

**LIQUOR EXCISE TAX  
JOINT POWERS AGREEMENT**

**THIS AGREEMENT**, effective upon approval by the New Mexico Department of Finance Administration indicated below, is by and between the City of Gallup, an incorporated municipality of the State of New Mexico, herein called “City”, whose address is P.O. Box 1270, Gallup, New Mexico 87305; and, McKinley County, New Mexico, a political subdivision of the State of New Mexico, hereinafter called “County”, whose address is P.O. Box 70, Gallup, New Mexico 87305. The purpose of this Agreement is to provide intergovernmental cooperation between “City” and “County” in operation of Local Government Programs, the Local Liquor Excise Tax Committee, and the application and approval of programs using Liquor Excise Tax moneys.

**WHEREAS**, the Local Liquor Excise Tax Act (N.M.S.A. §§ 7-24-8 through 7-24-16), and the current McKinley County Ordinance imposing the Local Liquor Excise Tax, requires a Joint Powers Agreement between McKinley County and the City of Gallup for the use and administration of Tax proceeds; and,

**WHEREAS**, City and County have in the past created a Committee and have agreed to use Liquor Excise moneys to fund various local government and other programs and projects; and,

**WHEREAS**, In the spirit of continued cooperation and pursuant to the Local Liquor Excise Tax Act and County Ordinance, City and County desire to institute this Joint Powers Agreement; and,

**WHEREAS**, City and County are concerned with the health, safety, and welfare of the citizens of McKinley County, New Mexico, and in the provision of quality treatment, prevention education and other programs for alcohol and drug abuse; and,

**WHEREAS**, City and County are local government bodies as defined by the Joint Powers Act, N.M.S.A. 1978 § 11-1-1 *et. seq.*, and empowered to enter into the within Agreement.

**IT IS HEREBY AGREED AS FOLLOWS:**

1. That this new 2020 JPA is intended to replace and continue the previous JPA of May 25, 2016 (signed by DFA on July 13, 2016)
2. County and City shall continue the established Local Liquor Excise Tax Committee required by statute, consisting of five persons. Two named by the County, and two persons named by the City, and one person named by the four with approval of the City and County
3. County shall provide staff support for this committee via the County Manager (or his/her designee); and, shall serve as fiscal representative to the Committee.

4. The Committee shall have power to draft Bylaws to carry out the purposes and powers delegated to the committee by this JPA. All Bylaws and amendments thereto shall be first approved by the Committee and then ratified by the County and the City prior to their effectiveness. The Bylaws shall set forth the processes of selecting and assigning the Local Liquor Excise Tax moneys available to the Committee pursuant to the Act, the Ordinance, and this JPA; and, set forth the appeals process for entities wishing to appeal a selecting or assigning decision of the committee.

5. Pursuant to this JPA, the Parties (McKinley County and the City of Gallup through their respective boards) hereby appoint a JPA Revenue Receipt and Allocation Task Force consisting of: the Mayor or his/her designee, the City Manager, the City Attorney, the Chairperson of the County Commission or his/her designee, the County Manager, and the County Attorney. This JPA Task Force shall jointly meet on an annual basis in conjunction with their budget preparation.

6. The JPA Task Force shall recommend allocation of the projected revenue to the various programs of the parties; the contractual responsibilities for Detox services; and, recommend/allocating the amount of projected revenue that can be used in a RFP process for outside programs as selected and assigned by the Local Liquor Excise Tax committee. The recommendation of the Task Force shall be presented to both the City and County governing Boards for approval.

7. City and County hereby agree to work together to monitor the ACT and work together to maintain the continuity of the Ordinance and future Ordinances. The parties also agree that if there is an opportunity to change the three (3) year referendum requirement to four (4) years so the election cycle will coincide with a State or National General Election, without disrupting the continuity of the Ordinance and future Ordinances; then, the parties will work together to affect such change.

8. This Joint Powers Agreement is a replacement of all prior agreements relating to the Liquor Excise Tax.

9. In accordance with Section 7-24-15 NMSA 1978 comp., the New Mexico Taxation and Revenue Department may deduct up to five percent (5%) as administrative costs, and the parties agree the County will make no deduction for its administrative costs.

10. Property of the JPA: If at the termination of this Agreement, there are any surplus funds on hand, and there is no extension of this Agreement, the funds shall be divided equally between the County and City and the JPA will terminate.

11. Should the legislature adopt legislation setting up a different system of funding liquor excise tax during the term of this agreement either party may terminate this agreement to opt into a different funding formula for liquor excise tax.

12. The Bateman Act (Section 6-6-11 NMSA 1978 comp., as revised), Applies hereto, and any provision of this Agreement at variance with the Act is superseded by it.

13. This Agreement shall not create any right, remedy, or privilege, in any person or entity not a party hereto, which does not exist by virtue of prior existing, constitutional, statutory, regulatory, or contractual right.

14. This Agreement contains the entire understanding of the parties hereto, regarding the subject matter hereof and all prior discussions or negotiations are merged herein. No prior agreement or understanding of the parties which is not incorporated herein is enforceable, unless specifically set forth in this Agreement. It is anticipated that the "Committee" mentioned above in paragraphs 2 and 4 above shall continue under the previously adopted Bylaws and any amendment thereto will only become effective upon approval of the County Commission and the City Council.

15. The allocation for local government program expenditures set out by the Task Force mentioned above in paragraphs 5 and 6 above shall commence with the fiscal year starting July 1, 2020 and shall continue June 30, 2024 or until replaced by a future JPA between the Parties. 4.

16. Should any amount or allocation set out by the operation of paragraphs 5 and 6 above not be an approved expenditure as determined pursuant to Section 7-24-16 NMSA 1978 comp., the JPA Task Force will meet and develop a recommendation for re-allocation of the un-approved expenditure to the County Commission and City Council.

17. This Agreement becomes effective on approval by the New Mexico Department of Finance and Administration.

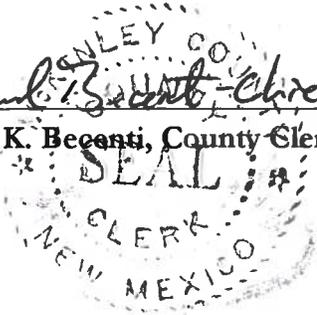
**McKINLEY COUNTY  
BOARD OF COMMISSIONERS**

Date: 4/17/2020

By: Billy Moore  
Billy Moore, Chairperson

Attest:  
Edmund J. Becenti, Christ Deputy Clerk

Harriett K. Becenti, County Clerk



**CITY OF GALLUP**

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

**By:** \_\_\_\_\_  
**Jackie McKinney, Mayor**

**Attest:**

\_\_\_\_\_  
**Alfred Abeita, City Clerk**

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**Approved:**

**NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION**

**Date:** \_\_\_\_\_ **By:** \_\_\_\_\_