

AGENDA

GALLUP CITY COUNCIL REGULAR MEETING TUESDAY, APRIL 12, 2016; 6:00 P.M. CITY COUNCIL CHAMBERS

Jackie McKinney, Mayor

Linda Garcia
Councilor, District #1

Allan Landavazo
Councilor, District #2

Yogash Kumar
Councilor, District #3

Fran Palochak
Councilor, District #4

Maryann Ustick, City Manager
George Kozeliski, City Attorney

A. Pledge of Allegiance

B. Roll Call

C. Approval of Minutes

Regular Meeting of March 22, 2016
Special Meetings of March 29-30, 2016
Special Meeting of April 4, 2016

D. Discussion/Action Topics

1. Re-appointment of Juliana Dooley and Matthew Long to the Planning and Zoning Commission – Mayor Jackie McKinney
2. Professional Services Agreement with the Chamber of Commerce for the Summer Nightly Indian Dance Program – Catherine Sebold, Tourism and Marketing Manager
3. Acceptance of Two (2) Easements from the Gallup McKinley County Public School District No. 1 for the Construction of a New Waterline Along Boardman Drive – Richard Matzke, Electric Director
4. Acceptance of an Easement from Gallup Land Partners, LLC for Electric Service Line Improvements North of Gallup – Richard Matzke, Electric Director

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Discussion/Action Topics, continued

5. Resolution No. R2016-18; Authorizing the Execution and Delivery of a Local Government Planning Grant Agreement with the New Mexico Finance Authority – Clyde (C.B.) Strain, Planning Director

E. Presentation and Information Item

1. Report by the Gallup MainStreet Arts and Cultural District Board – Colin McCarty, President, Gallup MainStreet Arts and Cultural District

F. Comments by Public on Non-Agenda Items

G. Comments by Mayor and City Councilors

H. Comments by City Manager and City Attorney

I. Motion to Adjourn

Auxiliary aides for the disabled are available upon request. Please contact Alfred Abeita, City Clerk, at 863-1254 at least one (1) week prior to the meeting or as soon as possible in advance of the meeting to make any necessary arrangements.

Pursuant to the "Open Meetings Act", NMSA 1978, Section 10-15-1 through 10-15-4 of the State of New Mexico, this Agenda was posted at a place freely accessible to the public 72 hours in advance of the scheduled meeting.

Minutes

Regular Meeting of March 22, 2016
Special Meetings of March 29-30, 2016
Special Meeting of April 4, 2016

Minutes of the Regular Meeting of the Gallup City Council, City of Gallup, New Mexico, held in the Council Chambers at City Hall, 110 West Aztec Avenue, at 6:00 p.m. on Tuesday, March 22, 2016.

The meeting was called to order by Mayor Jackie McKinney.

Upon roll call, the following were present:

Mayor:	Jackie McKinney
Councilors:	Linda Garcia Allan Landavazo Yogash Kumar Fran Palochak
Also present:	Maryann Ustick, City Manager George Kozeliski, City Attorney

Presented to the Mayor and Councilors were the Minutes of the Regular Meeting of March 8, 2016.

Councilor Palochak made the motion to approve the aforementioned Minutes. Seconded by Councilor Garcia. Roll call: Councilors Palochak, Garcia, Kumar, Landavazo, and Mayor McKinney all voted yes.

The Mayor and Councilors presented a Commendation to Viola Hoskie, 2016 Golden Apple Award Winner.

The Mayor and Councilors also presented a Proclamation declaring the week of April 10-16, 2016 as National Library Week. Mary Ellen Pellington, Library Director, accepted the Proclamation on behalf of the Octavia Fellin Public Library.

Presented to the Mayor and Councilors were the following Discussion/Action Topics:

1. Ordinance No. S2016-2; Boardman Land Development Company Annexation Unit 2 – Clyde (C.B.) Strain, Planning Director

Mr. Strain presented the request by VJ Holdings, LLC, property owners, for annexation of the following described territory: Boardman Land Development Company Annexation Unit 2, being an annexation of a portion of Tract 5, north of Aztec Avenue, of the Boardman Land Development Company Division, containing 3.07 acres more or less, at 2800 East Historic Highway 66. Based on the property owners request for a subdivision, it was recently discovered that the subject property is a county island within the city. Although the surrounding properties were annexed into the city over time, it is unknown why the northern portion of Tract 5 was never annexed. The proposed annexation is necessary to allow for the subdivision and development of the property

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under the City's Subdivision Regulations and Land Development Standards. The Planning and Zoning Commission reviewed the request and sends a positive recommendation to the Mayor and Councilors for approval of the annexation.

Discussion followed concerning the location of the land and the collection of taxes for the subject property.

Councilor Kumar made the motion to adopt Ordinance No. S2016-2. Seconded by Councilor Landavazo. Roll call: Councilors Kumar, Landavazo, Palochak, Garcia, and Mayor McKinney all voted yes.

2. Proposed Budget for Red Rock Park Roof Reconstruction Projects – Stan Henderson, Public Works Director

Mr. Henderson said the roofs of the museum wing and the hospitality/concession building at Red Rock Park are in poor shape and need replacement before the onset of the summer monsoon rains. The museum roof protects valuable artifacts that are susceptible to water damage and the hospitality roof covers a critical support building for arena operations and events. Mr. Henderson recommended the following: establishing a project budget of \$350,000 for the reconstruction of both roofs; contracting with Wilson and Company for the project design and construction inspection through the Cooperative Educational Services (CES) Contract; and contracting with Progressive Roofing for the reconstruction of both roofs through the CES Contract.

Ms. Ustick said the Risk Management Fund may be used to pay for the project since the City's artifacts are at risk due to the substandard condition of the roof.

Discussion followed concerning the protection of the artifacts at the museum during construction.

Councilor Palochak made the motion to approve the proposed budget and staff's recommendations for the Red Rock Park Roof Reconstruction Projects. Seconded by Councilor Garcia. Roll call: Councilors Palochak, Garcia, Kumar, Landavazo, and Mayor McKinney all voted yes.

3. Write-off of Bad Debts – Patty Holland, Chief Financial Officer

Ms. Holland presented a listing of the City's bad debts on terminated utility accounts that are four years old or more, terminated utility accounts that are bankruptcy cases, and outstanding accounts receivable invoices that are four years old or more and have been determined as uncollectable. The total amount of the terminated utility accounts is

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\$476,524.40 and the total amount of the miscellaneous accounts receivable invoices is \$108,563.33. City staff usually presents the bad debts to the Mayor and Councilors to be written-off on an annual basis; however, City staff has focused its efforts during the past few years on addressing matters to achieve a clean audit.

Discussion followed concerning the City's collection efforts in previous years, the recommendation for the use of outside credit reporting agencies to collect the City's outstanding debts, the improvements that were noted in the City's 2015 Audit regarding the City's collection efforts, the statute of limitations for collecting the City's outstanding debts, the possibility of filing legal action against those owing the outstanding amounts, and the improvements made to the City's ordinances and policies concerning delinquent utility accounts.

Councilor Landavazo asked Ms. Holland to report back to the Council regarding staff's findings on the use of outside credit reporting agencies.

Councilor Kumar asked that future bad debt listings to be submitted to the Council by date rather than by customer name.

Following discussion, Councilor Kumar made the motion to approve the write-off of bad debts as presented. Seconded by Councilor Landavazo. Roll call: Councilors Kumar, Landavazo, Palochak, Garcia, and Mayor McKinney all voted yes.

The following Presentation and Information Items were presented to the Mayor and Councilors:

1. Child Abuse Awareness and Prevention Month Event to be Held April 2, 2016 – Charles Reado, McKinley County Protective Services

Mr. Reado provided information about the upcoming event, which will take place at the Gallup McKinley County Schools Student Support Center. He also extended an invitation to the Mayor, Councilors and all citizens to participate in the event.

2. 2016 Gallup Authors Festival, "A Celebration of Cultures" Library – Mary Ellen Pellington, Director, Octavia Fellin Public Library

Ms. Pellington provided an overview of the festival, which will take place April 8-9, 2016 at the Octavia Fellin Public Library. The event will consist of 32 southwestern authors participating in the event. She invited the Mayor, Councilors and the public to attend the festival, to meet the authors and to hear them speak.

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3. Update on Film Liaison Activities – Lisa Rodriguez, Film Liaison

Ms. Rodriguez provided a summary of the activities and services provided as the City's Film Liaison. She also provided information concerning her professional affiliations and plans for future ideas.

Discussion followed concerning the State Film Office and its function as a point of contact for production companies wanting to film in New Mexico and the recent production that took place on the east side of town.

Councilor Kumar asked Ms. Rodriguez to provide a presentation to the Mayor and Councilors following every film production.

Comments by Public on Non-Agenda Items

None.

Comments by Mayor and City Councilors

Councilor Palochak said there have been discussions at her Neighborhood District Meetings about motorists failing to stop at the posted stop signs at intersections. She asked all motorists to observe all posted stop signs while driving. Councilor Palochak also wished everyone a Happy Easter.

Councilor Landavazo commented on the recent premier of *Finding Nemo* which was produced in the Navajo language. A couple of years ago, *Star Wars: Episode IV – A New Hope*, was also produced in the Navajo language. The Navajo recordings for both films were done in Gallup, which involved representatives from Pixar and Walt Disney. *Finding Nemo* in the Navajo language is currently being shown, free of charge, at the Red Rock 10. Councilor Landavazo also said there was an article in the *Albuquerque Journal* concerning the State Auditor's audit of seven New Mexico cities' expenditure of 2014 lodger's tax funds. Gallup was included in the audit. The article reported on the flexibility of the use of lodger's tax funds and as a result of the audit, all seven cities were in compliance with state law. Councilor Landavazo commended Ms. Holland for properly overseeing the City's use of its lodger's tax funds. Councilor Landavazo encouraged everyone to keep believing and to keep building Gallup.

Councilor Kumar asked if the neighborhood patrols are being continued. Franklin Boyd, Acting Chief of Police, said the neighborhood patrols may have not been done over a year due to manpower issues. Previously, the patrol tasks were conducted by Community Service Aides (CSAs). Councilor Kumar said certain decisions were made during budget time last year to continue the neighborhood patrols. He asked Acting Chief Boyd to look into the matter. Discussion followed concerning the staffing levels

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of Sworn Police Officers and CSA's at the Police Department. Councilor Landavazo said in District 2, he is out exercising every morning at 5:00 a.m. and observes Police Officers patrolling the neighborhoods, rather than CSAs.

Councilor Garcia said she will hold a District Neighborhood meeting tomorrow night at 6:30 p.m. at the Northside Senior Center. Her guest will be a representative from Metro Dispatch. Councilor Garcia also said she receives complaints at her neighborhood meetings about motorists running stop signs, which prompts local residents to ask for speed bumps in their neighborhoods. Councilor Garcia provided an overview of the Miss Gallup New Mexico Teen Latina Pageant that was held at El Morro Theater this past weekend. Jenelle Garciduenas was crowned as Miss Gallup New Mexico Teen Latina. Councilor Garcia commended Mayor McKinney for participating as a judge at the pageant.

Mayor McKinney also provided a summary of the Miss Gallup New Mexico Teen Latina Pageant, which was a successful event. Mayor McKinney asked to be informed if complaints surface about CSAs being funded by liquor excise tax funds. Mayor McKinney commended the City's Police Officers and CSAs for the work they do. Although he knows Police Officers are extremely busy; he encouraged them to increase their traffic enforcement by focusing on drivers who run stop signs.

Comments by City Manager

Ms. Ustick said the job descriptions have been prepared for staff support for the Recycling Centers at the Larry Brian Mitchel Recreation Center and the Gallup Cultural Center. The Recycling Centers should be staffed within the next 60 days. The City's Strategic Planning Sessions will be conducted next week as City staff will begin their session next Monday, March 28, 2016. The Mayor and Councilors Session will begin on Tuesday, March 29, 2016 at 2:00 p.m. and will continue on Wednesday, March 30, 2016 at 4:00 p.m. A City Council Work Session will be held on Tuesday, April 19, 2016 to discuss the City's Capital Improvement Plan and Budget Proposal for FY 2017.

There being no further business, Councilor Kumar made the motion to adjourn the meeting. Seconded by Councilor Garcia. Roll call: Councilors Kumar, Garcia, Landavazo, Palochak, and Mayor McKinney all voted yes.

Jackie McKinney, Mayor

ATTEST:

Alfred Abeita II, City Clerk

Minutes of the Special Meeting of the Gallup City Council, City of Gallup, New Mexico, held at the El Morro Events Center, 210 South Second Street, at 2:00 p.m. on Tuesday, March 29, 2016.

At such meeting, the following were present, constituting a quorum:

Mayor: Jackie McKinney

Councilors: Linda Garcia
Allan Landavazo
Yogash Kumar
Fran Palochak

Also present: Maryann Ustick, City Manager

The Mayor and Councilors conducted a Work Session on the following topic:

1. Long Range Financial Projection and Strategic Planning for the City of Gallup

Robert Leland, Management Partners, presented a power point presentation on a ten-year budget forecast for the City of Gallup. A copy of the power point presentation is attached hereto and made a part of these official Minutes.

Lyle Sumek, Lyle Sumek Associates, Inc., facilitated a leadership and strategic planning workshop with the Mayor, Councilors, City Manager and Department Directors. The purpose of the workshop included the following areas:

- To review and celebrate the City's achievements and successes for 2015-2016.
- To look to the City of Gallup's future: challenges, opportunities, actions, and projects.
- To update the 5-Year Plan: 2016-2021 – outcomes, challenges/opportunities-short term, and actions.
- To establish a 1-Year Action Agenda with priorities, activity outlines and deliverables.
- To enhance the performance and effectiveness of the City Team: Mayor, Councilors, Management and Employees.

There was no official action taken by the Mayor and Councilors during the Work Session. The Work Session adjourned at 8:00 p.m.

Jackie McKinney, Mayor

ATTEST:

Alfred Abeita II, City Clerk

Minutes of the Special Meeting of the Gallup City Council, City of Gallup, New Mexico, held at the El Morro Events Center, 210 South Second Street, at 4:00 p.m. on Wednesday, March 30, 2016.

At such meeting, the following were present, constituting a quorum:

Mayor:	Jackie McKinney
Councilors:	Linda Garcia Allan Landavazo Fran Palochak
Absent:	Yogash Kumar, Councilor
Also present:	Maryann Ustick, City Manager George Kozeliski, City Attorney

The Mayor and Councilors conducted a Work Session on the following topic:

1. Strategic Planning for the City of Gallup, continued

Lyle Sumek, Lyle Sumek Associates, Inc., continued the facilitation of a leadership and strategic planning workshop with the Mayor, Councilors, City Manager, City Attorney and Department Directors from the previous day.

There was no official action taken by the Mayor and Councilors during the Work Session. The Work Session adjourned at 7:45 p.m.

Jackie McKinney, Mayor

ATTEST:

Alfred Abeita II, City Clerk

Minutes of the Special Meeting of the Gallup City Council, City of Gallup, New Mexico, held in the Council Chambers at City Hall, 110 West Aztec Avenue, at 11:30 a.m. on Monday, April 4, 2016.

The meeting was called to order by Mayor Jackie McKinney.

Upon roll call, the following were present:

Mayor:	Jackie McKinney
Councilors:	Linda Garcia Allan Landavazo Yogash Kumar Fran Palochak
Also present:	Maryann Ustick, City Manager George Kozeliski, City Attorney

Presented to the Mayor and Councilors were the following Discussion/Action Topics:

1. Construction Contract Award for Ford Canyon Senior Center Improvements Project – Stan Henderson, Public Works Director

Mr. Henderson said the proposed project consists of the following: 1) reconstruction of the west side parking lot and associated storm drainage (Bid Lot #1); 2) reconstruction of the handicap ramp into the building (Bid Lot #2); 3) exterior stucco and roof repairs (Bid Lot #3); and 4) secondary site drainage improvements (Alternative #1). Based on the bid results, Albuquerque Asphalt is the apparent low bidder. Staff has obtained three legislative grants for a total current project budget of \$307,600.00; however, the total bid submitted by the contractor is \$410,276.54. Mr. Henderson presented the following funding options for the Mayor and Councilors consideration: 1) full award, including Bid Lots #1 through #3 and Alternative #1, requires an additional \$103,000.00; 2) base bid award, including a project construction contingency and no Alternative #1, requires an additional \$18,000.00; and 3) base bid award, with no project construction contingency and no Alternative #1, requires an additional \$1,100.00. Staff recommends funding option #3 as previously stated and to award the base bid to Albuquerque Paving in the amount of \$260,724.59 including NMGRT.

Discussion followed concerning the work to be included under Alternative #1, the funding needed for the project budget shortfalls, the possibility of proceeding with the work under Alternative #1 under a separate project in the Capital Improvement Plan (CIP) with another funding source, the dollar amount of the grants received versus the cost of the work to be done under the project and if there were any future impacts to areas of the parking lot if Alternative #1 is not done.

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Following discussion, Councilor Landavazo made the motion to approve funding option #3 by awarding the base bid to Albuquerque Asphalt in the amount of \$260,724.59. Seconded by Councilor Kumar. Roll call: Councilors Landavazo, Kumar, Garcia, Palochak, and Mayor McKinney all voted yes.

2. Approval of Behavioral Health Investment Zone Funding Agreement –
Maryann Ustick, City Manager

Ms. Ustick said the City, in partnership with the County, Na’Nizhoozhi Center, Inc. (NCI), Rehoboth McKinley Christian Hospital (RMCH), Northwest New Mexico Council of Governments (NWNMCOG) and behavioral health service providers applied for State Behavioral Health Investment Zone (BHIZ) designation and annual funding in the amount of \$500,000. The funding will support the creation and operation of a behavioral health collaborative and continuum of care in addition to providing funding for Detox Center services. In order to receive the funding, the City, as the fiscal agent for the BHIZ funding, must approve the attached agreement. During a review of the proposed agreement, Mr. Kozeliski drafted a proposed change to Article 12, Subcontracting, of the agreement. A copy of the proposed change is attached hereto and made a part of these official Minutes. Ms. Ustick recommended approval of the proposed agreement, including the proposed change to Article 12.

Discussion followed concerning the State’s requirements under the proposed agreement, including the use of the State’s funding for administrative costs, direct services, evaluation and data management for the program, and the evaluation of the program which will be done by a third party provider.

Following discussion, Councilor Palochak made the motion to approve the Behavioral Health Investment Zone Funding Agreement and the change to Article 12 of the Agreement as presented. Seconded by Councilor Garcia. Roll call: Councilors Palochak, Garcia, Kumar, Landavazo, and Mayor McKinney all voted yes.

There being no further business, Councilor Palochak made the motion to adjourn the meeting. Seconded by Councilor Landavazo. Roll call: Councilors Palochak, Landavazo, Kumar, Garcia, and Mayor McKinney all voted yes.

Jackie McKinney, Mayor

ATTEST:

Alfred Abeita II, City Clerk

Discussion/Action Topic 1

**Re-appointment of Juliana Dooley and Matthew Long
to the Planning and Zoning Commission**

Mayor Jackie McKinney

(Supporting documentation will be provided prior to the meeting)

Discussion/Action Topic 2

**Professional Services Agreement with the Chamber of Commerce
for the Summer Nightly Indian Dance Program**

Catherine Sebold, Tourism and Marketing Manager



**CITY OF
GALLUP**

COUNCIL STAFF SUMMARY FORM

MEETING DATE: April 12, 2016

SUBJECT: Professional Services Agreement with the Chamber of Commerce for the Summer Nightly Indian Dance Program
DEPT. OF ORIGIN: City Manager
DATE SUBMITTED: March 24, 2016
SUBMITTED BY: Catherine Sebold

Summary:

The Agreement allows the Chamber of Commerce to bring Native American dancers/dance groups for nightly performances at the Courthouse Square and to promote local businesses, tourism, upcoming events and shopping in the Gallup area.

Fiscal Impact: \$50,000

Reviewed By: _____

Patty Holland
Finance Department

Attachments: Professional Services Agreement.

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation: Approve and adjust the budget to match the contract.

Approved for Submittal By:

Catherine Sebold
Department Director

[Signature]
City Manager

**CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN**

Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved: _____ Denied: _____
Other: _____ File: _____

PROFESSIONAL SERVICES AGREEMENT
SUMMER DANCE PROGRAM

THIS AGREEMENT, entered into on the ____ day of _____, 2016, by and between the CHAMBER OF COMMERCE, herein called the “Contractor” and the City of Gallup, herein called the “City”.

1. **Scope of Work:** Contractor is to provide a Summer Dance Program for the City in the Dance Arena at the Courthouse Square facility from the Memorial Day holiday thru the Labor Day holiday. The Contractor will identify, hire, schedule, and pay a variety of Native American dancers or dance groups to perform live on a regular basis. The Contractor shall also determine the vendor types, solicit and select vendors; plus assign appropriate vendor space. The Contractor shall provide a qualified, articulate Master of Ceremonies to introduce the dance performers; announce the dance activities; gather tourism information; actively promote throughout the performance Gallup businesses, entertainment, local and area attractions related to tourism, upcoming events, and downtown shopping. In addition, the Contractor shall be responsible for providing the necessary support staff (trained volunteers) nightly during the performances in accordance with the dance schedule.

The contractor shall provide a monthly tracking statistics in the form of a computer spread sheet or hard copy report showing the approximate attendance per night, type of attendees (local, domestic and foreign), number of dances performed, Tour Buses, Vendors, Vendor types, etc. The Contractor shall provide this demographic information report to the City’s Park Department or the Economic Development Dept. The Contractor shall provide a year-end assessment to Mayor and Council at the second council session in September.

The Contractor shall be in charge of allowing Vendors to sell goods & services in the Courthouse Square facility. The Contractor shall develop a fee schedule, collect, and monitor the Vendors. The Contractor shall be responsible for policing the Vendors for adherence to all applicable Federal, State, and City Municipal codes, rules or regulations. The City recognizes that the Contractor will be collecting a fee from the Vendors, and that the Contractor will use those collected funds to further the development or pay the cost of putting on the summer dance program. In the event that any Vendor wishes to receive a reimbursement, it is the financial responsibility of the Contractor to take care of these requests, and hold the City harmless.

It shall be up to the discretion of the City’s Parks Director or his designee, along with the Contractor to determine a mutual understanding as to how or where certain vendor types shall be located in the Courthouse Square area. It shall be the sole discretion of the City’s Parks Director or his designee to ban specific types of vendors if complaints have been substantiated against a Vendor. The Contractor shall ensure that all food Vendors (if any) shall possess and have on hand a State food handling permit. The Contractor shall ensure that all vendors have a City Business license to sell goods and services.

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The Contractor shall provide sufficient documentation (contracts, receipts, 1099's, etc.) to the City's Finance department as to the expenditures of the Lodger's tax monies on the facilities, performers, and performances, or those categories identified in Sections 3-38-15 and 3-28-21, et. seq. NMSA 1978 Comp. (as revised). Any funds not spent at the end of the term shall and must be returned to the City. Original records, receipts and documentation shall be retained for the period years as specified in accordance with the State' financial records retention regulations.

2. **Payment:** The City shall provide a total of fifty thousand dollars (\$50,000.00 which includes the NM Gross Receipts Tax (NMGRT) in the payments) in Lodger's Tax funds to carry out the Scope of Work of this Agreement. The City shall provide the money in accordance with the following payment schedule:

1.	May 27, 2016	\$8,000.00	(PMT INCLUDES GRST)
2.	June 10, 2016	\$6,000.00	(PMT INCLUDES GRST)
3.	June 24, 2016	\$6,000.00	(PMT INCLUDES GRST)
4.	July 8 2016	\$6,000.00	(PMT INCLUDES GRST)
5.	July 22, 2016	\$6,000.00	(PMT INCLUDES GRST)
6.	August 5, 2016	\$6,000.00	(PMT INCLUDES GRST)
7.	August 19, 2016	\$6,000.00	(PMT INCLUDES GRST)
8.	September 9, 2016	\$6,000.00	(PMT INCLUDES GRST)

The City shall not provide any in-kind services such as office/desk space, telephone or clerical support services. Travel expenses, if any, shall not be reimbursed in accordance with the City's travel policy.

3. **Term:** The term of this agreement shall be from the Date of execution to **September 5, 2016** (Memorial Day holiday thru Labor Day holiday) unless terminated. This contract shall not be extended or renewed upon mutual agreement of both parties.

4. **Facilities:** The City shall make available, exclusively during the hours of 6:30 pm to 8:30 pm, to the Contractor all necessary outdoor dance facilities needed to conduct the Scope of Work including the Courthouse Square dance arena, dance pavilion, sound system, and parking area. The City shall be responsible for maintaining the facilities and managing the traffic during the summer dance performances. The Contractor shall be given use of the City's Public Announcement (PA) System at the Courthouse Square dance arena during the dance performances. The Contractor recognizes that it is their sole responsibility for the care and use of the equipment before, during and after the performances. Therefore, any equipment lost, stolen, misplaced, or damaged shall be replaced with equivalent, or better hardware; by the Contractor.

5. **Termination:** This Agreement may be terminated without cause by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

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This Agreement shall be terminated for “cause” should the Contractor fail to fulfill any obligation resulting from this Agreement in a timely and responsive manner, or if the Contractor violated any terms of this contract, the City shall have the right to cancel the contract by upon written notice delivered to the Contractor.

In the event this Agreement is terminated prior to the full term of the Agreement or subsequent renewal period, the Contractor shall return to the City any unexpected City funds within thirty (30) days. If deemed necessary by the City, the Contractor shall be subject to an audit conducted by an independent Certified Public Accountant selected by the City at the City’s expense.

6. **Status of Contractor:** The Contractor or its agent(s), and/or its employee(s) are independent contractors performing professional services for the City and are not employees of the City. The Contractor or its agent(s), and/or its employee(s) shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. Neither shall the City be liable to the Contractor nor its Agents, nor their estate for any injury to person or property incurred in the course of the performance of this Agreement unless such injury shall have directly and proximately resulted from grossly negligent or reckless conduct on the part of the City or its Agents acting within the scope of their employment and official duties.

7. **Status of Performers and Vendors:** The City shall consider the dancers, dance groups, performers, or vendors as “agent(s)” for the Contractor. As such, the status shall be considered the same as the Contractor, as described in Paragraph 6. In any event, the Contractor shall hold harmless the City from any of its subcontractors or financial obligations. Neither shall the City be liable to the Contractor nor its subcontractors, nor their estates for any injury to person or property incurred in the course of the performance of this Agreement unless such injury shall have directly and proximately resulted from grossly negligent or reckless conduct on the part of the City or its Agents acting within the scope of their employment and official duties.

8. **Indemnity:** The Contractor shall indemnify and hold harmless the City, its officers and employees, against liability, claims, damages, losses or expenses arising out of bodily injury to person’s or damage to property caused by, or resulting from, contractor’s and/or its employee(s) own negligent act(s) or omission(s) while contractor and/or its employee(s) performs or fails to perform its obligations and duties under this Agreement. The City shall indemnify and hold harmless the Contractor for any negligent acts by City employees. The City’s liability shall be limited by the provisions of the New Mexico Tort Claims Act Section 41-4-1, et seq. NMSA 9178 comp. (as revised)

9. **Assignment:** The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

PROFESSIONAL SERVICES AGREEMENT
SUMMER DANCE PROGRAM

10. **Subcontracting:** The Contractor may subcontract any portion of the services to be performed under this Agreement. Any subcontract under this Agreement in excess of \$4,000 must be approved by the City.
11. **Records and Audit:** The Contractor shall maintain financial and personnel records. The expenditures made under this Agreement will be invoiced in accordance with Contractor's fiscal management system. The Contractor's representative shall brief the City on a monthly basis and give a final report on all relevant aspects of this Agreement.
12. **Appropriations:** The terms of this Agreement are contingent upon sufficient Lodgers' Tax monies being made available by the City of Gallup for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City of Gallup, this Agreement shall terminate upon written notice being given by the City to the Contractor. The City in its sole discretion will determine if sufficient appropriations are available for funding and its decision shall be accepted by the Contractor and shall be final.
13. **Release:** The Contractor, upon final payment of the amount due under this Agreement, releases the City, its officers and employees, and City of Gallup from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City of Gallup to any obligations not assumed herein by the City of Gallup, unless the Contractor has expressed written authority to do so, and then only within the strict limits of that authority.
14. **Confidentiality:** Any information given to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.
15. **Conflict of Interest:** The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.
16. **Amendment:** This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.
17. **Scope of Agreement:** This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements or understandings have merged into this written Agreement. No prior agreement of understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. And no subsequent agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless incorporated by way of amendments as described in Paragraph 16.

PROFESSIONAL SERVICES AGREEMENT
SUMMER DANCE PROGRAM

18. **Notice of Procurement Code:** The Procurement Code of the City of Gallup imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.
19. **Equal Opportunity Compliance:** The Contractor agrees to abide by all the 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 Contractor agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.
20. **Insurance:** Contractor shall provide a certificate of insurance which includes proof of Worker's Compensation, and general liability. The City currently provides liability insurance for its public facilities. However, the contractor shall provide insurance coverage over and above during the nightly event performances, where ever the performances are held on City property. As with the City's event permits, the Contractor shall provide a Certificate of Liability with the City named as an additional insured in the amount currently established.
21. **Applicable Law:** This Agreement shall be governed by the laws of the State of New Mexico; Lodgers' Tax Act Sections 3-38-13 through 3-38-24, et. seq. NMSA 1978 comp. (as revised); and the ordinances of the City of Gallup, including the City's Financial Disclosure Ordinance C2005-11.
22. **Renewal:** The City shall have the option to renew this contract for one (1) additional one (1) year period upon thirty (30) days written notice from the City to Contractor.
23. **Waiver of Contractual Right:** The failure of either party to enforce any provision of this Agreement shall not be construed a waiver of that party's right to subsequently enforce and compel strict compliance with very provision of this Agreement.
24. **Severability:** If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement in invalid or unenforceable, but that by limited such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.
25. **Notice:** All notices, requests, demands or other communications required or desired to be made or given hereunder or in connection herewith shall be in writing and

PROFESSIONAL SERVICES AGREEMENT
SUMMER DANCE PROGRAM

shall be deemed to be duly given if delivered in person or mailed by certified or registered mail, postage prepaid, to the parties at the following addresses, or to such other addresses as may from time to time be designated by the parties by written notice in the manner herein provided:

City of Gallup: Purchasing Director
 City of Gallup
 P.O. Box 1270
 Gallup, New Mexico 87305-1270

Provided: Chamber of Commerce
 103 West Highway 66
 Gallup, NM 87301

26. **Force Majeure:** Neither party shall be liable for any loss nor damage due to causes beyond its control, including fire, explosion, lightning, pest damage, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, acts or omissions of communication carriers, or other causes beyond that party's control. Either party may terminate this Agreement immediately upon written notice if the other party is prevented from performing its obligations under this Agreement for a period of more than thirty (30) days due to the reasons set forth in this subsection.

IN WITNESS THEREOF, the parties hereto have read, understood and accept the terms aforementioned and executed this Agreement on the date set forth in the first paragraph hereof.

CHAMBER OF COMMERCE:

By: _____ Date: _____
Chamber Director

By: _____
Patrick Mason, Board President

CITY OF GALLUP:

By: _____ Date: _____
Maryann Ustick, City Manager

PROFESSIONAL SERVICES AGREEMENT
SUMMER DANCE PROGRAM

Attest:

Alfred Abeita, City Clerk

Date: _____

Discussion/Action Topic 3

Acceptance of Two (2) Easements from the Gallup McKinley County
Public School District No. 1 for the Construction of a New Waterline
Along Boardman Drive

Richard Matzke, Electric Director



**CITY OF
GALLUP**

COUNCIL STAFF SUMMARY FORM

MEETING DATE: April 12, 2016

SUBJECT: Easements to the City of Gallup for a new waterline.
DEPT. OF ORIGIN: City Attorney
DATE SUBMITTED: March 29, 2016
SUBMITTED BY: Richard Matzke, Electric Director

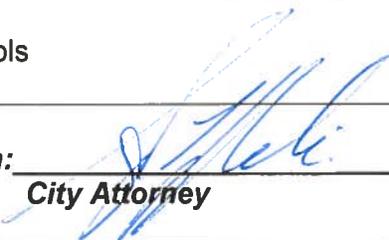
Summary: These two (2) easements are needed for construction of a new waterline along the west side of Boardman/Hwy 564. This waterline is called the Boardman Loop waterline and will provide a second water supply to the south area JFK/Central Office/Miyamura High and south to New Orleans apartments.

Fiscal Impact: None

Reviewed By: 
Finance Department

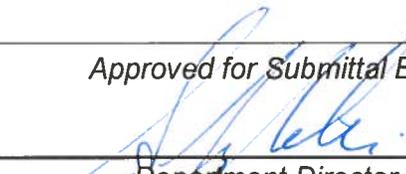
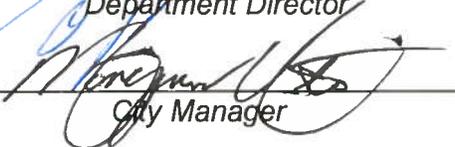
Attachments: Grants of Easement from Gallup McKinley County Schools

Legal Review: Approved

Approved As To Form: 
City Attorney

Recommendation: Accept easements from McKinley County School District

Approved for Submittal By:


Department Director

City Manager

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved: _____ Denied: _____
Other: _____ File: _____

PUBLIC UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned: **GALLUP MCKINLEY COUNTY PUBLIC SCHOOL DISTRICT, NO. 1** hereinafter termed the Grantor hereby grants, and conveys unto **the CITY OF GALLUP, NEW MEXICO**, a Municipal Corporation of the State of New Mexico, a perpetual, full and unrestricted easement for utility purposes, in, upon, over and across the following described strips, tracts and parcels of land located in McKinley County, New Mexico, hereinafter described as follows:

DESCRIPTION

A 40' WIDE STRIP OF LAND LYING IN SECTION 23, T15N, R18W, N.M.P.M., GALLUP, MCKINLEY COUNTY, NEW MEXICO LYING WITHIN THE NEW GALLUP HIGH SCHOOL ANNEXATION AS SHOWN ON THE PLAT FILED IN THE OFFICE OF MCKINLEY COUNTY CLERK ON SEPTEMBER 11, 1963 AND ADJACENT TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 564 (BOARDMAN DRIVE) HIGHWAY PROJECT S-1300 (801); LYING 40' WESTERLY OF THE FOLLOWING DESCRIBED EAST SIDELINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 23,
THENCE S89°59'14"W
ALONG THE NORTH SECTION LINE OF SECTION 23, 454.29' TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF -WAY LINE OF SAID STATE ROAD 564 AND THE REAL POINT OF BEGINNING:

THENCE S19°14'14" E ALONG THE SAID WEST RIGHT-OF-WAY LINE 681.91'
TO A POINT OF CURVATURE;
THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1869.87',
LENGTH OF 125.81', AND CHORD DIMENSIONS OF S17°18'34"E, 125.79' TO
THE POINT OF ENDING.

CONTAINING 0.75 ACRES±

WEST SIDELINE EXTENDED OR SHORTENED AS TO TERMINATE AT
SECTION LINE AND RIGHT-OF-WAY LINE.

ATTACHED HERETO AS EXHIBIT "A" HEREOF IS A COPY OF THE SURVEY
PLAT FOR SAID EASEMENT.

CITY OF GALLUP

By _____
Jackie McKinney, Mayor

ATTEST:

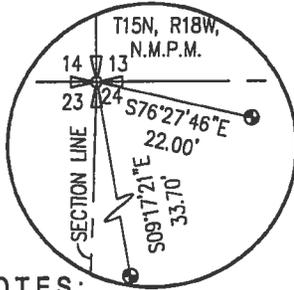
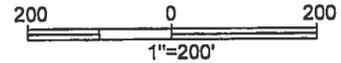
Alfred Abeita, City Clerk

EASEMENT SURVEY LYING WITHIN THE NEW GALLUP HIGH SCHOOL ANNEXATION

GALLUP, MCKINLEY COUNTY, NEW MEXICO.

AS THE SAME IS SHOWN ON THE PLAT OF SAID ANNEXATION FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON SEPTEMBER 11, 1963.

EXHIBIT "A"



NOTES:

- 1) OWNER: GALLUP-MCKINLEY COUNTY BOARD OF EDUCATION, DISTRICT 1
BK. 19 W.D., PG. 207, RECORDED: FEBRUARY 14, 1963
- 2) FIELD SURVEY PERFORMED: 8-17-2015
- 3) NO TITLE COMMITMENT PROVIDED FOR THIS SURVEY.
- 4) BEARING REFERENCED TO THE NEW MEXICO STATE PLANE WEST ZONE GRID (OBTAINED PER GPS OBSERVATIONS) DELTA ALPHA = -0°30'27". DISTANCES ARE GROUND.

LEGEND

- FOUND 1/2" REBAR & PS4329 CAP, w/ PS13606 WASHER
- DIMENSION POINT ONLY
- ⊙ FOUND 3" BLM BRASS CAP "RM", 2011
- ⊠ FOUND HIGHWAY T-RAIL
- () RECORD DIMENSION
- ⊕ 1/4 CORNER - 3" BLM BRASS CAP, 2011
- ⊗ SECTION CORNER - FOUND CHAIN LINK FENCE CORNER w/13606 WASHER 1931 GLO BRASS CAP NOT SHOWN -REJECTED

DESCRIPTION:

A 40' WIDE STRIP OF LAND LYING IN SECTION 23, T15N, R18W, N.M.P.M., GALLUP, MCKINLEY COUNTY, NEW MEXICO LYING WITHIN THE NEW GALLUP HIGH SCHOOL ANNEXATION AS SHOWN ON THE PLAT FILED IN THE OFFICE OF THE MCKINLEY COUNTY CLERK ON SEPTEMBER 11, 1963 AND ADJACENT TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 564 (BOARDMAN DRIVE) HIGHWAY PROJECT S-1300(801); LYING 40' WESTERLY OF THE FOLLOWING DESCRIBED EAST SIDELINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 23, THENCE S89°59'14"W ALONG THE NORTH SECTION LINE OF SECTION 23, 454.29' TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF SAID STATE ROAD 564 AND THE REAL POINT OF BEGINNING;
 THENCE S19°14'14"E ALONG THE SAID WEST RIGHT-OF-WAY LINE 681.91' TO A POINT OF CURVATURE;
 THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1869.87', LENGTH OF 125.81', AND CHORD DIMENSIONS OF S17°18'34"E, 125.79' TO THE POINT OF ENDING.
 CONTAINING 0.75 ACRES ±
 WEST SIDELINE EXTENDED OR SHORTENED AS TO TERMINATE AT SECTION LINE AND RIGHT-OF-WAY LINE.

Curve Table					
Curve #	Radius	Length	Delta	Chord Bearing	Chord Length
C1	1869.87'	125.81'	3°51'18"	S17°18'34"E	125.79'
C2	1829.87'	121.91'	3°49'02"	N17°19'43"W	121.89'

I, Marc A. DePauli, New Mexico Professional Surveyor, do hereby certify that this Boundary Survey Plat was prepared from an actual ground survey performed by me or under my supervision, that I am responsible for this survey, that this survey is true and correct to the best of my knowledge and belief, that this boundary survey plat and the field survey upon which it is based meet the Minimum Standards for Surveying in New Mexico and that this survey is not a Land Division or Subdivision as defined in the New Mexico Subdivision Act. This is a Boundary Survey Plat of an existing tract or tracts.

Marc DePauli
 Marc A. DePauli N.M.P.S. Lic. No. 13606

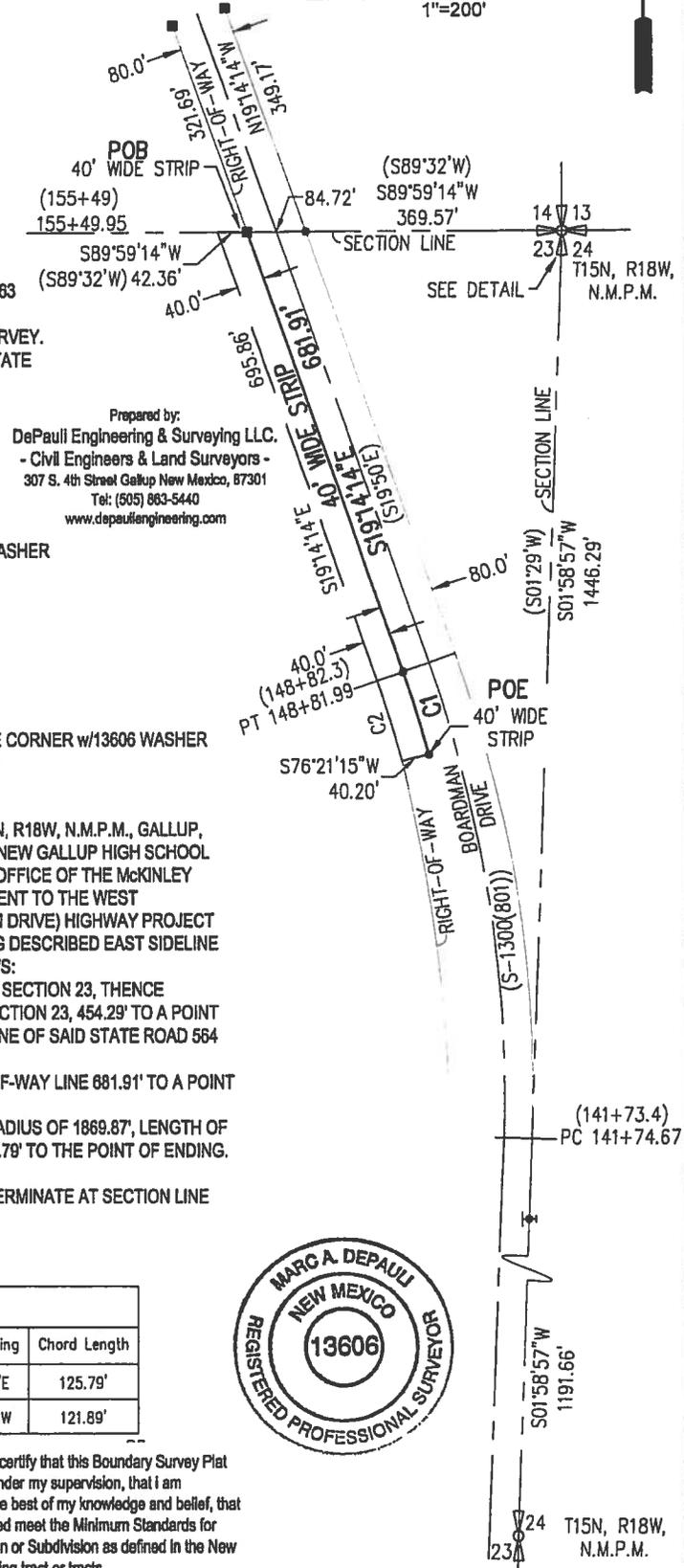
1-14-2016
 Date



DRAWN: KCS

CHECKED: MDP

C:\Users\Public\Survey\ROW-978 (BOARDMAN WATER LINE 2016) \ROW978.dwg, 1/14/2016 4:53:05 PM, MATADOR



PUBLIC UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned: **GALLUP MCKINLEY COUNTY PUBLIC SCHOOL DISTRICT, NO. 1** hereinafter termed the Grantor hereby grants, and conveys unto **the CITY OF GALLUP, NEW MEXICO**, a Municipal Corporation of the State of New Mexico, a perpetual, full and unrestricted easement for utility purposes, in, upon, over and across the following described strips, tracts and parcels of land located in McKinley County, New Mexico, hereinafter described as follows:

DESCRIPTION

A 40' WIDE STRIP OF LAND LYING IN SECTION 23, T15N, R18W, N.M.P.M., GALLUP, MCKINLEY COUNTY, NEW MEXICO LYING WITHIN THE NEW GALLUP HIGH SCHOOL ANNEXATION AS SHOWN ON THE PLAT FILED IN THE OFFICE OF MCKINLEY COUNTY CLERK ON SEPTEMBER 11, 1963 AND ADJACENT TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 564 (BOARDMAN DRIVE) HIGHWAY PROJECT S-1300 (801); LYING 40' WESTERLY OF THE FOLLOWING DESCRIBED EAST SIDELINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 23,
THENCE N01°58'57"E

ALONG THE EAST SECTION LINE OF SECTION 23, AND ALONG THE EAST
RIGHT-OF-WAY LINE OF STATE ROAD 564 1019.38' TO A POINT;

THENCE N88°01'03W" LEAVING SAID EAST RIGHT-OF-WAY LINE 80.40' TO A
POINT ON THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 564 AND THE
REAL POINT OF BEGINNING:

THENCE N01°58'57"E ALONG THE SAID WEST RIGHT-OF-WAY 290.29' TO A
POINT OF CURVATURE;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1869.87',
LENGTH OF 53.96', AND CHORD DIMENSIONS OF N01°09'21"E, 53.95' TO THE
POINT OF ENDING.

CONTAINING 0.32 ACRES±

WEST SIDELINE EXTENDED OR SHORTENED AS TO TERMINATE AT RIGHT-
OF-WAY LINE.

ACCEPTANCE

Comes now the CITY OF GALLUP, NEW MEXICO and hereby accepts the above Grant
of Easement this ____ day of March, 2016.

CITY OF GALLUP

By _____
Jackie McKinney, Mayor

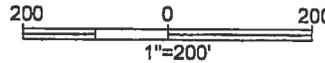
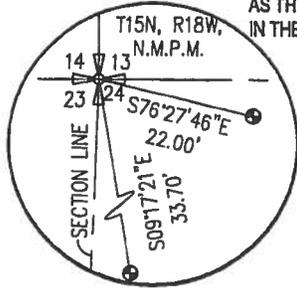
ATTEST:

Alfred Abeita, City Clerk

EASEMENT SURVEY LYING WITHIN THE NEW GALLUP HIGH SCHOOL ANNEXATION

EXHIBIT "B"

GALLUP, MCKINLEY COUNTY, NEW MEXICO.
AS THE SAME IS SHOWN ON THE PLAT OF SAID ANNEXATION FILED
IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO
ON SEPTEMBER 11, 1963.



Prepared by:
DePauli Engineering & Surveying LLC.
- Civil Engineers & Land Surveyors -
307 S. 4th Street Gallup New Mexico, 87301
Tel: (505) 863-5440
www.depauliengineering.com

NOTES:

- 1) OWNER: GALLUP-MCKINLEY COUNTY BOARD OF EDUCATION, DISTRICT 1 BK. 19 W.D., PG. 207, RECORDED: FEBRUARY 14, 1963
- 2) FIELD SURVEY PERFORMED: 8-17-2015
- 3) NO TITLE COMMITMENT PROVIDED FOR THIS SURVEY.
- 4) BEARING REFERENCED TO THE NEW MEXICO STATE PLANE WEST ZONE GRID (OBTAINED PER GPS OBSERVATIONS) DELTA ALPHA = -0°30'27\"/>

LEGEND

- DIMENSION POINT ONLY
- ⊙ FOUND 3" BLM BRASS CAP "RM", 2011
- ⊙ FOUND HIGHWAY T-RAIL
- () RECORD DIMENSION
- ⊕ 1/4 CORNER - 3" BLM BRASS CAP, 2011
- ⊕ SECTION CORNER - FOUND CHAIN LINK FENCE CORNER w/13606 WASHER 1931 GLO BRASS CAP NOT SHOWN -REJECTED

Curve Table					
Curve #	Radius	Length	Delta	Chord Bearing	Chord Length
C3	1869.87'	53.96'	1°39'12"	N01°09'21"E	53.95'
C4	1829.87'	51.19'	1°36'11"	N01°10'52"E	51.19'

DESCRIPTION :

A 40' WIDE STRIP OF LAND LYING IN SECTION 23, T15N, R18W, N.M.P.M., GALLUP, MCKINLEY COUNTY, NEW MEXICO LYING WITHIN THE NEW GALLUP HIGH SCHOOL ANNEXATION AS SHOWN ON THE PLAT FILED IN THE OFFICE OF THE MCKINLEY COUNTY CLERK ON SEPTEMBER 11, 1963 AND ADJACENT TO THE WEST RIGHT-OF WAY LINE OF STATE ROAD 564 (BOARDMAN DRIVE) HIGHWAY PROJECT S-1300(801); LYING 40' WESTERLY OF THE FOLLOWING DESCRIBED EAST SIDELINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 23, THENCE N01°58'57"E ALONG THE EAST SECTION LINE OF SECTION 23 AND ALONG THE EAST RIGHT-OF-WAY LINE OF STATE ROAD 564, 1019.38' TO A POINT; THENCE N88°01'03"W LEAVING SAID EAST RIGHT-OF-WAY LINE 80.40' TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 564 AND THE REAL POINT OF BEGINNING:

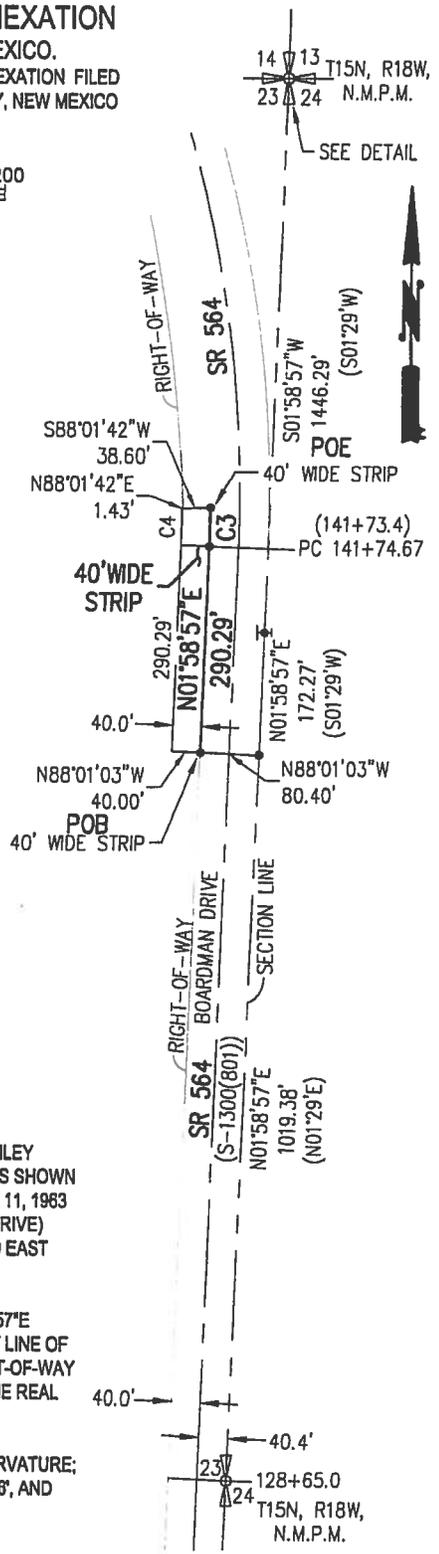
THENCE N01°58'57"E ALONG THE SAID WEST RIGHT-OF-WAY 290.29' TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1869.87', LENGTH OF 53.96', AND CHORD DIMENSIONS OF N01°09'21"E, 53.95' TO THE POINT OF ENDING.

CONTAINING 0.32 ACRES ±
WEST SIDELINE EXTENDED OR SHORTENED AS TO TERMINATE AT RIGHT-OF-WAY LINE.

I, Marc A. DePauli, New Mexico Professional Surveyor, do hereby certify that this Boundary Survey Plat was prepared from an actual ground survey performed by me or under my supervision, that I am responsible for this survey, that this survey is true and correct to the best of my knowledge and belief, that this boundary survey plat and the field survey upon which it is based meet the Minimum Standards for Surveying in New Mexico and that this survey is not a Land Division or Subdivision as defined in the New Mexico Subdivision Act. This is a Boundary Survey Plat of an existing tract or tracts.

Marc DePauli
Marc A. DePauli N.M.P.S. Lic. No. 13606

1-14-2016
Date



DRAWN: KCS
CHECKED: MIDP
C:\Users\Public\Survey\ROW-978 (BOARDMAN WATER LINE 2016) \ROW978.dwg, 1/14/2016 4:52:53 PM, MATADOR

DWG.
ROW-978A

**MEMORANDUM OF UNDERSTANDING
AMONG
THE UNITED STATES OF AMERICA
AND
THE CITY OF GALLUP
AND
THE NAVAJO TRIBAL UTILITY AUTHORITY
OF THE
NAVAJO NATION
ARIZONA, NEW MEXICO AND UTAH**

PROVISION OF MUNICIPAL WATER SUPPLY TO SELECTED HOME SITES

Public Law 86-121

THIS AGREEMENT is made among the United States of America, acting through the Indian Health Service, Department of Health and Human Services, hereinafter called the IHS, under and pursuant to the provisions of Section 7 (a) (3), Public Law 86-121 (73 Stat. 267) and the Gallup Joint Utilities, an enterprise of the City of Gallup, hereinafter called the City, acting through its Director; and the Navajo Tribal Utility Authority, an enterprise of the Navajo Nation, hereinafter called the NTUA, acting through its General Manager.

WHEREAS, the Navajo Nation is desirous of obtaining satisfactory water supply and adequate waste disposal facilities for the Indians of the Navajo Nation; and

WHEREAS, the Navajo Nation, through various Tribal entities, submits Project Proposals requesting IHS assistance under Public Law 86-121 in the provision of sanitation facilities for the Indians on the Navajo Reservation, Arizona, New Mexico, and Utah; and

WHEREAS, the IHS is desirous of assisting in the provision of sanitation facilities to serve the Indians on the Navajo Reservation; and

WHEREAS, the IHS originally proposed to construct a small water distribution system to serve Navajo homes located along Boardman Avenue near the City of Gallup, as described in the attached Project Summary for Project NA-97-L79, and proposes to connect this distribution system to the City's municipal water supply system.

NOW THEREFORE, in order to provide water service to these Navajo homes along Boardman Avenue the parties mutually agree:

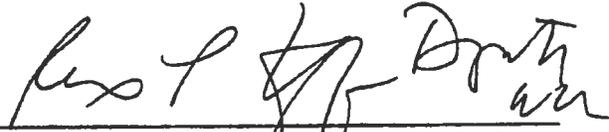
- 1. That, upon the availability of project funds, the IHS will design, manage and construct the small water distribution system(s) to serve the homes described in Project NA-97-L79.**

2. That the design of the small water distribution system(s) will include a master meter(s), to be provided by the IHS per City specifications and size requirements, along with positive backflow protection at the City connection point(s) near Boardman Avenue. The backflow protection device(s) shall be a USC approved reduced pressure principal device that must be approved by GJU engineering. The GJU Water Department will be responsible for operational maintenance of the backflow prevention device.
3. That the City will supply municipal water to this distribution system through the master meter(s) at the City's municipal commercial (in City) water rate as approved by the City council. This rate may be changed by action of the City council from time to time.
4. That the NTUA will be responsible for the routine payments to the City for the water used through the master meter(s) based on the City's municipal commercial (in City) water rate.
5. That each Navajo home connected to the small water distribution system(s) will have a functional on-site wastewater disposal system.
6. That when the construction of the small water distribution system(s) is completed and acceptable to all parties, the operation, maintenance and repair responsibilities of the distribution system(s) downstream of the master meter(s) shall be assigned to the NTUA.
7. That the municipal water use for the small water distribution system(s) be limited to 30 Navajo residences, and that the municipal water not be used for irrigation or commercial purposes. That additional homes may be added to these systems in the future with the approval of the City based on the availability of long-term water supplies.
8. That, upon the availability of project funds, the IHS will complete the City's Boardman Avenue water pipeline loop, and shall construct the loop in accordance with City requirements and standards. The Boardman loop is not part of the small water distribution system for the Navajo homes, and is not a condition for City water service to these homes.
9. That upon completion of the Boardman loop, and upon final approval and acceptance by the City, the City agrees to accept the operation, maintenance and repair responsibilities the Boardman loop water pipeline facilities. The IHS will prepare a transfer document that will transfer to the City, without charge, all rights, title, and interest in the Boardman Avenue water pipeline facilities.

IN WITNESS WHEREOF, the parties hereto have subscribed their names.

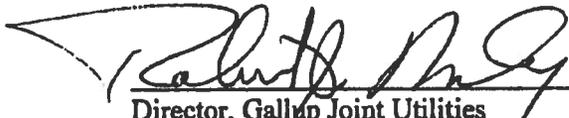
FOR THE NAVAJO TRIBAL UTILITY AUTHORITY

11/26/01
Date


General Manager, Navajo Tribal Utility Authority

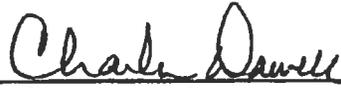
FOR THE CITY OF GALLUP

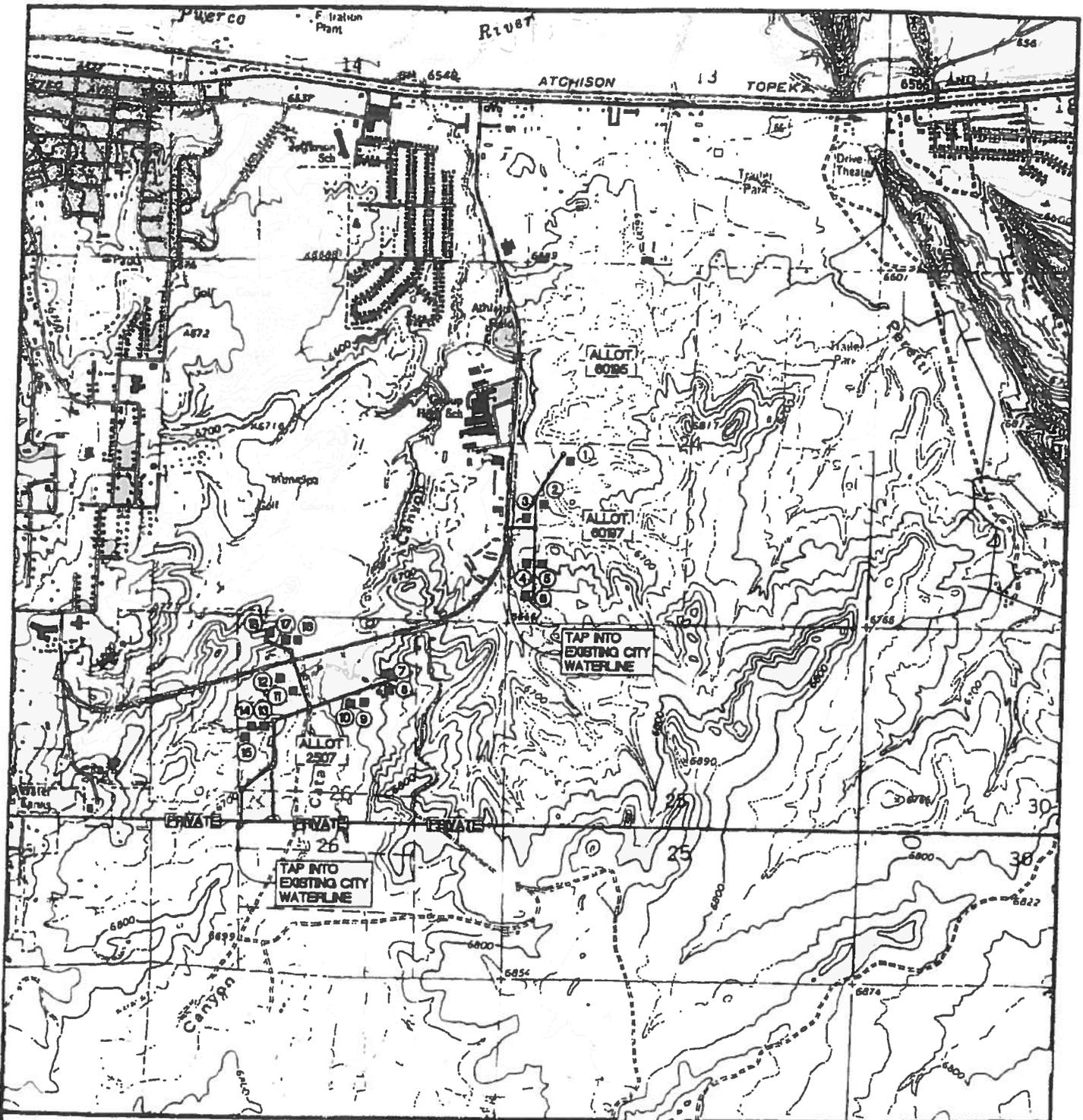
10/31/01
Date


Director, Gallup Joint Utilities

FOR THE UNITED STATES OF AMERICA

11/29/01
Date


Director, Navajo Area Indian Health Service,
Department of Health and Human Services



LEGEND

- Medium-duty.....
- Light-duty.....
- Unimproved dirt.....
- U.S. Route State Route
- Primary highway.....
- Proposed Waterline - - - - -
- Existing Waterline - - - - -
- House with No. 32

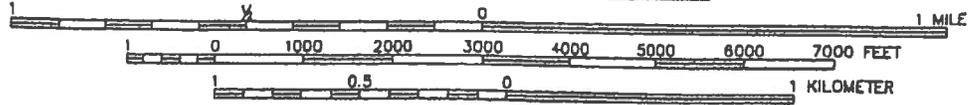
U.S. DEPARTMENT of HEALTH and HUMAN SERVICES
 PUBLIC HEALTH SERVICE
 INDIAN HEALTH SERVICE

CHURCH ROCK / GALLUP BOARDMAN LOOP
 PROJECT No. NA-08-NB4
 PUBLIC LAW 86-181

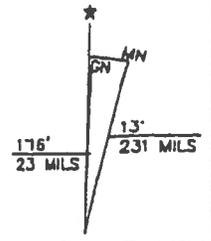
OFFICE of ENVIRONMENTAL HEALTH and ENGINEERING
 GALLUP DISTRICT
 GALLUP, NEW MEXICO

DRAWN BY: L. KING DATE: 11-20-01 SHEET of

GALLUP EAST QUADRANGLE
NEW MEXICO-McKINLEY COUNTY
7.5 MINUTE SERIES (TOPOGRAPHIC)



CONTOUR INTERVAL 20-FOET
 DOTTED LINES REPRESENT 10-FOOT CONTOURS



UTM GRID and 1979 MAGNETIC NORTH
 INFORMATION IS PART OF SHEET

Discussion/Action Topic 4

Acceptance of an Easement from Gallup Land Partners, LLC for
Electric Service Line Improvements North of Gallup

Richard Matzke, Electric Director



CITY OF GALLUP

COUNCIL STAFF SUMMARY FORM

MEETING DATE: April 12, 2016

SUBJECT: Acceptance of Easement from Gallup Land Partners, LLC.
DEPT. OF ORIGIN: City Attorney's Office
DATE SUBMITTED: SUBMITTED BY: George W. Kozeliski, City Attorney

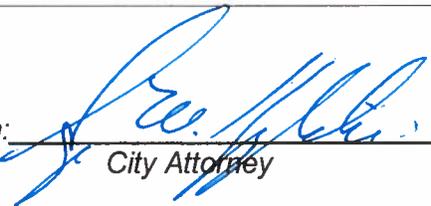
Summary: Electric Department needs to upgrade lines and service north of Gallup from the general vicinity of the Flea Market to Gamerco. City has secured a new easement route from Gallup Land Partners to complete the task.

Fiscal Impact: none

Reviewed By: 
Finance Department

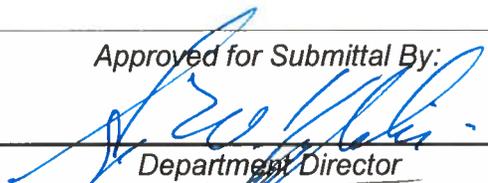
Attachments: Public Utility Easement

Legal Review: Recommended

Approved As To Form: 
City Attorney

Recommendation: Accept Public Utility Easement from Gallup Land Partners, LLC

Approved for Submittal By:


Department Director

City Manager

CITY CLERK'S USE ONLY COUNCIL ACTION TAKEN

Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved: _____ Denied: _____
Other: _____ File: _____

PUBLIC UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned: Gallup Land Partners, LLC, a Delaware limited liability corporation, hereinafter termed the Grantor hereby grants, and conveys unto the City of Gallup, a Municipal Corporation of the State of New Mexico, a perpetual, full and unrestricted easement for utility purposes, in, upon, over and across the following described strips, tracts and parcels of land located in McKinley County, New Mexico, hereinafter described as follows:

Legal Description

Strip 1:

A 20 ft wide strip of land partly within the Northwest $\frac{1}{4}$ of Section 9, and partly within the Southwest $\frac{1}{4}$ of Section 4, Township 16 North, Range 18 West, N.M.P.M. Gallup, McKinley County, New Mexico, The centerline being more particularly described as follows:

Commencing at the Northwest corner of said Section 9; Thence South 49 Degrees 52 Minutes 42 Seconds East, 1654.25 ft to the Point of Beginning, said point being 10 ft perpendicular to and East of the Right-of-Way line of 9th Street (Project No. TPO-TPS-666-1(51)):

Thence North 2 Degrees 56 Minutes 39 Seconds West parallel to said Right-of-Way, 1272.18 ft to a Point of Curve; Thence along a curve to the left, having a radius of 1542.15 ft. an arc length of 132.64 ft, a long chord of 132.60 ft bearing North 5 Degrees 24 Minutes 30 Seconds West, to a Point on A Non-Tangent Curve; Thence, along a curve to the left, having a radius of 1015.95 ft, and arc length of 275.66 ft, along chord of 274.82 ft bearing North 10 Degrees 47 Minutes 52 Seconds West to the Point of Ending of said Strip 1;

Containing 0.771 acres, more or less, and the side lines extend or shorten as to terminate at the boundary lines.

Strip 2:

A 20 ft wide strip of land partly within the West $\frac{1}{2}$ of Section 4, Township 16 North, Range 18 West, and partly within the Southwest $\frac{1}{4}$ of Section 33, Township 16 North, Range 18 West, N.M.P.M., Gallup, McKinley County, New Mexico, the Centerline being more particularly described as follows:

Commencing at the Southwest corner of said Section 4; thence North 56 Degrees 56 Minutes 43 Seconds East, 1297.45' to the Point of Beginning, said point being 10 ft perpendicular to and East of the Right-of-Way line of 9th Street (Project No. TPO-TPS-666-I(45) & TPO-666-1(51)):

Thence along a curve to the left, having a radius of 1542.15 ft, a arc length of 217.26 ft, a long chord of 217.08 ft bearing North 26 Degrees 13 Minutes 29 Seconds West to the point of a tangent;

Thence North 30 Degrees 15 Minutes 38 Seconds West, 725.09 ft to a point;

Thence North 30 Degrees 31 Minutes 51 Seconds West, 529.28 ft to a point of curve;

Thence along a curve to the right, having a radius of 1077.33 ft, an arc length of 198.22 ft, a long chord of 197.95 ft bearing North 25 Degrees 15 Minutes 45 Seconds West to a non-tangent point, said point labeled: Point "A";

Thence North 5 Degrees 40 Minutes 16 Seconds West, 205.10 ft to a point;

Thence North 2 Degrees 24 Minutes 05 Seconds East, 3907.33 ft to a point;

Thence North 9 Degrees 24 Minutes 17 Seconds East, 164.29 ft to a point, said point being the Point of Ending of said Strip 2 where the corner common to said Sections 4, 33, 32 and 5 bears South 16 Degrees 50 Minutes 31 Seconds West, 1232.57 ft Distant.

Containing 2.759 acres, more or less, and the side lines extend or shorten as to terminate at the boundary lines.

Together with 20 ft wide strips of land for down guy purposes, the Centerlines being more particularly described as follows:

Commencing at labeled Point "A", thence North 25 Degrees 15 Minutes 45 Seconds West, 54.71 ft to a point on

Discussion/Action Topic 5

Resolution No. R2016-18;

Authorizing the Execution and Delivery of a Local Government
Planning Grant Agreement with the New Mexico Finance Authority

Clyde (C.B.) Strain, Planning Director



COUNCIL STAFF SUMMARY FORM

MEETING DATE: April 12, 2016

SUBJECT: Resolution No. R2016-18 Authorizing Execution and Delivery of a Local Government Planning Grant Agreement by and Between the NMFA and the City of Gallup.
DEPT. OF ORIGIN: Planning Department
DATE SUBMITTED: April 5, 2016
SUBMITTED BY: Clyde (C.B.) Strain, Planning Director

Summary:

In January of 2015 the City of Gallup was awarded a planning grant from the New Mexico Finance Authority (NMFA) in the amount of \$50,000.00 in order to create a Metropolitan Redevelopment Area Master Plan. The Plan was approved by the New Mexico Economic Development Department and adopted by the Gallup City Council by Resolution No. 2015-36. Resolution No. R2016-18 authorizes the execution and delivery of the local planning grant agreement between the New Mexico Finance Authority and the City of Gallup.

This procedure is necessary in order to close out the planning grant which in turn will allow the city to request full reimbursement of the \$50,000.00 grant amount.

Fiscal Impact:

None. This was a \$0 match planning grant with full reimbursement of the grant amount.

Reviewed By: _____

Patty Holland
Finance Department

Attachments: Resolution No. R2016-18, Certificate of Grantee, Planning Grant Agreement, NMEDD Letter of Approval, Resolution No. R2015-36

Legal Review:

Approved as to form: _____

[Signature]
City Attorney

Recommendation:

Staff recommends approval of Resolution No. R2016-18 in order to execute the local government planning grant agreement which will allow the city to request full reimbursement of the \$50,000.00 planning grant amount.

Approved For Submittal By:

[Signature]
Department Director
[Signature]
City Manager

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Resolution No.: _____
Ordinance No.: _____
Approved: _____
Other: _____

Continued To: _____
Referred To: _____
Denied: _____
File No.: _____

**RECORD OF PROCEEDINGS RELATING TO THE ADOPTION OF
RESOLUTION NO. R2016-18 OF THE CITY COUNCIL OF THE CITY OF
GALLUP, APRIL 12, 2016**

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

The City Council (the "Governing Body") of the City of Gallup (the "Grantee") met in a regular session in full conformity with the law and the rules and regulations of the Governing Body at City Council Chambers, Gallup City Hall, 110 West Aztec Ave, Gallup, NM 87301, being the meeting place of the Governing Body for the meeting held on the 12th day of April at the hour of 6:00 p.m. Upon roll call, the following members and officers were found to be present:

Present: _____

Absent: _____

Also Present: _____

Thereupon, there was officially filed with the City Clerk a copy of a proposed Resolution in final form, as follows:

**CITY OF GALLUP
RESOLUTION NO. R2016-18**

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOCAL GOVERNMENT PLANNING GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), AND CITY OF GALLUP (THE "GRANTEE"), IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000) EVIDENCING AN OBLIGATION OF THE GRANTEE TO UTILIZE THE GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF METROPOLITAN REDEVELOPMENT ACT PLAN, AND SOLELY IN THE MANNER DESCRIBED IN THE GRANT AGREEMENT; CERTIFYING THAT THE GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in Section 1 of the Resolution unless the context requires otherwise.

WHEREAS, the Grantee is a legally and regularly created, established, organized and existing municipality, in good standing under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS, the Grantee is qualified to receive the Planning Grant pursuant to the Finance Authority's Rules Governing the Local Government Planning Fund and NMSA 1978, § 6-21-6.4, as amended; and

WHEREAS, the Governing Body hereby determines that the Project may be financed with amounts granted pursuant to the Grant Agreement, that the Grant Amount, together with and other moneys available to the Grantee, is sufficient to complete the Project, and that it is in the best interest of the Grantee and the public it serves that the Grant Agreement be executed and delivered and that the funding of the Project take place by executing and delivering the Grant Agreement; and

WHEREAS, the Governing Body has determined that it may lawfully enter into the Grant Agreement, accept the Grant Amount and be bound to the obligations and by the restrictions thereunder; and

WHEREAS, the Grantee acknowledges and understands that the Planning Grant must be expended and a Planning Document must be completed within one (1) year from the Closing

Date, or the Grantee will forfeit the ability to draw Grant funds from the Local Government Planning Fund; and

WHEREAS, the Grant Agreement shall not constitute a general obligation of the Grantee or a debt of pledge of the faith and credit of the Grantee, the Finance Authority or the State; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the City Clerk this Resolution and the form of the Grant Agreement which is incorporated by reference and made a part hereof; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use of the Grant Amount for the purposes described and according to the restrictions set forth in the Grant Agreement; and (ii) the authorization, execution and delivery of the Grant Agreement which are required to have been obtained by the date of this Resolution, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF GALLUP, NEW MEXICO:

Section 1. Definitions. A Definitions. All terms used herein have the same definition as contained in the draft Grant Agreement, dated April 29, 2016.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Grantee and officers of the Grantee, directed toward the Project and the execution and delivery of the Grant Agreement, shall be and the same hereby is ratified, approved and confirmed.

Section 3. Authorization of the Project and the Grant Agreement. The Project and the method of funding the Project through execution and delivery of the Grant Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Grantee and the public it serves.

Section 4. Findings. The Governing Body on behalf of the Grantee hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Project is needed to create the Metropolitan Redevelopment Act Plan to evaluate economic development.

B. The costs of the Project are beyond the local control and resources of the Grantee.

C. The Project and the execution and delivery of the Grant Agreement pursuant to the Act to provide funds for the financing of the Project are in the interest of the public health, safety and welfare of the public served by the Grantee.

D. The Grantee will perform (or cause to be performed) the Project with the proceeds of the Planning Grant, and will utilize the Project for the purposes set forth in the Grant Agreement.

E. The Grantee will forfeit the Planning Grant if the Grantee fails to utilize the Grant Amount within one (1) year of the Closing Date.

Section 5. Grant Agreement—Authorization and Detail.

A. Authorization. This Resolution has been adopted by the affirmative vote of a majority of a quorum of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Grantee and performing the Project, it is hereby declared necessary that the Grantee execute and deliver the Grant Agreement evidencing the Grantee's acceptance of the Grant Amount of Fifty Thousand Dollars (\$50,000) to be utilized solely for the Project and solely in the manner and according to the restrictions set forth in the Grant Agreement, the execution and delivery of which are hereby authorized. The Grantee shall use the proceeds of the Grant to finance the performance of the Project. The Project will be owned by the Grantee and will be utilized by the Grantee as set forth in the Grant Agreement.

B. Detail. The Grant Agreement shall be in substantially the form of the Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of Fifty Thousand Dollars (\$50,000).

Section 6. Approval of Grant Agreement. The form of the Grant Agreement as presented at the meeting of the Governing Body at which this Resolution was adopted is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Grant Agreement with such changes, insertions, and deletions as may be approved by such individual Authorized Officers, and the City Clerk is hereby authorized to affix the seal of the Grantee on the Grant Agreement and attest the same. The execution of the Grant Agreement shall be conclusive evidence of such approval.

Section 7. Disposition of Proceeds; Completion of Acquisition of the Project.

A. Grant Account. The Grantee hereby consents to creation of the Grant Account by the Finance Authority and approves of the deposit of the Grant Amount into the Grant Account. Until the Completion Date, the money in the Grant Account shall be used and paid out solely for the purpose of the Project in compliance with applicable law and the provisions of the Grant Agreement.

B. Completion of Acquisition of the Project. The Grantee shall proceed to acquire and complete the Project with all due diligence. Upon the Completion Date, the Grantee shall execute a certificate substantially in the form attached as Exhibit "C" to the Grant Agreement stating that acquisition of and payment for the Project have been completed. As soon as practicable and, in any event, not more than sixty (60) days after the Completion Date, any

balance remaining in the Grant Account shall be transferred and returned to the Local Government Planning Grant Fund.

C. Finance Authority Not Responsible. The Finance Authority shall in no manner be responsible for the application or disposal by the Grantee or by the officers of the Grantee of the funds derived from the Grant Agreement or of any other funds held by or made available to the Grantee's in connection with use of the Project.

Section 8. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Grant Agreement, and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution and the Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Grant Agreement, including, but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Grant Agreement.

Section 9. Amendment of Resolution. This Resolution after its adoption may be amended without receipt by the Grantee of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 10. Resolution Irrepealable. After the Grant Agreement has been executed and delivered, this Resolution shall be and remain irrepealable until all obligations of the Grantee under the Grant Agreement shall be fully discharged, as herein provided.

Section 11. Severability Clause. 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 12. Repealer Clause. All bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 13. Effective Date. Upon due adoption of this Resolution, it shall be recorded in the book of the Grantee kept for that purpose, authenticated by the signatures of the Mayor and City Clerk of the Grantee, and this Resolution shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Resolution, this Resolution shall be effective upon adoption of this Resolution by the Governing Body.

[Signature Page Follows]

Section 14. Execution of Agreements. The City of Gallup through its Governing Body agrees to authorize and execute all such agreements with the Finance Authority as are necessary to consummate the Grant contemplated herein and consistent with the terms and conditions attached hereto.

PASSED, APPROVED AND ADOPTED THIS 12th DAY OF APRIL, 2016.

CITY OF GALLUP

By _____
Jackie McKinney
Mayor

[SEAL]

ATTEST:

By _____
Alfred Abeita
City Clerk

[Remainder of page intentionally left blank.]

Governing Body Member _____ then moved adoption of the foregoing Resolution, duly seconded by Governing Body Member_____.

The motion to adopt said Resolution, upon being put to a vote was passed and adopted on the following recorded vote:

Those Voting Aye: _____

Those Voting Nay: _____

Those Absent: _____

_____ () members of the Governing Body having voted in favor of said motion, the Mayor declared said motion carried and said Resolution adopted, whereupon the Mayor and the City Clerk signed the Resolution upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Resolution, the meeting on motion duly made, seconded and carried, was adjourned.

[Signature page follows.]

CITY OF GALLUP

By _____
Jackie McKinney
Mayor

[SEAL]

ATTEST:

By _____
Alfred Abeita II
City Clerk

[Remainder of page intentionally left blank.]

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

I, Al Abeita II the duly qualified and acting City Clerk of the City of Gallup (the “Grantee”), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Council of the Grantee constituting the Governing Body of the Grantee, had and taken at a duly called regular meeting held at City Council Chambers, Gallup City Hall, 110 West Aztec Ave, Gallup, NM 87301, on April 12, 2016 at the hour of 6:00 p.m., insofar as the same relate to the adoption of Resolution No. R2016-18 and the execution and delivery of the proposed Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in the offices of the Grantee. None of the action taken in the said proceedings has been rescinded, repealed or modified.

2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of said meeting was given in compliance with the permitted methods of giving notice of regular meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1, as amended, including, Grantee’s Open Meetings Resolution No. 2016-1 dated January 12, 2016 and presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of April, 2016.

CITY OF GALLUP

By _____
Alfred Abeita II

[SEAL]

EXHIBIT "A"

Notice of Meeting

\$50,000
City of Gallup
Planning Grant Agreement
Finance Authority No. 3275-PG

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

CERTIFICATE OF GRANTEE

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Mayor and Clerk of the specifically, the City of Gallup (the “Grantee”), McKinley County, State of New Mexico, that:

Capitalized terms used in this Certificate have the same meanings as defined in Resolution No. R2016-18 adopted by the Governing Body of the Grantee on April 12, 2016 (the “Resolution”) in connection with this Planning Grant, unless otherwise defined in this Certificate or the context requires otherwise.

1. The Grantee is a legally and regularly created, established, organized and existing municipality under the specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended, under the laws of the State of New Mexico;
2. The resolutions, rules and regulations governing the Project and customer service by the Grantee have been duly adopted and are now in full force and effect;
3. The Authorized Officers and Governing Body of the Grantee were duly and validly elected or appointed and are empowered to act for the Grantee; and
4. The Grantee has all requisite corporate power:
 - (a) To perform or cause performance of the Project funded by the Planning Grant;
 - (b) To execute and deliver Grant documents, including but not limited to those identified above; and
 - (c) To perform all acts required by such Grant documents to be done by the Grantee.
5. All proceedings of the Grantee, its elected and appointed officers, and employees, required or necessary to be taken in connection with the authorization of the actions specified above have been duly taken and all such authorizations are presently in full force and effect.

6. The Resolution and the Grant Agreement have been duly signed and adopted in accordance with all applicable laws and neither has been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Resolution. The Resolution constitutes valid and sufficient legal authority for the Grantee to carry out and enforce the provisions of the Grant Agreement.

7. No event will result from the execution and delivery of the Grant Agreement that constitutes a default or an Event of Default under either the Grant Agreement or the Resolution, and no Event of Default and no default under the Grant Agreement or the Resolution has occurred and is continuing on the date of this Certificate.

8. The Grantee has duly authorized and approved the consummation by it of all transactions, and has complied with all requirements and satisfied all conditions, which are required by the Grant Agreement to have been authorized, approved, performed or consummated by the Grantee at or prior to the date of this Certificate. The Grantee has full legal right, power and authority to carry out and consummate the transactions contemplated by the Resolution and the Grant Agreement.

9. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the enforceability of the Grant Agreement or any of the actions required to be taken by the Resolution or the Grant Agreement to the date of this Certificate have been obtained and are in full force and effect.

10. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the completion of the Project have been obtained and are in full force and effect.

11. Neither the Grantee's adoption of the Resolution nor any action contemplated by or pursuant to the Resolution or the Grant Agreement conflicts or will conflict with, or constitute a breach by the Grantee of, or default by the Grantee under any law, court decree or order, governmental regulation, rule or order, resolution, agreement, indenture, mortgage or other instrument to which the Grantee is subject or by which it is bound.

12. There is no actual or threatened action, suit, proceeding, inquiry or investigation against the Grantee, at law or in equity, by or before any court, public board or body, nor to the Grantee's knowledge is there any basis therefore, affecting the existence of the Grantee or the titles of its officials to their respective offices, or in any way materially adversely affecting or questioning (a) the territorial jurisdiction of the Grantee, (b) the use of the proceeds of the Grant Agreement for the Project, (c) the validity or enforceability of the Grant Agreement or any proceedings of the Grantee with respect to the Grant Agreement or the Resolution, (d) the execution and delivery of the Grant Agreement or (e) the power of the Grantee to carry out the transactions contemplated by the Grant Agreement or the Resolution.

13. From at least March 7, 2016, to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers and members of the Governing Body of the Grantee:

Jackie McKinney, Mayor: _____

Linda Garcia, Councilor: _____

Allan Landavazo, Councilor: _____

Yogash Kumar, Councilor: _____

Fan Palochak, Councilor: _____

Alfred Abeita II, City Clerk: _____

14. To the best of our knowledge and belief after due investigation, none of the Events of Default referred to in Article IX of the Grant Agreement has occurred.

15. The Grantee has complied with all the covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to the date hereof, and the representations and warranties of the Grantee contained in the Grant Agreement and in the Resolution are true and correct as of the date of this Certificate.

16. To the best of our knowledge and belief after due investigation, neither the Mayor, the City Clerk, any member of the Governing Body of the Grantee, nor any other officer, employee or other agent of the Grantee is interested (except in the performance of his or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.

17. Regular meetings of the Grantee's Governing Body and the meeting at which the Resolution was adopted have been held at Council Chambers of Gallup City Hall, Second Street and Aztec Avenue, Gallup, New Mexico, the principal meeting place of the Grantee.

18. The Grantee's Governing Body has no rules of procedure which would invalidate or make ineffective the Resolution or other action taken by the Grantee's Governing Body in connection with the Grant Agreement. The Open Meetings Act Resolution No. 2016-1 (the "Open Meetings Act Resolution") adopted and approved by the Governing Body on January 12, 2016 establishes notice standards as required by Section 10-15-1, NMSA 1978, as amended and supplemented. The Open Meetings Act Resolution has not been amended or repealed. All action of the Governing Body with respect to the Grant Agreement and Resolution was taken at meetings held in compliance with the Open Meetings Act Resolution.

19. The Mayor and the City Clerk, on the date of the signing of the Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Grantee authorized to execute the Grant Agreement.

20. This Certificate is for the benefit of the Finance Authority.

21. This Certificate may be executed in counterparts.

WITNESS our signatures and the seal of the Grantee this 29th day of April, 2016.

CITY OF GALLUP

By _____
Jackie McKinney
Mayor

[SEAL]

ATTEST:

By _____
Alfred Abeita
City Clerk

\$ 50,000

PLANNING GRANT AGREEMENT

dated

April 29, 2016

by and between

NEW MEXICO FINANCE AUTHORITY

and

CITY OF GALLUP

PLANNING GRANT AGREEMENT

THIS PLANNING GRANT AGREEMENT (the "Grant agreement"), dated April 29, 2016, is entered into by and between the NEW MEXICO FINANCE AUTHORITY (the "Finance Authority") and the City of Gallup (the "Grantee").

WITNESSETH:

WHEREAS, the Finance Authority is a public body politic and corporate, separate and apart from the State of New Mexico (the "State"), constituting a governmental instrumentality, duly organized and created under and pursuant to the laws of the State, particularly NMSA 1978 §§ 6-21-1 through 6-21-31, as amended, (the "New Mexico Finance Authority Act"); and

WHEREAS, NMSA 1978, § 6-21-6.4, as amended, creates the Local Government Planning Fund to be administered by the Finance Authority to make Grants to qualified entities to develop economic development plans; and

WHEREAS, Grantee is a legally and regularly created, established, organized and existing municipality, in good standing under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS, the Grantee is qualified to receive the Planning Grant pursuant to the Finance Authority's Rules and NMSA 1978, § 6-21-6.4, as amended; and

WHEREAS, the Grantee has applied to the Finance Authority for Planning Grant (as defined below) funding and has determined that it is in the best interest of the Grantee and the public it serves that the Grantee enter into this Grant Agreement with the Finance Authority and accept a grant in the amount of \$50,000 from the Finance Authority to carry out the Project, as more fully described in Exhibit "A" attached hereto; and

WHEREAS, the Grantee acknowledges and understands that the Planning Grant must be expended and the Planning Documents must be completed within one (1) year from the Closing Date, or the Grantee will forfeit the ability to draw Grant funds from the Local Government Planning Fund; and

WHEREAS, the Grantee is prepared to perform all its obligations and to observe and obey all restrictions on the use of the Grant set forth in this Grant Agreement.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual promises and covenants contained herein, the parties hereto agree:

ARTICLE I: DEFINITIONS

As used in this Agreement, including the foregoing recitals, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise

(such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

“Agreement Term” means the term of this Grant Agreement as provided under Article III of this Grant Agreement.

“Authorized Officers” means in the case of the Grantee the Mayor, the City Planner, and the City Clerk of the Governing Body, and in the case of the Finance Authority the Chairperson, Vice-Chairperson and Secretary of the Board of Directors and the Chief Executive Officer, or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

“Closing Date” means the date of execution, delivery and funding of this Grant Agreement.

“Event of Default” means one or more events of default as defined in Article IX of this Grant Agreement.

“Finance Authority” means the New Mexico Finance Authority.

“Force Majeure” means any act of God, fire, floods, storms, explosions, accidents, epidemics, war, civil disorder, strikes, lockouts or other labor difficulties, or any law, rule, regulation, order or other action adopted or taken by any federal, state or local government authority, or any other cause not reasonably within such party’s control.

“Governing Body” means the City Council of the Grantee, or any future governing body of the Grantee.

“Grant or Grant Amount” means the sum of \$50,000.

“Grant Account” means the account in the name of the Grantee established pursuant to this Grant Agreement and held by the Finance Authority for deposit of the Grant Amount for disbursement to the Grantee for payment of the costs of the Project.

“Grant Agreement” means this grant agreement and any amendments or supplements hereto, including the Exhibits attached hereto.

“Grantee” means City of Gallup, McKinley County, New Mexico.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove,” “hereafter” and similar words refer to this entire Grant Agreement and not solely to the particular section or paragraph of this Grant Agreement in which such word is used.

“Local Government Planning Fund” means the fund of the same name created pursuant to the Act and held and administered by the Finance Authority.

“Local Match” means \$0.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

“Planning Document” means a written document in the form of a Metropolitan Redevelopment Act Plan, created for the purpose of evaluating and estimating the costs of alternatives to meet the Grantee’s metropolitan redevelopment needs.

“Planning Grant” or “Grant” means the amount provided to the Grantee pursuant to the Grant Agreement for the purpose of funding the Project, and is equal to the Grant Amount.

“Policy” or “Policies” means the New Mexico Finance Authority Local Government Planning Fund Project Management Policies.

“Project” means the preparation of the Planning Document as more particularly described in Exhibit “A” hereto.

“Resolution” means the Grantee’s Resolution No. R2016-18 adopted on April 12, 2016, authorizing the Grantee’s acceptance of the terms and conditions of this Grant Agreement.

“Rules” mean the Rules governing the Local Government Planning Fund as adopted by the Board of Directors of the Finance Authority, as amended and supplemented from time to time.

ARTICLE II: REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.1. Representations, Warranties and Covenants of the Grantee. The Grantee represents, warrants and covenants as follows:

(a) Binding Nature of Covenants. All covenants, stipulations, obligations and agreements of the Grantee contained in this Grant Agreement and the Resolution shall be deemed to be the covenants, stipulations, obligations and agreements of the Grantee to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Grantee and its successors and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreement shall be transferred by or in accordance with law. Except as otherwise provided in this Grant Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Grantee by the provisions of this Grant Agreement and the Resolution shall be exercised or performed by the Grantee or by such residents, officers, or officials of the Grantee as may be required by law to exercise such powers and to perform such duties.

(b) Personal Liability. No covenant, stipulation, obligation or agreement contained in this Grant Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Grantee or member of the Governing Body in his or her individual capacity, and neither the members of the Governing Body nor any officer

executing this Grant Agreement shall be liable personally on this Grant Agreement or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

(c) Authorization of Grant Agreement. The Grantee is a municipality duly organized and existing under the statutes and laws of the State, specifically the Municipal Code, NMSA 1978, § 3-1-1 through 3-6-11, NMSA 1978, as amended. Pursuant to the laws of the State, as amended and supplemented from time to time, the Grantee is authorized to enter into the transactions contemplated by this Grant Agreement and to carry out its obligations hereunder. The Grantee has duly authorized and approved the execution and delivery of this Grant Agreement and the other documents related to the transaction.

(d) Use of Grant Agreement Proceeds. The Grantee shall apply the proceeds of the Grant solely to the acquisition and completion of the Project, shall not use the Grant proceeds for any other purpose, and shall comply with all applicable ordinances and regulations, if any, and any and all applicable laws relating to the Project. The Grantee shall immediately apply all Grant proceeds disbursed to it toward the Project. The Grantee shall use the Grant proceeds and complete the Planning Document within one (1) year of the Closing Date or shall forfeit the full amount of the Grant.

(e) Selection of Contractors. All contractors providing services or materials in connection with the Project shall be selected in accordance with applicable provisions of the New Mexico Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199, as amended, or, if the Grantee is not subject to the New Mexico Procurement Code, shall be selected in accordance with a documented procurement process duly authorized and established pursuant to laws and regulations applicable to the Grantee.

(f) Completion of Project. The Project will consist of the preparation of the Planning Document to address the Grantee's metropolitan redevelopment needs, and will be completed so as to comply with all applicable ordinances and regulations, if any, and any and all applicable laws, rules, and regulations of the State relating to the acquisition and completion of the Project and to the use of the Grant proceeds. If requested by the Finance Authority, the Grantee will allow the Office of the State Engineer, the New Mexico Environment Department the New Mexico Economic Development Department, or other appropriate agency of the State, or the Finance Authority to assist with completion of the Project and to review the Project as completed to assure compliance with applicable laws, rules and regulations of the State. The completed Planning Document must be in a form acceptable to and approved by the Finance Authority, in its sole discretion.

(g) Necessity of Project. The completion of the Project under the terms and conditions provided in this Grant Agreement is necessary, convenient and in furtherance of the governmental purposes of the Grantee and is in the best interest of the Grantee and the public it serves.

(h) Legal, Valid and Binding Obligation. The Grantee has taken all required action necessary to authorize the execution and delivery of this Grant Agreement and this Grant Agreement constitutes a legal agreement of the Grantee enforceable in accordance with its terms.

(i) Benefit to Grantee. The Project will at all times be used for the purpose of benefiting the Grantee and the public it serves as a whole.

(j) Grant Amount Does Not Exceed Project Cost. The Grant Amount as provided herein does not exceed the cost of the Project.

(k) No Breach or Default Caused by Grant Agreement. Neither the execution and delivery of this Grant Agreement, nor the fulfillment of or compliance with the terms and conditions in this Grant Agreement, nor the consummation of the transactions contemplated herein conflicts with or results in a breach of any terms, conditions or provisions of, or any restrictions contained in, any agreement or instrument to which the Grantee is a party or by which the Grantee is bound or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Grantee or its properties are subject, or constitutes a default under any of the foregoing.

(l) Irrevocability of Grant Agreement. The terms of this Grant Agreement shall be irrevocable until the Project has been fully acquired and completed, and shall not be subject to amendment or modification in any manner which would result in any use of the proceeds of this Grant Agreement in a manner not permitted or contemplated by the terms hereof.

(m) No Litigation. To the best knowledge of the Grantee, no litigation or proceeding is pending or threatened against the Grantee or any other person affecting the right of the Grantee to execute this Grant Agreement or to comply with its obligations under this Grant Agreement. Neither the execution of this Grant Agreement by the Grantee nor compliance by the Grantee with the obligations hereunder requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(n) Occurrence of Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Grant Agreement, would constitute an Event of Default on the part of the Grantee hereunder.

(o) Grantee's Existence. The Grantee will maintain its legal identity and existence for the Agreement Term, unless another political subdivision by operation of law succeeds to the liabilities, rights, and duties of the Grantee without adversely affecting to any substantial degree the privileges and rights of the Finance Authority.

(p) Reports to Finance Authority. The Grantee shall report at least semi-annually to the Finance Authority on the status of the Planning Document.

(q) Records. The Grantee shall properly maintain separate project accounts in accordance with generally accepted accounting principles and conduct an annual audit or review of the Grantee's financial records related to the Project.

Section 2.2. Representations, Warranties and Covenants of the Finance Authority. The Finance Authority represents, warrants and covenants as follows:

(a) The Finance Authority is a public body politic and corporate, separate and apart from the State, constituting a governmental instrumentality duly organized, existing and in good standing under the laws of the State, has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Grant Agreement and, by proper action, has duly authorized the execution and delivery of this Grant Agreement.

(b) This Agreement constitutes a legal, valid and binding obligation of the Finance Authority enforceable in accordance with its terms.

ARTICLE III: AGREEMENT TERM

The Agreement Term shall commence on the Closing Date and shall terminate upon the earliest of the following events: a determination by the Finance Authority that (a) the Grantee is unable to proceed with the Project for the foreseeable future or has failed to commence the Project in a reasonably timely manner, (b) the Grant or any portion thereof is not necessary for the Project (in which case the Grant Amount may be modified by the Finance Authority) or (c) the Grantee has failed to utilize the Planning Grant to complete the Planning Document within one year of the Closing Date.

ARTICLE IV: GRANT; APPLICATION OF MONEYS

On the Closing Date, the Finance Authority shall transfer the amount shown on Exhibit "A" into the Grant Account to be disbursed by the Finance Authority pursuant to Section 6.2 of this Grant Agreement at the direction of the Grantee, as needed by the Grantee to acquire and complete the Project.

ARTICLE V: GRANT TO THE GRANTEE

Section 5.1. Grant to the Grantee. The Finance Authority hereby grants and the Grantee hereby accepts an amount equal to the Grant Amount. The Finance Authority shall establish and maintain, on behalf of the Grantee, a Grant Account, which Grant Account shall be kept separate and apart from all other accounts of the Finance Authority. The Grantee hereby pledges to the Finance Authority all its rights, title and interest in the funds held in the Grant Account for the purpose of securing the Grantee's obligations under this Grant Agreement. Funds in the Grant Account shall be disbursed as provided in Sections 6.2 and 6.3 hereof.

Section 5.2. No General Obligation. No provision of this Grant Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Grantee within the meaning of any constitutional or statutory debt limitation.

Section 5.3. Investment of Moneys in Grant Account. Money on deposit in the Grant Account may be invested by the Finance Authority for the credit of the Local Government Planning Fund.

ARTICLE VI: THE PROJECT

Section 6.1. Agreement to Acquire and Complete the Project. The Grantee hereby agrees that in order to effectuate the purposes of this Grant Agreement and to acquire and complete the Project it shall take such steps as are necessary and appropriate to acquire and complete the Project lawfully, efficiently and within one (1) year of the Closing Date.

Section 6.2. Disbursements from the Grant Account. So long as no Event of Default shall occur, the Finance Authority shall disburse moneys from the Grant Account, either to the Grantee or to vendors and contractors, as determined by the Finance Authority in its sole discretion, upon receipt by the Finance Authority of a requisition substantially in the form of Exhibit "B" attached hereto signed by an Authorized Officer of the Grantee, supported by certification by the Grantee's project architect, engineer, or other such authorized representative of the Grantee acceptable to the Finance Authority that the amount of the disbursement request represents the progress of completion, acquisition or other Project related activities accomplished as of the date of the disbursement request. The Grantee shall provide such records or access to the Project as the Finance Authority, in its sole discretion, may request in connection with the approval of the Grantee's disbursement requests made hereunder.

Section 6.3. Determination of Eligibility as condition Precedent to Disbursement. Prior to the disbursement of the Grant Amount or any portion thereof, the Finance Authority shall have determined that the Grantee has met the readiness to proceed requirements established for the Grant by the Finance Authority and no Event of Default shall have occurred. No disbursement shall be made from the Grant Account except upon a determination by the Finance Authority that such disbursement is for payment of Project expenses, and that the disbursement does not exceed any limitation upon the amount payable.

Section 6.4. Reimbursement for Prior Expenditures. The Finance Authority, so long as no Event of Default shall occur and upon presentation of the Grantee's disbursement request with such certification and records as are required in accordance with Section 6.2 hereof, may disburse moneys from the Grant Account for reimbursement of Project expenses incurred after the Finance Authority Board of Directors approved the grant on January 22, 2015.

Section 6.5. Completion of Disbursement of Grant Funds. Upon completion of disbursement of the Grant Amount, an Authorized Officer of the Grantee shall deliver a certificate of completion, substantially in the form attached to this Grant Agreement as Exhibit "C", to the Finance Authority stating that, to the best of the Authorized Officer's knowledge the Project has been completed and the entire Grant Amount has been disbursed in accordance with the terms of this Grant Agreement. If any portion of the Grant Amount remains upon the delivery of the certificate of completion, the Finance Authority may, in its sole discretion, modify this Grant Agreement and reduce the amount of the Grant.

ARTICLE VII: COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

Section 7.1. Further Assurances and Corrective Instruments. The Finance Authority and the Grantee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the terms and intention hereof.

Section 7.2. Finance Authority and Grantee Representatives. Whenever under the provisions of this Grant Agreement the approval of the Finance Authority or the Grantee is required, or the Grantee or the Finance Authority is required to take some action at the request of the other, such approval or such request shall be given for the Finance Authority or for the Grantee by an Authorized Officer of the Finance Authority or the Grantee, as the case may be, and any party hereto shall be authorized to act or rely on any such approval or request.

Section 7.3. Requirements of Law. During the Agreement Term, the Grantee shall observe and comply promptly with all applicable federal, State and local laws and regulations affecting the Project, and all current and future orders of all courts and agencies of the State having jurisdiction over the Project and matters related to the Project.

ARTICLE VIII: NON-LIABILITY OF FINANCE AUTHORITY FOR ACTS OR OMISSIONS OF THE GRANTEE; INDEMNIFICATION

Section 8.1. Non-Liability of Finance Authority. The Finance Authority shall not be liable in any manner for the Project, Grantee's use of the Grant, the ownership, operation or maintenance of the Project, or any failure to act properly by the owner or operator of the Project.

Section 8.2. Indemnification of Finance Authority. The Finance Authority shall not be responsible for any act or omission of the Grantee upon which any claim, by or on behalf of any person, firm, corporation or other legal entity may be made, whether arising from the establishment or modification of the Project or otherwise. To the extent permitted by law, the Grantee shall and hereby agrees to indemnify and save harmless the Finance Authority and its designee, if any, from all claims by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition and completion of the Project. In the event of any action or proceeding brought on any such claim, upon notice from the Finance Authority or its designee, Grantee shall defend the Finance Authority and its designee, if any, in any such action or proceeding.

ARTICLE IX: EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined. Any one of the following shall be an Event of Default under this Agreement:

(a) Use of the Grant Amount, or any portion thereof, by the Grantee for purposes other than the Project;

(b) Failure by the Grantee to utilize the Grant proceeds to complete the Project within one (1) year of the Closing Date;

(c) Failure by the Grantee to observe and perform any other covenant, condition or agreement on its part to be observed or performed under this Grant Agreement for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Grantee by the Finance Authority, unless the Finance Authority shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Finance Authority, but cannot be cured within the applicable thirty (30) day period, the Finance Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Grantee within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of Force Majeure the Grantee is unable to carry out the agreements on its part herein contained, the Grantee shall not be deemed in default under this paragraph during the continuance of such inability (but Force Majeure shall not excuse any other Event of Default); or

(d) Any warranty, representation or other statement by or on behalf of the Grantee contained in this Grant Agreement or in any instrument furnished in compliance with or in reference to this Grant Agreement is false or misleading in any material respect.

Section 9.2. Remedies on Default. Whenever any Event of Default has occurred and is continuing, and subject to Section 9.3 hereof, the Finance Authority may take whatever of the following actions may appear necessary or desirable to enforce performance of any agreement of the Grantee in this Grant Agreement:

(a) File a mandamus proceeding or other action or proceeding or suit at law or in equity to compel the Grantee to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein;

(b) Terminate this Grant Agreement;

(c) Cease disbursing any further amounts from the Grant Account;

(d) Demand that the Grantee immediately repay the Grant Amount or any portion thereof if such funds were not utilized in accordance with this Grant Agreement;

(e) File a suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Finance Authority; or

(f) Take whatever other action at law or in equity may appear necessary or desirable to enforce any other of its rights hereunder.

The Grantee shall be responsible for reimbursing the Finance Authority for any and all fees and costs incurred in enforcing the terms of this Grant Agreement.

Section 9.3 Limitations on Remedies. A judgment requiring repayment of money entered against the Grantee may reach any available funds of the Grantee to the extent permitted by law.

Section 9.4. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Finance Authority is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Finance Authority to exercise any remedy reserved in this Article IX, it shall not be necessary to give any notice, other than such notice as may be required in this Article IX.

Section 9.5. Waivers of Events of Default. The Finance Authority may in its sole discretion waive any Event of Default hereunder and the consequences of such an Event of Default; provided, however, all expenses of the Finance Authority in connection with such Event of Default shall have been paid or provided for. Such waiver shall be effective only if made by written statement of waiver issued by the Finance Authority. In case of any such waiver or rescission, or in case any proceeding taken by the Finance Authority on account of any Event of Default shall have been discontinued or abandoned or determined adversely, then the Finance Authority and the Grantee shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 9.6. No Additional Waiver Implied by One Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE X: MISCELLANEOUS

Section 10.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows:

If to the Grantee, then to:

City of Gallup
Attn.: City Manager
P.O. Box 70
Gallup, New Mexico 87305

And if to the Finance Authority, then to:

New Mexico Finance Authority
Attn.: Chief Executive Officer
207 Shelby Street
Santa Fe, New Mexico 87501

The Grantee and the Finance Authority may, by written notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 10.2. Binding Effect. This Grant Agreement shall inure to the benefit of and shall be binding upon the Finance Authority, the Grantee and their respective successors and assigns, if any.

Section 10.3. Amendments. This Grant Agreement may be amended only with the written consent of the Finance Authority and the Grantee.

Section 10.4. No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Grant Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Finance Authority, or against any officer, employee, director or member of the Grantee, past, present or future, as an individual so long as such individual was acting in good faith and within the scope of his or her duties. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director or member of the Grantee or of the Finance Authority is hereby expressly waived and released by the Grantee and by the Finance Authority as a condition of and in consideration for the execution of this Agreement.

Section 10.5. Grantee Compliance. The Finance Authority shall not be responsible for assuring the Grantee's use of the Grant Amount or the Project for its intended purpose and shall have no obligation to monitor compliance by the Grantee with the provisions of this Grant Agreement.

Section 10.6. Severability. In the event that any provision of this Grant Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.7. Execution in Counterparts. This Grant Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.8. Applicable Law. This Grant Agreement shall be governed by and construed in accordance with the laws of the State.

Section 10.9. Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Grant Agreement.

[Remainder of page intentionally left blank.]

[Signature pages follow.]

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and as authorized by the Finance Authority Board of Directors on January 22, 2015, has executed this Grant Agreement in its corporate name with its corporate seal hereunto affixed and attested by its duly Authorized Officers; and the Grantee has caused this Grant Agreement to be executed in its corporate name and the seal of the Grantee affixed and attested by its duly Authorized Officers. All of the above are effective as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By _____
Chief Executive Officer or Designee

[SEAL]

ATTEST:

By _____

Approved for Execution by Officers of the
New Mexico Finance Authority:

By _____
Daniel C. Opperman, General Counsel

CITY OF GALLUP

By _____
Jackie McKinney
Mayor

[SEAL]

ATTEST:

By _____
Alfred Abeita II
City Clerk

EXHIBIT “A”

TERM SHEET

Grantee: City of Gallup

Project Description: Preparation of a Planning Document consisting of the Metropolitan Redevelopment Act Plan addressing the City’s redevelopment planning needs, including potential revitalization projects for the downtown area, preservation and conservation of historical buildings, transportation improvements, and zoning changes to aid in redevelopment.

Total Grant Amount: \$50,000

Local Match: \$ 0

Closing Date: April 29, 2016

EXHIBIT "B"
FORM OF REQUISITION

RE: \$50,000 Planning Grant Agreement (the "Grant Agreement") by and between the New Mexico Finance Authority ("Finance Authority") and the City of Gallup ("Grantee"), Finance Authority Grant Number 3275-PG (the "Grant Agreement").

Closing Date: April 29, 2016

TO: NEW MEXICO FINANCE AUTHORITY

You are hereby authorized to disburse funds from the Grant Account, with regard to the above-referenced Grant Agreement, the following:

REQUISITION NUMBER: _____

NAME AND ADDRESS OF PAYEE: _____

AMOUNT OF PAYMENT: \$ _____

PURPOSE OF PAYMENT: _____

WIRING INFORMATION

BANK NAME:	_____
ACCOUNT NUMBER:	_____
ROUTING NUMBER:	_____

Each obligation, item of cost or expense mentioned herein is for the Grant made by the New Mexico Finance Authority pursuant to the Grant Agreement to the Grantee, within the State of New Mexico, is due and payable, has not been the subject of any previous requisition and is a proper charge against the Grant Account held on behalf of the Grantee. All representations contained in the Grant Agreement and the related closing documents remain true and correct and the Grantee is not in breach of any of the covenants contained therein.

Capitalized terms used herein are used as defined or as used in the Grant Agreement.

DATED: _____

By: _____
Authorized Officer of the Grantee

Title: _____

EXHIBIT "C"

FORM OF CERTIFICATE OF COMPLETION

RE: \$50,000 Planning Grant Agreement (the "Grant Agreement") by and between the New Mexico Finance Authority ("Finance Authority") and the City of Gallup ("Grantee"), Finance Authority Grant Number 3275-PG (the "Grant Agreement")

Closing Date: April 29, 2016

TO: NEW MEXICO FINANCE AUTHORITY

I, _____, the_of [Name]
[Title or position]

the Grantee, hereby certify as follows:

1. The project described in the Grant Agreement (the "Project") was completed and placed in service by the Grantee on _____, 20__.
2. The total cost of the Project was \$_____.
3. The Project was completed and is and shall be used consistent with and subject to the covenants set forth in the Grant Agreement.

City of Gallup:

By: _____

Its: _____

SUSANA MARTINEZ
GOVERNOR

JON BARELA
CABINET SECRETARY



January 19, 2016

New Mexico Finance Authority Board of Directors
207 Shelby Street
Santa Fe, New Mexico 87501

RE: 3275-PG

Dear Board of Directors,

The New Mexico Economic Development Department has reviewed the Gallup Downtown Metropolitan Redevelopment Area/Cultural Plan funded by 3275-PG from the Local Government Planning Fund. Staff has determined that the analysis is in line with the scope of work outlined in the application. The Department hereby approves the final document.

The MRA Plan was adopted by the City of Gallup on December 15, 2015 by Council Resolution NO. R2015-36 and will serve as a planning tool to assist the City of Gallup in utilizing the resources best suited for growth.

If I can furnish additional information please do not hesitate to contact my office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon Barela".

Jon Barela
Cabinet Secretary

RESOLUTION NO. R2015-36

**A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS
PURSUANT TO THE NM METROPOLITAN REDEVELOPMENT CODE, AND
APPROVING THE GALLUP DOWNTOWN METROPOLITAN
REDEVELOPMENT AREA PLAN.**

WHEREAS, Section 3-60A-8 NMSA 1978 of the Metropolitan Redevelopment Code (Sections 3-60A-1 through 3-60A-48 NMSA 1978) states: “A municipality shall not prepare a metropolitan redevelopment plan for an area unless the governing body by resolution determines the area to be a blighted area, and designated the area as appropriate for a metropolitan redevelopment area plan,” and

WHEREAS, the City of Gallup (“City”) and NM MainStreet, and their employees, have for some time engaged in a study of deteriorated areas within the downtown, and have submitted their findings and recommendations concerning the area detailed in the Metropolitan Redevelopment Area Designation Report, which was approved by the City Council on December 9, 2014 as per Resolution R2014-41 and amended on December 8, 2015 as per Resolution R2015-34.

WHEREAS, pursuant to Section 30-60A-9 NMSA 1978 of the Metropolitan Redevelopment Code, the City held a public meeting on November 12, 2015 on the proposed Gallup Downtown Metropolitan Redevelopment Area Plan, and has sent through a first class mailing to property owners within the Gallup Metropolitan Redevelopment Area, a notice containing a general description of the proposed Metropolitan Redevelopment Area and the date, time and place where the Council will hold a public meeting to consider the adoption of this resolution and announcing that any interested party may appear and speak to the issue of the adoption of this resolution; and

WHEREAS, the boundaries of the Gallup Downtown Metropolitan Redevelopment Area are delineated in Exhibit A (Map of Metropolitan Redevelopment Area), as an irregularly shaped area of approximately 40 blocks generally described as south of the Rio Puerco, north of West Mesa Ave, east of Cliff Street, and west of South Seventh Street.; and

WHEREAS, the Council has considered the findings and determinations of the Gallup Downtown Metropolitan Redevelopment Area Plan and all comments made at the public meeting concerning the redevelopment projects which exist in the proposed Gallup Downtown Metropolitan Redevelopment Area Plan.

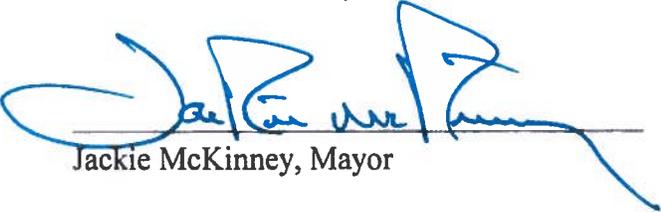
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL,

1. The City Council, after having conducted a public meeting pursuant to the Metropolitan Redevelopment Code, adopts the Gallup Downtown Metropolitan Redevelopment Area Plan, as attached hereto as Exhibit B and incorporated herein.
2. The City Council finds that:
 - A. The Gallup Downtown Metropolitan Redevelopment Area Plan proposes activities for the redevelopment of the area that will aid in the elimination and prevention of blight; and
 - B. The Gallup Downtown Metropolitan Redevelopment Area Plan does not require the relocation of any families and individuals from their dwellings and a method for providing relocation assistance is not needed; and
 - C. The Gallup Downtown Metropolitan Redevelopment Area Plan conforms to and complements the Gallup Growth Management Plan; and
 - D. The Gallup Downtown Metropolitan Redevelopment Area Plan affords maximum opportunity consistent with the needs of the community for the rehabilitation or redevelopment of the Gallup Downtown area by private enterprise or persons, and the objectives of the Metropolitan Redevelopment Area Plan justify the proposed activities as public purposes and needs.
3. The City shall support efforts to establish redevelopment projects intended to make the area more pedestrian friendly and mixed in income and use, thus affording the opportunity for locally-owned small businesses to establish themselves, and the City shall also support community education activities that broaden the local knowledge base and invite members from outside the immediate area to take part in these community education activities.
4. The City shall support these programs in providing technical assistance to local committees interested in developing mixed-use, mixed-income housing programs, and by providing technical assistance to businesses within the Metropolitan Redevelopment Area for the purpose of obtaining funding for redevelopment activities, and providing guidance and technical assistance to businesses wishing to open, operate, and/or expand within the Metropolitan Redevelopment Area.
5. All resolutions, or parts thereof, in conflict with this Resolution are hereby repealed; this repealer shall not be construed to revive any resolution, or part thereof, heretofore repealed.
6. If any section paragraph, sentence, word or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect

the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

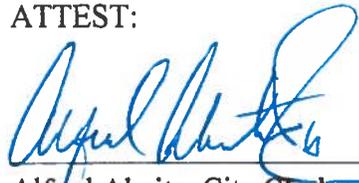
PASSED, APPROVED, AND ADOPTED this 15th day of December, 2015.

CITY OF GALLUP, NEW MEXICO



Jackie McKinney, Mayor

ATTEST:



Alfred Abeita, City Clerk

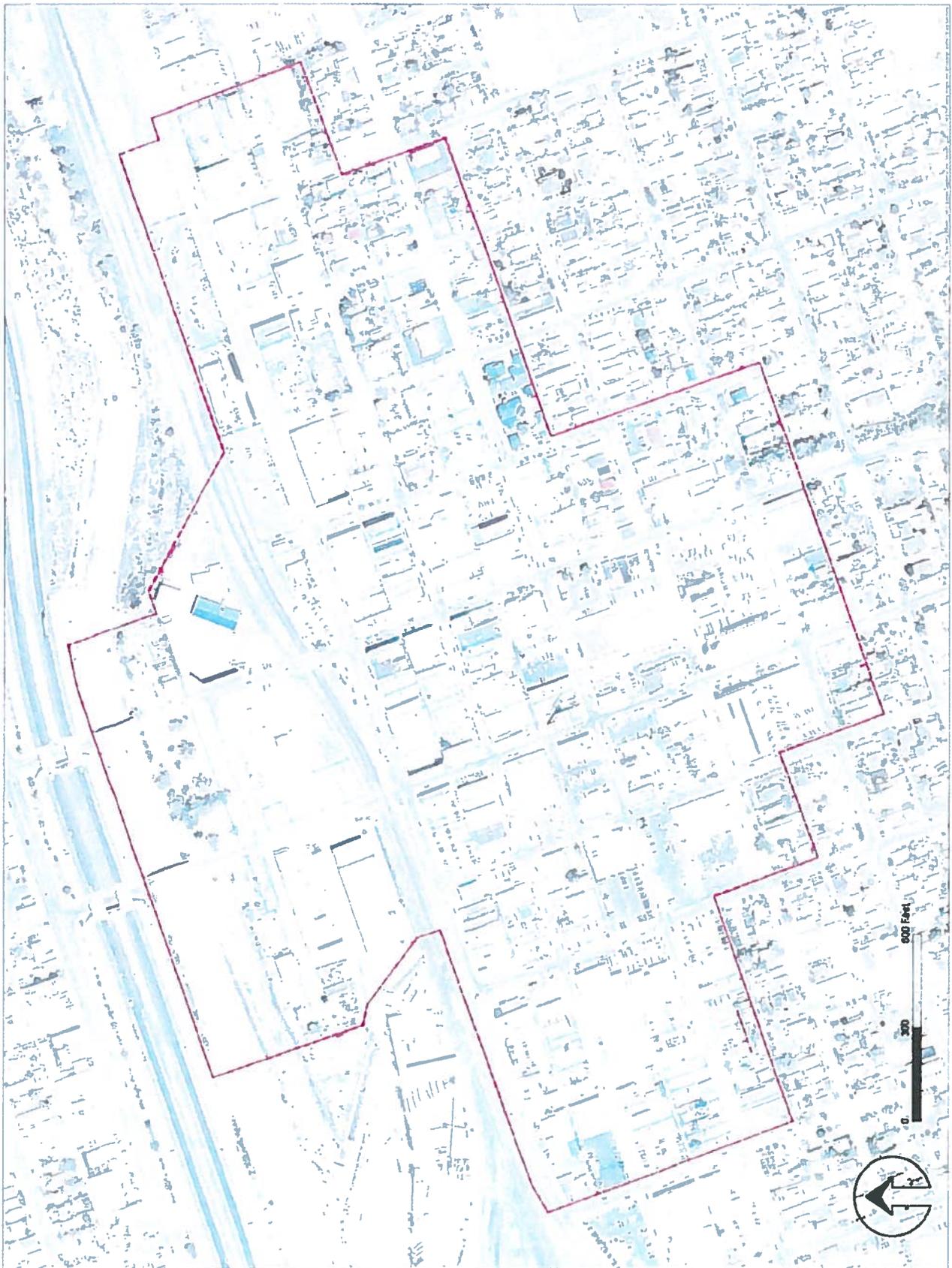


Exhibit A: Gallup Downtown Metropolitan Redevelopment Area

Presentation and Information Item 1

Report by the Gallup MainStreet Arts and Cultural District Board

Colin McCarty, President, Gallup MainStreet Arts and Cultural District

(Supporting documentation will be provided prior to the meeting)