

AGENDA

GALLUP CITY COUNCIL SPECIAL MEETING MONDAY, AUGUST 24, 2020; 6:00 P.M.



Louie Bonaguidi, Mayor

Linda Garcia, Councilor, Dist. 1 Michael Schaaf, Councilor, Dist. 2
Yogash Kumar, Councilor, Dist. 3 Fran Palochak, Councilor, Dist. 4

Maryann Ustick, City Manager
Curtis Hayes, City Attorney

PUBLIC NOTICE: In accordance with the public health order issued by the New Mexico Department of Health, the meeting will be physically closed to the public; however, it will be accessible to the public via the following technology service:

Facebook Live stream through the City of Gallup's Facebook Page:
<https://www.facebook.com/CityOfGallup/>

Members of the public may submit comments on non-agenda items toward the end of the meeting. Please call 863-1254 to leave your name and a return phone number.

A. Pledge Of Allegiance

The members of the body and the public are invited to recite the Pledge of Allegiance.

B. Roll Call

C. Approval Of Minutes

Regular Meeting of August 11, 2020

Documents:

[DRAFT MINUTES AUG 11 2020 REG MTG.PDF](#)

D. Discussion/Action Topics

1. George Athens, City Of Gallup Minor Subdivision Final Approval

Case No. 2020-00300006, request for final plat review and approval of Replat No. 1 of Lots 13 & 14, Block A; Lots 1 & 2, Block B; and Lots 2 & 3, Block C Burke George Heights Addition, and Replat No. 1 of Lot 1 of Replat No. 1 of a portion of Block B & C, Burke George Heights Addition, minor subdivision.

See attached briefing memo.

Fiscal Impact: None
Recommendation: Recommend approval of final plat.
Speaker's Name C.B. Strain

Documents:

[GEORGE ATHENS, CITY OF GALLUP MINOR SUBDIVISION CITY COUNCIL FINAL APPROVAL MEMO.PDF](#)
[GEORGE ATHENS, CITY OF GALLUP MINOR SUBDIVISION GTF COMMENTS.PDF](#)

2. Clean And Lien Program Budget Increase

The Planning and Development Department is requesting a budget increase in the amount of \$75,000.00 for account #202-1525-474.45-90 "Contractual Services" Project No. EX-1950. This line item and project number is utilized for the City's Clean and Lien program. The clean and lien program is generally budgeted \$100,000.00 for the fiscal year. Due to COVID 19 the Clean and Lien program was not budgeted for the full amount, the remaining balance of \$48,347.83 rolled over from FY-2020 to FY-2021.

A significant increase in transient camps throughout the city prompted Code Enforcement and Gallup PD to create a Task Force to clear out and dismantle these camps. The effort between Code Enforcement and the Gallup PD SET Team yielded eight transient camps being cleared and dismantled which exhausted the entire clean and lien budget. An additional \$75,000.00 is needed in order to continue to clear out the transient camps as well as abate regular Code Enforcement cases needing clean up.

Fiscal Impact: Fiscal Impact is \$75,000.00 transferred from 202 Fund Balance.
Recommendation: Staff recommends approval for a budget increase of \$75,000.00 transferred from 202 Fund Balance
Speaker's Name C.B. Strain

Documents:

[CLEAN AND LIEN INVOICES \(CAMPS\).PDF](#)

3. Acceptance Of A New Mexico Department Of Transportation Aviation Grant Agreement

Staff is requesting City Council to accept New Mexico Department of Transportation Aviation Grant Agreement A-1330, Contract No. AVA1300, Project No. GUP-20-02 for West Apron Pavement Preservation for the Gallup Municipal Airport, and approval of expenditure and revenue budget for said project. The grant amount is \$139,500.00 and is 100% reimbursable with no required matching funds.

The project is in the design stage at this time. Once design is complete bid documents will be forwarded to the Purchasing Department and the project will be put out to bid.

Fiscal Impact: \$139,500.00 which is 100% reimbursable with no required matching funds.

Recommendation: Staff recommends approval of Agreement No. A-1330, Contract No. AVA1300, Project No. GUP-20-02

Speaker's Name C.B. Strain

Documents:

[GUP-20-02 WEST APRON PAVEMENT PRESERVATION EXECUTED CONTACT INFORMATION UPDATED.PDF](#)

4. Acceptance Of Legislative Appropriation Grant Agreement From The State Of New Mexico Department Of Finance And Administration Fund 89200 Capital Appropriation Project

Representative Patty Lundstrom has secured a Legislative Appropriation from the State of New Mexico Department of Finance and Administration Fund 89200 Capital Appropriation. The project that is the subject of this agreement is 20E2755 for a total of \$3,713,114.00. Appropriation Reversion Date: 30-June-24 Laws of 2020, Chapter 81, Section 35, Paragraph 411, three million seven hundred thirteen thousand and one hundred fourteen dollars (\$3,713,114.00) to provide emergency funding for infrastructure needs statewide.

Staff is requesting that City Council accept the grant agreement and approve expenditure and revenue budget. This grant is 100% reimbursable with no matching funds required. The City of Gallup will be the administrator of this grant.

Fiscal Impact: \$3,713,114.00, 100% reimbursable with no matching funds required.

Recommendation: Staff recommends approval for acceptance of said grant agreement and budgeting of funds.

Speaker's Name C.B. Strain

Documents:

[E2755 GALLUP.PDF](#)

5. Approval Of "Visual Labs Inc." Subscription Agreement And Budget Adjustment For \$89,792.25 For The Purchase Of 75 Police Body Worn Camera Systems For The Gallup Police Department.

The Gallup Police Department is seeking the approval of a subscription agreement with Visual Labs Inc. and a budget adjustment to transfer and expend funding for 75 Body Worn Camera systems in the amount of \$89,792.25. The itemized cost for each component (75 per) is as follows:

<u>Component</u>	<u>Cost:</u>
1. Visual Labs (software license)	\$39,177

2. Implementation fee	\$1,500
3. Mounting Hardware & accessories	\$4,500
2. First Net (AT&T)	\$44,541
3. Ruggedized smartphone (Kyocera Dura Force Pro 2)	\$74.25

Total: \$89,792.25

Account transfers from other department internal accounts will be consolidated into account: 211-2010-421.46-20.

Fiscal Impact:	Transfer & consolidation: Traffic Enf. & Ed. Fund \$38,232 (a/c 799-0000-229.20-00 Proj. AF0508), Reallocation of Watch Guard camera system \$34,250 (a/c. 211-2011-421.45-90), Law Enforcement Protection Fund \$17,310.24 (a/c, 211-2010-421.46-10): \$89,792.25
Recommendation:	Approval of budget transfers and subscription agreement for 75 Police Body Worn Cameras.
Speaker's Name	Chief Franklin Boyd

Documents:

[BWC ATTACHMENTS 0820.PDF](#)
[BWC COST SUMMARY REV8.21.20 0957.PDF](#)

6. City Of Gallup Senior Program Budget Adjustments

1. The Senior Program has received \$68,488.36 in a COVID 19 CARES Federal Sub-Award to provide services until September 30, 2020 based on the assessed need of the community and individuals receiving services in accordance with the Coronavirus Aid Relief and Economic Security Act (CARES). The services provided shall support older adults in maintaining independent and healthy lifestyles, address food insecurity and nutrition.

Fiscal Impact: The award will support the current Gallup Senior Program's administration and direct-service cash match for the senior program FY 21 Budget.

2. The Senior Program has received the Non-Metro Area Agency on Aging (NMAAA) State and Federal contracts for a total of \$324,147.62/and the NSIP contract for \$46,330.35. The City matching funds have been revised to reflect the correct amount during FY 21 of \$327,877.12, which was reduced from \$360K; No further changes have been made to the direct services contract, which will remain at \$324,147.62.

- A. Contract No. 2020-21-60013 Title III Federal and State Sub-Award
 - a. \$37,723.40 – Title IIIB of the OAA (Transportation)
 - b. \$87,968.90 – Title III-C1 of the OAA (Congregate Meals)
 - c. \$20,966.00 – Title III-C2 of the OAA (Home Delivered Meals)
 - d. \$177,489.32 from the NMGAA – State/HB-2

B. Contract No. 60013 Nutrition Service Incentive Program (NSIP) - \$46,330.35

Fiscal Impact: The Title III Federal and State Sub-Award contract supports the on-going programming of the Gallup Senior Program Direct Services budget. There is no fiscal impact on the approved city senior program budget except for the NSIP contract, which reflects a DECREASE in the NSIP food budget of \$328.16.

Recommendation: Approval to Accept the CARES contract, and the FY 20-21 NMAAA State and Federal Sub-Awards; Approval to make budget adjustments as necessary to reflect differences in award from Gallup Senior Program FY 20-21 approved budget.

Fiscal Impact: See above
Recommendation: See above
Speaker's Name Kimberly Ross-Toledo

7. FY'21 Budget Adjustment Approval For New Mexico Department Of Health Grant Awards

We are pleased to announce that the Department of Health, EMS Bureau has awarded three awards for a total of \$144,643.50 to the Gallup Fire Department's EMS program.

First Award: EMS Fund Act
Disbursement amount of \$12,464.00 for Medical supplies, training and licensures.

Second Award: EMS Fund Act - Local Systems Improvement.
Award amount of \$10,000 for the purchase of a new power gurney. A fire department match of approximately \$4500.00 required to enable purchase

Third Award: EMS Fund Act - Special Projects
Award amount of \$122,179.50 for the purchase of a new ambulance. A fire department match of 25% will be required to fulfill the purchase.

Fiscal Impact:
Budget adjustment of revenue and expenditure for:
First Award: \$12,464.00 in account 206 EMS Fund
Second Award: \$10,000. Expenditure will be placed in appropriate account and project as directed by Finance.
Third Award: \$122,179.00 to be placed in appropriate account and project as directed by Finance.

Fiscal Impact: Noted above
Recommendation: Staff recommends budget approval.
Speaker's Name Jesus "Chuy" Morales, Fire Chief

Documents:

[GALLUP.PDF](#)
[EMS FUND ACT PMT. - FY21.PDF](#)

8. Discussion Of Legislative Finance Committee Presentation On August 26, 2020

Mayor Louie Bonaguidi will provide an overview of his presentation to be made before the Legislative Finance Committee on Wednesday, August 26th.

Fiscal Impact: None.
Recommendation: No action required - discussion only.
Speaker's Name Mayor Louie Bonaguidi

9. Cancellation Of The August 25, 2020 Regular Meeting

Curtis Hayes, Acting City Manager, will recommend the cancellation of the Regular Meeting scheduled for Tuesday, August 25, 2020 at 6:00 p.m.

Fiscal Impact: None.
Recommendation: Cancel the August 25, 2020 Regular Meeting.
Speaker's Name Curtis Hayes

E. Comments By Public On Non-Agenda Items

The public is invited to comment on matters not appearing on the published meeting agenda.

F. Comments By Mayor And City Councilors

G. Comments By City Manager And City Attorney

H. Motion To Adjourn

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 of the Regular Meeting of the Gallup City Council, City of Gallup, New Mexico, held at Gallup City Hall, 110 West Aztec Avenue, at 6:00 p.m. on Tuesday, August 11, 2020.

The meeting was called to order by Mayor Louie Bonaguidi. He provided instructions to the public viewing the meeting through Facebook Live on how to provide comment on non-agenda items later in the meeting.

Upon roll call, the following were present:

Mayor:	Louie Bonaguidi
Councilors:	Linda Garcia Michael Schaaf Yogash Kumar Fran Palochak
Also present:	Maryann Ustick, City Manager Curtis Hayes, City Attorney

Presented to the Mayor and Councilors for their approval were the Minutes of the Regular Meeting of July 28, 2020.

Councilor Schaaf made the motion to approve the Minutes of the Regular Meeting of July 28, 2020 with the previously stated correction. Seconded by Councilor Palochak. Roll call: Councilors Schaaf, Palochak, Garcia, Kumar and Mayor Bonaguidi all voted yes.

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

1. U.S. Economic Development Administration (EDA) Grant Application Approval – Clyde (C.B.) Strain, Planning and Development Director

Ms. Ustick said City staff has been working with the Greater Gallup Economic Development Corporation and the Northwest New Mexico Council of Governments on the proposed grant application. The actual application is in the amount of \$1.25 million and requires a local match of \$250,000, for a total of \$1.5 million. The grant will provide an opportunity to accomplish some of the City's goals as well as stimulate economic development on the west side of the city. The proceeds of the grant will be used to develop a Comprehensive Gallup Recovery Plan focused on the following components: Airport Master Plan, City Transportation Master Plan and Autonomous Vehicle Industry Attraction Plan.

Patty Lundstrom, Executive Director, Greater Gallup Economic Development Corporation, provided an overview regarding the development of the grant application. The Economic Development Administration has provided a special funding source to

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address the economic impacts caused by the devastation associated with the COVID-19 pandemic. The components of the proposed plan for the grant application are considered eventual tools for economic development in Gallup.

Councilor Palochak commended all those who were involved in preparing the proposed grant application. She spoke in support of the economic development efforts for the west side of the community.

Councilor Palochak made the motion to approve the U.S. Economic Development Administration Grant Application as submitted. Seconded by Councilor Kumar. Roll call: Councilors Palochak, Kumar, Schaaf, Garcia and Mayor Bonaguidi all voted yes.

2. Veterinary Service Award of Contract – Clyde (C.B.) Strain, Planning and Development Director

Mr. Strain said the City contracts with private entities to provide veterinary services and shelter services for animal protection in accordance with the Joint Powers Agreement with the County. Since the current contracts are about to expire, Request for Proposals (RFPs) were solicited for new contracts for these services. One response was submitted by Dr. Clinton J. Balok for veterinary services and the proposal was determined to be the most qualified by the evaluation committee. Mr. Strain recommended award of the contract to Dr. Balok in the amount of \$103,980 including taxes with costs being split between the City (60%) and County (40%).

Mayor Bonaguidi asked if the term of the contract is for four years, set to expire in 2024. Mr. Strain responded yes.

Councilor Garcia made the motion to award the veterinary service contract to Clinton J. Balok in the amount of \$103,980 including taxes to be split 60% by the City and 40% by the County. Seconded by Councilor Palochak. Roll call: Councilors Garcia, Palochak, Kumar, Schaaf and Mayor Bonaguidi all voted yes.

3. Shelter Services Award of Contract – Clyde (C.B.) Strain, Planning and Development Director

Mr. Strain said there was one proposal submitted by the McKinley County Humane Society to provide shelter services for animal protection. The proposal was reviewed by the evaluation committee and the Humane Society was selected to be the most qualified to provide the services. Mr. Strain recommended award of the contract to the McKinley County Humane Society in the amount of \$175,000 with costs being split between the City (60%) and County (40%).

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Mayor Bonaguidi asked if the term of the contract is for four years. Mr. Strain responded yes. Mr. Strain also said the City and County have already included the expenses for veterinary services and shelter services in their respective budgets.

Councilor Kumar made the motion to award the shelter services contract in the amount of \$175,000. Seconded by Councilor Palochak. Roll call: Councilors Kumar, Palochak, Schaaf, Garcia and Mayor Bonaguidi all voted yes.

4. Resolution No. R2020-26; Local Liquor Excise Tax Distribution – Curtis Hayes, City Attorney

Mr. Hayes presented the proposed joint resolution with the County directing the allocation and distribution of liquor excise tax revenue projected and/or received for Fiscal Year (FY) 2021. The County is the fiscal agent for collecting the tax for the City and County and has projected revenues of about \$1.25 million for FY 2021. The Liquor Excise Tax Task Force has recommended the following distribution of liquor excise tax funds: \$835,000 to the City for the operation of the Gallup Detox facility and the remaining \$415,000 to be allocated to the County for the operation of their programs. The County Commission has already approved the resolution at its August 4, 2020 meeting.

Councilor Palochak made the motion to approve Resolution No. R2020-26; Local Liquor Excise Tax Distribution. Seconded by Councilor Garcia. Roll call: Councilors Palochak, Garcia, Kumar, Schaaf and Mayor Bonaguidi all voted yes.

5. Budget Adjustment for Street Light Maintenance and Repair – John Wheeler, Electric Department

Mr. Wheeler presented the request for a budget adjustment in the amount of \$50,000 to the street light maintenance account. The original budget request of \$5,000 did not take into account that one hit and run accident resulting in damage to an aluminum street light pole could decimate the entire budget. Even if an issuance claim is filed and paid, the funds are directed to the 507 cash fund and not the street light maintenance budget.

Councilor Schaaf made the motion to approve the budget adjustment for street light maintenance and repair in the amount of \$50,000 from the available cash in Fund 507 into account number 507-6061-442-44-95. Seconded by Councilor Palochak. Roll call: Councilors Schaaf, Palochak, Garcia, Kumar and Mayor Bonaguidi all voted yes.

6. Request for Budget Adjustment; Water Department Overtime – Dennis Romero, Water and Sanitation Director

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Mr. Romero said during the abbreviated budget process for this fiscal year, the line item for the Water Department's overtime was excluded from the final budget. He recommended approval of an overtime budget for this fiscal year in the amount of \$200,000 to be funded by the Water Enterprise Fund reserve.

Councilor Kumar made the motion to approve the budget adjustment in the amount of \$200,000 for Water Department overtime costs. Seconded by Councilor Palochak. Roll call: Councilors Kumar, Palochak, Garcia, Schaaf and Mayor Bonaguidi all voted yes.

7. Request for Budget Adjustment; Wastewater Rent of Equipment and Machinery – Dennis Romero, Water and Sanitation Director

Mr. Romero presented the request for a budget adjustment needed for the extension of a lease for an additional vector truck used for clearing sewer line blockages. With the shortage of toilet paper during the current COVID-19 pandemic, there was an increased use of flushable wipes and rags thereby creating a significant increase in sewer line blockages. Although there is currently an increased availability of toilet paper, Mr. Romero recommended having the additional vector truck on hand should there be a need for it. He is hopeful that the costs for the additional vector truck will be reimbursable under the Coronavirus Aid, Relief and Economic Security (CARES) Act grant proceeds. Mr. Romero recommended a budget adjustment in the amount of \$52,480 from Fund 508.

Councilor Garcia spoke in support of the proposed budget adjustment and commended Mr. Romero and his staff for their work, especially during unfavorable working conditions.

Councilor Garcia made the motion to approve the request for a budget adjustment in the amount of \$52,480 from Fund 508 for wastewater rent of equipment and machinery. Seconded by Councilor Kumar. Roll call: Councilors Garcia, Kumar, Schaaf, Palochak and Mayor Bonaguidi all voted yes.

8. Fire Fund Budget Adjustment – Chief Jesus "Chuy" Morales, Gallup Fire Department

Chief Morales presented the request for approval to budget unallocated cash funds from the 209 Fire Fund account in the amount of \$160,492 for the following items:

- \$86,792 allocated to Fund 209, Land Improvements, to finalize the North Side Fire Station parking lot resurfacing project. Due to end-of-year constraints, the final invoice for the project was not received in time to finalize for FY 2020.
- \$73,700 allocated to Fund 209, Vehicle Capital, for the future purchase of an aerial apparatus tentatively for FY 2022/FY 2023.

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Councilor Palochak made the motion to approve the budget expenditure increase of \$86,792 in Fund 209, Land Improvements, to finalize the North Side Fire Station parking resurfacing project and a budget expenditure increase of \$73,700 in Fund 209, Vehicle Capital, for the future purchase of an aerial apparatus. Seconded by Councilor Garcia. Roll call: Councilors Palochak, Garcia, Kumar, Schaaf and Mayor Bonaguidi all voted yes.

9. FY 2021 Trauma Fund Approval – Chief Jesus “Chuy” Morales, Gallup Fire Department

Chief Morales said the Fire Department has been selected by the Department of Health, Trauma Systems Fund Authority, to receive an award in the amount of \$16,600 to purchase one power gurney with accessories. Year-to-date, the Fire Department has responded to 3,687 calls for service. 89% (3,282) of those calls are Emergency Medical Service (EMS) related. Use of a power gurney will enhance firefighters’ safety, specifically with back injuries. Chief Morales commended Jessica Creech, EMS Coordinator, for her work in securing grant funding for this purchase. He also recommended approval of a budget adjustment in the amount of \$16,600 for revenue and expenditure of the grant.

Councilor Palochak commended Ms. Creech and Chief Morales for their work in looking at grant opportunities for the Fire Department. She also commended all the employees at the Fire Department for their professionalism and for the work they do.

Councilor Palochak made the motion to approve the FY 2021 Fund Approval in the amount of \$16,600 to purchase one power gurney with accessories. Seconded by Councilor Schaaf. Roll call: Councilors Palochak, Schaaf, Garcia, Kumar and Mayor Bonaguidi all voted yes.

Comments by Public on Non-Agenda Items

None.

Comments by Mayor and City Councilors

Mayor Bonaguidi said the activity at City Hall has been unbelievable during the past week. He commended Ms. Ustick and City staff for their extensive work with the CARES Act Grant Application.

Councilor Palochak provided information about the City’s Annual Community Cleanup Campaign, which will take place on the west side of town on Saturday, August 15, 2020. Adrian Marrufo, Solid Waste Director, said the cleanup will include the areas of the city

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west of Munoz overpass to Marguerite Street and will primarily include the Stagecoach area, Arnold Circle area and Chaparral Mobile Home Park. Councilor Palochak encouraged everyone to wear facemasks and to adhere to the Governor's Public Health Order to help stop the spread of the coronavirus.

At the request of Councilor Garcia, Mr. Marrufo provided a brief update on the Community Cleanup Campaign which recently took place on the north side of the city. He was unable to provide a final report since City crews completed dumping the last loads of tires and other refuse earlier in the day.

Councilor Kumar agreed with the comments expressed by Mayor Bonaguidi. Councilor Kumar thanked all City staff who contributed to the CARES Act Grant Application.

Comments by City Manager and City Attorney

Ms. Ustick provided information about the CARES Act Grant Application. The Governor made available \$100 million to all counties and municipalities in the state through a competitive process, with the exception of the City of Albuquerque and Bernalillo County since they received their allocation directly from the federal government. The grant covers COVID-19 related expenditures by the City from March through December 2020. City staff came up with documentation for \$1.7 million in costs due to the pandemic. Ms. Ustick does not believe the City will receive the full amount but is hopeful the City will receive some funding. Ms. Ustick said the City also applied for a Small Business Assistance Grant Program, in which the Governor made available \$50 million to all cities and counties in the state, with the exception of the City of Albuquerque and Bernalillo County. She explained the eligibility requirements for small businesses to apply for up to \$10,000 in grant funding through the program to pay for costs, such as back rent, forward rent to December, utility payments, payroll costs and costs related to opening or reopening of businesses to comply with COVID-19 safety guidelines. The City asked for \$4 million for local small businesses; however, Ms. Ustick believes the City will receive some funding but not all of the \$4 million requested. In response to Mayor Bonaguidi, Ms. Ustick said the City will work with the Chamber of Commerce and the Small Business Development Center on the application process once the City receives the funds. In response to Councilor Schaaf, Ms. Ustick said assistance will be made available to non-profit organizations if they have COVID-19 related expenses.

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

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Louie Bonaguidi, Mayor

ATTEST:

Alfred Abeita II, City Clerk



August 18, 2020

MEMORANDUM

TO: City Council

FROM: Clyde (C.B.) Strain, Planning & Development Director 

REF: Case No. 2020-00300006, request for final plat review and approval of Replat No. 1 of Lots 13 & 14, Block A; Lots 1 & 2, Block B; and Lots 2 & 3, Block C Burke George Heights Addition, and Replat No. 1 of Lot 1 of Replat No. 1 of a portion of Block B & C, Burke George Heights Addition, minor subdivision.

BACKGROUND

George Athens and the City of Gallup, property owners, have petitioned the Gallup City Council for final plat review and approval of Replat No. 1 of Lots 13 & 14, Block A; Lots 1 & 2, Block B; and Lots 2 & 3, Block C Burke George Heights Addition, and Replat No. 1 of Lot 1 of Replat No. 1 of a portion of Block B & C, Burke George Heights Addition, containing a total of 6.3658 acres. The City of Gallup is also requesting the vacation of sixty foot (60') wide, undeveloped portion of the Morgan Avenue right-of-way between Block A and Block B. The properties are located at 711 and 801 South Second Street containing a total of 6.3658 acres M/L which includes the portion of right-of-way proposed for vacation containing 0.5741 acres.

DISCUSSION

Currently the properties contains seven (7) lots and an undeveloped portion of the Morgan Avenue right-of-way. Five (5) of the lots are currently owned by the City of Gallup and two (2) lots are owned by George Athens. Mr. Athens wishes purchase a portion of Lot 1 of Replat No. 1 of a Portion of Block B, and Block C Burke George Heights Addition, in order to allow for construction of an addition to the south side of the existing building which lies within his property. Currently the existing building lies directly on the southern property boundary line which doesn't allow for expansion of said building. Acquiring additional land from the city to add to his already existing property will provide the square footage needed to accommodate placement of said structure.

Also as part of this subdivision the City is wishing to clean up some vacant properties owned by the City which are located directly adjacent to the City Dog Park. Included will be a vacation of an unused, undeveloped portion of the Morgan Avenue right-of-way that

will never be developed, however there is an existing sewer mainline within this right-of-way so as part of this plat a public utility easement will be dedicated over the existing sewer mainline. There are also some existing public utility/drainage easements that have no utilities or drainage within them which will also be vacated as part of this plat. To achieve this, this replat will combine Lots 13 & 14 of Block A, and Lots 1 & 2 of Block B and the vacated portion Morgan Avenue into Lot 1 of Replat No. 1 of a Portion of Block B, And Block C, Burke George Heights Addition, to create one Lot which will contain the Dog Park development.

All proposed lots comply with the required dimensional requirements for the Heavy Commercial (HC) Zone District per Table 10-2-21 of the City of Gallup Land Development Standards. The property is also presently fully serviced with water/wastewater and electric infrastructure across the entire length of the property frontage therefore no additional infrastructure improvements are required at this time.

The Gallup Planning and Zoning Commission approved the subdivision portion of the request at their regular meeting held on August 12, 2020. The Gallup City Council is now being asked to approve the vacation of the undeveloped portion of Morgan Avenue. Once approved, and after the appeal period has passed, the subdivision plat can be filed with the County Clerk's office which will complete the subdivision process.

Copies of the City of Gallup Task Force comments are included in your agenda packets for your review.

FINDINGS

It is the findings of staff that the proposed subdivision complies with the City of Gallup Subdivision Regulations for a minor subdivision including all dimensional requirements for the Heavy Commercial (HC) Zone District.

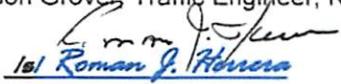
The Gallup Planning and Zoning Commission approved the subdivision portion of the request at their regular meeting held on August 12, 2020. Staff's recommendation is for City Council to approve the vacation of the undeveloped portion of Morgan Avenue in order to complete the subdivision process.

April 29, 2020

MEMORANDUM

TO: GALLUP TASK FORCE {GTF}

- C.B. Strain, Community Planner
- Stan Henderson, Executive Director, Public Works Division
- Mike DeCercq, Water/Waste Water Superintendent
- Marita Joe, Senior Electrical Engineer
- Adrian Marrufo, Director, Solid Waste Department
- Jacob LaCroix, Fire Inspector
- Dianne Willato, CenturyLink Engineer
- Irma Bustamante, NM Gas Co. Distribution Superintendent
- John Ortiz & Matthew Baca Comcast Superintendent
- Jayson Grover, Traffic Engineer, NM DOT

FROM: 
Roman J. Herrera
Roman J. Herrera, Development Review Coordinator

cc: Dennis Romero, Executive Director, Water & Wastewater
John Wheeler, Electric Director

CASE #: 20-00400002
PROJECT NAME: Replat of Lot 1, Block C & Lots 2 & 3, Block C, Burke George Heights Addn. Subdivision
PROPERTY OWNER: George Athens & The City of Gallup
PROJECT LOCATION: 711 S. Second Street & 801 S. Second Street
DESCRIPTION: Administrative Subdivision; Sketch Plat Review: The replat request consist of lot line adjustments to the western, southern &, eastern lot lines of Lots 2 & 3 (98.48' x 76.71' x 76.28') into Lot 1. The new lot designations will be changed to Lot 1A & Lot 2A, the property is zoned Heavy Commercial (HC), a zone change is not being requested. Approval of the replat will be handled administratively, any conditions for approval should be included staff recommendation to the approving official.
ELECTRONIC COMMENTS ARE DUE BY: 7 MAY 2020

NO TASK FORCE MEETING HAS BEEN SCHEDULED

COMMUNITY PLANNER COMMENTS:

P1.) Incorporate Lots 1 & 2, Block B, and Lots 13 & 14, Block A, Burke George Heights Addition into proposed Lot 1A of proposed subdivision. Per discussion with DePauli's Engineering & Surveying.

P2.) Change description to "Replat No.1 of Lots 13 & 14, Block A, Lots 1 & 2, Block B, and Lots 2 & 3, Block C, of Burke George Heights Addition"

P3.) Change Subdivision Name. Per discussion with DePauli's Engineering & Surveying.

4.) Vacate a Portion of Morgan Avenue right-of-way adjacent to proposed Lot 1A. Per discussion with DePauli's Engineering & Surveying.

P5.) Change from Administrative Subdivision to Minor Subdivision. Subdivision will be required to go before a public hearing. Add "Certification of Acceptance and Approval" language for Planning and Zoning Commission. And add "Vacated Right of Way Certification of Approval" for City Council.

P6.) Update City of Gallup's contact information.

P7.) Change to final plat.

P8.) Add Document# or Book & Page# for existing easements.

P9.) Add Owner's Certificate & Notary for 2 owners. Add approvals for Departments/Entities. Add Certificate of filing for City and County.

CITY ENGINEER COMMENTS: City sponsored subdivision; therefore, no issues noted.

WATER DEPARTMENT COMMENTS: No comments

WASTEWATER DEPARTMENT COMMENTS: No comments

ELECTRIC DEPARTMENT COMMENTS: No issues with Lot Line adjustment. However, electric will need additional easements for the existing OH line, a 10' PUE along Second Street

FIRE DEPARTMENT COMMENTS: No Fire Department Issues with replat.

SOLID WASTE COMMENTS: No issues with replat

CENTURYLINK COMMENTS: No comments were submitted.

NM GAS COMPANY COMMENTS: No comments were submitted.

COMCAST COMMENTS: No comments were submitted.

NM DEPT. OF TRANSPORTATION COMMENTS: No comments were submitted.

June 22, 2020

MEMORANDUM

TO: GALLUP TASK FORCE {GTF}

- C.B. Strain, Community Planner
- Stan Henderson, Executive Director, Public Works Division
- Mike DeClercq, Water/Waste Water Superintendent
- Marita Joe, Senior Electrical Engineer
- Adrian Marrufo, Solid Waste Department
- Jacob LaCroix, GFD, Fire Inspector
- Dianne Willato, CenturyLink Engineer
- Irma Bustamante, NM Gas Co. Distribution Superintendent
- John Ortiz & Matthew Baca, Comcast Superintendent
- Jayson Grover, Traffic Engineer, NMDOT

FROM: *161 Nikki Lee*

Nikki Lee, Planning Specialist

cc: Dennis Romero, Water & Wastewater Executive Director
John Wheeler, Electric Director

CASE #: MNSB2020-00300006
PROJECT NAME: Replat No. 1 of Lots 13 & 14, Block A; Lots 1 & 2, Block B; And Lots 2 & 3, Block C of Burke George Heights Addition and Replat No. 1 of Lot 1 of Replat No. 1 of a Portion of Block B, and Block C Burke George Heights Addition
PROPERTY OWNER: George Athens & The City of Gallup
PROJECT LOCATION: 711 S. Second Street & 801 S. Second Street & Vacant Lots
DESCRIPTION: FINAL PLAT REVIEW- This replat has changed from an Admin to a Minor subdivision being that a portion of Morgan Avenue will be vacated. This revised plat also added 4 more lots (Lots 13 & 14, Block A and Lots 1 & 2, Block B), which are owned by the City of Gallup. The purpose of including the 4 additional City lots and Vacated Morgan Avenue is to combine with the proposed Lot 1A whereas Lot 1A will be increasing its acreage (new total for Lot 1A 6.0211 acres). Lots 2 & 3, Block C (George Athens property) will remain as presented during the Sketch Plat. Five lots are presently zoned Heavy Commercial (HC) and two lots zoned Single-Family Residential (SFR-A). A zone change will be requested for the 2 City lots in order to comply with subdivision regulations. The final plat will be presented to the Planning & Zoning Commission as soon as possible; any conditions for approval should be included in staff recommendation to the Commission.
ELECTRONIC COMMENTS ARE DUE BY: 29 JUNE 2020

NO Task Force Meeting has been scheduled

COMMUNITY PLANNER COMMENTS:

Thank you for addressing our previous comments and concerns. Please make the administrative changes shown on the attached marked up plat. Okay to proceed to the public hearings for Planning and Zoning and the City Council.

The two City lots (Lots 13 & 14, Block A) will also concurrently request for a rezone from SFR-A to HC zone district.

CITY ENGINEER COMMENTS:

No issues noted.

WATER DEPARTMENT COMMENTS: No comments

WASTEWATER DEPARTMENT COMMENTS: No comments

ELECTRIC DEPARTMENT COMMENTS: Thank you for addressing our previous comments. The dedicated 10' easement along Second Street is accepted by the City Electric Department. No issues with replat.

FIRE DEPARTMENT COMMENTS: No Fire Department issues with Replat.

SOLID WASTE COMMENTS: No issues with replat

CENTURYLINK COMMENTS:

No comments submitted from CenturyLink by the deadline.

NM GAS COMPANY COMMENTS:

New Mexico Gas Co does not have any issues at this time.

COMCAST COMMENTS:

Comcast does not have any concerns or comments with the revised plat.

NM DEPT. OF TRANSPORTATION COMMENTS:

If any future changes to access location or traffic demand are expected on any lot adjacent to NM 602, the NMDOT will need to be consulted.

Ts Landscaping
1119 Ridgecrest Gallup NM 87301 (505) 728-2916

INVOICE

PO#93258

City of Gallup
Fidel

Invoice # 0001360

Invoice Date 07/26/2020

Due Date 07/26/2020

Item	Description	Unit Price	Quantity	Amount
Service	remove trash , tires , shopping carts , beds , staircase	14000.00	1.00	14,000.00
Service	disposal	165.13	1.00	165.13
<i>job completed 7/24/2020 10:30am</i>				
NOTES: Busy Bee Camp <i>(E. of 2010 E. Hwy 66)</i>				
<i>CE10200252(FK)</i>		Subtotal		14,165.13
<i>*Amoys/Drainage under Hwy 66*</i>		+ Tax (8.313%)		1,177.55
		Total		15,342.68
		Amount Paid		0.00
		Balance Due		\$15,342.68

Acct #: 202-1525-474-4590


**PAYMENT APPROVED BY
CLYDE (C.B.) STRAIN**

RECEIVED

JUL 27 2020

**CITY OF GALLUP
PLANNING & DEVELOPMENT
BY: *AS* TIME: *11:35am***

Hours worked for Charles Sautter w/ Ts Landscaping

- Wed. 7/22 8:30-4pm

- Thurs. 7/23 8am-5pm

- Fri. 7/24 8am-10:30am

Ts Landscaping
1119 Ridgecrest Gallup NM 87301 (505) 728-2916

INVOICE

PO#93274

City of Gallup
Fidel

Invoice # 0001364

Invoice Date 07/26/2020

Due Date 07/26/2020

Item	Description	Unit Price	Quantity	Amount	
Service	remove trash , beds , trim trees	5000.00	1.00	5,000.00	
Service	disposal	25.58	1.00	25.58	
<p>• job completed 7/24/2020 @ 2:30pm</p> <p>NOTES: Boardman camp (across Police Dep.) Vacant lot W. of 45th Boardman Dr. CE20200272 (FR)</p>					
				Subtotal	5,025.58
				+ Tax (8.313%)	417.78
				Total	5,443.36
				Amount Paid	0.00
				Balance Due	\$5,443.36

city property

Acct. #: 202-1525-474-4590


**PAYMENT APPROVED BY
CLYDE (C.B.) STRAIN**

RECEIVED

JUL 27 2020

CITY OF GALLUP
PLANNING & DEVELOPMENT
BY:  TIME: 11:35 am

Hours worked (Per Charles Sautter w/ T's Landscaping)
7/24/2020 10:45 am - 2:30 pm

Ts Landscaping
1119 Ridgecrest Gallup NM 87301 (505) 728-2916

INVOICE

PO # 93275

City of Gallup
Fidel

Invoice # 0001362

Invoice Date 07/26/2020

Due Date 07/26/2020

Item	Description	Unit Price	Quantity	Amount
Service	remove trash , beds ,wood	2000.00	1.00	2,000.00
Service	disposal	47.19	1.00	47.19
<i>1 job completed Sat 7/25/2020</i>				
NOTES: TDFL 2 <i>(Vacant Lot East of N. 9th St.)</i>				
<i>CE20200274(FK)</i>		Subtotal	2,047.19	
		+ Tax (8.313%)	170.18	
<i>*city property*</i>		Total	2,217.37	
		Amount Paid	0.00	
		Balance Due	\$2,217.37	

Acct #: 202-1525-474-4590


**PAYMENT APPROVED BY
CLYDE (C.B.) STRAIN**

RECEIVED

JUL 27 2020

**CITY OF GALLUP
PLANNING & DEVELOPMENT
BY:  TIME: 11:35am**

Haus Wink (Per Field Tocha, CED)
- Sat, 7/25 7am - 9:30 am

Ts Landscaping
1119 Ridgecrest Gallup NM 87301 (505) 728-2916

INVOICE

PO # 93276

City of Gallup
Fidel

Invoice # 0001361

Invoice Date 07/26/2020

Due Date 07/26/2020

Item	Description	Unit Price	Quantity	Amount
Service	remove trash ,tires ,beds ,wood	2000.00	1.00	2,000.00
Service	disposal	33.52	1.00	33.52
<i>job complete Sat. 7/25/2020</i>				
NOTES: TDFL 1 <i>Vacant lot E. of 988 N. 9th St.</i>				
<i>CE20200275 (FR)</i>		Subtotal		2,033.52
		+ Tax (8.313%)		169.05
		Total		2,202.57
		Amount Paid		0.00
		Balance Due		\$2,202.57

Acct #: 202-1525-474-4590


PAYMENT APPROVED BY
CLYDE (C.B.) STRAIN

Hans Womel (Per CEO, Fidel Kocha)

- Sat. 7/25 9:30 am - 10:30 am

RECEIVED

JUL 27 2020

CITY OF GALLUP
PLANNING & DEVELOPMENT
BY:  TIME: 11:35 am

7/26/2020

Invoice 0001363 Ts Landscaping

Ts Landscaping
1119 Ridgecrest Gallup NM 87301 (505) 728-2916

INVOICE

PO # 93277

City of Gallup
Fidel

Invoice # 0001363

Invoice Date 07/26/2020

Due Date 07/26/2020

Item	Description	Unit Price	Quantity	Amount
Service	remove trash , beds	2000.00	1.00	2,000.00
Service	disposal	16.76	1.00	16.76
<i>* job completed Sat. 7/25/2020</i>				
NOTES: HWY 602 camp <i>(Vacant lot W. of NM Hwy 602)</i>				
<i>CE10200273 (FR)</i>				
Subtotal				2,016.76
+ Tax (8.313%)				167.65
Total				2,184.41
Amount Paid				0.00
Balance Due				\$2,184.41

Acct. #: 202-1525-474-4590


PAYMENT APPROVED BY
CLYDE (C.B.) STRAIN

Hours worked (Per CEO, Fidel Kocha)
- Sat. 7/25 1045am - 1230pm

RECEIVED

JUL 27 2020

CITY OF GALLUP
PLANNING & DEVELOPMENT
BY: *pl* TIME: *1135am*

Ts Landscaping
1119 Ridgecrest Gallup NM 87301 (505) 728-2916

INVOICE

PO # 93306

City of Gallup
Fidel

Invoice # 0001367

Invoice Date 08/10/2020

Due Date 08/10/2020

Item	Description	Unit Price	Quantity	Amount
Service	remove camp remove trash	5000.00	1.00	5,000.00
Service	disposal	52.04	1.00	52.04
<i>• job complete 8/5/20</i>				
NOTES: West Lincoln camp <i>(near ditch by Spring Hill Estates)</i>				
<i>CE 2020 0269 (CS)</i>		Subtotal		5,052.04
<i>*Arroyo/ Drainage under Lincoln Ave.*</i>		+ Tax (8.313%)		419.98
		Total		5,472.02
		Amount Paid		0.00
		Balance Due		\$5,472.02

Acct. #: 202-1575-474-4590

[Signature]
**PAYMENT APPROVED BY
CLYDE (C.B.) STRAIN**

RECEIVED

AUG 10 2020

CITY OF GALLUP
PLANNING & DEVELOPMENT
BY: *[Signature]* TIME: *9:14 AM*

Ts Landscaping
1119 Ridgcrest Gallup NM 87301 (505) 728-2916

INVOICE

PO # 93307

City of Gallup
Fidel

Invoice # 0001370

Invoice Date 08/10/2020

Due Date 08/10/2020

Item	Description	Unit Price	Quantity	Amount
Service	remove trash and tent	2000.00	1.00	2,000.00
Service	disposal	7.00	1.00	7.00
<i>job completed 8/5/20</i>				
NOTES: Camino hunter camp <i>(near Camino De Monte Sol)</i>				
<i>CE2020 0271(FW)</i>		Subtotal		2,007.00
<i>*city property*</i>		+ Tax (8.313%)		166.84
		Total		2,173.84
		Amount Paid		0.00
		Balance Due		\$2,173.84

Acct #: 202-1525-474-4590

[Signature]
**PAYMENT APPROVED BY
CLYDE (C.B.) STRAIN**

RECEIVED

AUG 10 2020

**CITY OF GALLUP
PLANNING & DEVELOPMENT
BY: *[Signature]* TIME: *9:14am***

Ts Landscaping
1119 Ridgecrest Gallup NM 87301 (505) 728-2916

INVOICE

PO#93309

City of Gallup
Fidel

Invoice # 0001365

Invoice Date 08/10/2020

Due Date 08/10/2020

Item	Description	Unit Price	Quantity	Amount
Service	remove trash beds shopping carts	9000.00	1.00	9,000.00
Service	disposal	54.19	1.00	54.19
<i>job completed 8/8/20</i>				
<u>NOTES:</u> vacant lot on Munoz				
<i>CE20205267(CS)</i> <i>*city property*</i>		Subtotal		9,054.19
		+ Tax (8.313%)		752.67
		Total		9,806.86
		Amount Paid		0.00
		Balance Due		\$9,806.86

Acct.#: 202-1525-474-4590


**PAYMENT APPROVED BY
CLYDE (C.B.) STRAIN**

RECEIVED

AUG 10 2020

**CITY OF GALLUP
PLANNING & DEVELOPMENT
BY:  TIME: 9:14 AM**

NEW MEXICO DEPARTMENT OF TRANSPORTATION
Aviation Grant Agreement Form



Date

Project Location

Sponsor

Address

City NM Zip Code

The Sponsor must print and mail (3) three copies all with original signatures to:

**NMDOT - AVIATION DIVISION
3501 ACCESS RD. C
ALBUQUERQUE, NM 87106**

Participation

Funding Breakdown

Contract No. AVA1300

Project No.

Vendor No.

Expiration Date 6-25-22

Purchase Order No: _____

AVIATION GRANT AGREEMENT

This Agreement is between the New Mexico Department of Transportation, acting through its Aviation Division (Department), and the Sponsor. This Agreement is effective as of the date of the last party to sign on the signature page below.

Now Therefore, pursuant to the New Mexico Aviation Act, NMSA 1978, Section 64-1-11 et seq., and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq., the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide funding, authorized in Section 64-1-13, NMSA 1978, to the Sponsor to assist in financing an aviation project.

a. Project Description:

WEST APRON PAVEMENT PRESERVATION

b. Site of Development. The site of development is identified on the property map, attached as Exhibit A.

c. Funding. Below is the funding for the Project. The State's contribution is the maximum amount that the Department will contribute. Attached as Exhibit B is the engineer's cost estimate.

State	Sponsor	Other	Total
\$ 139,500	\$ 0	\$ 0	\$ 139,500

2. The Sponsor Shall:

- a. Pay all costs, perform all labor, and supply all material, except as described in the Engineers Estimate attached as EXHIBIT B.
- b. Provide a representative from its organization who shall serve as the single point of contact for the Department.
- c. Establish and maintain a resolution by which the Sponsor agrees to establish an airport maintenance program and appoint an individual to be responsible for management of the program.
- d. Initiate engineering, survey, and all other design activities, inspect Project construction and, coordinate all meetings.
- e. Be responsible for all design and pre-construction activities.
- f. Initiate and cause to be prepared all necessary documents including plans, specifications, estimates (PS&E), and reports for this Project.
- g. Assure that all design and PS&E are performed under the direct supervision of a Registered New Mexico Professional Engineer.
- h. Design the Project in accordance with State and Federal guidelines and/or advisory circulars, hereby incorporated into this Agreement. Construction projects will be accomplished in accordance with the Federal Aviation Administration's Standards for Specifying Construction of Airports (Advisory Circular 150/5370-10, current edition).

- i. Notify the Department when the plans and specifications are sufficiently complete for review.
- j. Make no changes in design or scope of work without documented approval of the Department.
- k. Advertise for and contract for the construction of the Project in accordance with federal and state laws or local ordinances.
- l. Require the Engineer to prepare a final detailed estimate of the work, indicating the bid items, the quantity in each item, the unit bid price and cost of the items based on low acceptable bid prices. Progress estimates shall be submitted to the Department in acceptable form so that details of quantities allowed on various items of work shall be shown on each progress payment.
- m. The Sponsor shall submit to the Department one complete set of plans and specifications which incorporate all comments and recommendations received during pre-bid activities and which have been fully executed by all involved parties.
- n. The Sponsor shall take all steps, including litigation if necessary, to recover State funds spent in violation of state laws and rules. The Sponsor shall return any recovered state funds to the Department. It shall furnish to the Department, upon request, all documents and records pertaining to the determination of the amount of the state's share of any settlement, litigation, negotiation, or the efforts taken to recover such funds. All settlements or other final dispositions by the Sponsor, in court or otherwise, involving the recovery of such state funds shall be approved in advance by the Department.
- o. The Sponsor shall, upon reasonable notice, allow the Department the right to inspect the Project for the purposes of determining if it is being constructed in a good and workmanlike manner, and if the approved plans and specifications are being complied with satisfactorily. If an inspection discloses a failure to substantially meet such requirements and standards the Department may terminate payment or payments until a mutually satisfactory remedy is reached.

3. The Department Shall:

- a. Assign a contact person for this project.
- b. Provide timely reviews of all submittals of scopes, plans, specifications, investigations or other documents.
- c. The Department shall not provide an extensive check of any plans submitted by the Sponsor. The Department's concurrence of the Project plans does not relieve the Sponsor or its Consultant of their responsibility for errors and omissions.

4. Both Parties Agree:

- a. The allowable costs of this Project shall not include costs determined by the Department to be ineligible for consideration under the Aviation Act.
- b. The expenditure of any State money is subject to approval by the Department.
- c. Funds granted under the Local Governments Road Fund, NMSA 1978 Section 67-3-28.2, shall not be used to administer this Project or used to meet the local match.

5. Method of Payment - Reimbursement.

The Department shall reimburse the Sponsor in accordance with the terms of this agreement. Claims for reimbursement shall be completed on form A-1159, Request for Reimbursement. Each request for reimbursement shall contain proof of payment for valid expenditures for services rendered by a third party or items of tangible property received by the Sponsor for the implementation of the Project. The Department reserves the right to withhold reimbursement on requests that are incorrect and/or incomplete. The Final reimbursement request must be received no later than thirty (30) days after completion of the project or the expiration of this Agreement.

The Sponsor shall not be reimbursed for any costs incurred prior to the full execution of the Agreement, after the expiration of the Agreement or in excess of the maximum dollar amount of the agreement unless the maximum dollar amount is duly amended prior to incurring the service or deliverable. Any unexpended portion of funds subject to this Agreement shall revert to the State Aviation Fund.

6. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements. The Sponsor shall maintain all records and documents relative to the Project for a minimum of three (3) years after completion of said Project. The Sponsor shall furnish the Department or State Auditor, upon demand, all records which support the terms of this Agreement.

7. Term.

The Agreement becomes effective upon signatures of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This agreement shall expire two (2) years from the effective date, unless terminated pursuant to Sections 8 and 17, below.

8. Termination for Cause.

The Department has the option to terminate this Agreement if the Sponsor fails to comply with any provision of this Agreement. A written notice of termination shall be given at least thirty (30) days prior to the intended date of termination and shall identify all of the Sponsor's breaches on which the termination is based.

The Department may provide the Sponsor a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the Sponsor has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the Sponsor has not begun and proceeded in good faith to correct the breach, the Department may declare the Sponsor in default and terminate the Agreement. The Department shall retain any and all other remedies available to it under the law.

By such termination neither party may nullify obligations already incurred for performance or failure to perform for the work rendered prior to the date of termination. However, neither party shall have any obligation to perform services or make payment for services rendered after such date of termination.

9. Disposition of Property.

- a. Upon termination of this Agreement, the Sponsor shall account for any remaining property, materials or equipment belonging to the Department and dispose of them as directed by the Department.
- b. Any equipment, materials or supplies procured under this Agreement shall be used solely for aviation purposes maintained according to the manufacturers guidelines and stored at the airport.

10. Representations and Certification.

The Sponsor, by signing this Agreement, represents and certifies the following:

- a. Legal Authority - The Sponsor has the legal power and authority to: (1) do all things necessary in order to undertake and carry out the Project in conformity with the provisions stated in the New Mexico Aviation Act and Rules and Regulations pursuant thereto; (2) accept, receive and disburse grant funds from the State of New Mexico in aid of the Project; and (3) carry out all provisions stated in this Aviation Grant Agreement.
- b. Defaults - The Sponsor is not in default on any obligation to the State of New Mexico relative to the development, operation or maintenance of any airport or aviation project.
- c. Possible Disabilities - The Sponsor states, by execution of this Agreement, there are no facts or circumstance (including the existence of effective or proposed leases, use agreements, or other legal instruments affecting use of the airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project.
- d. Land - The Sponsor holds the property interest in the areas of land which are to be developed or used as part of or in connection with the Project and is identified in a current Airport Property Map. The Sponsor further certifies that the aforementioned is based on a title examination by a qualified attorney or title company who has determined that the Sponsor holds the stated property interests.

11. Assurances.

The Sponsor, by signing this Agreement, covenants and agrees to the following Assurances:

- a. That it will operate the airport for the use and benefit of the public on fair and reasonable terms and without unjust discrimination.
- b. That it will keep the airport open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds, and classes. The Sponsor shall establish fair, equal and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation.

- c. Neither it nor any person or organization occupying space at the airport will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the facility and, further that any person, firm or corporation rendering service to the public on the airport will do so on a fair, equal and not unjustly discriminatory basis.
- d. Operate and maintain in a safe and serviceable condition the airport and all facilities which are necessary to serve the aeronautical users and will not permit any activity which would interfere with its use for airport purposes.
- e. By acquisition of land interest, acquisition of easements, airspace zoning, or other accepted means, protect the runway approaches and the airspace in the immediate vicinity of the airport from the construction, alteration, erection or growth of any structure which would interfere with the use or operation of the airport.
- f. Comply with the New Mexico Aviation Act and associated provisions, NMSA 1978 Sections 64-1-1 to 64-5-4 and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq.
- g. That it shall not award the contract nor give bidding documents to any contractor who is subject to suspension or debarment by the U.S. Department of Transportation or the Department at the time of the bidding or award of the contract. Violation of this provision shall void this Agreement.

12. Third Party Beneficiaries.

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

13. New Mexico Tort Claims Act.

As between the Department and the Sponsor, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.* This paragraph is intended only to define the liabilities between the parties and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

14. Scope of Agreement.

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

15. Terms of this Agreement.

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

16. Equal Opportunity Compliance.

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

17. Appropriations and Authorizations of State and Federal Funds.

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

18. Severability.

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

19. Applicable Law.

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

20. Principal Contacts and Notices.

The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed below.

Name: Daniel R. Moran
Title: Finance & Administrative Manager

Address: New Mexico Department of Transportation - Aviation Division
3501 Access Rd C.
Albuquerque, NM 87106
Office: (505) 244-1788 ext. 9112
Fax: (505) 244-1790
E-mail: dan.moran@state.nm.us

Name [CLYDE (C.B) STRAIN]
Title [PLANNING AND DEVELOPMENT DIRECTOR]
Sponsor [GALLUP, CITY OF]
Address [PO BOX 1270]
City [GALLUP] NM Zip Code [87305]
Office Phone [505-863-1240] Fax [505-722-5131]
E-Mail [CSTRAIN@GALLUPNM.GOV]

CONTACT INFORMATION
REVISED
NMDOT-M.MELENDZ
8/17/2020

21. Amendment.

This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties.

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

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: 
Justin Reese (Jun 25, 2020 08:50 MDT)
Cabinet Secretary or Designee

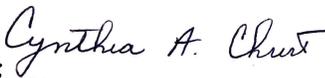
Date: Jun 25, 2020

Recommended by:

By: 
Pedro Rael (Jun 24, 2020 16:18 MDT)
Aviation Division Director
or Designee

Date: Jun 24, 2020

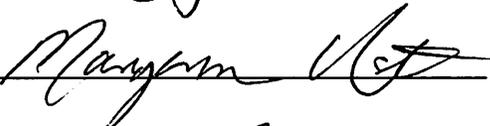
Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: 
Cynthia A. Christ
Assistant General Counsel

Date: Jun 25, 2020

SPONSOR

Print Name: Margam Ustick

By: 

Date: 6-24-2020

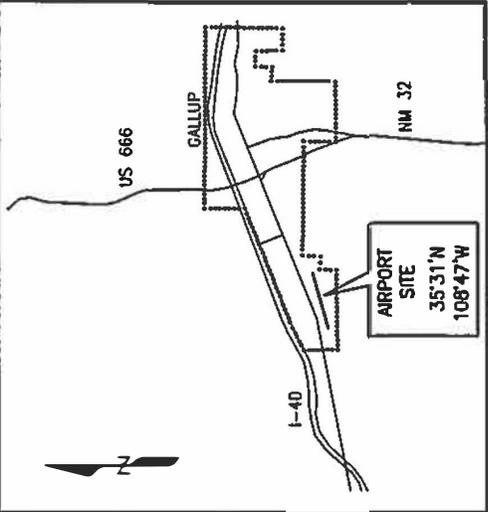
Title: City Manager

EXHIBIT A

GALLUP, NM

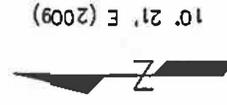
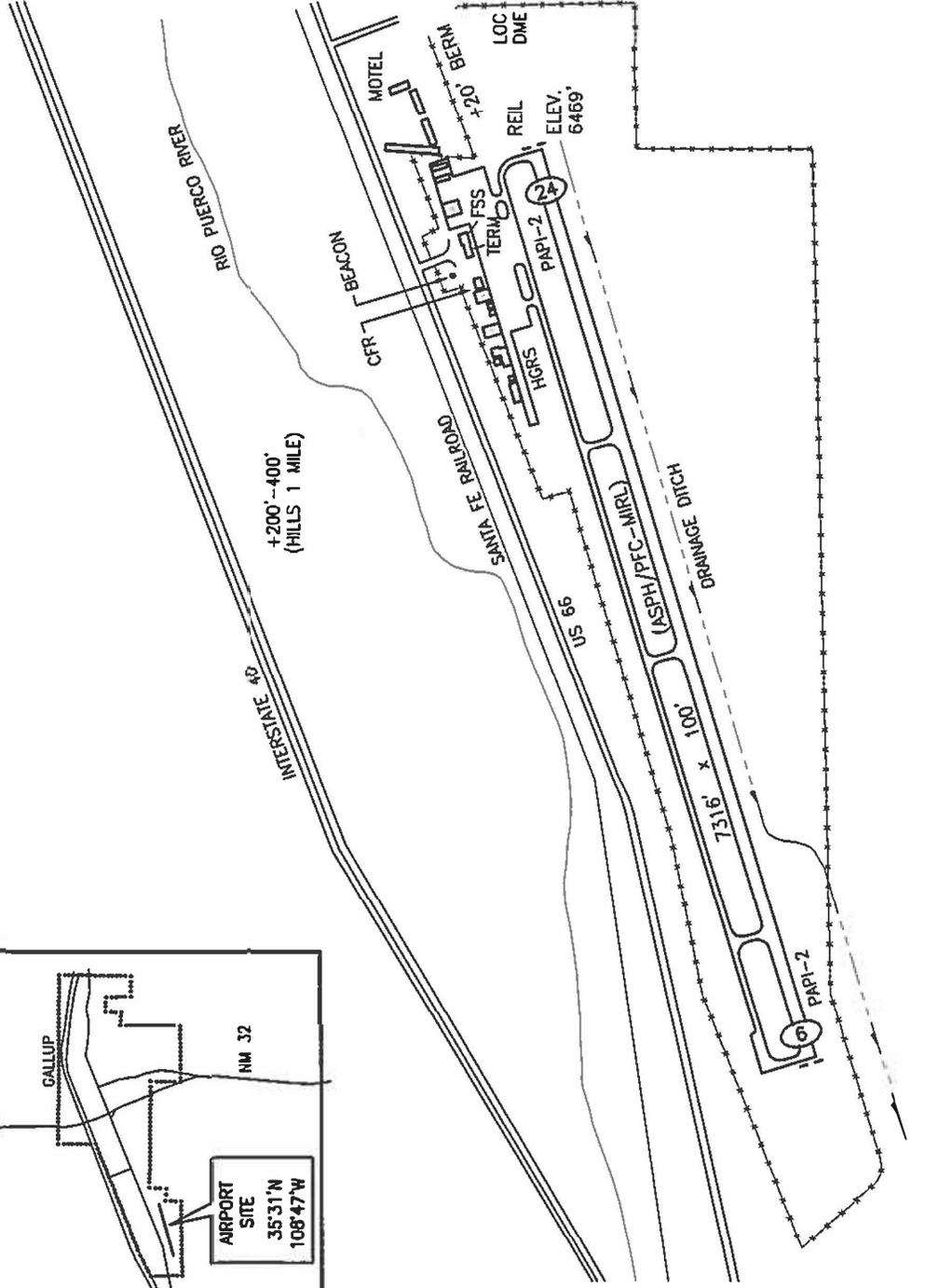
GALLUP MUNICIPAL AIRPORT (GUP)

SITE NO. 14612.A



REMARKS:

- 1. QUAD. - 7.5 MIN. GALLUP WEST.



1/26/10

GALLUP_GUP

EXHIBIT B

SPONSORS BUDGET ANALYSIS

LOCATION: Gallup Municipal Airport- West apron

AIP PROJECT NUMBER:

SCHEDULE I – APRON PAVEMENT PRESERVATION (ADDITIONAL 18,600 sq. yds.)	
SCHEDULE I CONSTRUCTION	\$108,500.00
ENGINEERING SERVICES	\$12,000.00
CONSTRUCTION PERIOD SERVICES	\$17,000.00
ADMINISTRATIVE FEES	\$2,000.00
TOTAL PROJECT BUDGET	\$139,500.00

**Figures above include New Mexico Gross Receipts Tax (NMGR) of 8.3125 % (Gallup)*

PROJECT COSTS: \$139,500.00

GUP-20-02 West Apron Pavement Preservation

Final Audit Report

2020-06-25

Created:	2020-06-24
By:	Marilu Melendez (marilu.melendez@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAFT8Gxd0pT2hgbLEg36rkWm4ejscXfDWn

"GUP-20-02 West Apron Pavement Preservation" History

-  Document created by Marilu Melendez (marilu.melendez@state.nm.us)
2020-06-24 - 8:43:10 PM GMT- IP address: 174.28.58.92
-  Document emailed to Pedro Rael (pedro.rael@state.nm.us) for signature
2020-06-24 - 8:45:16 PM GMT
-  Email viewed by Pedro Rael (pedro.rael@state.nm.us)
2020-06-24 - 10:10:53 PM GMT- IP address: 174.237.135.137
-  Document e-signed by Pedro Rael (pedro.rael@state.nm.us)
Signature Date: 2020-06-24 - 10:18:19 PM GMT - Time Source: server- IP address: 174.237.135.137
-  Document emailed to Cynthia A. Christ (cynthia.christ@state.nm.us) for signature
2020-06-24 - 10:18:21 PM GMT
-  Email viewed by Cynthia A. Christ (cynthia.christ@state.nm.us)
2020-06-25 - 12:17:34 PM GMT- IP address: 45.41.142.6
-  Document e-signed by Cynthia A. Christ (cynthia.christ@state.nm.us)
Signature Date: 2020-06-25 - 12:18:30 PM GMT - Time Source: server- IP address: 73.26.149.154
-  Document emailed to Justin Reese (Justin.Reese@state.nm.us) for signature
2020-06-25 - 12:18:32 PM GMT
-  Email viewed by Justin Reese (Justin.Reese@state.nm.us)
2020-06-25 - 2:29:44 PM GMT- IP address: 45.41.142.62
-  Document e-signed by Justin Reese (Justin.Reese@state.nm.us)
Signature Date: 2020-06-25 - 2:30:06 PM GMT - Time Source: server- IP address: 67.0.216.254
-  Signed document emailed to Pedro Rael (pedro.rael@state.nm.us), Cynthia A. Christ (cynthia.christ@state.nm.us), Marilu Melendez (marilu.melendez@state.nm.us), Justin Reese (Justin.Reese@state.nm.us), and 2 more
2020-06-25 - 2:30:06 PM GMT

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20____, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and the **City of Gallup**, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2020, Chapter 81, Section 35, Para. 411, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

20-E2755 \$3,713,114.00 Appropriation Reversion Date: 30-JUN-24
Laws of 2020, Chapter 81, Section 35, Paragraph 411, three million seven hundred thirteen thousand one hundred fourteen dollars (\$3,713,114.00) to provide emergency funding for infrastructure needs statewide.

The Grantee's total reimbursements shall not exceed three million seven hundred thirteen thousand one hundred fourteen dollars (**\$3,713,114.00**) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")^[1], if applicable, zero dollars (**\$0.00**), which equals three million seven hundred thirteen thousand one hundred fourteen dollars (**\$3,713,114.00**) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I (A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse^[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve of the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.
- B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.
 - C. Project funds shall not be used for purposes other than those specified in the Project Description.
 - D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor as their official representative(s) concerning all matters related to this Agreement.

Grantee City of Gallup
Name Maryann Ustick
Title City Manager
Address 110 W. Aztec Ave., Gallup, NM 87301
Email manager@gallupnm.gov
Telephone 505.863.1220

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement.

Grantee City of Gallup
Name Patty Holland
Title Chief Financial Officer
Address 110 W. Aztec Ave., Gallup, NM 87301
Email pholland@gallupnm.gov
Telephone 505.863.1362

The Department designates the persons listed below, or their successors, as Points of Contact for matters related to this Agreement.

Department DFA/Local Government Division
Name Jacob Jones
Title Project Manager
Address Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email jacob.jones@state.nm.us
Telephone 505-827-4963

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I (A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2024**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI (D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI (A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee with a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or the liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of the acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum of thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed incurred during the previous fiscal year; or
- (iii) Twenty (20) days from the date of Early Termination; or
- (iv) Twenty (20) days from the reversion date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
- (ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, "Anti-Donation Clause."
- (iv) The Grantee shall not for a period of 10 years, from the date of this agreement convert any property acquired, built, renovated, required, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance written approval, which may include requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of five (5) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the **City of Gallup** may immediately terminate this Agreement by giving Contractor written notice of such termination. The **City of Gallup's** decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the **City of Gallup**, the Department of Finance and Administration, Local Government Division (DFA/LGD), or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the **City of Gallup** or the Department."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under DFA/LGD Grant Agreement. Should DFA/LGD early terminate the grant agreement, the **City of Gallup** may early terminate this

contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the **City of Gallup's** only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V (A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this agreement is subject to the SBOF's Bond Project Disbursements

rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.]

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed Agreement as of the date of execution by the Department.

GRANTEE

Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Signature of Official with Authority to Bind Grantee

Date

**DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION**

Its: Division Director

Signature

Date

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1**

I. Grantee Information

(Make sure information is complete & accurate)

- A. Grantee: _____
B. Address: _____
(Complete Mailing, including Suite, if applicable)

City, State, Zip
C. Phone No: _____
D. Grant No: _____
E. Project Title: _____
F. Grant Expiration Date: _____

II. Payment Computation

- A. Payment Request No. _____
B. Grant Amount: _____
C. AIPP Amount (If Applicable): _____
D. Funds Requested to Date: _____
E. Amount Requested this Payment: _____
F. Reversion Amount (If Applicable): _____
G. Grant Balance: _____
H. GF GOB STB (attach wire if first draw)
I. Final Request for Payment (if Applicable)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Reporting Certification: I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. Compliance Certification: Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or **Fiscal Agent** (if applicable)

Grantee Representative

Printed Name

Printed Name

Date: _____

Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer Date

Division Project Manager Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____, _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: \$ 0.00_____

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: _____

Title: _____

Signature: _____

Date: _____

¹ Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.



Visual Labs, Inc.
(818) 919-9802

QUOTATION

Quotation Date: **08/21/2020**

Jon Whitsitt
Gallup Police Department
451 Boardman Drive
Gallup, NM 87301

Description	Amount
<u>Smartphone Body Camera Solution</u>	
Software license for use of the Visual Labs application on seventy-five (75) smartphones to be owned and controlled by Gallup Police Department. Smartphones and cellular connectivity to be acquired separately by Gallup Police Department. License fee includes storage of footage in the Microsoft Azure Government Cloud, all software updates and 24/7 customer support. Fee shown is annualized based on \$43.53 per month, per device. Visual Labs hereby certifies that the City of Fontana, California Police Department is currently paying \$43.53 per month, per device under a one-year extension to an agreement executed as a result of Request for Proposal (RFP) SP-98-PD-17.	\$ 39,177.00
One-time implementation and training fee	1,500.00
Mounting solution for 75 smartphones. Cost range is \$20 to \$60 each. For this quotation, the maximum of \$60 each is assumed.	4,500.00
Gross Receipts Tax - Per New Mexico publications, this transaction should not be subject to the New Mexico Gross Receipts Tax	No charge
Seat license fee for dispatch, records and administrative staff	No charge
Upload, download and sharing fee	No charge
This quotation is valid for 60 days.	
TOTAL QUOTATION	\$ 45,177.00

Quotation Provided By:
Visual Labs, Inc.
Post Office Box 7523
Menlo Park, CA 94026-7523

SUBSCRIPTION AGREEMENT

The documents below describe the relationship between Visual Labs, Inc. ("**Visual Labs**") and the Client identified below ("**Client**") (each of Visual Labs and Client, a "**Party**"). The documents attached to this cover page consist of the Master Terms and Conditions, which describe the general legal terms governing the relationship, and one or more orders, attachments, schedules, or addenda setting forth additional details (collectively, the "**Agreement**"). This Agreement will become effective when this cover page is executed by authorized representatives of both Parties (the "**Effective Date**").

CLIENT INFORMATION:	
Name/Client: <u>Gallup, New Mexico Police Department</u>	Principal Contact Person: <u>Jon Whitsitt</u>
Address: <u>451 Boardman Drive</u>	Title: <u>Officer - Systems Manager</u>
<u>Gallup, NM 87301</u>	Phone: <u>(505) 863-9365</u>
	Email Address: <u>jwhitsitt@gallup.gov</u>

The Parties have caused their duly authorized representatives to execute this Agreement as of the Effective Date.

CLIENT: Gallup, New Mexico Police Department

By (Signature): _____

Name (Printed): _____

Title: _____

Date: _____

VISUAL LABS, INC., a Delaware corporation

By (Signature): _____

Name (Printed): Alexander R. Popof

Title: Chief Executive Officer

Date: _____

Master Terms and Conditions

1. DEFINITION OF TERMS

The following terms have the following meanings:

- 1.1. **"Application"** means Visual Labs' proprietary smartphone software application.
- 1.2. **"Authorized User"** means any employees, agents or representatives of Client that are authorized to use the Services by receiving usernames and passwords from Client (or from Visual Labs at Client's request), subject to any limitations or restrictions set forth in this Agreement.
- 1.3. **"Client Content"** means any information, data, text, pictures, video, audio, geographic locations, or any other content provided, recorded, uploaded or redacted by Client or its Authorized Users in connection with Client's and its Authorized Users' use of the Platform.
- 1.4. **"Confidential Information"** means all confidential or proprietary information disclosed by one Party to the other in connection with this Agreement, unless it is or later becomes publicly available through no fault of the other Party or it was or later is rightfully obtained by the other Party from independent sources free from any duty of confidentiality. Confidential Information shall include the terms and pricing in this Agreement, but not the fact that this Agreement has been signed, the identity of the Parties or the nature of the Services.
- 1.5. **"Documentation"** means Visual Labs' documentation relating to the Services and Platform, as may be provided by Visual Labs to Client, and as may be updated and amended from time to time.
- 1.6. **"Feedback"** means feedback, suggestions, improvements, and recommendations regarding the Services and Platform.
- 1.7. **"Hardware"** means any tangible item designed, manufactured, assembled, sold, or otherwise provided to Client by Visual Labs.
- 1.8. **"Platform"** means Visual Labs' Application, website platform, and technology infrastructure provided by Visual Labs supporting the Services that perform functions as described in the Documentation, including but not limited to, facilitating live-streaming, recording, playback, archiving and storage of Client Content, redaction of Client Content, and data analysis of such Client Content.
- 1.9. **"Proprietary Items"** means, collectively, the Services, Platform, and Documentation, the visual expressions, screen formats, interfaces, and other design features of the Services and Platform, all ideas, methods, algorithms, formulae and concepts used in developing and/or incorporated into the Services, Platform, or Documentation, all future modifications, revisions, updates, refinements, improvements and enhancements of the Services, Platform, or Documentation, all derivative works based upon any of the foregoing, and all copies of all of the foregoing.
- 1.10. **"Services"** means the services that Visual Labs provides through the Platform in accordance with the Documentation and this Agreement.
- 1.11. **"Subscription Term"** means the duration of Client's right to receive, access, and use the Services and Platform.

2. SUBSCRIPTION RIGHTS AND OBLIGATIONS

- 2.1. **Subscription Rights.** Subject to the terms and conditions of this Agreement, during the Subscription Term, Visual Labs grants to Client and its Authorized Users a non-exclusive, non-transferable license to (i) install the Application on up to the maximum number of devices owned or controlled by Client as set forth on **Schedule A** and (ii) use and access the Platform as required to use the Services solely in accordance with the Documentation for Client's internal business purposes in connection with Client's safety and security operations.
- 2.2. **Visual Labs Obligations.** Visual Labs shall host, operate, maintain, and support the Services and Platform. Visual Labs shall provide to Client standard support for the Services and Platform at no additional charge. From time to time in accordance with Visual Labs' generally applicable procedures, Visual Labs may at its discretion make available and implement upgrades, enhancements, and error corrections to the Platform.
- 2.3. **Usernames and Passwords.** Visual Labs will provide each Authorized User a unique username and password to enable such Authorized User to access the Platform and Services pursuant to this Agreement. Each username and password may only be used to access the Services and Platform during one (1) concurrent login session. Client will ensure that each username and password issued to an Authorized User will be used only by that Authorized User. Client is responsible for maintaining the confidentiality of all Authorized Users' usernames and passwords, and is solely responsible for all activities that occur under these usernames. Client agrees: (a) not to allow a third party to use Client's accounts, usernames or passwords at any time; and (b) to notify Visual Labs promptly of any actual or suspected unauthorized use of its account, usernames or passwords, or any other breach or suspected breach of this Agreement. Visual Labs reserves the right to terminate any accounts, usernames, or passwords that

Visual Labs reasonably determines may have been used by an unauthorized third party. Authorized User accounts and their associated usernames and passwords cannot be shared or used by more than one individual Authorized User, but may be reassigned from time to time to a new Authorized User who is replacing a former Authorized User who has terminated employment or otherwise changed job status or function and no longer uses the Services and Platform. Client is solely responsible for all access to and use of the Services and Platform by its Authorized Users and all access to and use of the Services and Platform through any Authorized User's account.

2.4. Client Responsibilities. Client shall (a) be responsible for Authorized Users' acts and omissions, (b) be responsible for providing, establishing, and maintaining internet connection, mobile device service, and any other necessary equipment, infrastructure, and services required to use the Services and Platform, (c) prevent unauthorized access to or use of the Services or Platform, and notify Visual Labs promptly of any such unauthorized access or use, (d) use, train Authorized Users to use, and ensure that Authorized Users use, the Services and Platform only in accordance with this Agreement, the Documentation and in compliance with all applicable laws and regulations, (e) reasonably cooperate with Visual Labs as necessary for Visual Labs to perform its obligations under this Agreement, and (f) be responsible for all Client Content and any use of Client Content by Client, Authorized Users, and any other party. Client agrees to comply with all relevant applicable laws, rules and regulations. Client represents and warrants that it has the right, and has obtained all necessary consents and authorizations, including any consents and authorizations required under any privacy or data security laws or regulations, to provide and disclose information to Visual Labs in connection with this Agreement.

2.5. Restrictions. Client shall not (and shall not permit any Authorized User to) (a) make the Services or Platform available to any third party other than Authorized Users, (b) resell, lease, distribute, transfer or otherwise make available the Services or Platform on a time-sharing or service bureau basis, (c) make Client Content available to any third party other than Authorized Users, Client employees, law enforcement, and government and regulatory officials who need to know such information for security, civil investigative, or judicial purposes, (d) use the Services or Platform to promote any unlicensed, unfair, or illegal activities or for deceptive or illegal purposes, (e) use the Services or Platform to store or transmit malicious code, (f) use or access the Services or Platform in any way that harms, potentially harms, or otherwise threatens the reputation, integrity, performance, or availability of Visual Labs, any Visual Labs client, the Services or Platform, (g) attempt to gain unauthorized access to the Services, Platform, other clients' content, or data stored or processed therein, (h) decompile, disassemble, or reverse engineer the Services or Platform, in whole or in part, (i) use the Services or Platform for any purposes other than the purpose specifically permitted in this Agreement, or (j) use or access the Services or Platform to create (or have created) a competing or similar service. Visual Labs may restrict or prohibit use or access to the Services and Platform or delete specific Client Content if Visual Labs suspects such use or access is in breach of this Agreement, does not comply with the Documentation, or is otherwise objectionable or threatens the reputation of Visual Labs, any Visual Labs client, the Services, or Platform.

3. CLIENT CONTENT AND PROPRIETARY ITEMS

3.1. Client Content.

- a) Client acknowledges that all Client Content is the sole responsibility of the Client. Client, and not Visual Labs, is entirely responsible for all Client Content that Client records, uploads, accesses, stores, streams, displays, redacts, or transmits through the Platform.
- b) Client acknowledges that Client Content that is more than six (6) months old, may be stored in an archival location and may only be available for access by Client upon two (2) business days' written notice to Visual Labs.
- c) Visual Labs reserves the right to take appropriate action against Client, if Client (in Visual Labs' sole judgment) violates this Agreement or violates the rights of, harms, threatens the safety of, or creates liability for, Visual Labs or any other person. Such actions may include removing Client Content, suspending Client's access to the Platform and Services, terminating Client's account, and/or reporting Client to law enforcement authorities. In order to cooperate with legitimate governmental requests, subpoenas or court orders, or to protect Visual Labs' business and customers, Visual Labs may access and disclose any information Visual Labs considers necessary or appropriate, including Client's usernames and passwords, IP address and traffic information, usage history, and Client Content, subject to all appropriate privacy laws. Client hereby provides its irrevocable consent to such disclosure.
- d) Client grants Visual Labs a fully paid, royalty-free, worldwide, non-exclusive and fully sublicensable right and license during the Subscription Term to use, reproduce, modify, adapt, perform, and display Client Content (in whole or in part) for the purposes of providing, maintaining, and supporting the Services and Platform in accordance with this Agreement.
- e) Client grants Visual Labs a fully paid, royalty-free, worldwide, non-exclusive and fully sublicensable, perpetual and irrevocable right and license to use, reproduce, modify, adapt, perform, create derivative works of and display operational data (e.g. how many hours the Application has been used, when the Application has been used, where the Application has been used) and disclose and share such operational data with third parties in an anonymous and aggregate form at its discretion.

3.2. Enhancements. Upon mutual written agreement of the parties, Visual Labs will provide enhancements to the Proprietary Items as may be requested by Client. Fees for any such enhancements will be determined by mutual agreement of the parties.

3.3. **Title and Ownership.** All right, title, and interest in and to the Client Content (including all related patent, copyright, trademark, trade secret, intellectual property and other ownership rights) are and will remain the sole and exclusive property of Client. All right, title, and interest in and to the Proprietary Items (including all related patent, copyright, trademark, trade secret, intellectual property and other ownership rights) are and will remain the sole and exclusive property of Visual Labs and Visual Labs reserves all rights not expressly granted herein. Any derivative works, modifications, or enhancements relating to the Proprietary Items (whether created alone by either Party or jointly by or on behalf of both Parties) and any Feedback relating thereto will be solely and exclusively owned by Visual Labs. Client hereby assigns to Visual Labs any rights, title and interest, including all intellectual property rights, in any Feedback and acknowledges that Visual Labs will be free to use Feedback for any purposes in its sole discretion.

4. PAYMENTS

4.1. **Fees and Expenses.** In consideration for access and use of the Platform and Services, Client shall pay to Visual Labs, without offset or deduction, the fees set forth in Schedule A. All fees shall be due and payable within thirty (30) days after an invoice is issued by Visual Labs.

4.2. **Taxes.** The fees and other amounts payable by Client to Visual Labs do not include any taxes of any jurisdiction that may be assessed or imposed upon the Services, Platform, Documentation, or otherwise, including sales, use, excise, value added, personal property, export, import and withholding taxes, excluding only taxes based upon Visual Labs' net income. Client shall directly pay any such taxes assessed. Client shall promptly reimburse Visual Labs for any taxes payable or collectable by Visual Labs (other than taxes based upon Visual Labs' net income). If Client has provided Visual Labs with proof of its tax-exempt status, then, in the event that Client's tax-exempt status should become altered, Client shall be obligated to notify Visual Labs immediately of any such modification and Client shall become liable for all taxes as set forth above. In the event Client fails to notify Visual Labs of any such change, Client shall be liable for payment of any tax related penalties or interest assessed against Visual Labs or Client as a result of such Client failure.

4.3. **Payment Terms.** Visual Labs may accept and process payment (including renewals) from Client by either check, ACH credit, wire transfer, or other method as mutually agreed. Amounts owed to Visual Labs will be invoiced to Client's address for invoices as designated by Client or, if not designated, then the address printed on this Agreement. Any Client check rejected by Visual Labs' bank for any reason shall be subject to a \$25 fee. If any Client payment is more than thirty (30) days past due, interest at the rate of one and one-half percent (1.5%) per annum shall accrue. Except as otherwise provided in this Agreement, all fees and other amounts paid by Client under this Agreement are non-refundable. All dollar amounts referred to in this Agreement are in United States Dollars.

4.4. **Suspension.** In the event that Client's account is more than fifteen (15) days overdue on any payment for any reason, Visual Labs shall have the right, in addition to its remedies under this Agreement or pursuant to applicable law, to suspend Client's use of the Services and Platform, without further notice to Client, until Client has paid the full balance owed, plus any fees and/or interest due.

5. WARRANTY DISCLAIMER AND LIMITATIONS

5.1. **Warranty.** Visual Labs warrants that (a) the Platform and Services will perform substantially as specified in the Documentation and (b) the implementation, support and training services will be performed in a professional manner consistent with applicable industry standards. Visual Labs' obligation with respect to any non-conformance with the foregoing warranty is for Visual Labs to use commercially reasonable efforts to correct the non-conformance. If Visual Labs is unable to correct the non-conformance despite its use of commercially reasonable efforts, then Visual Labs will notify Client and Client may terminate this Agreement and Visual Labs will refund to Client the subscription fees paid by Client to Visual Labs for the preceding thirty (30) day period or the implementation or other services fees paid by Client for the non-conforming services, as applicable. THE FOREGOING REMEDY IS CLIENT'S SOLE AND EXCLUSIVE REMEDY AND VISUAL LABS' SOLE LIABILITY FOR A BREACH OF THE WARRANTY SET FORTH IN THIS SECTION. THIS WARRANTY SHALL NOT APPLY IF THE NON-CONFORMANCE IS DUE TO DISRUPTION OR OUTAGE OF COMMUNICATIONS (INCLUDING THE INTERNET, MOBILE SERVICES, OR OTHER NETWORKED ENVIRONMENT), POWER, OR ANY OTHER UTILITIES, MALFUNCTION OF MOBILE DEVICES OR OTHER CLIENT EQUIPMENT, OR CLIENT'S OR ITS AUTHORIZED USERS' FAILURE TO USE THE PLATFORM OR SERVICES IN ACCORDANCE WITH THE AGREEMENT, DOCUMENTATION OR VISUAL LABS' INSTRUCTIONS.

5.2. **Hardware Disclaimer.** To the extent Client purchases, leases, or otherwise obtains any Hardware from Visual Labs, Client hereby acknowledges that it has purchased, leased, or otherwise obtained the Hardware in an "as is" condition and that Visual Labs has provided no warranties, express or implied. It is the sole responsibility of Client, and not Visual Labs, to verify that all Hardware is appropriate for its employees and agents and that the Hardware does not interfere with the duties of, or compromise the safety of, the persons on which the Hardware is deployed. Use of Hardware by or near anyone other than an Authorized User is prohibited and may be unsafe and lead to injury and/or death.

5.3. **Warranty Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1, THE HARDWARE AND PROPRIETARY ITEMS AND ALL IMPLEMENTATION, SUPPORT, TRAINING AND OTHER SERVICES ARE PROVIDED "AS IS" AND VISUAL LABS MAKES NO REPRESENTATIONS OR WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INTERFERENCE, OR NON-INFRINGEMENT. Without limiting the generality of the foregoing, Visual Labs does not represent or warrant that: (a) the Services or Platform will

meet any expectations or specifications of Client; (b) the Services or Platform will protect Client, its employees, personnel, or invitees, or Client's premises from any specific threats or increase the security of Client's premises; (c) the operation of the Services and Platform will be uninterrupted or error-free; or (d) the Hardware is safe for use for any particular purpose. CLIENT ACKNOWLEDGES AND AGREES THAT CERTAIN FEATURES OF THE SERVICES AND PLATFORM MAY NOT WORK AND LOSS OF DATA MAY BE POSSIBLE UNDER CERTAIN CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO, FAILURE OF ELECTRONIC EQUIPMENT OR THE LOSS OF INTERNET, MOBILE SERVICE, OR WIRELESS CONNECTION.

6. LIMITATION OF LIABILITY

IN NO EVENT WILL VISUAL LABS BE LIABLE FOR ANY LOSS OF DATA, LOST PROFITS, LOST REVENUE, OR INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO DAMAGES OR COSTS DUE TO REVENUE, GOODWILL, PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR PERSONAL OR PROPERTY DAMAGE ARISING OUT OF OR IN CONNECTION WITH VISUAL LABS' PERFORMANCE HEREUNDER OR THE USE, MISUSE, OR INABILITY TO USE THE SERVICES, PLATFORM, DOCUMENTATION, OR HARDWARE, BASED ON ANY THEORY OF CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Visual Labs' total aggregate liability under this Agreement shall under no circumstances exceed the greater of \$100 or the fees actually paid by Client to Visual Labs in the six (6) months preceding the event giving rise to the claim of liability. The existence of multiple claims shall not enlarge this limitation.

7. CONFIDENTIALITY

All Confidential Information of a Party ("**Disclosing Party**") in the possession of the other ("**Receiving Party**"), whether or not authorized, shall be held in strict confidence, and the Receiving Party shall take all steps reasonably necessary to preserve the confidentiality of the Confidential Information. The Disclosing Party's Confidential Information shall not be used or disclosed by the Receiving Party for any purpose except (a) as necessary to implement or perform this Agreement, or (b) as required by law, provided that the other Party is given a reasonable opportunity to obtain a protective order. The Receiving Party shall limit its use of and access to the Disclosing Party's Confidential Information to only those of its employees or representatives whose responsibilities require such use or access and who are bound by obligations of confidentiality at least as protective as those herein. The Receiving Party shall advise all such employees and representatives, before they receive access to or possession of any of the Disclosing Party's Confidential Information, of the confidential nature of the Confidential Information and require them to abide by the terms of this Section.

8. LIABILITY OF OTHER PARTY'S ACTS OR OMISSIONS

As between the Parties, neither Party shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. This paragraph is intended only to define the liabilities between the Parties and it is not intended to modify, in any way, the Parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

9. TERMINATION

9.1. The initial Subscription Term shall begin on the Effective Date and shall terminate as set forth in Schedule A. Additional Subscription Terms, if any, shall be set forth in one or more revisions, amendments or supplements to Schedule A.

9.2. Either Party may terminate this Agreement immediately on giving notice in writing to the other Party if the other Party commits a material breach (including any non-payment of fees due) and, in the case of a material breach capable of being cured, failed to cure that breach within fifteen (15) days after the receipt of a request in writing to cure such breach.

9.3. Upon any termination or expiration of this Agreement, whether under this Section 9 or otherwise, (a) Client shall discontinue all access and use of all Proprietary Items, and promptly return to Visual Labs any Confidential Information then in Client's possession or control and (b) Client shall promptly uninstall the Application from any device owned or controlled by Client, and (c) Visual Labs, at its sole discretion, may block Client access to the Services and Platform and/or delete Client Content.

9.4. Client shall remain liable for all payments due to Visual Labs with respect to the period ending on the date of termination or expiration. For any termination other than a termination for good cause by Client in accordance with Section 9.2, the balance of all remaining subscription fees relating to the then current Subscription Term will be due and payable. The provisions of Sections 1, 2.4, 2.5, 3, 4.2, 4.3, 4.4, 5, 6, 7, 8, 9.3, 9.4, and 10 shall survive any termination or expiration of this Agreement.

10. OTHER PROVISIONS

10.1. **Insurance.** During the Subscription Term, Visual Labs will, at no cost to Client, maintain the following minimum insurance in full force and effect: (i) commercial general liability insurance, including contractual liability coverage and coverage for bodily injury, personal injury, and property

damage in a combined single limit of not less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate, (ii) workers' compensation insurance in compliance with all statutory regulations of the nation, state, territory, or province having jurisdiction over Visual Labs' employees performing services under the Agreement with limits of not less than \$1,000,000 (or such greater amount as may be required by applicable law), and (iii) technology errors and omissions insurance in an amount not less than \$1,000,000 in the annual aggregate.

10.2. **Notice.** All notices, consents and other communications under or regarding this Agreement shall be in writing and shall be deemed to have been received on the earlier of the date of actual receipt or the first business day after being sent by a reputable overnight delivery service. Either Party may change its address for notices by giving written notice of the new address to the other Party.

10.3. **Assignment.** Client may not, without Visual Labs' prior written consent, assign, delegate, pledge, or otherwise transfer this Agreement or any of its rights or obligations under this Agreement to any party, whether voluntarily or by operation of law. A sale of assets, merger or consolidation will be deemed an assignment for the purposes of this Agreement.

10.4. **Export Laws and Use Outside of the United States.** Client shall comply with the export related laws and regulations. Client represents and warrants that (i) Client is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) Client is not listed on any U.S. Government list of prohibited or restricted parties. Client shall not export or re-export directly or indirectly (including via remote access) any Proprietary Items (or parts thereof) to any applicable jurisdiction or entity prohibited by law or to which a license is required without first obtaining a license from the applicable regulatory authority.

10.5. **Relationship.** The relationship between the Parties under this Agreement is that of independent contractors and not partners, joint venturers or agents.

10.6. **Other Limitations.** The warranties made by Visual Labs in this Agreement, and the obligations of Visual Labs under this Agreement, run only to Client and not to any Authorized User or other third party. Under no circumstances shall any Client affiliate, Client customer, contractor, personnel, invitee, or any other third party be considered a third-party beneficiary of this Agreement. No action or claim of any type relating to this Agreement may be brought or made by Client more than twelve (12) months after Client first has knowledge of the basis for the action or claim. The Client and Visual Labs have freely and openly negotiated this Agreement, including the pricing, with the knowledge that the liability is to be limited in accordance with the provisions of this Agreement.

10.7. **Entire Understanding.** This Agreement states the entire understanding between the Parties with respect to its subject matter, and supersedes all prior proposals, marketing materials, negotiations and other written or oral communications between the Parties with respect to the subject matter of this Agreement. Any terms in an order or written purchase authorization that add to, or conflict with or contradict, any provisions in the Agreement will have no legal effect.

10.8. **Modification and Waiver.** No modification of this Agreement, and no waiver of any breach of this Agreement, shall be effective unless in writing and signed by an authorized representative of both Parties. This Agreement may not be modified or amended without written agreement of the Parties. No waiver of any breach of this Agreement, and no course of dealing between the Parties, shall be construed as a waiver of any subsequent breach of this Agreement.

10.9. **Severability.** If any portion of any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, (a) such unenforceable portion of the provision will be deemed severed from this Agreement, (b) the validity and enforceability of the remaining portion of the provision and the other provisions of this Agreement will not be affected or impaired, and (c) this Agreement will be amended in order to effect, to the maximum extent allowable by law, the original intent of such provision.

10.10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

10.11. **Governing Law and Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of New Mexico excluding choice of law; provided, however, that the terms of any applicable law now or hereafter enacted that is based on or similar to the uniform computer information transactions act drafted by the national conference of commissioners on uniform state laws shall not apply. Each Party irrevocably agrees that any legal action, suit or proceeding brought by it that in any way arises out of the Agreement must be litigated exclusively in state court in McKinley County, New Mexico or in a federal court in the District of New Mexico.

10.12. **Force Majeure.** Except with respect to Client's payment obligations, neither Party shall be liable for, nor shall either Party be considered in breach of this Agreement due to any failure to perform its obligations under this Agreement as a result of a cause beyond its control, including any act of God or a public enemy, act of any military, civil or regulatory authority, change in any law or regulation, fire, flood, earthquake, storm, epidemic, pandemic, quarantine or other like event, disruption or outage of communications (including the Internet or other networked environment), power or other utility, labor problem, unavailability of supplies or any other cause which could not have been prevented by the non-performing Party with reasonable care.

10.13. **Use of Name.** Client authorizes Visual Labs to use Client's name in marketing materials and any routine list of Visual Labs clients.

10.14. **Notices, Questions, Complaints, and Claims.** Please contact us for any notices, questions, complaints, or claims at: Visual Labs, Inc., Attention: Alexander Popof, 607 Menlo Avenue, Menlo Park, California 94025 USA; +1 818-919-9802; alp@visuallabsinc.com.

[END OF MASTER TERMS AND CONDITIONS]

Schedule A

Gallup, New Mexico Police Department

The Services shall be provided during a Subscription Term which shall begin on the Effective Date and shall terminate on September 30, 2021. Thereafter, the Subscription Term shall automatically renew for additional one (1) year periods, unless one Party provides the other Party written notice of its intent to not renew the Subscription Term at least thirty (30) days prior to the start of the upcoming renewal period.

The Services will be provided via the use of seventy-five (75) smartphones (the "Devices") which will be owned and controlled by Client. The Devices will be deployed on Client employees or agents and will be used primarily as a body worn camera to record the audio and video of interactions between Client employees or agents and the general public. While the Visual Labs Application is engaged, each Device will also record, and in certain cases transmit, the approximate physical location (i.e. latitude and longitude) of the Device. If any Device is activated with a cellular carrier, the cost of such connectivity shall be the responsibility of Client

The Devices may be housed in certain Hardware (as defined herein) such as a smartphone case or other mounting solution provided by or sourced through Visual Labs. It is the sole responsibility of Client, and not Visual Labs, to verify that each Device and the mounting solution are appropriate for their employees and agents and that they do not interfere with the duties of, or compromise the safety of, the persons on which each Device is deployed. At the end of the Subscription Term, Client shall promptly uninstall the Application from all Devices.

It is understood by Client that certain "real time" Services (e.g. live streaming) require a reasonably strong connection to the internet. It is further understood that certain areas in which the Devices will be deployed may not support the required connection to the internet for certain Services.

The default retention period for all Client footage shall be one hundred eighty (180) days. Authorized Client personnel shall have the ability to change the retention period of any specific file to "indefinite" via the Visual Labs website. Unless the retention period has been changed to "indefinite" by Client, Visual Labs shall delete all Client footage as soon as practicable after the expiration of the retention period.

Fees

Implementation and Training Fee

Visual Labs will charge a one-time implementation and training fee of one thousand five hundred dollars (\$1,500), which shall include remote training and shall be due and payable by October 31, 2020.

Subscription Fee

Visual Labs will charge a monthly subscription fee of forty-three dollars and fifty-three cents (\$43.53) per Device. If Devices are added during the Subscription Term, the subscription fee shall be increased on a pro rata basis. The subscription fee for the Subscription Term shall be thirty-nine thousand one hundred seventy-seven dollars (\$39,177). Such fee shall be due and payable by October 31, 2020. Unless otherwise agreed upon between the Parties in writing, the monthly subscription fee at the end of the initial Subscription Term shall be fifty dollars (\$50) per Device.

Usage Fees

Based on seventy-five (75) Devices, the Services provided during any Subscription Term shall include a monthly allowance of (i) up to four thousand five hundred (4,500) hours of video uploaded; (ii) up to four thousand five hundred (4,500) hours of audio recordings uploaded; (iii) up to forty (40) hours of live streaming video; and (iv) up to twelve thousand (12,000) photos taken, including via the photo sequence function. If Devices are added during the Subscription Term, the above monthly allowances will be increased on a pro rata basis. Should Client exceed these limits during any month, the excess will be charged at a rate of five dollars (\$5) per additional hour of video or audio uploaded, twenty dollars (\$20) per additional hour of live streaming, and five cents (\$0.05) per additional photo. Client shall be able to retain up to twenty percent (20%) of its annual footage allowance with a retention greater than the default retention period. Storage above such allowance will be charged at the rates set forth in this paragraph.

Maximum Website User Limit

Client shall be able to designate up to one hundred (100) individuals to receive login credentials and use the Visual Labs website. The designated users of the system may be changed at Client's discretion, provided that no more than the maximum allowed number of users are designated at any one time.

Mobility Summary

Mobility Overview

- 1 Total Plan
- Unlimited Data

Total Cost

Plans	\$3,711.75/mo
Total Monthly Cost	\$3,711.75/mo
Devices	\$74.25
Total One-Time Cost	\$74.25

Mobility Details

Plans (1)

Unlimited – Primary

Included

- Unlimited talk, text, and data
- AT&T Business Fast Track or First Priority™

Access Charges

75 × Smartphone with Tethering at \$49.49 each \$3,711.75/mo

Monthly Plan Cost **\$3,711.75/mo**

Devices (75)

Kyocera DuraForce PRO 2 with Subsidized (2-year) (75)

Monthly Cost

No Protection

One-Time Cost

Base One-Time Cost at \$169.99 each	\$12,749.25
Device Discount at -\$169.00 each	-\$12,675.00
Total One-Time Cost	\$74.25

This information is provided to you for informational purposes only. The terms of the identified plans can be found in the applicable brochures at the links below. AT&T may revise these terms at any time. In the event of a conflict between this information and the applicable business agreement, the applicable business agreement will control. AT&T disclaims all warranties including, but not limited to, implied warranties of merchantability or fitness for a particular purpose. In no event shall AT&T be liable for any damages relating to the use or results of the calculator. The quoted rates are estimates of the monthly charges for the identified plans only and are based on the information provided by you. These rates do not include additional devices, features or services. Quoted rates supersede those in the applicable brochures, which are standard published rates, and not the discounted rates quoted herein, based on national, state or local contracts. Rates are subject to change and do not include taxes, fees, overage charges or surcharges. Activation fees, additional deposits and other restrictions may apply.

FirstNet Rate Plans - Agency Paid - Pooled & Unlimited

Primary Users <https://www.firstnet.com/firstnetprimary>
Primary Users (State/Local Gov) <https://www.firstnet.com/firstnetgovprimary>
Extended Primary Users <https://www.firstnet.com/firstnetextended>
Extended Primary Users (State/Local Gov) <https://www.firstnet.com/firstnetgovextended>

FirstNet Machine-to-Machine Rate Plans

Primary Users <https://www.firstnet.com/firstnetprimarym2m>
Primary Users (State/Local Gov) <https://www.firstnet.com/firstnetgovprimarym2m>
Extended Primary Users <https://www.firstnet.com/firstnetextendedm2m>
Extended Primary Users (State/Local Gov) <https://www.firstnet.com/firstnetgovextendedm2m>

FirstNet Enhanced Push-to-Talk Rate Plans

Primary Users <https://www.firstnet.com/epttonlyprimary>
Primary Users (NASPO) <https://www.firstnet.com/epttonlyprimarynaspo>
Primary Users (NPPGov) <https://www.firstnet.com/epttonlyprimarynppgov>
Extended Primary Users <https://www.firstnet.com/epttonlyextprimary>
Extended Primary Users (NASPO) <https://www.firstnet.com/epttonlyextprimarynaspo>
Extended Primary Users (NPPGov) <https://www.firstnet.com/epttonlyextprimarynppgov>

FirstNet Enhanced Push-to-Talk Bolt-Ons

Primary Users <https://www.firstnet.com/epttboltonprimary>
Primary Users (NASPO) <https://www.firstnet.com/epttboltonprimarynaspo>
Primary Users (NPPGov) <https://www.firstnet.com/epttboltonprimarynppgov>
Extended Primary Users <https://www.firstnet.com/epttboltonextprimary>
Extended Primary Users (NASPO) <https://www.firstnet.com/epttboltonextprimarynaspo>
Extended Primary Users (NPPGov) <https://www.firstnet.com/epttboltonextprimarynppgov>

FirstNet International Roaming Packages

International Pass Packages <https://www.firstnet.com/internationalterms>



Body Worn Camera Cost Analysis

Rev: 08.21.2020@0957

*** Body Worn Camera (BWC) initial cost estimate:**

Component

Initial Cost:

1. Visual Labs:

\$39,177

* \$43.53 per month per license, includes G-suite single sign on integration (X) 75 = \$3,264.75 per month

* Includes redaction and cloud storage

A. Implementation fee: **\$1,500**

* Includes training

B. Mounting Hardware and accessories: **\$4,500** * \$60 per cell phone
(X) 75

2. First Net:

\$44,541

* \$49.49 per month per line (X) 75 = \$3,711.75 per month

* Unlimited talk, text and data

3. Cell phone (Kyocera Dura Force Pro 2): **\$74.25**

* 0.99 per cell phone (promotional 2-year contract with First Net) (X) 75

= \$89,792.25

*** Body Worn Camera RECURRING (ANNUAL) cost estimate:**

Component

Recurring Cost:

1. Visual Labs:

\$39,177

* \$50.00 per month per license (X) 75 = \$3,750 per month

2. First Net

\$44,541

* \$46.99 per month per line (X) 75 = \$3,524.25 per month

= \$83,718

August 7, 2020

City of Gallup
P O Box 1270
Gallup NM 87305

Dear Sir/Mam:

In accordance with the Terms of Rules Governing in Emergency Medical Services Fund Act, DOH 7.27.4 NMAC, a warrant in the amount of **\$122,179.50** is authorized for disbursement on behalf of the following local recipient (s) in accordance with their approved applications:

Vehicle Purchase Grant – Type 1 4x4 \$122,179.50

These funds from the Local Funding Program of the EMS Fund Act for FY 21 (July 1,2020 – June 30,2021) must be accounted for in accordance with the rules set forth by the New Mexico Department of Finance and Administration, Local Government Division and the EMS Fund Act Rules 7.27.4 NMAC.

In order to keep our records in order, we are asking that each Applicant (Fiscal Agent) submit an itemized expenditures report for FY20 EMS Fund Act Local Funding Award (July 1, 2019 – June 30, 2020). If you administer funds for more than one (1) Local recipient, please submit a report for each.

If you have any questions, please contact me at (505) 476-8233 or by e-mail at ann.martinez1@state.nm.us

Sincerely,

Ann Martinez

Ann Martinez FF I / EMT- I
EMS Fund Act Coordinator

Xc: EMS Regional Director
City of Gallup
Local Government Division/DFA

August 7, 2020

City of Gallup
P O Box 1270
Gallup NM 87305

Dear Sir/Mam:

In accordance with the Terms of Rules Governing in Emergency Medical Services Fund Act, DOH 7.27.4 NMAC, a warrant in the amount of **\$10,000.00** is authorized for disbursement on behalf of the following local recipient (s) in accordance with their approved applications:

LSI Grant – 1 Ferno Power XI Stretcher \$10,000.00

These funds from the Local Funding Program of the EMS Fund Act for FY 21 (July 1,2020 – June 30,2021) must be accounted for in accordance with the rules set forth by the New Mexico Department of Finance and Administration, Local Government Division and the EMS Fund Act Rules 7.27.4 NMAC.

In order to keep our records in order, we are asking that each Applicant (Fiscal Agent) submit an itemized expenditures report for FY20 EMS Fund Act Local Funding Award (July 1, 2019 – June 30, 2020). If you administer funds for more than one (1) Local recipient, please submit a report for each.

If you have any questions, please contact me at (505) 476-8233 or by e-mail at ann.martinez1@state.nm.us

Sincerely,

Ann Martinez

Ann Martinez FF I / EMT- I
EMS Fund Act Coordinator

Xc: EMS Regional Director
City of Gallup
Local Government Division/DFA

August 7, 2020

City of Gallup
P O Box 1270
Gallup NM 87305

Dear Sir/Mam:

In accordance with the Terms of Rules Governing in Emergency Medical Services Fund Act, DOH 7.27.4 NMAC, a warrant in the amount of **\$12,464.00** is authorized for disbursement on behalf of the following local recipient (s) in accordance with their approved applications:

Gallup Fire Department \$12,464.00

These funds from the Local Funding Program of the EMS Fund Act for FY 21 (July 1,2020 – June 30,2021) must be accounted for in accordance with the rules set forth by the New Mexico Department of Finance and Administration, Local Government Division and the EMS Fund Act Rules 7.27.4 NMAC.

In order to keep our records in order, we are asking that each Applicant (Fiscal Agent) submit an itemized expenditures report for FY20 EMS Fund Act Local Funding Award (July 1, 2019 – June 30, 2020). If you administer funds for more than one (1) Local recipient, please submit a report for each.

If you have any questions, please contact me at (505) 476-8233 or by e-mail at ann.martinez1@state.nm.us

Sincerely,

Ann Martinez

Ann Martinez FF I / EMT- I
EMS Fund Act Coordinator

Xc: EMS Regional Director
City of Gallup
Local Government Division/DFA

WELLS FARGO BANK
MAC S4011-018
1336 W. ALAMEDA DR.
TEMPE, AZ 85282

CUSTOMER CARE: 800-289-3557

CITY OF GALLUP
ATTN: PATTY HOLLAND
RECEIVABLES MANAGER

REMITTANCE/PAYMENT ADVICE
AUGUST 6, 2020
=====

PAYMENT INFORMATION:

CREDIT: \$144,643.50
EFFECTIVE DATE: 08/06/2020
INPUT FORMAT: ACHCCD+

CREDIT PARTY

ROUTING ID: 107002192
ACCT: 1701300660

DEBIT PARTY

ROUTING ID: 091000019
ACCT:
COMPANY ID: 9560005662

NOTE: PAYMENT ADDENDA FORMAT ERROR

NOTE: SEGMENT DELIMITER MISSING

PAYMENT: 20200720EMSFUNDACTGallup EMS Fund Act Distribution FY21
Loca

PAYMENT: 1 System Funding - C

TRACE NUMBER: 091000016377565

RECEIVER: CITY OF GALLUP
ID CODE: NMAP0000884019

ORIGINATOR: State of New Mex

=====

PAYMENT INFORMATION:

CREDIT: \$782.15
EFFECTIVE DATE: 08/06/2020
INPUT FORMAT: ACHCCD+

CREDIT PARTY

DEBIT PARTY
