

**SAN JUAN GENERATING STATION
DECOMMISSIONING TRUST AGREEMENT**

This San Juan Generating Station Decommissioning Trust Agreement (“Decommissioning Trust Agreement”) is entered into as of April 4, 2018, by and between the **INCORPORATED COUNTY OF LOS ALAMOS**, a body politic and corporate (“County”) in its capacity as a participant in the San Juan Project, and **BOKF, N.A. dba Bank of Albuquerque**, as Trustee (in its capacity as Trustee hereunder, the “Trustee”), upon the terms and conditions set forth in this Decommissioning Trust Agreement. The County and the Trustee are collectively referred to as the “Parties” or individually as a “Party”.

RECITALS

WHEREAS, the San Juan Project is a coal-fired electric generation plant located in San Juan County, near Farmington, New Mexico, also known as the San Juan Generating Station (“SJGS”, “San Juan Project”, or “Project”).

WHEREAS, Public Service Company of New Mexico (“PNM”), Tucson Electric Power Company (“TEP”), the City of Farmington, New Mexico (“Farmington”), M-S-R Public Power Agency (“M-S-R”), the Incorporated County of Los Alamos, New Mexico (“Los Alamos”), Southern California Public Power Authority (“SCPPA”), City of Anaheim (“Anaheim”), Utah Associated Municipal Power Systems (“UAMPS”) and Tri-State Generation and Transmission Association, Inc. (“Tri-State”) (collectively, the “Decommissioning Parties”) have entered into the San Juan Decommissioning and Trust Funds Agreement dated July 31, 2015 (“July 2015 Agreement”), to establish a methodology for planning and approving SJGS Decommissioning Work and funding and allocating the cost of Decommissioning Work as defined in the July 2015 Agreement.

WHEREAS, PNMR Development and Management Corporation (“PNMR-D”) was also a party to the July 2015 Agreement, but PNMR-D has assigned its interests and delegated its obligations under the July 2015 Agreement to PNM.

WHEREAS, this Decommissioning Trust Agreement is being entered into pursuant to the July 2015 Agreement.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt of which is acknowledged, the County and the Trustee agree that the County is establishing a

spendthrift trust by these terms of trust, and herewith transferring funds to the Trustee, pursuant to the terms of this Decommissioning Trust Agreement, to be held in trust (such trust being referred to herein as the “Decommissioning Trust”) under the terms of this Decommissioning Trust Agreement for the benefit of the Beneficiaries as identified in Section 2.1 below and as required by the July 2015 Agreement attached and incorporated herein as **Exhibit 1**. Furthermore, the Trustee agrees to take all actions related to the trust assets pursuant to the terms of this Decommissioning Trust Agreement or as may be amended.

ARTICLE 1

NAME OF TRUST AND PURPOSE

1.1 Name. This San Juan Generating Station Decommissioning Trust Agreement may be referred to as the “Decommissioning Trust Agreement” by and between the County and Trustee.

1.2 Purpose. The purpose of this Decommissioning Trust Agreement is for the County to provide funding for the payment of Decommissioning Costs for the San Juan Project in accordance with the County’s obligations as set out in the July 2015 Agreement.

ARTICLE 2

TRUST BENEFICIARIES

2.1 Identification of Beneficiaries. The beneficiaries of this Decommissioning Trust (“Beneficiaries”) are: (i) the County, as the settlor; (ii) each of the other Decommissioning Parties; and (iii) the Decommissioning Agent as provided for in the July 2015 Agreement. At the time of the establishment of the County’s Trust, the County will notify and provide to the Trustee the names and contact information of all of the Decommissioning Parties and the Decommissioning Agent.

2.2 Settlor’s Relinquishment of Beneficial Interest. The County, as settlor of the Decommissioning Trust, retains no beneficial interest in the funds held in trust except to utilize funds in the Decommissioning Trust as set forth in Section 4 and to receive a return of any funds that may remain in the Decommissioning Trust after the purposes of the Decommissioning Trust have been accomplished and the Decommissioning Trust has been terminated.

ARTICLE 3

DECOMMISSIONING TRUST FUND

3.1 Decommissioning Trust Fund. The County hereby establishes and is funding herewith the Decommissioning Trust Fund in accordance with the July 2015 Agreement. Prior to termination, funds may be disbursed from the Decommissioning Trust Fund for the following and no other purposes: (a) to pay the costs and fees associated with the maintenance of the Decommissioning Trust Account, including the fees and expenses of the Trustee attached and incorporated by reference as **Exhibit 2**; and (b) to pay the County's Decommissioning Share (as defined in Section 5.3 and Exhibit A of the July 2015 Agreement) of Decommissioning Costs pursuant to invoices rendered to the County by the Decommissioning Agent (as that term is defined in the July 2015 Agreement) and approved for payment by the County. The Trustee will pay funds out of the County's Decommissioning Trust Fund in accordance with the following procedures.

3.1.1. The Decommissioning Agent will bill the County, in writing, for Decommissioning Costs at least ten (10) Business Days prior to the date that payment is due. The term "Business Day" means any day of the year, excluding Saturday, Sunday and any other day on which the Trustee is closed for business. The County will promptly review the Decommissioning Agent's invoice and, upon the County's review and written approval of such invoice, the County will direct the Trustee to pay such invoice by making payment out of the assets of the Decommissioning Trust, in immediately available funds. Upon the making of such payment to the Decommissioning Agent, the Trustee will provide notice of such payment to the County.

3.1.2. The County will provide the Trustee with appropriate wiring (or Automated Clearing House) instructions for the making of payments in immediately available funds to the Decommissioning Agent. The County will notify the Trustee of the identity of the Decommissioning Agent and of any changes in the Decommissioning Agent. Subject to and in accordance with the terms and conditions hereof, the Trustee agrees that it will receive, hold in trust, invest, reinvest, and release, disburse or distribute the funds in the Decommissioning Trust Account ("Decommissioning Trust Fund").

3.1.3. All interest and other earnings on the Decommissioning Trust Fund will become a part of the Decommissioning Trust Account and the Decommissioning Trust Fund for all purposes, and all losses resulting from the investment or reinvestment thereof from time to time, and all amounts charged thereto to compensate or reimburse the Trustee for amounts owing to it hereunder from time to time, will be set off against the Decommissioning Trust Fund, from the time of such loss or charge, and thereafter no longer will constitute part of the Decommissioning Trust Fund.

3.2 Funding Provisions. The County will fund the Decommissioning Trust Account according to the terms set forth in the July 2015 Agreement. The Trustee will have no obligation to take any action whatsoever in connection with the County's funding of the Decommissioning Trust, or to enforce any obligations that the County has, or may

have, under the July 2015 Agreement with respect to the funding and replenishment of the Decommissioning Trust.

3.3 Notice to Trustee. The Trustee will be entitled to receive and may conclusively rely upon a written notice from the County of funding requirements pursuant to this Decommissioning Trust Agreement. Any notice described in this Section 3.3 will be delivered to the Trustee as provided in Section 11.12.

ARTICLE 4

IRREVOCABILITY; MODIFICATIONS

4.1 Modifications. The Decommissioning Trust created pursuant to this Decommissioning Trust Agreement is irrevocable and may not be modified by the County in a manner that (i) is inconsistent with the July 2015 Agreement; or (ii) will adversely affect the ability of any Beneficiary to perform its obligations under the July 2015 Agreement. It will be a condition to any modification of this Decommissioning Trust Agreement that the County certifies to the Trustee that such modification is not inconsistent with the July 2015 Agreement and will not adversely affect the ability of any Beneficiary to perform its obligations under the July 2015 Agreement. In no circumstance will this Decommissioning Trust Agreement be modified in a way that impacts the Trustee's rights or duties, without the Trustee's prior written consent.

ARTICLE 5

TRUSTEE'S DUTIES

5.1 Good Faith Duties of Administration. The Trustee must exercise reasonable care, skill and caution in the administration of the Decommissioning Trust and must administer the Decommissioning Trust in good faith, in accordance with the terms of this Decommissioning Trust Agreement and the July 2015 Agreement. The Trustee shall administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries and in accordance with the Uniform Trust Act.

5.2 No Conflicts of Interest. The Decommissioning Trust will be administered solely in the interests of the Beneficiaries. The Trustee will not permit to exist a conflict of interest between its duties under this Decommissioning Trust Agreement and its personal interests and must keep the Decommissioning Trust property separate from the Trustee's own property.

ARTICLE 6

TRUSTEE'S POWERS

6.1 Limited Powers. The Trustee will be vested with the following specific powers and discretion in addition to any other powers conferred upon the Trustee by law:

(a) Consultation with the County. The Trustee will have the power to regularly consult and confer with the County on all matters affecting the administration and investment of the Decommissioning Trust Fund to ensure that the Decommissioning Trust Funds are used for permitted purposes.

(b) Investment Decisions. The Trustee agrees to invest and reinvest the Decommissioning Trust Fund only as provided herein. The Parties recognize and agree that the Trustee will not provide supervision, recommendations or advice relating to either the investment of the Decommissioning Trust Fund property or the purchase, sale, retention or other disposition of any permitted investment. Interest and other earnings on investments will be added to the Decommissioning Trust Account. Any loss or expense incurred as a result of an investment will be borne by the Decommissioning Trust property account. The Trustee will have no responsibility or liability for any diminution in value of any assets held hereunder that may result from any investments or reinvestments made in accordance with the provisions contained herein. Only upon written instruction of the County, the Trustee may invest property of the Decommissioning Trust Fund in the Cavanal Hill Institutional Treasury Fund, or a successor or similar fund offered by the Trustee (–“Fund”). Where instructed in writing by the County, Trustee may execute purchases and sales of investments through the facilities of its own trading or capital markets operations or those of any affiliated entity. The County acknowledges that it has received, upon its request, and reviewed the Fund’s prospectus and has determined that the Fund is an appropriate investment for the Decommissioning Trust Funds.

(c) Appointment of Investment Manager(s). The County may appoint in writing one or more investment managers (the “Investment Managers”) to direct the investment of all or part of the Decommissioning Trust Fund. The County will also have the right to remove any such Investment Manager. The appointment of the Investment Manager(s) will be made in accordance with the July 2015 Agreement. The County will provide notice of any such appointment to the Trustee which notice will specify the portion of the Decommissioning Trust Funds to which the Investment Manager has been authorized to invest, reinvest, or return to the Trust Account Fund. Each Investment Manager will certify in writing, along with independent written authorization County to the Trustee that it is qualified to act in the capacity provided under an investment manager agreement with the County. The Trustee will accept the County’s designation and appointment of such Investment Manager. The County will also certify the identity of the

person or persons authorized to give instructions or directions to the Trustee on its behalf, including specimen signatures, and will undertake to perform the duties imposed on it under the relevant investment manager agreement. The Trustee may continue to rely upon all such certifications unless otherwise notified in writing by the County or the Investment Manager(s), as the case may be. The County may also utilize, as a Decommissioning Trust Account investment, pooled funds that are SEC-registered mutual funds, bank commingled funds, insurance company pooled funds or pooled funds of registered investment advisors whose portfolio is designed to track an equity or fixed income market index. Only upon the County's written instructions, the Trustee may procure for the Decommissioning Trust Account a pooled fund and will take the actions necessary to ensure that the pooled fund's value is properly reflected on the account statement.

(d) Direction by Investment Manager(s). The Investment Manager(s) designated by the County to manage the specified and authorized portion of the Decommissioning Trust Fund will have only the authority to manage such portion of the Decommissioning Trust Fund as has been previously authorized in writing by the County. Each Investment Manager is authorized to only invest in securities specified by the County, which will be consistent with the guidelines established pursuant to the July 2015 Agreement. The Trustee, upon proper notification from an Investment Manager, will execute and deliver in accordance with the appropriate trading authorizations. Written notification of the issuance of each such authorization will be given promptly to the Trustee and County by the Investment Manager(s), and the Investment Manager(s) will cause the execution of such order to be confirmed in writing to the Trustee and County by the broker or dealer. Such notification will be proper authority for the Trustee to pay for portfolio securities purchased against receipt thereof and to deliver portfolio securities sold against payment therefor, as the case may be.

(e) Authority of Investment Manager(s). The authority of the Investment Manager(s) and the terms and conditions of the appointment and retention of the Investment Manager(s) will be the sole responsibility of the County, consistent with the July 2015 Agreement, and the Trustee will not be deemed to be a party to or to have any obligations under any agreement of the County with the Investment Manager(s) except to ensure that the Investment Manager has and remains the duly appointed agent of the County. Any duty of supervision or review of the acts, omissions or overall performance of the Investment Manager(s) will be the exclusive responsibility of the County, and the Trustee will have no duty to review the actions of or performance by the Investment Manager(s) or to initiate any report or communication to the County with respect to the exercise or non-exercise of any power by the Investment Manager(s).

(f) Trustee Responsibility Regarding Investment Manager(s). The Trustee will be under no liability of any kind which may result by reason of any action taken by it in accordance with any direction of the Investment Manager(s). In any event, the Trustee will be under no liability for any loss of any kind by reason of changes in value of the investments purchased, sold or retained by the Investment Manager(s), nor for the risk or diversification of the portfolio, nor for the turnover of the investments, nor for any other aspect of a portfolio for which an Investment Manager(s) has been appointed.

(g) Purchase or Sale Orders. Orders for the purchase or sale of any security which are received by the Trustee before the published trade deadline then in effect will ordinarily be executed that day. Orders for the purchase or sale of any security which are received by the Trustee after the published trade deadline then in effect will ordinarily be executed the following Business Day.

(h) Account Statement. Receipt, investment and reinvestment of the Decommissioning Trust Funds will be confirmed by the Trustee in monthly account statements sent to the County and, if requested by the County, to any of the other Beneficiaries. Any discrepancies in any such account statement will be noted by the County to the Trustee within sixty (60) calendar days after receipt thereof. For purposes of this Section 6.1(h), each account statement will be deemed to have been received by the County on the earlier to occur of (i) actual receipt thereof, or (ii) three (3) Business Days after the deposit thereof in the United States Mail, postage prepaid to the address and contact noted below.

(i) Participation in Judicial Proceedings. The Trustee will have the power to take all steps reasonably necessary to protect, defend and conserve the Decommissioning Trust Fund in any judicial or administrative proceeding. In the event the Trustee becomes involved in litigation as a result of this Decommissioning Trust Agreement, the Trustee will be entitled to retain counsel and the fees and expenses of such counsel will be payable as provided in Section 9.1.

(j) Consultation with Legal Counsel. The Trustee may consult with its counsel or other counsel satisfactory to it concerning any question relating to its duties or responsibilities hereunder or otherwise in connection herewith and will be paid or reimbursed the reasonable and documented fees and expenses of such counsel.

(k) Trustee Records and Reports. The Trustee must keep or cause to be kept and maintained accurate books and records reflecting all income, principal and expense transactions, which books and records will be open at all reasonable times for inspection by the County or its duly authorized representatives, upon at least two (2)

Business Days prior written notice to the Trustee. The Trustee must furnish statements to the County and the Decommissioning Agent at least as often as annually, or as may be requested by the County. The Trustee will promptly respond to requests for information related to the administration of the Decommissioning Trust from the County. When applicable and required by applicable regulations, the Trustee will issue annual any or all IRS Forms and documents.

(l) Scope of Undertaking. The Trustee, as a fiduciary, will be subject to and must perform all duties in accordance with this Decommissioning Trust Agreement. The Trustee will perform such duties and only such duties as are specifically set forth in this Decommissioning Trust Agreement, and no implied covenants, agreements or duties will be read into this Decommissioning Trust Agreement against the Trustee. The Trustee will have no duty to perform, cause the performance of, manage, monitor, evaluate or approve the Decommissioning Work. The Trustee is not a principal, participant, or beneficiary in any transaction underlying this Decommissioning Trust Agreement and will have no duty to inquire beyond the terms and provisions of this Decommissioning Trust Agreement except as specifically provided herein. The Trustee will not be required to deliver the Decommissioning Trust Fund or any part thereof, or take any action with respect to any matters that might arise in connection therewith, other than to receive, hold in trust, invest, reinvest, and release, disburse or distribute the Decommissioning Trust Fund property as herein provided. The Trustee will not be required to notify or obtain the consent, approval, authorization or order of any court or governmental body to perform its obligations under this Decommissioning Trust Agreement, except as expressly provided herein. Without limiting the specific duties provided herein, it is hereby expressly agreed and stipulated by the Parties that, unless otherwise provided herein, the Trustee will not be required to exercise any discretion hereunder and will have no investment or management responsibility and, accordingly, will have no duty to, or liability for its failure to, provide investment recommendations or investment advice to the County. It is the intention of the Parties that the Trustee will not be required to use, advance or risk its own funds or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder except that those funds, costs, and expenses related to the normal management and oversight of the Decommissioning Trust Fund property shall be reimbursed as provided herein.

(m) Reliance; Liability. The Trustee may act upon any instruction or direction, regardless of form, furnished to the Trustee by the designated County official in writing or any instrument or signature which it believes to be genuine and in conformance with the terms of this Decommissioning Trust Agreement, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Trustee will not be liable in any manner for the sufficiency or correctness as to form,

manner and execution, or validity of any instrument deposited with it; neither will it be required to verify the identity, authority or right of any person executing the same. The Trustee will only be responsible for receiving, holding in trust, investing, reinvesting, and releasing, disbursing or distributing the Decommissioning Trust Fund as provided in this Decommissioning Trust Agreement and July 2015 Agreement; provided, however, that in no event will the Trustee be liable for any lost profits, lost savings, or other special, exemplary, consequential, or incidental damages, even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action; and provided, further, that the Trustee will have no liability for any loss arising from any cause beyond its control, including, but not limited to, the following: (a) acts of God, force majeure, including, without limitation, war (whether or not declared or existing), revolution, terrorism, insurrection, riot, civil commotion, accident, fire, explosion, stoppage of labor, strikes or other differences with employees; (b) the act, failure or neglect of the County or the Beneficiaries; (c) any delay, error, omission or default of any mail, courier, or telecopier operator; or (d) the acts or edicts of any government or governmental agency or other group or entity exercising governmental powers. The Trustee is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of the subject matter of this Decommissioning Trust Agreement and any part hereof, for the transaction or transactions requiring or underlying the execution of this Decommissioning Trust Agreement or the form or execution hereof, or for the identity or authority of any person executing this Decommissioning Trust Agreement or any part hereof. The Trustee will not be liable in connection with the performance or observation of its duties or obligations hereunder except for failure to exercise reasonable care or in the case of its own willful misconduct. The Trustee will have no obligation or liability to the County under this Decommissioning Trust Agreement for the failure or refusal of the County to perform any covenant or agreement made by the County hereunder or under any other agreement, but will be responsible solely for the performance of the duties and obligations expressly imposed upon it as Trustee hereunder.

(n) Right of Interpleader. Should (a) any controversy arise involving the Parties or any other person, firm or entity with respect to this Decommissioning Trust Agreement or the Decommissioning Trust Fund, (b) a successor Trustee fails to be designated as provided in Section 10.1, or (c) the Trustee is in doubt as to what action to take, then, in each such circumstance, the Trustee will have the right, but not the obligation, either to (i) withhold delivery of the Decommissioning Trust Fund until the controversy is resolved, the conflicting demands are withdrawn, or its doubt is resolved, or (ii) institute a petition for interpleader in any court of competent jurisdiction to determine the rights of the Parties, of any of the Beneficiaries or of any other person. In the event the Trustee is a party to any dispute with respect to the County, the Beneficiaries, this Decommissioning Trust Agreement, or the Decommissioning Trust Funds, the Trustee will have the

additional right to refer such controversy to binding arbitration as described in Section 6.1(o), if applicable.

(o) Arbitration. Subject to the Trustee's right of interpleader as provided in Section 6.1(n), and the County's right to seek removal of the Trustee under Section 10.2, the Parties agree that all controversies which may arise between the County and the Trustee concerning the construction, performance or breach of this Agreement will be determined by arbitration.

(i) The arbitration will be held before a single arbitrator selected by the Parties, or, in the event that the Parties are unable to agree upon an arbitrator, a single arbitrator chosen by the American Arbitration Association from a panel of persons knowledgeable in the subject matter of the arbitration.

(ii) Any arbitration will be held in Albuquerque, New Mexico. The arbitration will be conducted in accordance with the commercial arbitration rules of the American Arbitration Association. The arbitration will be held and a final decision reached within thirty (30) days after the appointment of the arbitrator or such longer period as the Parties may agree. The arbitrator will file a certificate of ruling with the Parties immediately after a decision is reached. The decision of the arbitrator will be final and conclusive on the Parties, and there will be no relief or appeal therefrom, except for grounds set out in the Uniform Arbitration Act, NMSA 1978, §§ 44-4A-1 through 44-4A-32 or as may be provided in the Uniform Trust Code, NMSA 1978, §§ 46A-1-101 through 46A-11-1105 as may be amended from time to time, as may be provided by law. A decision of the arbitrator may be enforced by the prevailing Party in a court of competent jurisdiction. All other issues in connection with such arbitration will be determined in accordance with the rules of the American Arbitration Association.

(iii) The Parties agree that an action to compel arbitration pursuant to this Agreement will be brought in any court of competent jurisdiction in the State of New Mexico. Application may also be made to such court for confirmation of any decision or award of the arbitrator, which may be necessary to effectuate such decisions or awards. The Parties hereby consent to the jurisdiction of the arbitrator and of such court and waive any objection to the jurisdiction and venue of such arbitrator or court.

(iv) Each party shall be responsible for their own costs and fees related to arbitration.

(p) Indemnification. The Trustee will have no obligation to take any legal action in connection with this Decommissioning Trust Agreement or towards its

enforcement, or to appear in, prosecute or defend any action or legal proceeding that would or might involve it in any cost, expense, loss or liability unless indemnity, as provided in this Section 6.1(p) and as may be allowed under State law, will be furnished; provided, that the Trustee may rely on the protections of this Section 6.1(p) without a requirement for further action by the County.

To the extent permitted by applicable law, the County agrees to indemnify the Trustee and its officers, directors, employees and agents (the "Indemnified Parties" and each an "Indemnified Party") and save and hold the Indemnified Parties harmless from and against any and all Claims (as hereinafter defined) and Losses (as hereinafter defined) which may be incurred by an Indemnified Party a result of Claims asserted against such Indemnified Party as a result of or in connection with such Indemnified Party's capacity as such under or in connection with this Decommissioning Trust Agreement by any person or entity. For the purposes hereof, the term "Claims" will mean all claims, lawsuits, arbitrations, mediations, causes of action or other legal actions and proceedings of whatever nature brought against (whether by way of direct action, counterclaim, cross action or impleader) an Indemnified Party, even if groundless, false or fraudulent, so long as the claim, lawsuit, arbitration, mediation, cause of action or other legal action or proceeding is alleged or determined, directly or indirectly, to arise out of, result from, relate to or be based upon, in whole or in part: (a) the acts or omissions of the County, the Beneficiaries or an Investment Manager, (b) the appointment of the Trustee as Trustee under this Decommissioning Trust Agreement, or (c) the exercise by the Trustee of its powers and discharge of its duties under and in accordance with this Decommissioning Trust Agreement; and the term "Losses" will mean losses, costs, damages, expenses, judgments and liabilities of whatever nature (including, but not limited to, attorneys', accountants' and other professionals' fees, litigation, arbitration, mediation and court costs and expenses and amounts paid in settlement), directly or indirectly resulting from, arising out of or relating to one or more Claims. Upon the written request of an Indemnified Party, and to the extent permitted by law, the County agrees to assume the investigation and defense of any Claim, including the employment of counsel acceptable to such Indemnified Party and the payment of all expenses related thereto and, notwithstanding any such assumption, such Indemnified Party will have the right, and the County agrees to pay the cost and expense, to employ separate counsel with respect to any such Claim and participate in the investigation and defense thereof in the event that such Indemnified Party will have been advised by counsel that there may be one or more legal defenses available to such Indemnified Party that are different from or in addition to those available to the County. The County hereby agrees that the indemnification and protections afforded the Indemnified Parties in this Section 6.1(p) will survive the resignation or removal of the Trustee and the termination of this Decommissioning Trust Agreement.

(q) Registration of Securities. The Trustee will have the power to hold any stocks, bonds, securities, and/or other property in the name of a nominee, in a street name, or by other title-holding device.

ARTICLE 7

TERMINATION OF THE TRUST AND OF THE DECOMMISSIONING TRUST AGREEMENT

7.1 Termination of Decommissioning Trust and of this Decommissioning Trust Agreement. The Decommissioning Trust and this Decommissioning Trust Agreement will terminate no earlier than twenty-four (24) months after the Decommissioning Committee (established in the July 2015 Agreement) determines that the “Decommissioning Work” is complete; provided, however, that in the event all fees, expenses, costs and other amounts required to be paid to the Trustee hereunder are not fully and finally paid prior to termination, the provisions of Section 9.1 will survive the termination hereof, and provided further, that the provisions of Section 6.1(n) and Section 6.1(p) (if applicable) will, in any event, survive the termination hereof. Notice of termination of the Decommissioning Trust and of this Decommissioning Trust Fund and Agreement must be provided to the Trustee in the following manner: the Decommissioning Agent, at the direction of the Decommissioning Committee, must give written notice to the County and to each of the other Decommissioning Parties that the Decommissioning Work was completed, and the County must, in turn, give written notice to the Trustee of the satisfaction of the County’s obligations under the July 2015 Agreement.

7.2 Distribution of Assets. Until satisfaction of The County’s obligations under the July 2015 Agreement, the County will have no right of return of any of the Decommissioning Trust Fund. Upon the termination of this Decommissioning Trust Agreement, the Trustee must distribute any remaining assets in the Decommissioning Trust Account to the County.

ARTICLE 8

APPOINTMENT OF TRUSTEE

8.1 Power of Appointment. The County has the power to appoint the initial and successive Trustee as provided herein.

8.2 Appointed Trustees. The County hereby appoints BOKF, N.A. dba Bank of Albuquerque to serve as the Trustee, and appoints BOKF, N.A. dba Bank of Albuquerque to hereby accept such appointment, for the purposes and subject to the terms and conditions set forth in this Decommissioning Trust Agreement.

8.3 Successor Trustee. If for any reason or at any time the Trustee, or its successor, is unwilling or unable to act, resigns, or is removed pursuant to Article 10, then a successor will be appointed by the County.

8.4 Bond. No bond is required of the Trustee or of any successor Trustee or, if a bond is required by law, no surety on such bond is required. If, however, a court requires a bond, the premium of any surety will be payable out of the Decommissioning Trust Fund.

ARTICLE 9 COMPENSATION OF TRUSTEE

9.1 Compensation and Reimbursement of Expenses.

(a) The Trustee will charge for its trust services hereunder in accordance with the Trustee's fee schedule attached hereto as **Exhibit 2**, as in effect and as may be amended from time to time (the "Trustee Fee") and the Trustee will be reimbursed for all expenses incurred by the Trustee in connection with the performance of its duties and enforcement of its rights hereunder and otherwise in connection with the preparation, operation, administration and enforcement of this Decommissioning Trust Agreement, including, without limitation, attorneys' fees, brokerage costs and related expenses incurred by the Trustee ("Trust Expenses"). The County will be liable to the Trustee for the payment of the Trustee Fee and Trust Expenses; provided, however, the Trustee may, in its discretion, charge the Trustee Fee and Trust Expenses to the Decommissioning Trust Fund.

(b) All amounts payable to the Trustee or any Indemnified Party pursuant to this Decommissioning Trust Agreement, including, without limitation, any such amounts payable to the Trustee or any Indemnified Party pursuant to Sections 6.1(j) and 6.1(p), may be deducted by the Trustee from the Decommissioning Trust Fund, with all such deductions being made first from interest and other returns earned on the Decommissioning Trust Fund, and to the extent such interest and other returns earned with respect to the Decommissioning Trust Fund are insufficient to pay such amounts, from the principal of the Decommissioning Trust Fund. If such deductions are insufficient to pay all amounts owed to the Trustee, the County will be liable for the excess amount.

(c) The Trustee will notify the County of all deductions made under this Section 9.1 by reflecting such deductions in monthly account statements, as provided in Section 6.1(h).

(d) The Trustee will notify the County in writing and in advance of any material change in the method or rate of the Trustee's compensation.

ARTICLE 10

RESIGNATION OR REMOVAL OF TRUSTEE

10.1 Resignation of Trustee. In the event that any Trustee desires to resign, such Trustee will have the right to resign at any time by giving sixty (60) days prior written notice to the County; provided, however, that no such resignation by a Trustee will become effective until the date on which a written acceptance by a successor Trustee is delivered to the resigning Trustee and the Trustees receive approval of such transfer of responsibilities under this agreement.

10.2 Removal of Trustee. The County may request that the Trustee resign at any time by giving thirty (30) days' written notice to the Trustee, and the Trustee will resign. The County may petition any court having jurisdiction in the premises for removal of the Trustee for failure to resign when requested to do so, to administer this Decommissioning Trust Agreement expeditiously for the purposes stated in this Decommissioning Trust Agreement, for a breach of trust or for other failure to perform the general duties of the Trustee in accordance with the standards of care and performance as set forth herein; provided, however, that the removal of the Trustee will not become effective until the date on which a written acceptance by a properly qualified successor Trustee is delivered to the removed Trustee or said court.

ARTICLE 11

MISCELLANEOUS PROVISIONS

11.1 The Trustee. Whenever in this Decommissioning Trust Agreement reference is made to the "Trustee", such reference will be deemed to include not only the initial Trustee, but also any and all successor Trustees at any time qualified and acting hereunder, and all rights and powers given in this Decommissioning Trust Agreement to the Trustee will be vested in such successor Trustees. Any banking association or corporation into which the Trustee may be merged, converted or with which the Trustee may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee will be a party, or any banking association or corporation to which all or substantially all of the business of the Trustee will be sold or otherwise transferred, will succeed to all the Trustee's rights, obligations and immunities hereunder without the execution or filing of any instrument or any further act, deed or conveyance on the part of the Parties, anything herein to the contrary notwithstanding.

11.2 Spendthrift Clause. The interests of the Beneficiaries are held subject to a **spendthrift trust**. No interest in the Decommissioning Trust Fund established pursuant to this Decommissioning Trust Agreement will be transferable or assignable, voluntarily or involuntarily, or be subject to the claims of the County or its creditors other than as provided in the July 2015 Agreement.

11.3 Tax Matters. The County must provide the Trustee with its taxpayer identification number documented by an appropriate Form W8 or W9 (or other appropriate identification information for tax purposes) upon execution of this Decommissioning Trust Agreement. Failure to provide such form may prevent or delay disbursements from the Decommissioning Trust Fund and may also result in the assessment of a penalty and the requirement that the Trustee withhold tax on any interest or other income earned on the Decommissioning Trust Fund. The Parties agree that, for all tax purposes, all interest or other income, gain, or loss from investment of the Decommissioning Trust Fund, as of the end of each calendar year and to the extent required by the Internal Revenue Service or other taxing authority, will be reported as having been earned or lost, as the case may be, by the County. Any payments of income will be subject to applicable withholding regulations then in force in the United States or any other jurisdiction, as applicable.

11.4 Tax Liability of the Trustee. To the extent that the Trustee becomes liable for the payment of any taxes with respect to income derived from the investment of the Decommissioning Trust Fund, the Trustee will satisfy such liability to the extent possible from the Decommissioning Trust Fund. To the extent such amounts cannot be satisfied from the Decommissioning Trust Fund, the County agrees to indemnify, defend and hold the Trustee harmless, as may be allowed by law, from and against any tax, late payment, interest, penalty or other cost or expense that may be assessed against the Trustee on or with respect to the Decommissioning Trust Fund and the investment thereof unless any such tax, late payment, interest, penalty or other expense was caused by the gross negligence or willful misconduct of the Trustee. The indemnification provided by this Section 11.4 is in addition to the indemnification provided in Section 6.1(p) and will survive the resignation or removal of the Trustee and the termination of this Decommissioning Trust Agreement.

11.5 Binding Effect. This Decommissioning Trust Agreement will extend to and be binding upon the heirs, executors, administrators, legal representatives, assignees, and successors, respectively, of the County and the Trustee. The foregoing notwithstanding, no assignment of the interests of the County will be binding on the Trustee unless and until properly issued written notice of such assignment will be delivered to and acknowledged by the Trustee.

11.6 Captions. The captions, section and paragraph headings of this Decommissioning Trust Agreement are not necessarily descriptive, or intended or represented to be descriptive of all the provisions thereunder, and in no manner, will such captions, section and paragraph headings be deemed or interpreted to limit the provisions of this Decommissioning Trust Agreement.

11.7 Numbers and Genders. Whenever used herein, unless the context will otherwise provide, the singular number will include the plural, the plural the singular, and the use of any gender will include all genders.

11.8 Severability. If any provision of this Decommissioning Trust Agreement, or the application of such provisions to any person or circumstances, will be held invalid, the remainder of this Decommissioning Trust Agreement, or the application of such provisions to persons or circumstances other than those to which it is held invalid, will not be affected thereby.

11.9 Governing Law. The validity, construction, and effect of this Decommissioning Trust Agreement, the administration thereof and the rights and obligations of the Parties will be governed by the laws of the State of New Mexico.

11.10 Counterparts. This Decommissioning Trust Agreement may be executed in any number of counterparts, and it will not be necessary that the signatures of both Parties be contained on any counterpart. Each counterpart will be deemed an original, but all counterparts together will constitute one and the same instrument.

11.11 **Not FDIC Insured.** The County acknowledges that investments in mutual funds, money market mutual funds, and any other non-deposit investment products are not insured by the FDIC; are not deposits or other obligations of, or guaranteed by Bank; and are subject to investment risks, including possible loss of the principal amount invested.

11.12 Notices. Any notice, demand or request provided for in this Agreement, or served, given or made in connection with it, will be deemed properly served, given or made (i) when delivered personally or by prepaid overnight courier, with a record of receipt; (ii) on the fourth day after mailing if mailed by certified mail, return receipt requested; or (iii) on the day of transmission, if sent by facsimile or electronic mail during regular business hours or the day after transmission, if sent after regular business hours (provided, however, that such facsimile or electronic mail will be followed on the same day or next Business Day with the sending of a duplicate notice, demand or request by a nationally recognized prepaid overnight

courier with record of receipt), to the Parties specified below. The following notice information may be changed at any time by written notice to the other Party.

If to the Trustee:

Bank of Albuquerque
Corporate Trust
100 Sun Avenue NE Suite 500
Albuquerque, NM 87109
Telephone 505-222-8457
Facsimile 505-222-8453

If to The County:

Incorporated County of Los Alamos
Attention Deputy Utilities Manager, Finance and Administration
1000 Central Avenue Suite 130
Los Alamos, NM 87544
Telephone 505-662-8001
Facsimile 505-662-8005

With Copy to:

Incorporated County of Los Alamos
Attention: Chief Financial Officer
1000 Central Avenue Suite 300
Los Alamos, NM 87544
Telephone 505-662-8360
Facsimile 505-662-8069

11.13 Waivers. Any failure by either Party to comply with any of its obligations, agreements or conditions herein contained may be waived by the Party to whom such compliance is owed by an instrument signed by the Party to whom compliance is owed and expressly identified as a waiver, but not in any other manner. No waiver of, or consent to a change in, any of the provisions of this Decommissioning Trust Agreement will be deemed or will constitute a waiver of, or consent to a change in, other provisions hereof (whether or not similar), nor will such waiver constitute a continuing waiver unless otherwise expressly provided.

11.14 Entire Agreement; Amendments. This Decommissioning Trust Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral, and all prior written, understandings, agreements, solicitation documents and representations, express or implied, between the

Parties. By execution of this Decommissioning Trust Agreement, the Trustee will not be deemed or considered to be a party to any other contract or agreement, including any agreement between or among the County and any of the Decommissioning Parties. The County acknowledges that it will not enter into any modification of this Decommissioning Trust Agreement, including of any "Mandatory Provision" of this Decommissioning Trust Agreement, except as provided for in Section 4.1 and in the July 2015 Agreement.

11.15 Third Party Beneficiaries. Nothing in this Decommissioning Trust Agreement will entitle any person other than the Parties to any claim, cause of action, remedy, or right of any kind, except the rights expressly provided to the persons described in Section 6.1(p) (if applicable).

IN WITNESS WHEREOF, the Parties have executed this San Juan Generating Station Decommissioning Agreement on the date first above written.

INCORPORATED COUNTY OF LOS
ALAMOS

By: _____
Timothy Glasco
Utilities Manager

BOKF, N.A. dba Bank of Albuquerque, as
Trustee

By: _____
Name: _____
Title: _____

Exhibit 1. San Juan Decommissioning and Trust Funds Agreement, July 31, 2015

Exhibit 2. Trustee Fee Schedules