and **Quay County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by **Quay County** to enter into Cooperative Agreement Project Number SP-4-18(906) Control Number L400342 with the New Mexico Department of Transportation for LGRF Project for year 2017-2018 to

SCOPE: **Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads.**

TERMINI: Quay Road 57 (Blocks 3000-3100) 1 mile; Quay Road 101 (Blocks 1300-1500) 2.2 miles.

Within the control of **Quay County** in Quay County, New Mexico.

DONE AND RESOLVED this 24th day of July 2017.


Franklin McCasland
Franklin McCasland, Chairman

Sue Dowell
Sue Dowell, Member

Mike Cherry
Mike Cherry, Member

Attest:

Ellen White
Ellen White, Quay County Clerk

Contract No. _____
 Vendor No. 54395
 Project No. SP-4-18(906)
 Control No. L400342

**LOCAL GOVERNMENT ROAD FUND
 COOPERATIVE AGREEMENT**

This Agreement is between the **New Mexico Department of Transportation** (Department) and **Quay County** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2 and the State Transportation Commission Policy No. 44-12, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the **Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads**, as described in Project No. **SP-4-18(906)**, Control No. **L400342** and the Public Entity's resolution attached as **Exhibit C** (Project). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is **One Hundred Sixteen Thousand, Two Hundred Thirteen Dollars (\$ 116,213.00)** to be funded in proportional share by the parties as follows:

- | | |
|---|----------------------|
| 1. Department's share shall be 75% | \$ 87,160.00 |
| Plan design, construction management, construction, reconstruction,
 pavement rehab, drainage improvements and miscellaneous construction to
 various county roads | |
| 2. The Public Entity's required proportional matching Share shall be 25%
For purpose stated above | \$ 29,053.00 |
| 3. Total Project Cost | \$ 116,213.00 |

b. The Public Entity shall pay all Project costs, which exceed the total amount of **One Hundred Sixteen Thousand, Two Hundred Thirteen Dollars (\$ 116,213.00)**.

- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a Notice of Award and Notice to Proceed; and,
- b. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2.
- c. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
- c. Be solely responsible for all local matching funds identified in Section 2. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
- d. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances
- f. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
 1. Utility Certification,
 2. Drainage and storm drain design,
 3. Geotechnical design,
 4. Pavement design,
 5. Environmental and archaeological clearances Certification,
 6. Right of-way acquisition Certification,
 7. Hazardous substance/waste site(s) contamination,
 8. Railroad Certification,
 9. Intelligent Transportation System (ITS) Certification
- g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
- h. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- i. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, will result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
- j. Complete the project within eighteen (18) months of approval of funding by the State

- Transportation Commission.
- k. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.
 - l. Within thirty (30) days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **Project Certification of Design, Construction, and Cost form**.
 - m. Failure to provide the **Project Certification of Design, Construction, and Cost form** and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
 - n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision can not be used by the Public Entity to meet a required match under any other program.
- e. That the provisions of the Local Government Road Fund Project Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **December 31, 2018**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.
- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4n and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless embodied in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is be proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

The remainder of this page in intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

Quay County

By: Franklin McCarland
Title: Chairman

Date: 7/24/17

Attest: Elle L White
County Clerk



EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____
state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Local Government Road Fund Project Handbook (Current Edition);
2. Construction of the project was performed in accordance with standards and specifications set forth in:

And completed on _____, 20____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name Date

Print Name

Title



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2017-2018

RESOLUTION NO. 3

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM
ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation have entered into a joint and coordinated effort.

WHERE AS, the total cost of the project will be **\$132,181.00** to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or **\$99,136.00**

and

- b. **Quay County's** proportional matching share shall be 25% or **\$33,045.00**

TOTAL PROJECT COST IS **\$132,181.00**

Quay County shall pay all costs, which exceed the total amount of **\$132,181.00**.

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That the project for this Cooperative Agreement is adopted and has priority standing.

The agreement terminates on December 31, 2018 and **Quay County** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

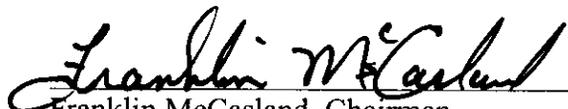
NOW therefore, be it resolved by **Quay County** to enter into Cooperative Agreement Project Number SB-7731(957)18 Control Number L400328 with the New Mexico Department of Transportation for LGRF Project for year 2017-2018 to

SCOPE: Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads

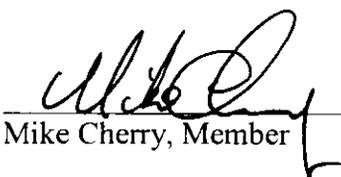
TERMINI: Quay Road 60 (Blocks 1750-1800) .50 mile; Quay Road 64 (Blocks 1700-1900) 2 miles; Quay Road 65 (Blocks 1600-1800) 2 miles .

Within the control of **Quay County** in Quay County, New Mexico.

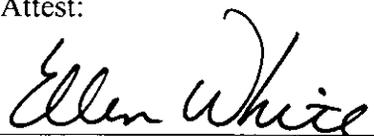
DONE AND RESOLVED this 24th day of July 2017.


Franklin McCasland, Chairman


Sue Dowell, Member


Mike Cherry, Member

Attest:


Ellen White, Quay County Clerk

Contract No. _____
 Vendor No. 54395
 Project No. SB-7731(957)18
 Control No. L400328

**LOCAL GOVERNMENT ROAD FUND
 COOPERATIVE AGREEMENT**

This Agreement is between the **New Mexico Department of Transportation** (Department) and **Quay County** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2 and the State Transportation Commission Policy No. 44-12, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the **Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads**, as described in Project No. **SB-7731(957)18**, Control No. **L400328**, and the Public Entity's resolution attached as **Exhibit C** (Project). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is **One Hundred Thirty Two Thousand, One Hundred Eighty One Dollars (\$ 132,181.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 75%	\$ 99,136.00
------------------------------------	---------------------

**Plan design, construction management, construction, reconstruction,
 pavement rehab, drainage improvements and miscellaneous construction to
 various county roads**

2. The Public Entity's required proportional matching Share shall be 25%	\$ 33,045.00
For purpose stated above	

3. Total Project Cost	\$ 132,181.00
-----------------------	----------------------

b. The Public Entity shall pay all Project costs, which exceed the total amount of **One Hundred Thirty Two Thousand, One Hundred Eighty One Dollars (\$ 132,181.00)**.

- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a Notice of Award and Notice to Proceed; and,
- b. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2.
- c. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
- c. Be solely responsible for all local matching funds identified in Section 2. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
- d. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances
- f. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
 1. Utility Certification,
 2. Drainage and storm drain design,
 3. Geotechnical design,
 4. Pavement design,
 5. Environmental and archaeological clearances Certification,
 6. Right of-way acquisition Certification,
 7. Hazardous substance/waste site(s) contamination,
 8. Railroad Certification,
 9. Intelligent Transportation System (ITS) Certification
- g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
- h. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- i. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, will result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
- j. Complete the project within eighteen (18) months of approval of funding by the State

Transportation Commission.

- k. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.
- l. Within thirty (30) days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **Project Certification of Design, Construction, and Cost form**.
- m. Failure to provide the **Project Certification of Design, Construction, and Cost form** and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
- n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision can not be used by the Public Entity to meet a required match under any other program.
- e. That the provisions of the Local Government Road Fund Project Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **December 31, 2018**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.
- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4n and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless embodied in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is be proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

The remainder of this page in intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

Quay County

By: Franklin Mealand

Date: 7/24/17

Title: Chairman

Attest: Ellen Lukice
County Clerk

**EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST**

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____
state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Local Government Road Fund Project Handbook (Current Edition);
2. Construction of the project was performed in accordance with standards and specifications set forth in:

And completed on _____, 20____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name Date

Print Name

Title



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2017-2018

RESOLUTION NO. 4

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM AND REQUEST FOR MATCH WAIVER ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHERE AS, the total cost of the project will be **\$236,109.00** to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or **\$177,082.00**

and

b. **Quay County's** proportional matching share shall be 25% or **\$59,027.00**

TOTAL PROJECT COST IS \$236,109.00

Quay County shall pay all costs, which exceed the total amount of **\$236,109.00**.

WHEREAS, NMAC 27.3.8 allows Public Entities who are experiencing financial hardship to apply for a Match Waiver of all or part of the above mentioned Public Entity match.

WHEREAS, **Quay County** qualifies for the Match Waver because Quay County has a limited tax base, which limits the funding for meeting the proportional matching share; and, a fund exists in the NMDOT appropriated by the New Mexico State Legislature for Public Entities in need of "hardship" match money.

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

That **Quay County** requests a Match Waiver in the amount of **\$59,027.00** for LGRF Project for year 2017-2018 to

SCOPE: Plan design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads

TERMINI: Quay Road AI (Blocks 6300-6640) 3.4 miles

Within the control of **Quay County** in Quay County, New Mexico.

DONE AND RESOLVED this 24th day of July 2017.


Franklin McCasland
Franklin McCasland, Chairman

Sue Dowell
Sue Dowell, Member

Mike Cherry
Mike Cherry, Member

Attest:

Ellen White
Ellen White, Quay County Clerk



QUAY COUNTY GOVERNMENT

FISCAL YEAR 2017-2018

RESOLUTION NO. 5

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM AND REQUEST FOR MATCH WAIVER ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, **Quay County** and the New Mexico Department of Transportation enter into a Cooperative Agreement.

WHERE AS, the total cost of the project will be **\$116,213.00** to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or **\$87,160.00**

and

b. **Quay County's** proportional matching share shall be 25% or **\$29,053.00**

TOTAL PROJECT COST IS **\$116,213.00**

Quay County shall pay all costs, which exceed the total amount of **\$116,213.00**.

WHEREAS, NMAC 27.3.8 allows Public Entities who are experiencing financial hardship to apply for a Match Waiver of all or part of the above mentioned Public Entity match.

WHEREAS, **Quay County** qualifies for the Match Waver because Quay County has a limited tax base, which limits the funding for meeting the proportional matching share; and, a fund exists in the NMDOT appropriated by the New Mexico State Legislature for Public Entities in need of "hardship" match money.

NOW, therefore, be it resolved in official session that **Quay County** determines, resolves, and orders as follows:

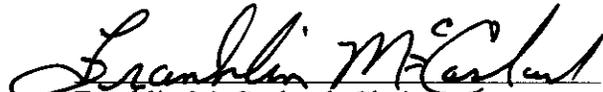
That **Quay County** requests a Match Waiver in the amount of **\$ 29,053.00** for LGRF Project for year 2017-2018 to

SCOPE: Plan, design, construction management, construction, reconstruction, pavement rehab, drainage improvements and miscellaneous construction to various county roads.

**TERMINI: Quay Road 57 (Blocks 3000-3100) 1 mile; Quay Road 101 (Blocks 1300
1500) 2.2 miles**

Within the control of **Quay County** in Quay County, New Mexico.

DONE AND RESOLVED this 24th day of July 2017.



Franklin McCasland, Chairman


Sue Dowell, Member


Mike Cherry, Member

Attest:


Ellen White, Quay County Clerk

STATE OF NEW MEXICO
QUAY COUNTY
RESOLUTION NO. 6

FY2017 FINAL QUARTER FINANCIAL REPORT
YEAR ENDING JUNE 30, 2017

WHEREAS, the Governing Board in and for the County of Quay, State of New Mexico has developed a budget for fiscal year 2017 – 2018; and

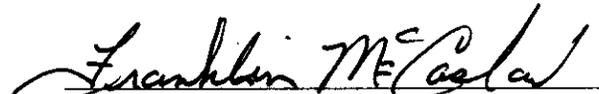
WHEREAS, the final quarterly report has been reviewed and approved to ensure the accuracy of the beginning balances used on the FY 2018 budget; and

WHEREAS, it is hereby certified that the contents in this report are true and correct to the best of our knowledge and that this report depicts all funds for fiscal year 2017.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Board of County Commissioners, County of Quay, State of New Mexico hereby approves the final quarterly report for FY 2017 hereinafter described as Attachment “A” and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

Resolved: In the Regular Board Session this 24th day of July, 2017.

QUAY COUNTY
BOARD OF COMMISSIONERS



Franklin McCasland, Chairman


Mike Cherry, Member


Sue Dowell, Member

ATTEST:


Ellen White, County Clerk

**STATE OF NEW MEXICO
QUAY COUNTY
RESOLUTION NO. 7
2017-2018 BUDGET ADOPTION
(2018 FISCAL YEAR)**

WHEREAS, the Governing body in and for the County of Quay, State of New Mexico has developed a budget for fiscal year 2018, and

WHEREAS, said budget was developed on the basis of need and through cooperation with all user departments, elected officials and other department supervisors, and

WHEREAS, the official meetings for the review of said documents were duly advertised in Quay County Sun, Majestic Communications and City of Tucumcari Library, in compliance with the State Open Meetings act, and

WHEREAS, it is the majority opinion of this Board that the proposed budget meets the requirements as currently determined for fiscal year 2018,

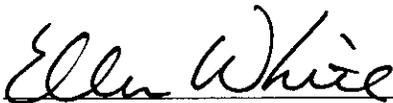
NOW, THEREFORE, BE IT HEREBY RESOLVED that the Governing Body of the County of Quay, State of New Mexico hereby adopts the budget hereinabove described and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

RESOLVED: In session this 24th day of July, 2017.

Quay County Board of Commissioners

Tucumcari, New Mexico

Attest:



Ellen White, Clerk



Franklin McCasland, Chair



Mike Cherry, Member



Sue Dowell, Member

(Seal)