

**JOINT PLANNING AGREEMENT FOR NEW MEXICO STATE TRUST LANDS**

THIS JOINT PLANNING AGREEMENT (the “Agreement”) is entered as of the \_\_\_ day of \_\_\_\_\_, 2019 (the “Effective Date”) between the COMMISSIONER OF PUBLIC LANDS OF THE STATE OF NEW MEXICO, Trustee for the Enabling Act Trust, Act of June 20, 1910, 36 Stat. 557, ch. 310 (the “Commissioner”), the CITY OF GALLUP, a New Mexico Municipal Corporation (the “City”), and the COUNTY OF MCKINLEY, a New Mexico County (the “County”). The Commissioner, the City, and the County agree as follows:

**RECITALS**

WHEREAS, under the New Mexico Constitution and by statute, the Commissioner has jurisdiction over and is entrusted with management, care, custody, control and disposition of state lands held in trust to support public schools, universities and other state institutions (hereinafter, “state trust lands”);

WHEREAS, the state trust lands under the custody and control of the Commissioner include approximately 177,000 surface acres of state trust land within the County, approximately 700 acres of which are located within or immediately adjacent to the municipal boundaries of the City; and

WHEREAS, the Commissioner, the City and the County each have an interest in utilizing state trust lands for the greatest benefit to the local community by seizing opportunities for local economic development and job creation; and

WHEREAS, the Commissioner may execute state land office leases with, or issue easements to, the City or County that help facilitate planned and orderly growth by

securing sites for municipal services, infrastructure, and economic development opportunities; and

WHEREAS, under New Mexico law state trust lands are generally exempt from local regulation by a City or County; and

WHEREAS, the Commissioner must be compensated in an amount at least equal to the true value of all trust lands leased, sold, exchanged or otherwise conveyed; and

WHEREAS, notwithstanding the Commissioner's sole authority over state trust lands, working cooperatively, transparently, fairly and in good faith with the City and County, and in compliance with all laws, will benefit the state land trust and its beneficiaries; and

WHEREAS, the City and County have a legitimate interest in ensuring planned, orderly growth and economic development; and

A. WHEREAS, the orderly, planned use and development of state trust lands within the City and County will be mutually beneficial to the state land trust and trust beneficiaries, as well as to the City and County and their residents; and

B. WHEREAS, the Commissioner, the City and the County agree that a three-party Joint Planning Agreement among and between the Commissioner, the City and the County will advance their mutual interests, including the promotion of economic development;

NOW THEREFORE, the Commissioner, the City and the County agree as follows:

#### AGREEMENT

1. Recitals. The recitals are incorporated herein.

2. Joint Marketing and Economic Development. The Commissioner, the City and the County will use best efforts to explore opportunities for joint marketing of state trust lands located within the County and within or adjacent to the boundaries of the City and in pursuing economic development opportunities that will result in benefits to the local community and to the specified state land trust by, among other things, increasing the value of the trust lands for the benefit of the trust beneficiaries, increasing the tax base, creating local employment, creating opportunities for renewable energy development, and providing needed services and amenities to the local community.

3. Leases between the City or County and the Commissioner; Consultation prior to Disposition. When the Commissioner is considering a proposed sale or exchange of state trust lands leased to the City and/or the County, the Commissioner will consult with the lessee prior to any sale or exchange of the leased state trust lands.

4. Conveyances to Third Parties, Consultation with City or County. When the Commissioner is considering a proposed sale exchange of state trust lands located within or immediately adjacent to the boundaries of the City or County or a proposed business lease of such trust lands that would permit a substantial change in the nature of the use of the land, the Commissioner will consult with the City or County, or both, before completing such a transaction.

5. Planning and Development or Business Leases between the Commissioner and Third Parties. When the Commissioner is considering a proposed planning and development lease or long-term business lease that would permit substantial development or redevelopment of the land which would be regulated and require approvals by the City and/or County if the land was not state trust land, the Commissioner will require as a

condition of the lease, that the lessee follow the development approval processes as if the subject state trust lands were privately owned, including compliance with plans and ordinances, the payment of all fees due to either the City or the County for the filing of subdivision plats, the issuance of building permits or other development-related approvals required by either the City or the County. The Commissioner will consult with the City or County prior to the execution of any short-term business leases (five years or less) for telecommunication facilities to address, among other things, considerations over siting of towers and preservation of scenic resources. Within their relevant jurisdictions, the City or County will not unreasonably withhold approval of any development agreements, and other development-related approvals that are consistent with a master plan for the trust lands or the relevant comprehensive plan. The Commissioner, the City and the County will explore opportunities for expedited land use and development approvals on state trust lands within the relevant jurisdiction of each, especially in cases where planned land uses will advance economic development objectives.

6. Dedications of Rights of Way. When the lessee under a State Land Office planning and development lease seeks a dedication of the leased state trust lands for rights of way, the Commissioner will require that the lessee purchase the rights of ways on behalf of and for the benefit of the relevant jurisdiction(s), at a price negotiated between the Commissioner and the lessee. For proposed rights of way located outside the boundaries of any planning and development lease, the Commissioner will sell rights of way directly to either the City or County, or its designee, at a price that accounts for any immediate and certain increase in value to the adjacent trust lands, as determined by appraisal or other reasonable means. Such price may be set by the State Land Office's

standard fee per-rod. The City and the County will accept dedication of rights of way with a reversionary interest unto the Commissioner such that the dedication is “for so long as” the right of way is used for the intended public purpose.

7. Joint Master Planning of State Trust Lands. The Commissioner, the City and the County will explore opportunities to jointly master plan state trust lands within the relevant jurisdiction of each, which may include the formation of a joint planning committee(s) and/or advisory group(s).

8. Annexations. The Commissioner will consult with both the City and the County prior to the annexation of any state trust lands into the City. The Commissioner and the City will enter an annexation agreement for the proposed annexation that describes, among other things, the rights and privileges, if any, that will be associated with the trust land after annexation.

9. Infrastructure. The City and the County each shall provide their typical municipal or county services to state trust lands accordance with the City and County’s typical processes and fees or pursuant to the terms of any jointly developed plans.

[ACKNOWLEDGMENTS FOLLOW]

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**CITY OF GALLUP**

\_\_\_\_\_  
Mayor

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

ATTEST:

\_\_\_\_\_  
Alfred Abeita II, City Clerk

**COUNTY OF MCKINLEY**

\_\_\_\_\_  
Chairperson

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

ATTEST:

\_\_\_\_\_  
Harriett K. Becenti, County Clerk

**NEW MEXICO COMMISSIONER OF PUBLIC LANDS**

\_\_\_\_\_  
Stephanie Garcia Richard  
(Seal)

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