

LAND EXCHANGE AGREEMENT

THIS LAND EXCHANGE AGREEMENT (the "Agreement") is made and entered into this ___ day of _____, 2020 (the "Effective Date"), by and between Gallup Holding and Investment Corporation, a New Mexico corporation, hereinafter referred to as "GHIC," and the City of Gallup, a New Mexico municipal corporation, hereinafter referred to as "City".

WHEREAS, the City of Gallup is currently encroaching upon property owned by GHIC with portions of the Fox Run Golf Course, said property identified as Transfer Tracts 1 and 4 below; and

WHEREAS, GHIC is desirous of developing property adjacent to the golf course and City owned property that is not being used by the golf course could be used for development purposes, said property being identified as Transfer Tracts 2 and 3 below; and

WHEREAS, GHIC is desirous of transferring to the City ownership of Transfer Tracts 1 and 4 in exchange for the City transferring to GHIC ownership of Transfer Tracts 2 and 3; and

WHEREAS, the tracts being transfer from the City to GHIC are of approximately the same size and value as the property being transferred from GHIC to the City:

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED BELOW, IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. **Agreements to Convey and Grant.** Subject to the terms and conditions of this Agreement, at Closing (defined below, the City will convey Transfer Tracts 1 and 4 to GHIC by way of Special Warranty Deeds, and GHIC will convey Transfer Tracts 2 and 3 to the City by way of Special Warranty Deeds

2. **Property Descriptions.**

A. **DESCRIPTION OF TRANSFER TRACT 1 (1.2299 ACRE TRANSFER TO THE CITY)**

A PORTION OF LAND WITHIN TRACT 1-A-1 OF REPLAT No.1 OF LOT 2, WOODARD SUBDIVISION UNIT #1 AS THE SAME IS SHOWN ON THE PLAT OF SAID SUBDIVISION FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON AUGUST 23, 1972 AND TRACT 1-A, GOLF COURSE SUBDIVISION UNIT 2 AS THE SAME IS SHOWN ON THE PLAT OF SAID SUBDIVISION FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON JULY 22, 1996, D-98, GALLUP, MCKINLEY COUNTY, NEW MEXICO, AS SHOWN ON THE AMENDED PLAT RECORDED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY ON JULY 03, 2018, DOC# 385404 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE GALLUP HIGH SCHOOL ADDITION AS SHOWN ON THE ANNEXATION PLAT OF NEW GALLUP HIGH SCHOOL

ADDITION TO THE CITY OF GALLUP, NEW MEXICO, FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON SEPTEMBER 11, 1963, THENCE N01°58'51"E, 514.28' TO A POINT, THENCE N63°49'51"W, 1150.94' TO THE REAL POINT OF BEGINNING:

THENCE S47°13'08"W, 367.60' TO A POINT;

THENCE N15°30'01"W, 213.85' TO A POINT;

THENCE N47°17'37"E, 196.53' TO A POINT;

THENCE S63°49'51"E, 203.38' TO THE REAL POINT OF BEGINNING.

CONTAINING 1.2299 ACRES, MORE LESS.

B. DESCRIPTION OF TRANSFER TRACT 2 (0.1335 ACRE TRANSFER TO THE GHIC)

A PORTION OF LAND LYING WITHIN THE ANNEXATION PLAT OF COUNTRY CLUB GOLF COURSE EXTENSION AS SHOWN ON, RECORDED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON DECEMBER 16, 1982 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE GALLUP HIGH SCHOOL ADDITION AS SHOWN ON THE ANNEXATION PLAT OF NEW GALLUP HIGH SCHOOL ADDITION TO THE CITY OF GALLUP, NEW MEXICO, FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON SEPTEMBER 11, 1963, THENCE N01°58'51"E, 514.28' TO A POINT, THENCE N63°49'51"W, 1150.94' TO A POINT, THENCE S47°13'08"W, 367.60' TO THE REAL POINT OF BEGINNING:

THENCE S15°30'01"E, 168.77' TO A POINT;

THENCE N42°50'27"W, 150.00' TO A POINT;

THENCE N47°13'08"E, 77.51' TO THE REAL POINT OF BEGINNING;

CONTAINING 0.1335 ACRES, MORE OR LESS.

C. DESCRIPTION OF TRANSFER TRACT 3 1.7976 ACRE TRANSFER TO GHIC)

A PORTION OF LAND LYING WITHIN THE ANNEXATION PLAT OF COUNTRY CLUB GOLF COURSE EXTENSION AS SHOWN ON THE PLAT RECORDED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON DECEMBER 16, 1982 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE GALLUP HIGH SCHOOL ADDITION AS SHOWN ON THE ANNEXATION PLAT OF NEW GALLUP HIGH SCHOOL ADDITION TO THE CITY OF GALLUP, NEW MEXICO, FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON SEPTEMBER 11, 1963, THENCE N01°58'51"E, 514.28' TO A POINT, THENCE N63°49'51"W, 1150.94' TO A POINT,

THENCE S47°13'08"W, 367.60', THENCE S15°30'01"E, 168.77' TO THE REAL POINT OF BEGINNING:

THENCE S16°33'55"E, 333.14' TO A POINT;

THENCE S23°09'33"W, 170.39' TO A POINT;

THENCE N35°50'27"W, 230.00' TO A POINT;

THENCE S86°09'33"W, 185.00' TO A POINT;

THENCE N03°50'27"W, 30.00' TO A POINT;

THENCE N47°09'33"E, 400.00' TO THE REAL POINT OF BEGINNING.

CONTAINING 1.7976 AC.

B. DESCRIPTION OF TRANSFER TRACT 4 (0.7014 ACRE TRANSFER TO THE CITY)

A PORTION OF LAND WITHIN TRACT 1-A-1 OF REPLAT No.1 OF LOT 2, WOODARD SUBDIVISION UNIT #1 AS THE SAME IS SHOWN ON THE PLAT OF SAID SUBDIVISION FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON AUGUST 23, 1972 AND TRACT 1-A, GOLF COURSE SUBDIVISION UNIT 2 AS THE SAME IS SHOWN ON THE PLAT OF SAID SUBDIVISION FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON JULY 22, 1996, D-98, GALLUP, MCKINLEY COUNTY, NEW MEXICO, AS SHOWN ON THE AMENDED PLAT RECORDED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY ON JULY 03, 2018, DOC# 385404 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE GALLUP HIGH SCHOOL ADDITION AS SHOWN ON THE ANNEXATION PLAT OF NEW GALLUP HIGH SCHOOL ADDITION TO THE CITY OF GALLUP, NEW MEXICO, FILED IN THE OFFICE OF THE CLERK OF MCKINLEY COUNTY, NEW MEXICO ON SEPTEMBER 11, 1963, THENCE N01°58'51"E, 514.28' TO A POINT, THENCE N63°49'51"W, 1150.94' TO A POINT, THENCE S47°13'08"W, 367.60', THENCE S15°30'01"E, 168.77' TO A POINT,

THENCE S16°33'55"E, 333.14' TO A POINT, THENCE S23°09'33"W, 170.39' THE REAL POINT OF BEGINNING:

THENCE S23°09'33"W, 210.0' TO A POINT;

THENCE S73°39'33"W, 160.00' TO A POINT;

THENCE N66°50'27"W, 125.00' TO A POINT;

THENCE N89°38'21"W, 120.29' TO A POINT;

THENCE N21°16'44"W, 142.31' TO A POINT;

THENCE S66°50'27"E, 361.37' TO A POINT;

THENCE N73°39'33"E, 90.22' TO A POINT;

THENCE N23°09'33"E, 216.21' TO A POINT;

THENCE S35°50'27"E, 32.67' TO THE REAL POINT OF ENDING.
CONTAINING 0.7014 ACRES, MORE OR LESS.

3. **GHIC Release of City.** GHIC releases the City from any and all claims it may have against the City for the unauthorized use of Transfer Tracts 1 and 4.

4. **Closing.** The consummation of the transactions described in this Agreement will take place within fifteen (15) days after the Effective Date (the "Closing Date"). The following items will be delivered on or before the Closing Date: The City shall deliver to GHIC the Special Warranty Deeds for Transfer Tracts 1 and 4. GHIC shall deliver to the City the Special Warranty Deeds for Transfer Tracts 2 and 3.
As soon as possible in the ordinary course of business after the Closing, the Grantee in each of the above described transactions shall have the Special Warranty recorded at the McKinley County Clerk's Office.

4. **Recording Fees and Property Taxes.** The grantee each of the above described transactions shall be responsible for paying the recording fees. Real estate taxes will be paid by the party responsible for payment to the McKinley County Assessor as of the Closing Date (with the party to whom the property is being conveyed being deemed to own the subject property on the Closing Date).

5. **Default and Remedies.** The sole and exclusive remedy of each party under this Agreement for a default by the other party under this Agreement shall be to seek specific performance of this Agreement.

6. **Miscellaneous.**
 - A. **Assignment.** Neither party may assign its rights under this Agreement without obtaining the prior written consent of the other party.
 - B. **Entire Agreement.** This Agreement and the exhibits attached hereto constitute the entire agreement between the parties hereto. The parties agree that there are no other covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them concerning the properties which are the subject of this Agreement other than those herein set forth, and that no subsequent alteration, amendment, change, deletion or addition to this Agreement will be binding upon the parties unless in writing and signed by both parties.
 - C. **Applicable Law; Venue.** This Agreement will be construed under and in accordance with the internal laws of the State of New Mexico without regard to principles of conflicts of laws. Venue for any action concerning or related to this Agreement shall be in the state or federal courts serving the County of McKinley in the State of New Mexico.

D. Attorneys' Fees. In the event any legal action or other proceeding is brought for the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and expenses and costs of court incurred in addition to any other relief to which such party may be entitled. Attorneys' fees and expenses shall include, without limitation, paralegal fees, investigative fees, expert witness fees, administrative costs, all New Mexico gross receipts taxes applicable to same, and all other reasonable charges billed by the attorneys' to the prevailing party.

IN WITNESS WHEREOF the parties hereto have set their hand.

The City:

CITY OF GALLUP,
a New Mexico municipal corporation

Jackie D. McKinney, Mayor

ATTEST:

Alfred Abeita II, City Clerk

GHIC:

GALLUP HOLDING AND INVESTMENT CORP.,
a New Mexico domestic corporation

Rick Murphy, President

State of New Mexico

County of McKinley

The foregoing was acknowledged before me this ____ day of _____, 2020 by Rick Murphy, President of Gallup Holding and Investment Corporation.

NOTARY PUBLIC

My commission expires: _____