



AGENDA

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
JULY 01, 2020
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR QUALITY OF LIFE COMMITTEE MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, the Quality of Life Committee meeting will be conducted virtually.

Viewing: Members of the public may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. The YouTube live stream can be accessed at this address from most smartphones, tablets, or computers.

The video recording of this meeting will also remain available for viewing at any time on the City's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. Staff is available to help members of the public access pre-recorded meetings on-line at any time during normal business hours. Please call 955-6521 for assistance.

Agenda: The agenda and packet for the meeting will be posted at santafe.primegov.com/portal/search.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF CONSENT AGENDA**
5. **APPROVAL OF MINUTES**

Approval of June 17th, 2020 Quality of Life Committee Meeting Minutes

6. **CONSENT AGENDA**
 - a. Request for the Approval of the State of New Mexico Children, Youth and Families Department (CYFD) - Alternative to Detention Grant in the Total Amount of \$345,324.00 for Alternative to Detention Services in the City of Santa Fe Contracts. (George Carrasco, gccarrasco@santafenm.gov; (505) 490-6330)

Committee Review:

Finance Committee (scheduled): June 29

Governing Body (scheduled): July 8



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- b. Request for the Approval of the Children and Youth Commission funding recommendations in the Total Amount of \$2,700,000.00 for Professional Services Contracts. (George Carrasco: gccarrasco@santafenm.gov, (505) 490-6330)

Committee Review:

Finance Committee (scheduled): June 29

Governing Body (scheduled): July 8

- c. Request approval of contracts awarded through RFP 20/15 to use affordable housing trust funds (AHTF) and general funds to support housing contracts, as follows:

NMIF Housing Corp \$200,000

SF Civic Housing Authority (Calle Resolana) \$200,000

SF Civic Housing Authority (Country Club) \$140,000

SF Habitat \$80,000

SF Recovery Center \$50,000

Youth Works \$40,000

NM Coalition To End Homelessness \$180,000

SFPS – Adelante - \$60,000

(Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov, 505-303-9868)

Committee Review:

Finance Committee (scheduled): June 29

Governing Body (scheduled): July 8

- d. Request for the Approval of a restated and amended Joint Powers Agreement establishing the Regional Coalition of Los Alamos National Laboratories (LANL) Communities by and among the incorporated County of Los Alamos, the City of Santa Fe, Santa Fe County, the City of Espanola, Rio Arriba County, the Town of Taos, Taos County, and the sovereign governments of the Pueblo of Ohkay Owingeh and the Pueblo of Jemez. (Kyle Mason, Emergency Management Director: kamason@santafenm.gov, 505-955-6704)

Committee Review:

Finance Committee (scheduled): July 20

Governing Body (scheduled): July 29



AGENDA

REGULAR MEETING OF
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- e. Consideration of Bill No. 2020-__: An Ordinance Amending Section 14-11.4 Of The Land Development Code To Adopt Civil Penalty Provisions, A Civil Fine Schedule, And Civil Citation Procedures For Land Use Code Enforcement Actions; And To Permit The Land Use Director To Order A One-Year Waiting Period For Application For Short-Term Rental Permit By A Person Who Has Violated The Short-Term Rental Ordinance, Section 14-6.2(A)(5) SFCC 1987. (Mayor Webber, Councilors Lindell, Romero-Wirth, Villarreal) (Eli Isaacson, Land Use Department Director, eisaacson@santafenm.gov, 955-6830) (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

Committee Review: Planning Commission (postponed): 6/18/20

Public Works and Utilities Committee (scheduled): 7/6/20

City Council (request to publish) (scheduled): 7/8/20

Finance Committee (scheduled): 7/13/20

City Council (public hearing) (scheduled): 8/12/20

- f. Bill No. 2020-__ ; An Ordinance Amending Section 10-9 SFCC 1987; Amending Section 10-9.2 To Align The Intent With The Purpose Of The Bill; Amending Section 10-9.3 To Amend And Add Definitions; Amending Section 10-9.4 To Make The Property Owner Responsible; Repealing And Readopting A New Section 10-9.5 To Establish A Process For A Nuisance Investigation And Abatement Process; Repealing And Readopting A New Section 10-9.6 To Establish Tenants Rights; Amending Section 10-9.7 To Establish Enforcement Provisions To Hold The Property Owner Accountable; Amending Section 10-9.8 Regarding Reseration Of Legal Options; Amending Section 10-9.9 Regarding Appeals; Amending Section 10-9.10 To Remove Extraneous Language; Repealing Section 10-9.11 Regarding Supplementary Remedies For Public Nuisances; And Amending Section 10-9.13 Regarding The Right Of Entry. (Councilors Lindell, Villarreal, Romero-Wirth, Vigil Coppler) (Michael Prinz, Assistant City Attorney, mnprinz@santafenm.gov, 955-6554; Jennifer Faubion, Council Liaison, jrfaubion@santafenm.gov, 699-6386)

Committee Review:

Public Works and Utilities Committee (scheduled): 7/6/20

City Council (request to publish) (scheduled): 7/8/20

Finance Committee (scheduled): 7/13/20

City Council (public hearing) (scheduled): 7/29/20



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7. **PRESENTATIONS**

- a. Presentation Regarding the Santa Fe Police Department's Existing Policies on Use of Choke Holds, Duty to Intervene, and Duty to Administer First Aid. (Chief Andrew Padilla, Santa Fe Police Department) (Informational Only)

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**

10. **MATTERS FROM THE CHAIR**

11. **NEXT MEETING: July 15, 2020**

12. **ADJOURN**

City of Santa Fe, NM
Regular Committee
Wednesday, June 17, 2020
05:00 PM – Quality of Life Committee
Virtual - youtube.com/cityofsantafe

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF AGENDA

4. APPROVAL OF CONSENT AGENDA

5. APPROVAL OF MINUTES FROM THE JUNE 3, 2020 QUALITY OF LIFE COMMITTEE MEETING

June 3, 2020 Quality of Life Committee Minutes
06-03-20 Minutes.pdf

6. CONSENT AGENDA

a. Request for the Approval of Using CARES Act Funding (\$361,227) Provided by HUD to Partially Fund Operations at the Midtown Shelter Requiring Three (3) Approvals (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov; 505-303-9868):

1. Amendment to the 2019 Annual Action Plan to increase CDBG resources by \$361,227 via CARES Act funding provided by HUD

2. Budget Adjustment Request (BAR) to increase revenues in 2402750.490520 (CDBG) by \$361,227 and move funds to expenditures (2402750.510400).

3. Approval of a Professional Services Agreement + Project Budget in the total amount of \$361,227 of CARES Act funds for providing oversight and management of the Midtown Shelter; New Mexico Coalition to End Homelessness.

Item a

b. Consideration of Resolution No. 2020-__ : A Resolution to Re-Establish the Santa Fe Water Conservation Committee. (Councilors Romero-Wirth and Abeyta) (Christine Chavez, Water Conservation Manager, cychavez@santafenm.gov, 955-4219).

Committee Review:

Public Works and Utilities Committee (approved): 6/8/20

City Council (scheduled): 6/24/20

Item b

c. Consideration of Bill #2020-14: An Ordinance Amending Section 23-6.2 SFCC 1987 to Allow Licensed Establishments That Have Obtained an Obstruction Permit From the City and a Temporary Change/Expansion of Liquor License Premises From the New Mexico Alcoholic Beverage Control Division to Serve Alcohol on City Sidewalks, Streets, Rights-of-Way, or Other Property That Has Been Specifically Authorized for Temporary use Due to the COVID-19 Public Health Emergency; and Establishing an Effective Date as the Date of Bill Adoption.

(Mayor Webber) (Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov, 955-6209; John Romero, Acting Public Works Director, jromero1@santafenm.gov, 955-6638)

Committee Review:

City Council (request to publish) (approved)	6/10/20
Public Works and Utilities Committee (scheduled)	6/22/20
City Council (public hearing) (scheduled)	6/24/20

Item c

d. Consideration of Resolution No. 2020-__ : A Resolution Supporting the Closure of West San Francisco Street and Establishing a Framework for the Closure of Other Streets to Vehicular Traffic for a Certain Period During 2020. (Mayor Webber) (John Romero, Acting Public Works Director, jromero1@santafenm.gov, 955-6638; Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov, 955-6209)

Committee Review:

Public Works and Utilities Committee (scheduled): 6/22/20
City Council (scheduled): 6/24/20

Item d

e. Request for Approval of Amendments to extend the Term of Performance on four (4) Housing Contracts through June 30, 2021 (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov; 505-303-9868):

1. Amendment #1 to Mortgage Principal Reduction Contracts
 - a. Habitat for Humanity – (AHTF) – Contract amount \$80,000 (current balance is \$40,000)
 - b. Housing Trust – (AHTF) – contract amount \$157,500 (Current balance - \$76,000)
 - c. Homewise (CDBG) – Contract amount \$188,000 (Current balance - \$163,308.61)
2. Amendment #4 to Home Repair Contract
 - a. Homewise Home Repair (CDBG) – Contract amount \$ 75,000 (Current balance - \$ 25,716.44)

Item e 1.pdf

Item e 2.pdf

7. THE IMMIGRANT COMMUNITY AND COVID-19. (MARCELA DIAZ, EXECUTIVE DIRECTOR OF SOMOS UN PUEBLO UNIDO) (INFORMATIONAL ONLY)

8. MATTERS FROM STAFF

9. MATTERS FROM THE COMMITTEE

10. MATTERS FROM THE CHAIR - Next meeting: July 1, 2020

11. ADJOURN

**SUMMARY OF ACTION
QUALITY OF LIFE COMMITTEE MEETING
WEDNESDAY, June 17, 2020 – 5:00 PM**

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
1.CALL TO ORDER	The meeting of the Quality of Life Committee was called to order at 5:00 pm by Chair Romero-Wirth via virtual meeting (https://www.youtube.com/user/cityofsantafe) Wednesday June 3, 2020.	1
2.ROLL CALL	A quorum was established with roll call.	1
3.APPROVAL OF AMENDED AGENDA	Approved	1-2
4.APPROVAL OF CONSENT AGENDA	Approved	2-3
5. APPROVAL OF MINUTES FROM June 3, 2020 QUALITY OF LIFE COMMITTEE MEETING	Approved	4
6. CONSENT – ACTION CALENDAR a. Request for the Approval of Using CARES Act Funding (\$361,227) Provided by HUD to Partially Fund Operations at the Midtown Shelter Requiring Three (3) Approvals (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov ; 505-303-9868): 1. Amendment to the 2019 Annual Action Plan to increase CDBG resources by \$361,227 via CARES Act funding provided by HUD 2. Budget Adjustment Request (BAR) to increase revenues in 2402750.490520 (CDBG) by \$361,227 and move funds to expenditures (2402750.510400). 3. Approval of a Professional Services Agreement + Project Budget in the total amount of \$361,227 of CARES Act funds for providing oversight and management of the Midtown Shelter; New Mexico Coalition to End Homelessness.	Approved	4-5
b. Consideration of Resolution No. 2020-__ : A Resolution to Re-Establish the Santa Fe Water Conservation Committee. (Councilors Romero-Wirth and Abeyta) (Christine Chavez, Water Conservation Manager, cychavez@santafenm.gov , 955-4219).	Approved	5-6
c. Consideration of Bill #2020-14: An Ordinance Amending Section 23-6.2 SFCC 1987 to Allow	Approved	6

<p>Licensed Establishments That Have Obtained an Obstruction Permit From the City and a Temporary Change/Expansion of Liquor License Premises From the New Mexico Alcoholic Beverage Control Division to Serve Alcohol on City Sidewalks, Streets, Rights-of-Way, or Other Property That Has Been Specifically Authorized for Temporary use Due to the COVID-19 Public Health Emergency; and Establishing an Effective Date as the Date of Bill Adoption. (Mayor Webber) (Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov , 955-6209; John Romero, Acting Public Works Director, jjromero1@santafenm.gov , 955-6638)</p>		
<p>d. Consideration of Resolution No. 2020-__ : A Resolution Supporting the Closure of West San Francisco Street and Establishing a Framework for the Closure of Other Streets to Vehicular Traffic for a Certain Period During 2020. (Mayor Webber) (John Romero, Acting Public Works Director, jjromero1@santafenm.gov, 955-6638; Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov , 955-6209)</p>	<p>Approved</p>	<p>6-13</p>
<p>e. Request for Approval of Amendments to extend the Term of Performance on four (4) Housing Contracts through June 30, 2021 (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov ; 505-303-9868):</p>	<p>Approved on Consent</p>	<p>13-14</p>
<p>1. Amendment #1 to Mortgage Principal Reduction Contracts</p> <p>a. Habitat for Humanity – (AHTF) – Contract amount \$80,000 (current balance is \$40,000)</p> <p>b. Housing Trust – (AHTF) – contract amount \$157,500 (Current balance - \$76,000)</p> <p>c. Homewise (CDBG) – Contract amount \$188,000 (Current balance - \$163,308.61)</p> <p>2. Amendment #4 to Home Repair Contract</p> <p>a. Homewise Home Repair (CDBG) – Contract amount \$ 75,000 (Current balance - \$ 25,716.44)</p>		

7. THE IMMIGRANT COMMUNITY AND COVID-19. (MARCELA DIAZ, EXECUTIVE DIRECTOR OF SOMOS UN PUEBLO UNIDO) (INFORMATIONAL ONLY)	Discussion	14-16
9. MATTERS FROM STAFF	None	16
10. MATTERS FROM THE COMMITTEE	Discussion	16
11. MATTERS FROM THE CHAIR	None	16
12. NEXT MEETING: WEDNESDAY, JULY 1, 2020		16
13. ADJOURN	With all business complete, the Quality of Life Committee adjourned at 7:55 p.m.	17

**MINUTES OF THE QUALITY OF LIFE COMMITTEE MEETING
WEDNESDAY JUNE 17, 2020 – 5:00 PM
VIRTUALLY ATTENDED (<https://www.youtube.com/user/cityofsantafe>)**

1. CALL TO ORDER

The meeting of the Quality of Life Committee was called to order at 5:02 pm by Chair Romero-Wirth via virtual meeting (<https://www.youtube.com/user/cityofsantafe>) Wednesday June 17, 2020.

2. ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

Councilor Carol Romero-Wirth, Chair
Councilor Christopher Rivera
Councilor Jamie Cassutt-Sanchez
Councilor Renee Villarreal
Councilor Michael Garcia

Members Absent:

Others Present:

Councilor Singe Lindell
Christine Chavez, Water Conservation
Jennifer Faubion, Council Liaison
Alexandra Ladd, Director of Affordable Housing
John Romero, Acting Public Works Director
Randy Randall, Director of Tourism
Marcella Diaz, Somos Un Pueblo Unidos
Linda Vigil, Stenographer

NOTE: All items in the Committee packet for all agenda items are incorporated herewith to these minutes by reference. The original Committee packet is on file on the City of Santa Fe Website.

3. APPROVAL OF AMENDED AGENDA

Councilor Villarreal would like to postpone item 6d because it was improperly noticed. The revised Resolution was uploaded yesterday to the web and packet material, but the caption is not the topic they will discuss specifically. She does not feel 24 hours is enough time for the public to review. This topic has had curiosity and emotion.

Chair Romero-Wirth explained she spoke to the City Clerk and the City Attorney. The only thing required by the Open Meetings Act is that they caption they will be discussing 72 hours in advance.

The City Clerk states the caption on the agenda was published well in advance. The caption has changed a bit. The first caption mentions the closing of San Francisco and created a structure for other street closures. The one in front of them takes away the naming of a particular street. It has not changed, it is narrowed. They have done things according to the rules.

Councilor Villarreal appreciates it being reviewed with legal, however it still doesn't feel it captures the item they are actually hearing tonight. The new caption mentions streets generally and does not reflect that. She will still move to remove it due to personal postponement. There are opportunities to review it next week.

Chair Romero-Wirth states because it doesn't say St. Francisco Street it can still be named under the guidelines of the Resolution. It was noticed to the public.

MOTION: Councilor Villarreal moved to approve the agenda as amended with a second from Councilor Garcia for discussion purposes.

Councilor Garcia agrees with the concerns of getting the packet information late. It is unacceptable especially on a case when constituents express concern. It is not out of compliance but it sets a dangerous precedent. There are challenges but to send the Resolution within 24 hours is unacceptable.

Councilor Cassutt-Sanchez asked if the caption they have now is the one posted on Thursday.

Chair Romero-Wirth states it is the one on the agenda:

Consideration of Resolution No. 2020-__ : A Resolution Supporting the Closure of West San Francisco Street and Establishing a Framework for the Closure of Other Streets to Vehicular Traffic for a Certain Period During 2020.

Chair Romero-Wirth states the title on what they have is:

Consideration of Resolution No. 2020-__ : A Resolution Establishing a Framework for the Closure of Other Streets to Vehicular Traffic for a Certain Period During 2020.

Again, she spoke to the City Attorney's Office and essentially, they said they would be talking about green and blue, which was placed and noticed. Green may still happen but they will focus on blue. She understands that the packets were late, they are all under pressure. They got it last night, it took maybe ten minutes to read. That is all that is required there are some municipalities that do not pass out packets until the day of the meeting.

Councilor Cassutt-Sanchez shares the frustration. It would be nice to allow the public to review it in advance.

Chair Romero-Wirth states it is not a public hearing they can get some clarity. Staff is present and can provide more information about the Resolution.

Councilor Rivera states if San Francisco can be included, then why remove it. Was there a reason?

Chair Romero-Wirth did not get into it she was focused on the caption and what the actual Resolution says.

Councilor Rivera states this is how it was introduced and created frustration. Why the change, certain people will assume that it will be discussed tonight.

Chair Romero-Wirth explained it could still be closed but it is one of many of streets to be closed if they meet the guidelines.

Mr. Guillen explained what was introduced is subject to change he understands the public's concern. There was not a final version. Once they had it, it was more general and not particular to any street.

Councilor Rivera understands Councilor Villarreal's motion but he would rather discuss it before it goes to Public Works and City Council. He would like to be able to give some input.

Councilor Villarreal explains the Chair stated they are all trying to do many things right now, therefore they should take the time to do things well. They can extend it to make the right decisions. She wants to be able to have more transparency. They need to do it right for the public and the business owners.

Chair Romero-Wirth explained they have done nothing wrong.

Councilor Rivera asked if this will postpone it until the next meeting or just this meeting and it continues on its track?

Councilor Villarreal states it would be generally until the next meeting but there is a self-imposed period. It can go through Public Works and they can have discussions on Wednesday at the Council meeting.

Councilor Rivera how do they voice their concerns if they move it forward. They could move it forward as is without any direction or input.

Chair Romero-Wirth stated they have noted before if they postpone it, they waive their right to give input. If approved, it moves forward. They were in compliance with the Open Meetings Act.

Councilor Rivera has concerns would like his concerns addressed before it goes to Public Works.

ROLL CALL VOTE: Councilors Villarreal and Garcia voted in favor to remove the item, which did not pass. Councilors Rivera, Cassutt-Sanchez and Chair Romero-Wirth voted against the removal, which passed.

MOTION: Councilor Cassutt-Sanchez moved to approve the agenda with a second from Councilor Rivera.

ROLL CALL VOTE: Councilors Cassutt-Sanchez, Rivera, Garcia and Chair Romero-Wirth voted in favor, which passed. Councilor Villarreal voted against, which did not pass.

4. APPROVAL OF CONSENT AGENDA

All items were pulled for discussion with the exception of Item 6 e.

MOTION: Councilor Rivera moved to approve the consent agenda with a second from Councilor Villarreal.

ROLL CALL VOTE: Councilors Rivera, Garcia, Cassutt-Sanchez, Villarreal and Chair Romero-Wirth voted in favor, which passed.

5. APPROVAL OF MINUTES FROM THE JUNE 3, 2020 QUALITY OF LIFE COMMITTEE MEETING

MOTION: Councilor Cassutt-Sanchez moved to approve the minutes of June 3, 2020 with a second from Councilor Garcia.

ROLL CALL VOTE: Councilors Rivera, Garcia, Cassutt-Sanchez, Villarreal and Chair Romero-Wirth voted in favor, which passed.

6. CONSENT AGENDA

a. Request for the Approval of Using CARES Act Funding (\$361,227) Provided by HUD to Partially Fund Operations at the Midtown Shelter Requiring Three (3) Approvals (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov ; 505-303-9868):

1. Amendment to the 2019 Annual Action Plan to increase CDBG resources by \$361,227 via CARES Act funding provided by HUD

2. Budget Adjustment Request (BAR) to increase revenues in 2402750.490520 (CDBG) by \$361,227 and move funds to expenditures (2402750.510400).

3. Approval of a Professional Services Agreement + Project Budget in the total amount of \$361,227 of CARES Act funds for providing oversight and management of the Midtown Shelter; New Mexico Coalition to End Homelessness.

Ms. Ladd can provide a presentation if needed.

Councilor Garcia did not think a presentation was necessary. On page 42 of the action plan there is an end date of June 20, 2021. Is that when the homeless shelter services will cease at midtown.

Ms. Ladd explained that is the contracting end date, they want it in place for the duration of the year. They plan to help beyond the shelter the six months they can partially fund it for six months. Ms. Ladd states Ms. Wheeler is also here to answer any budget questions.

Councilor Garcia asked with this the transition they should be out by the end of the calendar year.

Ms. Ladd explained they would have spent it all. They are not sure what it will look like in six months. However, the coalition stepped in there is a timeframe to be able to look at what they will need. The shelter showed them they can help and their lives were changed. About 120 people have gone through the shelter. They did not have to be safe while on the crowded streets. If anything, they have been talking to the collaborators like the County, NMDOH, and Christus. Prior to having this, if someone had to leave the hospital they were released not being fully recovered. They are working toward a collaborative solutions so that at the end of the six month the City wont be operating it. It can be a long term solution to people who are in housing situations.

Councilor Garcia asked about the proposed budget regarding the support from the City, will they be hiring staff. The proposed classified, as front desk are they going to be new hires or current employees that transition.

Ms. Ladd explained they would be new employees. This would expand their capacity.

Ms. Wheeler explained the grant will allow new hires, the front desk staff will be City employees whose jobs are on pause for now.

Councilor Garcia thanked them for the clarification.

MOTION: Councilor Garcia moved to approve the request with a second from Councilor Villarreal.

ROLL CALL VOTE: Councilors Rivera, Garcia, Cassutt-Sanchez, Villarreal and Chair Romero-Wirth voted in favor, which passed.

b. Consideration of Resolution No. 2020-__ : A Resolution to Re-Establish the Santa Fe Water Conservation Committee. (Councilors Romero-Wirth and Abeyta) (Christine Chavez, Water Conservation Manager, cychavez@santafenm.gov , 955-4219).

Councilor Villarreal asked if there is an active Conservation Committee.

Chair Romero-Wirth explained there are several Resolutions in place that govern it. It gets complicated. It was created in 2002 and there changes up to 2016. They want to make it one Resolution and allow three 2-year terms. Now, there are too many members that come off terms and it really is difficult to fill those positions. They want more longevity and time to search for them.

Councilor Villarreal asked how all the Resolutions are different.

Chair Romero-Wirth explained they all ask the Committee to do more. You would have to review all the Resolutions it would be best to consolidate them.

Ms. Chavez states the experience and term limits changed.

MOTION: Councilor Villarreal moved to approve with a second from Councilor Cassutt-Sanchez.

ROLL CALL VOTE: Councilors, Rivera, Garcia, Cassutt-Sanchez, Villarreal and Romero-Wirth voted in favor, which passed.

c. Consideration of Bill #2020-14: An Ordinance Amending Section 23-6.2 SFCC 1987 to Allow Licensed Establishments That Have Obtained an Obstruction Permit From the City and a Temporary Change/Expansion of Liquor License Premises From the New Mexico Alcoholic Beverage Control Division to Serve Alcohol on City Sidewalks, Streets, Rights-of-Way, or Other Property That Has Been Specifically Authorized for Temporary use Due to the COVID-19 Public Health Emergency; and Establishing an Effective Date as the Date of Bill Adoption. (Mayor Webber) (Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov , 955-6209; John Romero, Acting Public Works Director, jjromero1@santafenm.gov , 955-6638)

Councilor Villarreal asked if this is contingent to the other Resolution.

Mr. Randall explained that it applies to the current restaurants that can use the park lets and sidewalks. This is important to the restaurants to use the sidewalk and parklets to expand their floorplan.

Councilor Villarreal asked Mr. Randall to discuss the approval of sidewalks an parklets and parking spaces as being allowed now.

Mr. Randall explained it is approved through an obstruction permit at Public Works. The parklets are the use of the parking spaces in front of the facility.

Councilor Villarreal wanted the public to be aware of that.

MOTION: Councilor Cassutt-Sanchez moved to approve with a second from Councilor Garcia.

ROLL CALL VOTE: Councilors Rivera, Garcia, Cassutt-Sanchez, Villarreal and Chair Romero-Wirth voted in favor, which passed.

d. Consideration of Resolution No. 2020-__ : A Resolution Supporting the Closure of West San Francisco Street and Establishing a Framework for the Closure of Other Streets to Vehicular Traffic for a Certain Period During 2020. (Mayor Webber) (John Romero, Acting Public Works Director, jjromero1@santafenm.gov , 955-6638; Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov , 955-6209)

Chair Romero-Wirth asked Mr. Brown to discuss the introduction.

Mr. Brown explained the idea has ignited curiosity, frustration and fervent opposition. They want to create economic opportunities for businesses, restaurants and merchants. Their intention is to

create a nimble framework for street closures. To help bring some vibrancy after people have been sheltering in place for so long. Right now they can only work at 50% capacity.

They have been adhering to the State Health Order. They have been handing out 30,000 face coverings at the visitor centers and food distribution centers. They want to offer regular efficiencies to benefit the community. They want to offer regulatory efficiency to create an outdoor experience. They are open to any other ideas for street closures.

Councilor Rivera asked if the Resolution is open to any business not just restaurants.

Mr. Randall stated that is correct.

Councilor Rivera asked if any business on any street would apply, could they close the whole area potentially.

Mr. Randall states that is why Public Works is involved. To ensure that traffic continues, the intent is not to create major interference. The consideration for this Resolution would be

Councilor Rivera stated there was a petition from the businesses on San Francisco.

Mr. Randall states they were on individual sheets and he will make sure they get a copy.

Councilor Rivera asked which streets are to be closed?

Mr. Romero states they will not allow it on any arterials or connectors. It is a case-by-case scenario engineering judgement. They will coordinate with the Santa Fe Fire Department to make sure it will not affect their response time. Those areas they look to keep open are the arterials and connectors.

Councilor Rivera stated they have had emails on Don Gaspar and Shelby, how would they decide.

Mr. Romero explained from the traffic operational standpoint there isn't a lot of property to access those streets with the exception on the First National Bank. They have another entrance on another street. The areas that utilize West San Francisco are La Fonda and the Cathedral there are other reasonable routes. Water Street would be more difficult to close. There is a parking lot and access points. That would cause them to leave Water street open for access.

Councilor Rivera asked which businesses get to thrive and the others that need to stick to what they are doing.

Mr. Romero states that is the unfortunate thing, it is in their job description. They issue obstruction permits even exclusive of all this discussion and they have to make those decisions on a daily basis. They are used for construction etc. they exercise consistency if they approve one area and not another. They will be able to explain why one got it and one didn't.

Councilor Rivera gave the example of Whole Hog on Guadalupe Street who does not have a patio, they could petition and potentially get the approvals? That street may be considered an arterial?

Mr. Romero explained that is an arterial they would deny that full closure or partial use of the right of way they would allow the parklet to be used. That potential may not be feasible but closing the road may not be feasible.

Councilor Rivera asked if the requests can come from anywhere in the City?

Mr. Romero states yes they are open to reviewing this.

Councilor Rivera asked if this would include home businesses.

Mr. Romero has not considered it, if it is a business he would have to review with land use.

Councilor Rivera asked if this passed would Mr. Romero be the final authority.

Mr. Romero stated after The Fire Department, Land Use and the property owners he would be the final approval.

Councilor Rivera asked if applied for and approved there would be no public hearing.

Mr. Romero stated that is correct.

Councilor Rivera wanted to state for the record if San Francisco was to close Don Gaspar he would want them to open Palace to give people an opportunity to drive close and have the Sandoval Garage have parking free if they decide to do that.

Councilor Garcia asked about cruise nights. Are there dates established?

Mr. Randall states there are not any specific dates yet.

Councilor Garcia states with a proposal like this there is opportunity and they have to do it right. How do they look at it strategically, and the what is the best impact on the surrounding businesses. They have received many emails on Don Gaspar.

Councilor Garcia states the focus is not San Francisco but it is still possible he likes Councilor Rivera's idea of opening Palace. Then there are concerns. Is San Francisco not a major artery he thinks it gets the most traffic. Has there been a study?

Mr. Romero states he would have to review the count maps with MPO. It is not based on volume but purpose and need. Mr. Romero gave the example of an arterial and secondary streets. In the downtown area the arterials would be Guadalupe, Paseo de Peralta, and Sandoval.

Councilor Garcia do they know the most travelled streets downtown.

Mr. Romero states he will find that information while they continue for the sake of time.

Councilor Garcia states he would rather look to close streets with the less vehicle traffic. He wants to ensure they are working the local businesses. However, the local businesses have to understand that those roads are highly used. How is business now due to the Governor's orders. He would like see if there are capacity issues. He has not seen long lines, they are not policing the capacity or there isn't an issue. He understands they want to open up for possible outdoor dining. He wants them to move forward and not cause disruption and making it beneficial. He states they will need to have systems in place. At the end of the day if they move it forward he wants it to be successful without more challenges. Should San Francisco be the highest travelled street he would like an exception to remove it from the Resolution. Those highly travelled streets should be granted exceptions.

Mr. Randall states they want to help add to the floor plan and add an outdoor environment. Outdoor dining is more popular, people are reluctant to eat indoors. Some hotels were filled to the 50% this last weekend. During the week they are running between 10-20%. The retail has a flow. If the restaurant wants to extend their alcohol service, the space has to be contiguous to their property. The proposed closure is temporary. This would all go away after October 31, 2020. They would recognize the needs of the restaurants.

Mr. Randall is supportive of excluding any street. It should be written into the Resolution. The first business who came to him with concern was Pasqual's. He would like to know the concerns of the businesses on Don Gaspar. They got all the businesses on Don Gaspar to sign off on the petition. Pasqual's is a 27 year old business, and they could very well close from this.

Councilor Garcia asked how do they deal with potential leasing the street. If they are expanding the footprint do they charge for space on the street or curb? How do they foresee that.

Mr. Randall states it has been brought up by the restaurants. The 50% won't be lifted until the vaccines are out. Once they can use their full footprint but after they should be charged, it would be a revenue source. It is unfortunate they do not have a high concentrate of restaurants they are all scattered.

Councilor Garcia states they should consider this and amend it have it add once the 50% mandate expires then they can bring forth a new Resolution.

Mr. Randall maybe once the capacity is raised to 100% capacity. The whole idea is when they are back at full capacity this could sunset.

Chair Romero-Wirth read aloud a clause on page 3 that discusses the time frame, and the for be it resolved clause that mentions extending it. An amendment will need to be done to add 2020 to that clause or tie it to the Governor's orders.

Councilor Garcia explained page 2, line 16 could state determined by the City Manager.

Chair Romero-Wirth states in these Resolutions the rules should be spelled out in the for be it resolved sections.

Councilor Rivera states the whereas on page 2 is relative to the Resolution from 2014-49.

Chair Romero-Wirth states that is one, it was the People to the Plaza Resolution.

Mr. Romero found the counts, for the Lensic hotel development. On Sandoval there was 7,000 cars a day and on San Francisco Street it was 1,700 cars a day.

Councilor Cassutt-Sanchez asked Mr. Romero if a street wasn't an arterial or secondary it could be on the list for street closure. In the downtown area could they ever get to a point of a critical mass. If enough of the side streets decided to close would it affect traffic flow to the downtown area.

Mr. Romero states there is that potential the example of San Francisco Street and Water they could only close one or the other. Having them all closed, would be approaching critical mass.

Councilor Cassutt-Sanchez states as this moves through it would be useful to see what the streets are and what are impacting the flow. It would be interest to to see the streets what streets would be more beneficial. If they are closing a street that affects one or two business versus fifteen businesses.

Mr. Randall stated they would need the support of the businesses. There is some interest of closing Marcy between Marcy and Washington after 5 p.m. They would move furniture out in the street. Timely closing puts more on the restaurants to set up and tear down. If they are willing to do that, it would work. The Rufina area states they are missing the traffic from Meow Wolf. If they can close it they can attract people there.

Councilor Cassutt-Sanchez asked if the final approval would come from the City Manager or Council?

Mr. Romero explained he would be the ultimate approval to approve it. It would have passed through all committees. They are already in the summer city. As Rich Brown mentioned they are trying to make the process as nimble as they can. They can get real data traffic from this.

Mr. Randall states they have to make an investment of furniture for outdoor use. If they are making that investment it is important to give them the maximum amount of time to amortize that cost.

Councilor Cassutt-Sanchez hopes to bring back some jobs. Are there indications for them to open and summer is a lot of what they make for the year.

Mr. Randall knows the restaurateurs the ability to have outdoor will be more beneficial than indoor dining. Many stats think outdoor dining is safer than indoor dining. Expanding the outdoor floorplan will result in an increase traffic to the restaurants.

Mr. Brown states the small business that have applied for the small business loans have to employ their employees in order to get it. They really want to get them back to work. Many have changed the amount for operations.

Mr. Randall states the October date was aligned with the State recommendations for alcohol service.

Councilor Cassutt-Sanchez asked if they were to close San Francisco it would limit access to the plaza for ADA compliance. How will they address this?

Mr. Romero states as far as moving the spaces they would look at relocating them as when they have major festivals. If the roads are closed and they want to shop outside of the plaza where the sidewalks aren't in great shape they can use the roads to get around.

Councilor Cassutt-Sanchez asked about the history of cruise nights.

Councilor Rivera explained the community events were held in conjunction with the SFPD.

Chair Romero-Wirth printed the People to the Plaza Resolution and read aloud that related issue. They could still designate Cruise night, they could also designate part of the plaza to be open on those nights.

Councilor Cassutt-Sanchez states that analysis would be useful. The majority emails she has received are in favor of closing Don Gaspar and Shelby. However she agrees, they may not have violated the Open Meetings Act she wished there had been more time for people to see what has been considered. She has asked business owners. Overall they would need to look at it more. She is concerned with the restaurant employees. The outdoor idea would be helpful to their health. She would like to see more configurations.

Councilor Villarreal asked about the procedures for the public. She wants to be clear it wasn't about not considering any streets for closure. She has spoken to owners of restaurants the communication just dropped off with her on what is being considered. It puts her in a compromising position. She is open to the dialogue of the street. Streets were never part of the conversation. Don Gaspar and Shelby makes sense to close because they are narrow.

Councilor Villarreal didn't know about San Francisco street until she saw it in the newspaper. She has only heard from one business owner and hasn't seen the petition. They need to be correct. She is trusting staff when they look at streets. She wants to understand better how to keep the plaza accessible on one side and include that language. If they cannot stroll the plaza they should still be able to access the plaza. Who designates the cruise nights?

Mr. Randall states he has never heard of the committee for it.

Chair Romero-Wirth states this is another example of several Resolutions. Perhaps they may want to designate a person for that.

Councilor Villarreal asked what are the cruise times and how will they be established and which streets were temporarily closed. She feels the language should be changed and one street and where to place that, cruise days and times, they need language for the temporary basis and make it contingent on the Governor's Orders on occupancy. Will there be Handicap parking?

Mr. Romero states it depends on the closure itself. It is on a case by case basis. They will take that into consideration if they are relocating a stall.

Councilor Villarreal also wants the safety of the workers to be mentioned. The modifications for the businesses is going to be cost prohibited. She wants them to be transparent. An amendment is going to be challenging.

Chair Romero-Wirth asked Mr. Romero if the final authority he will have is going to be his capacity as Public Works Interim Director or as the Traffic Engineer?

Mr. Romero explained that currently all right of ways are through the engineering division. He is currently that designee. He has been delegated the authority.

Chair Romero-Wirth read aloud the Resolution as it is currently written and how the City shall apply the framework. Who will the burden be on the business or is that what the city will do?

Mr. Randall states it is on the businesses of those in favor of the closure.

Chair Romero-Wirth states the emergency response routes won't be affected, will Mr. Romero will head that up. Mr. Romero states that is correct.

Chair Romero-Wirth wants to make sure the deliveries and parking for businesses would also be in Mr. Romero's purview. Mr. Romero states that is also correct.

Chair Romero-Wirth asked how they define a major artery.

Mr. Romero defines an arterial or major collector per the MPO reclassification map.

Chair Romero-Wirth is San Francisco classified as one?

Mr. Romero states it is not.

Chair Romero-Wirth states she would hate for a business to have the burden of doing the work and then their streets be defined as an artery. If they can have an accessible list for them it would be helpful. She would want to make sure there is still a portion of the plaza open. Perhaps they have clear language that some access to the plaza should be required at all times.

Councilor Villarreal suggests they add as amendments in the next version.

Councilor Rivera asked if the Ordinance stipulates the reasons the permit can be issued. Mr. Romero will research as they continue discussions.

Councilor Rivera asked Mr. Randall if he had a sense from the owners, if the weather changes and a restaurant already had reservations for the outdoor seating or move them inside?

Mr. Randall states he has a sense that in Vail, it backs up into the restaurant. When that happens there is a lot of cancellations. At Osteria he has customers move upstairs.

Councilor Rivera asked about times for closure.

Mr. Randall explained they could have 10 am to 2 pm which would be beneficial. There are restaurants on both sides of San Francisco. They can utilize the designated fire lanes.

Councilor Rivera would like them to get a sense of that time. Then they can place that in the Resolution.

Mr. Romero read aloud the Chapter 23 related to road closures that is in the City Code. It directs them to the Public Works Department and authorizes the engineers to authorize closure.

Councilor Rivera asked if the permit is good for a certain amount of time. Mr. Romero states it doesn't dictate a time but the Department does. They allow reasonable construction times. Mr. Romero states the Resolution would establish a time limit.

Councilor Rivera asked that there be some communication with the restaurants who are only open in the morning, and they close the roads at 10 am. Will that give them time to benefit from this?

Mr. Randall explained the fire lane could prohibit them from selling alcohol. They made a requested that the fire lane be contiguous but that was not approved.

Councilor Rivera wants to assure they study the closures, Palace is a tricky intersection. There have been incidents there before.

Chair Romero-Wirth apologized to those waiting to present.

Councilor Cassutt-Sanchez wants to make sure the business owners extended outside need to be in compliance with the social distancing parameters and think about the space.

Chair Romero-Wirth asked Mr. Guillen where this Resolution goes next. Mr. Guillen states it goes to Public Works and then on to City Council.

Chair Romero-Wirth they are all in agreement of moving it on in concept and want to see changes listed. Or would they like to move it on with no action.

Councilor Cassutt-Sanchez states knowing it comes back and with the understanding they will see amendments.

Councilor Garcia explained in the motion they should include the recommendations in the changes. These are critical components that are moving it along.

Chair Romero-Wirth asked Mr. Guillen if he would numerate the changes or if he has an idea he can proceed with the new draft.

Councilor Garcia asked them to enumerate the changes in the motion.

Councilor Cassutt-Sanchez wants to approve items with amendments that Mr. Guillen has noted.

MOTION: Councilor Cassutt-Sanchez moved to approve the consideration of the Resolution to be amended with a second from Councilor Garcia. Mr. Guillen will make the following changes:

a clause to ensure at least one street remains open; that it be specific as to cruise dates and times and who designates those; it will not close a major artery or collector; the year 2020 be inserted after October 31; a clause for the importance of workers; there be an appropriate end time; there be specifications from business regarding their plot on the street and what it would look like

ROLL CALL VOTE: Councilors Cassutt-Sanchez, Garcia, Rivera and Romero-Wirth voted in favor, which passed. Councilor Villarreal abstained until the modifications can be reviewed.

e. Request for Approval of Amendments to extend the Term of Performance on four (4) Housing Contracts through June 30, 2021 (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov ; 505-303-9868):

1. Amendment #1 to Mortgage Principal Reduction Contracts

a. Habitat for Humanity – (AHTF) – Contract amount \$80,000 (current balance is \$40,000)

b. Housing Trust – (AHTF) – contract amount \$157,500 (Current balance - \$76,000)

c. Homewise (CDBG) – Contract amount \$188,000 (Current balance - \$163,308.61)

2. Amendment #4 to Home Repair Contract

a. Homewise Home Repair (CDBG) – Contract amount \$ 75,000 (Current balance - \$ 25,716.44)

This item was approved on consent.

7. THE IMMIGRANT COMMUNITY AND COVID-19. (MARCELA DIAZ, EXECUTIVE DIRECTOR OF SOMOS UN PUEBLO UNIDO) (INFORMATIONAL ONLY)

Ms. Diaz reminded the member that some presenters will be speaking Spanish. However, they can use the translator function. Ms. Marcella Diaz, Maria Reina Tercero, Maria Lara, Zulema Chavero, Jacqueline Rodriguez, Rayos Burciaga and Greta Barrita with Somos Un Pueblo Unido will present slides.

Ms. Tercero discussed the Somos Organization and the issues they work on. During COVID-19 they have been involved in wage theft, economic relief and health and safety.

Ms. Lara discussed the importance of the immigrant community in Santa Fe. Nearly 13 percent of the immigrants live in Santa Fe County. Most are members of the hospitality, restaurants, healthcare, home healthcare, landscaping, retail and construction. The majority of immigrants who have lived in Santa Fe are tax payers.

Ms. Diaz discussed the impact of COVID on the immigrant community. The impact of health, economic and the lack of the federal relief, the impact of essential workers, the accurate census count, the impact on families and children. COVID-19 has posed a problem with the mail to get the census out.

Jaqueline Rodriguez discussed the workers center at Somos. Many employers have had no access to unemployment for undocumented workers. Many do not qualify for the Federal stimulus check. The local resources are declining. The importance of the elected officials to know the immigration status of the workers who contribute to the economy.

Ms. Diaz explained the folks who have been contacting them are referrals from the SF Connect program. This is a great resource. The funding for rental assistance are drying up this is when they need to figure out the reserves.

Ms. Diaz discussed the taxes the immigrant community pays and yet the federal stimulus bypassed them. Santa Fe has a high concentrated amount of immigrants and this is going to be hard when they try to recover from this economic crisis. Ms. Diaz discussed the NM Voices for Children program that has data. A total of \$3,470,691 bypassed the City of Santa Fe.

Ms. Zulema Chavero discussed the survey about the challenges from essential workers. There is a lack of information on the testing, workers' rights and safety. There is wage theft and layoffs. Many of the workers are facing retaliation.

Ms. Greta Barrita discussed the challenges she her family faces. She has been in Santa Fe for 12 years. She has worked as a cook and now they have to work hard to catch up. Families like hers are unprotected. It is important to have good credit in this country. Her family are hard working in this hard situation her husband's hours were cut without explanation.

Ms. Rayos Burciaga discussed Somos response to the pandemic. They have had Facebook Live events with City and Community members. They have shared resources, and support for those who applied for unemployment. They have worked with the Governor's Office to distribute more information about testing.

Ms. Diaz discussed the free COVID testing with NMDOH. They do not have dates yet but will likely use school parking lots. Status will not be a factor. It is important for them to promote this to the immigrant community.

If anyone tests positive and hospitalization is needed, the State will find help for the cost and resources. Also, most essential workers do not know that the employers need to allow time off for isolation and recovery.

There will be another Facebook Live event on June 19, 2020 in conjunction with the NMDOH.

In conclusion, they need City allies to sign on to help cash assistance to mixed status families. They provide more information in Spanish. They would like more policies for essential workers.

Councilor Villarreal thanked them all for being here and letting them know what is going on in the community. Have the eviction issues have arisen because of the pandemic?

Ms. Diaz explained people are calling now saying they owe three months behind and they will start to see this more often. If they don't have a SSN there aren't any legal resources to help fight the evictions.

Councilor Villarreal is curious on the Resolution for the face covering requiring them to be worn. How is that affecting the workers. She wants to make sure to communicate that the employees need a break from it, it isn't feasible to wear it all day.

Ms. Diaz discussed grocery store ordinance requires breaks, the hand washing breaks that are not obligatory yet. Just like Ms. Chavero mentioned the workers they only rely on the employers direction.

Councilor Villarreal wants to know how the City can help.

Councilor Garcia thanked them all and appreciates the information.

Councilor Rivera thanked them. Are they requesting anything from the State during the special session, can the City help support them?

Ms. Diaz states they have identified a program and a proposal to use CARES Act money for cash assistance. The City could pass a Resolution with the administration showing the impacts.

Councilor Cassutt-Sanchez thanked them.

8. MATTERS FROM STAFF

None.

9. MATTERS FROM THE COMMITTEE

Councilor Rivera stated the Public Safety Committee hasn't been able to meet. Can they have the SFPD present at the next meeting. Chair Romero-Wirth would be open to that, they can work on that agenda item.

10. MATTERS FROM THE CHAIR

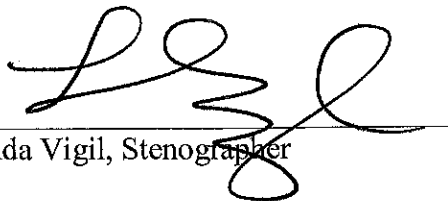
None.

11. NEXT MEETING: JULY 1, 2020

12. ADJOURN

With all business complete, the Quality of Life Committee adjourned at 7:55 p.m

Councilor Romero-Wirth Chair

A handwritten signature in black ink, appearing to read 'Linda Vigil', written over a horizontal line.

Linda Vigil, Stenographer

City of Santa Fe, New Mexico


memo

DATE: June 18, 2020

TO: Mayor Alan M. Webber and City Council

VIA:


Kyra R. Ochoa, Community Services Department Director

FROM: George C. Carrasco, Youth and Family Services Project Administrator 

ITEM AND ISSUE:

Approval of the State of New Mexico Children, Youth and Families Department (CYFD) agreement no. 21-690-3200-20846 in the amount of three hundred and forty-five thousand three hundred and twenty-four dollars (\$345,324.00) over four (4) fiscal years or for an annual total of eighty-six thousand three hundred and thirty-one dollars (\$86,331.00) for Alternative to Detention Services in the City of Santa Fe.

BACKGROUND AND SUMMARY:

The Children and Youth Commission (CYC) is one of the City of Santa Fe's oldest standing committees, which formed by Resolution and then Ordinance to serve in an advisory capacity to the City Council concerning policy recommendations related to child development and youth issues. In the fall of 2019, the Santa Fe Regional Juvenile Justice Board merged with the CYC. The Commission is one of twenty continuum-sites statewide that focuses on juvenile justice issues. The Commission tasked yearly with grant management, program planning, service integration, data analysis, and program evaluation on alternatives to detention programs that serve youth at risk or youth offenders. The Commission collaborates with the City of Santa Fe Youth and Family Services for support and to enhance ongoing and upcoming projects.

Every year the CYC submits for a CYFD juvenile justice grant for services in the City of Santa Fe, this year for FY21-25 the board was awarded \$86,331.00. The City of Santa Fe is required to provide a 40% in-kind match, which is approximately \$34,532.00. The in-kind match will come from the combined salary of the Youth and Family Services Project Administrator and the Project Specialist who oversee board activities, contract compliance, reimbursement and payment of awardees. The annual CYFD funding will be distributed as follows:

- Continuum and Board Activities: \$ 20,291.00
- Strengthening Families: \$ 27,720.00

City of Santa Fe, New Mexico

memo

- Intensive Community Monitoring: \$ 26,440.00
- Gender Specific Programs: \$ 11,880.00

To fulfill the conditions of the state grant the Youth and Family Services Division will coordinate services through the Children and Youth Commission which is outlined in the CYFD scope of work.

REQUESTED ACTION:

Approval of the State of New Mexico Children, Youth and Families Department (CYFD) agreement no. 21-690-3200-20846 for three hundred and forty-five thousand three hundred and twenty-four dollars (\$345,324.00) over four (4) fiscal years or an annual total of eighty-six thousand three hundred and thirty-one dollars (\$86,331.00) FY 21-25. Grant will be housed in business unit 22768.510340.

Due to the unusual circumstance of CYFD providing a short window for approval (received the contract on June 3, 2020,) we are requesting approval directly to City Council as the CYFD timeframe requires submission by June 19, 2020. The Commission was granted a one-week extension for submission.

Attachments:

Appendix A- CYFD Agreement

Appendix B- Four (4) Original Copies of Signature Page (per CYFD requirements)

STATE OF NEW MEXICO
CHILDREN, YOUTH AND FAMILIES DEPARTMENT
Alternatives to Detention
AGREEMENT No. 21-690-3200-20846

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **CHILDREN, YOUTH AND FAMILIES DEPARTMENT**, hereinafter referred to as the “Agency,” and **City of Santa Fe** hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Agency.

WHEREAS, the Agency is the State agency designated to receive and administer federal funds and desires to engage and the contractor is willing to provide the services outlined pursuant to Article II - Scope of Work.

NOW THEREFORE, the Agency and the Contractor in consideration of mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I. Term of Agreement

THIS AGREEMENT SHALL BECOME EFFECTIVE ON THE DATE UPON WHICH IT IS EXECUTED BY THE AGENCY SECRETARY OR DESIGNEE. This Agreement shall terminate on **June 30, 2025** unless terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations).

ARTICLE II. Scope of Work

The Contractor shall provide the program of services as set forth in the scope of work which is attached hereto as “**Attachment 1 – Scope of Work**” and incorporated herein by reference, unless amended or terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations), *infra*. In consideration for the provision of those services, the Agency agrees to purchase and the Contractor agrees to perform the services identified in the Scope of Work.

If applicable to the performance of the scope of work herein (direct service delivery to a child or other care recipient by staff and employees of child-care facilities, including every facility or program having primary custody of children for twenty hours or more per week, juvenile treatment facilities, and direct provider of care for children in the following settings: Children’s behavioral health services and licensed and registered child care, including shelter care), or if the performance of the scope of work places Contractor in the position of coming into contact with client data, Contractor and its staff and employees, and other prospective subcontractors are required to obtain a Background Check (a screen of the Children, Youth and Families Department’s information databases, state and federal criminal records and any other reasonably reliable information about an applicant) in accordance with 8.8.3.2 NMAC - Rp, 8.8.3.2 NMAC, 03/31/06.

ARTICLE III. Limitation of Cost

The Agency shall pay to the Contractor for services satisfactorily performed as outlined in the budget which is made part of this Agreement as **Attachment 2 – Budget**. The total amount of the monies payable to the Contractor under this Agreement shall not exceed **Three Hundred Forty Five Thousand Three Hundred Twenty Four Dollars and Zero Cents (\$345,324.00)**. The annual budget is attached hereto as “**Attachment 2 – Budget**” and incorporated herein by reference.

ARTICLE IV. Payment

The Agency shall make monthly payments to the Contractor for services and costs specified in **Attachment 2 - Budget**. The Contractor shall submit certified and documented invoices and vouchers monthly for actual work performed and expenses incurred to the Agency. The Contractor's failure to submit such payment vouchers, invoices, and supporting documentation within fifteen (15) days after they are due may result in the non-availability of funds for payment and/or the denial of payment by the Agency.

ARTICLE V. Return of Funds

Upon termination of this Agreement, or after the services provided for herein have been rendered, surplus money, if any, shall be returned by the Contractor to the Agency.

ARTICLE VI. Termination of Agreement

A. **Grounds.** The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. **Notice; Agency Opportunity to Cure.**

1. Except as otherwise provided in Article (VI)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Article XXIII, "Appropriations", of this Agreement.

C. **Liability.** Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

D. **Termination Management.** If this agreement is terminated pursuant to its provisions, or if the parties mutually agree to discontinue their contractual relationship, or upon expiration of the term of the AGREEMENT, immediately upon expiration or receipt by either the Agency or the Contractor of notice of termination of this agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this agreement without

written approval of the Agency, except as provided in part (4) of this paragraph, below; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this agreement, and 4) if providing health services or client support as part of the scope of work of this agreement, continue to provide essential services and supports to ensure the health and safety of individual clients as directed by the Agency during the period of termination management. This requirement is not avoided by an inadvertent expiration of term for the agreement. In this event the Agency may temporarily extend the term, enter into a new short-term agreement or otherwise enter into an agreement, consistent with the New Mexico Procurement Code until all transition of services are completed. As of the date of termination of this agreement, the Contractor shall furnish to the Agency: (a) a complete detailed inventory of nonexpendable Agency property or equipment provided to or purchased by the Contractor with agreement funds as defined in Article 31 (Property) of this agreement, and (b) a final closing of the financial records and books of accounts which were required to be kept by the Contractor under the provisions of this agreement regarding financial records. Any non-expendable personal property or equipment provided to or purchased by the Contractor with agreement funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

ARTICLE VII. Funds Accountability

The parties shall provide for strict accountability of all monies made subject to this Agreement. The Contractor shall maintain fiscal records, follow generally accepted accounting principles, and account for all receipts and disbursements of funds transferred to the Contractor pursuant to this Agreement. The Contractor will include all monies made subject to this Agreement in the annual audit and will provide the Agency with a copy of the annual audit.

ARTICLE VIII. Maintenance of Records

A. The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

B. If Contractor receiving state or federal funds from the Agency shall comply, if applicable, with auditing requirements under the Single Audit Act (31 U.S.C. §7501, et seq.) and the New Mexico State Auditor's rules and regulations. If the Contractor is determined to be a sub recipient and not a vendor under the federal Single Audit Act, the Contractor shall comply with the audit requirements of the Single Audit Act. This includes the Contractor retaining its financial records for a period five years after the time the audit was released.

C. If the Contractor receives more than \$250,000 in federal funding, or more than \$750,000 from the Agency, in any single fiscal year, the Contractor shall prepare annual financial statements and obtain an audit of, or an opinion on, the financial statements from an external Certified Public Accountant.

D. The Contractor shall maintain the financial statements for a period of no less than six years and shall make the financial statements and the CPA's audit or opinion available to the Agency upon request.

E. Applicable annual financial reports shall be submitted to the Agency no later than six months following the close of the Contractor's fiscal year.

F. To ensure proper delivery and receipt, the Contractor shall submit their annual audit report or financial reports (if no audit was required to):

Children, Youth and Families Department
Contract Audit Unit
1120 Paseo de Peralta, Room
103 Santa Fe, New Mexico
87501

G. The Agency may take corrective action as deemed necessary for Contractor's failure to comply with 19-A through 19-F above. Corrective action may include, but is not limited to, termination of agreement and preclusion from engaging Contractor in the future.

ARTICLE IX. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

The Contractor shall maintain complete confidential records for the benefit of clients, sufficient to fulfill the provisions of the Scope of Work, and to document the services rendered under the Scope of Work. All records maintained pursuant to this provision shall be available for inspection by the Agency. The Contractor shall comply with the Federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and applicable regulations and all other state and federal rules, regulations and laws protecting the confidentiality of information. If the Contractor may reasonably be expected to have access to Agency's Protected Health Information (PHI) and will perform business associate functions as defined by HIPAA, Contractor shall execute the HIPAA/HITECH Business Associate Agreement as a separately executed mandatory agreement which is hereby incorporated by reference into and made part of this agreement. Failure to execute the HIPAA/HITECH Business Associate Agreement when required by the Agency shall constitute grounds for termination of this agreement in accordance with Article 4 (Termination) of this agreement.

ARTICLE X. Amendments

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article VI herein, or to agree to the reduced funding.

ARTICLE XI. Assignment

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

ARTICLE XII. 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 Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the exclusive jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

ARTICLE XIII. Acquisition of Property

The parties agree that neither party shall acquire any property as the result of this Agreement, unless approved by the Agency or defined in the scope of work.

ARTICLE XIV. Liability

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation or requirements applicable to the performance of the Agreement. Each party shall be liable for its actions according to this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. seq., NMSA 1978, as amended.

ARTICLE XV. Execution of Documents

The Agency and the Contractor agree to execute any document(s) necessary to implement the terms of this Agreement.

ARTICLE XVI. Sub-Contracts

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval by the Agency Secretary or Designee. No such subcontract shall relieve the primary Contractor from any obligations and liabilities under this Agreement, nor shall subcontract obligate direct payment from the Agency. Contractor must notify subcontractors that they are subject to Article VIII - Maintenance of Records of this agreement.

ARTICLE XVII. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws, 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 of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

ARTICLE XVIII. Workers' Compensation

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

ARTICLE XIX. Lobbying Certification

The Contractor, by signing below, certifies to the best of his/her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid by or on the behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been

paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of facts upon which reliance is placed when this transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. (United States Code). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

ARTICLE XX. New Mexico Employees Health Coverage
(Governmental entities are excluded from this provision)

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agrees to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the State of New Mexico.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs.

ARTICLE XXI. Background Checks

Agency contractors that have or could have primary custody of children for at least twenty hours per week are required to comply with NMAC 8.8.3 et. seq. requiring background checks on any employee, staff, volunteer or student intern, that has direct care responsibilities or potential unsupervised physical access to clients. Additionally, all Information Technology (IT) contractors are required to have a background check. The contractor must submit to Agency Background Check Unit fingerprint cards and the appropriate fee for such employees, volunteers or staff required to have background checks. The Agency Background Check Unit will conduct nationwide, state and abuse and neglect background checks on required staff or volunteers in accordance with NMAC 8.8.3 standards. An Agency eligibility letter must be in the employee, volunteer or staff member's personnel file prior to that individual having any unsupervised direct contact or unsupervised potential access to clients.

ARTICLE XXII. Product of Service -- Copyright.

A. All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim

of ownership by or on behalf of the Contractor.

B. Client information developed under this agreement may not be used by the Contractor or be transferred to a third party in any form, including aggregate data, without the express written permission of the Agency, except to fulfill the provisions of the Scope of Work under this agreement.

ARTICLE XXIII. Appropriations

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, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

ARTICLE XXIV. Property

A. Title to all property furnished by the Agency shall remain in the Agency. Title to all property acquired by the Contractor, including acquisition through lease-purchase agreement, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this agreement shall immediately vest in the Agency upon delivery of such property to the Contractor. Title to other property, the costs of which is to be reimbursed to the Contractor under this agreement, shall immediately vest in the Agency upon 1) issuance for use of such property in the performance of this agreement or 2) use of such property in the performance of this agreement or 3) reimbursement of the cost thereof by the Agency, whichever first occurs.

B. Title to the Agency property shall not be affected or lose its identity by reason of affixation to any realty or attachment at law.

C. The Contractor shall maintain a property inventory and administer a program of maintenance, repair, and protection of Agency property so as to assure its full availability and usefulness for performance under this agreement. In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of, or damage to Agency property during the period of this agreement, it shall use the proceeds to repair or replace the Agency property.

ARTICLE XXV. Licensure

If required for the performance of the Scope of Work herein, the Contractor agrees to retain professional licensure, accreditation, credentialing or continuing education required to perform the scope of professional services provided for the Agency. The Contractor agrees to make evidence of licensure or other regulatory requirements for the scope of professional services available to the Agency if requested in writing.

ARTICLE XXVI. Federal Grant or Other Federally Funded Agreements.

A. Lobbying. The Contractor shall not use any funds provided under this agreement, either directly or indirectly, for the purpose of conducting lobbying activities or hiring a lobbyist or lobbyists on its behalf at the federal, state, or local government level, as defined in the Lobbyist Regulation Act, NMSA 1978, Sections 2-11-1, *et. seq.*, and applicable federal law. No federal

appropriated funds can be paid or will be paid, by or on behalf of the Contractor, or any person for influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreement, or the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal agreement, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of any applicable federal agreement, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. **Suspension and Debarment.** For agreements that involve the expenditure of federal funds, each party represents that neither it, nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under this agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that it, its employees, and independent contractors are not otherwise ineligible for participation in federal healthcare or education programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against it or its employees or independent contractors. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.

C. **Fiscal and Administrative Standards.** Contractors shall adhere to all local, state and federal regulations as applicable to their operations. For Agreements that involve the expenditure of federal funds, Contractors shall adhere to fiscal and administrative standards in accordance with:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)
- <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>
- State of New Mexico Manual of Model Accounting Practices (MAP's) issued by the New Mexico Department of Finance and Administration-Financial Control Division
- <http://www.nmdfa.state.nm.us/Manuals.aspx>
- The State of New Mexico State Auditor, State Audit Rule
- http://www.saonm.org/state_auditor_rule
- Title 2 CFR, Chapter 1, Part 170, Reporting Sub-award and Executive Compensation Information.
- Title 2 Grants and -Agreements Subtitle A Chapter II Part 200,
- FASB and AICPA Statements and Professional Pronouncements.
- U.S. General Accounting Office, Government Auditing Standards, (The Yellow Book, current revision).
- FASB and AICPA Statements and Professional Pronouncements.

D. **Political Activity.** No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

E. Grantor and Contractor Information.

1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:
 - i. CFDA Number – N/A
 - ii. Program Title – N/A
 - iii. AGENCY/OFFICE – N/A
 - iv. GRANT NUMBER – N/A
2. CONTRACTOR’S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) is 069420818.

F. Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013) [Federal Grant funded projects only].

3. This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L.112-239) and FAR 3.908.
4. The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
5. The Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.

G. For agreements and subgrants that involve the expenditure of federal funds for amounts in excess of \$150,000, requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — For agreements that involve the expenditure of federal funds, Contractors that apply or bid for an agreement exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

I. For agreements that involve the expenditure of federal funds, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

Contractor – City of Santa Fe

SEE ATTACHMENT

Authorized Signatory

Date: _____

SEE ATTACHMENT

Printed Title of Authorized Signatory

SEE ATTACHMENT

Legal Counsel, Contractor

Date: _____

Agency – New Mexico Children, Youth and Families Department

Secretary or Designee, CYFD

Date: _____

Chief Financial Officer, CYFD

Date: _____

Approved as to legal form and sufficiency.

Office of General Counsel, CYFD

Date: _____

Attachment 1 – Scope of Work
City of Santa Fe

Goal:

To improve the Juvenile Justice System and decrease the incidences of juvenile delinquency in the community while increasing the emphasis on prevention and early intervention in juvenile justice services.

Objective:

To provide a continuum of cost effective services and temporary, non-secure alternatives to detention for youth who have been arrested or referred to the juvenile probation office or are at risk of such referral.

Activities:

The Contractor shall:

- A. Develop and maintain a juvenile justice advisory board, herein referred to as the “Community Advisory Board (CAB)”, as required by statute under the Juvenile Continuum Act and the New Mexico Administrative Code 8.14.13.7(E). The Contractor, through the Juvenile Justice Continuum Coordinator (refer to paragraph B), will organize and coordinate regular meetings of the CAB.

The CAB will:

1. Develop and improve the “Comprehensive Strategic Plan” for juvenile justice and detention reform in the City of Santa Fe to be updated a minimum of once per year;
 2. Set policy for the Comprehensive Strategic Plan and the activities supported under this Agreement;
 3. Determine the duties and responsibilities of the Juvenile Justice Continuum Coordinator, in accordance with the Scope of Work;
 4. Provide oversight for the programs/service identified in the Scope of Work;
 5. Continue to collaborate with the City and County to ensure improvements in the operational collaboration of local resources and service providers; and
 6. Maintain a plan for sustainability of the programs/services implemented by the CAB.
 7. Comply with, plan and implement strategies to address racial and ethnic disparities among youth who come into contact with the juvenile justice system, to assure equal treatment for all of the State’s youth; and
 8. Help jurisdictions through, Juvenile Detention Alternatives Initiative, establish more effective and efficient systems, so youth involved in the juvenile justice system will have opportunities to develop into healthy adults.
- B. Contract with or hire a Juvenile Justice Continuum Coordinator who will:
1. Organize, coordinate and provide staff support for the CAB; this will include board development activities in conjunction with the CAB chair;

2. Inform the Agency's Program Manager of the date of each meeting and submit a copy of the written minutes of each meeting, within thirty (30) days of the meeting;
 3. Coordinate/oversee the programmatic delivery of subcontract requirements of local Continuum service providers;
 4. Submit to the Agency's Program Manager monthly requests for reimbursement. Such requests will be submitted on Agency Program Invoice and Expenditure Report forms, signed and sated by an authorized agent of the Contractor, to ensure that requests for reimbursement are submitted by the due date of the fifteenth (15) day of the following month, unless otherwise approved by the Agency's Program Manager, in advance;
 5. Provide data reports as required by the federal government, corresponding to the activities described in this Scope of Work. The Agency's Program Manager will provide the data report format. Programmatic data reports will be submitted monthly to the Agency and must accompany the monthly invoice. Failure to submit such programmatic data and financial reports may result in notice to the Contractor of non-availability of funds and/or the denial of payment by the Agency.
 6. Provide the Agency standardized progress reports monthly;
 7. Submit to the Agency a written "Final Report" no later than 15 days after the termination of this Agreement and such other reports deemed necessary by the Agency. The Final Report shall contain at a minimum, but not be restricted to:
 - a. accomplishments/milestones achieved during this Agreement period;
 - b. reporting on program specific performance measures and related outcomes;
 - c. statements regarding obstacles and progress made;
 - d. continuing development and improvement of the Comprehensive Strategic Plan for the continuum programs and services; and
 - e. provide plan for sustainability of programs/services.
 8. Attend meetings as required by the Agency.
- C. The Contractor, based upon their application for the Juvenile Justice Continuum Gant and Title II Formula, Grant, submitted for state fiscal year 2021, and incorporated herein by reference, agrees to contract with or hire to provide the following services as detailed in the aforementioned grant application which has been incorporated by reference, to youth, referred by the required partners or that are at risk of receiving such a referral, reimbursed based upon the fixed prices and number of youth to be served listed in Attachment 2 – Budget:
1. Strengthening Families;
 2. Intensive Community Monitoring; and
 3. Gender Specific.

Duties and Responsibilities:

The Contractor shall:

- A. Ensure that the CAB meets all goals and objectives and completes activities as specified in this contract and in compliance with all applicable state and federal laws.

- B. The Contractor agrees that funds received under this award will not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for program activities.
- C. The Contractor understands that the Agency reserves the right to conduct periodic on-site monitoring visits upon reasonable notice to the Contractor and sub-contractors prior to each visit.
- D. The Contractor understands that it will be subject to additional financial and programmatic on-site monitoring, which may be on short notice, and agrees that it will cooperate with any such monitoring.
- E. Attend meetings and trainings as required by the Agency.
- F. Provide copies of the CAB's meeting minutes within thirty (30) days of the meeting.
- G. The Contractor agrees to demonstrate an emphasis on effective, evidence-based strategies.
- H. Ensure that all programs must commence and be operational within ninety (90) days of the last signatory executing this Agreement. If the Contractor's program has not commenced or is not operational within that timeframe, the Contractor must report in writing to the Agency the steps taken to initiate the program, the reasons for the delay, and the expected starting date prior to the end of the ninety (90) days. If this justification is not received prior to the end of the ninety (90) days, the Contractor's program, at the Agency's discretion, may be terminated and the funds allocated to that program redistributed to other sites or programs.
- I. Submit reimbursement invoices to the Agency no later than fifteen (15) days after the end of each month. At a minimum, invoice documentation must include:
 - 1. The approved Agency's Program Invoice and Expenditure Report forms; and
 - 2. Any supporting documentation the Agency requires to verify the expense. This includes, but is not limited to invoices, receipts, time sheets, payroll registers, general ledger account reports, and proof of payment.
- J. Submit monthly programmatic data reports no later than fifteen (15) days after the end of each month. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or handwritten.
- K. Submit a final closeout report outlining all accomplishments, measurement of goals and objectives, and barriers to successful implementation or completion of this program within fifteen (15) days of the termination date of this Agreement. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or handwritten.
- L. The Contractor agrees to comply with any and all additional reporting requirements or informational requests imposed by the Agency, Department of Justice, Office of Justice

Programs, or the New Mexico Legislature. The Agency will notify the Contractor of any additional reporting requirements as they are imposed.

M. Through the Budget Adjustment Request (BAR) form, submit to the Agency any amendments by the Contractor to request changes and/or corrections for any programmatic, administrative, or financial element associated with this Agreement. The Agency, by written notice, has the right to deny any amendment request. All final BAR forms must be submitted to the Agency no later than forty-five (45) days prior to the end of the fiscal year. Requests submitted after that date may not be accepted or approved. Upon BAR approval the line items in Attachment 2-Budget will be updated. A contract amendment will be processed in the event that the total compensation is increased or decreased.

N. Communication and details concerning this Agreement shall be directed to the following representative:

Agency	Contractor
Consuelo Garcia	Kyra Ochoa
Grant Management Unit Grant Manager	Community Services Dept. Director
Children, Youth and Families Department	City of Santa Fe
P.O. Drawer 5160, Room 541	500 Market St, Ste. 200
Santa Fe, NM 87502	Santa Fe, NM 87504
(P) 505-470-7494	(P) 505-955-6603

O. The Contractor's obligation to the Agency shall not end until all close out requirements are completed. Activities during this period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balances, and accounts receivable to the Agency), performance measurement reports and determining the custodianship of records.

P. The Contractor shall obtain written approval from the Agency for any travel outside the State of New Mexico with funds provided under this Agreement. Per Diem and mileage, and other miscellaneous expense, will be paid in accordance with the Department of Finance and Administration (DFA) Rule 2.42.2 NMAC. The request will be in the Agency provided form and format.

Q. The Contractor will include all applicable provisions of this Agreement in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

R. The Contractor, as well as all sub-contractors, is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

S. The Contractor agrees to comply with applicable restrictions on sub-contracts that do not acquire and provide a Data Universal Numbering System (DUNS) number. This special condition does not apply to an award to an individual who received the award as a natural

person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

- T. The Contractor agrees that award funds may not be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

This restriction does not apply to the use of funds for any federal, state, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Any such activity funded under this Agreement must be reported to the Agency immediately.

- U. The Contractor is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers, as pursuant to Executive Order 13513. "Federal Leadership on Reducing Text Messaging While Driving", 74 Fed. Reg. 51225 (October 1, 2009).

- V. The Contractor understand and agrees that any training or training materials developed or delivered with funding provided under this contract must adhere to the Office of Justice Programs Training Guiding Principles for Grantee and Sub-grantees, available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.

- W. Mandatory Reporting Information: Under New Mexico law, all persons are mandatory reporters of suspected abuse or neglect of children. If the contractor suspects abuse or neglect in the audited facilities, the contractor must contact the New Mexico Statewide Central Intake Hotline (SCI) at 1-855-333-SAFE or #SAFE from a cellphone.

The Agency shall:

- A. Reimburse Contractor for verified services provided and incurred costs as stated in Attachment 2 – Budget.
- B. Provide information and/or make referrals for training and technical assistance.
- C. Based on periodic program and fiscal reviews, the Agency retains the sole discretion to reduce the budget of Contractors who do not provide sufficient services, do not submit the required programmatic and financial reports as required, or do not expend funds under this Agreement in a timely manner. The Agency retains the sole discretion to reduce contract amount and reallocate the resulting funds to a Contractor that is able to provide the required services during the contract period. Additionally, any funds not used per the budget as stated in Attachment 2 – Budget shall revert unless otherwise allowed by the Agency in writing.

- D. The Agency will review:
1. Sub-contracts and programs for accomplishment of Outcomes and Performance Measures as set forth in this Agreement.
 2. The Community Advisory Board activities and member participation in periodic meetings of the CAB, including minutes of each Board meeting to be provided to the Agency.
 3. Any additional funding received by the Contractor for the specific activities and programs included in this Agreement, including efforts by the Contractor to sustain and enhance funding for these programs. The Agency also retains the sole discretion to adjust amounts received under this Agreement if funds are received by the Contractor from other sources for the same services and activities to be performed under this Agreement.

Data Collection:

As a condition of funding, the Contractor agrees to report, at minimum, the following demographics, core measures and performance measurements.

Demographics:

- A. City, State and Zip Code for each youth served;
- B. Race/Ethnicity;
- C. Population Served:
 1. At-Risk Youth;
 2. First Time Offender;
 3. Repeat Offender;
 4. Sex Offender;
 5. Status Offender; and
 6. Violent Offender.
- D. Youth Currently in Detention;
- E. Gender:
 1. Male;
 2. Female; or
 3. Transgender.
- F. Month and Year of Birth;
- G. Geographic Location:
 1. Urban;
 2. Tribal;
 3. Rural; or
 4. Frontier.
- H. Other Population Information:
 1. Mental Health;
 2. Substance Abuse;
 3. Truant/Dropout; or
 4. Pregnant.

Core Measures:

- A. New youth admissions during this reporting period;
- B. Number of program youth carried over from previous reporting period;
- C. Total number of youth in the program;
- D. Total number of youth who exited the program during the reporting period;
- E. Number of youth who exited the program having completed the program requirements during the reporting period;
- F. Percent of youth who successfully completed the program;
- G. How many youth is your program designed to serve;
- H. Number of current program youth who had an arrest during the reporting period;
- I. Number of current program youth who were committed to a juvenile facility during the reporting period;
- J. Number of program youth who had a re-arrest during the reporting period;
- K. Number of program youth who were re-committed during the reporting period;
- L. Number of program youth who were re-sentenced/received a subsequent consequence during the reporting period;
- M. Number of program youth with gang activity; and
- N. Number of program youth who reported being satisfied with the program.

Program Specific Performance Measures:

- A. Strengthening Families Program:
 - 1. Increased academic success measured by parents, school and student reports;
 - 2. Increased school engagement;
 - 3. Increased behavioral component;
 - 4. Decreased alcohol use;
 - 5. Decreased drug use; and
 - 6. Increased parent-child relationship.
- B. Intensive Community Monitoring Program:
 - 1. Decreased recidivism; and
 - 2. Less time served in detention during the follow-up period of seven hundred ninety (790) days.
- C. Gender Specific:
 - 1. Decreased drug use;
 - 2. Increased social competence (both parent and teacher observed);
 - 3. Increased cumulative GPA; and
 - 2. Student attitude toward drug use.

Local Site-Specific Performance Measures:

- A. Strengthening Families Program:
 - 1. Parent competence and engagement in school;
 - 2. Student substance abuse related risk;
 - 3. Increased attendance measured by five percent (5%) increase in attendance, five percent (5%) increase in grades and five percent (5%) promotion to next grade;
 - 4. Academic success; and

5. Targeted negative behavior reduction.
- B. Intensive Community Monitoring Program:
1. Decrease of five percent (5%) in negative criminal behavior;
 2. Increase of five percent (5%) in grades, attendance and overall behavior in school or educational setting;
 3. Decreased number of contacts made with each client;
 4. Number of clients who successfully complete the program requirements; and
 5. Reduced recidivism six (6) months after exiting the program
- C. Gender Specific:
1. Reduced bullying and other negative behaviors among both genders;
 2. Reduced body image issues;
 3. Increased team building;
 4. Increased understanding that both genders have similar issues that need to be addressed and remedied; and
 5. Increased attendance at school, better grades and better behavior.

**Attachment 2 – Budget
City of Santa Fe**

A. Continuum and Board Activities:				
Continuum Coordinator	\$22	x	700 Hours	= \$15,400
Travel				= 480
Youth Committee Members				= 300
5% Program Support				= <u>4,111</u>
				\$20,291
B. Strengthening Families Program:				
Based on serving 50 Youth				
Youth Group	\$165	x	84 Session	= \$13,860
Adult Group	\$165	x	60 Session	= <u>13,860</u>
				\$27,720
C. Intensive Community Monitoring Program:				
Based on serving 34 Youth				
Intake/Assessment	\$65	x	34 Youth	= \$2,210
Case Management	\$40	x	306 Hours	= 12,240
Family Support	\$40	x	136 Hours	= 5,440
Home Visit	\$40	x	100 Visits	= 4,000
Discharge Plan	\$75	x	34 Youth	= <u>\$2,550</u>
				\$26,440
D. Gender Specific:				
Based on serving 50 Youth				
Girls Circle	\$165	x	32 Circles	= \$5,280
Boys Council	\$165	x	40 Sessions	= <u>6,660</u>
				\$11,880
Total Grant Award not to exceed:				<u>\$86,331</u>

The Contractor shall be required to source a minimum of forty percent (40%) of the total budgeted grant amount with local matching funds. The local matching funds may consist of money, land, equipment or in-kind services. Matching funds should be expended at the same rate as the grant funds and must be reported on the monthly invoices.

Budgeted and contracted Grant Amount	\$86,331
40% Minimum Match Liability for City of Santa Fe	<u>\$34,532</u>
Projected Budgeted Amount	\$120,863

*Per Diem and Mileage rates based upon the Administration (DFA) Rule 2.42.2.

FUNDING INFORMATION:

Juvenile Continuum Grant Fund (State General Fund)

**FOR THE PERIOD OF FY21: July 1, 2020 through June 30, 2021:
The total amount of the contract for FY21 shall not exceed \$86,331.00**

State General Fund: FY21: <u>\$86,331.00</u>
State General Fund: FY22: <u>\$86,331.00</u>
State General Fund: FY23: <u>\$86,331.00</u>
State General Fund: FY24: <u>\$86,331.00</u>
Total = <u>\$345,324.00</u>

STATE OF NEW MEXICO
CHILDREN, YOUTH AND FAMILIES DEPARTMENT
Alternatives to Detention
AGREEMENT No. 21-690-3200-20846

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **CHILDREN, YOUTH AND FAMILIES DEPARTMENT**, hereinafter referred to as the “Agency,” and **City of Santa Fe** hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Agency.

WHEREAS, the Agency is the State agency designated to receive and administer federal funds and desires to engage and the contractor is willing to provide the services outlined pursuant to Article II - Scope of Work.

NOW THEREFORE, the Agency and the Contractor in consideration of mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I. Term of Agreement

THIS AGREEMENT SHALL BECOME EFFECTIVE ON THE DATE UPON WHICH IT IS EXECUTED BY THE AGENCY SECRETARY OR DESIGNEE. This Agreement shall terminate on **June 30, 2025** unless terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations).

ARTICLE II. Scope of Work

The Contractor shall provide the program of services as set forth in the scope of work which is attached hereto as “**Attachment 1 – Scope of Work**” and incorporated herein by reference, unless amended or terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations), *infra*. In consideration for the provision of those services, the Agency agrees to purchase and the Contractor agrees to perform the services identified in the Scope of Work.

If applicable to the performance of the scope of work herein (direct service delivery to a child or other care recipient by staff and employees of child-care facilities, including every facility or program having primary custody of children for twenty hours or more per week, juvenile treatment facilities, and direct provider of care for children in the following settings: Children’s behavioral health services and licensed and registered child care, including shelter care), or if the performance of the scope of work places Contractor in the position of coming into contact with client data, Contractor and its staff and employees, and other prospective subcontractors are required to obtain a Background Check (a screen of the Children, Youth and Families Department’s information databases, state and federal criminal records and any other reasonably reliable information about an applicant) in accordance with 8.8.3.2 NMAC - Rp, 8.8.3.2 NMAC, 03/31/06.

ARTICLE III. Limitation of Cost

The Agency shall pay to the Contractor for services satisfactorily performed as outlined in the budget which is made part of this Agreement as **Attachment 2 – Budget**. The total amount of the monies payable to the Contractor under this Agreement shall not exceed **Three Hundred Forty Five Thousand Three Hundred Twenty Four Dollars and Zero Cents (\$345,324.00)**. The annual budget is attached hereto as “**Attachment 2 – Budget**” and incorporated herein by reference.

ARTICLE IV. Payment

The Agency shall make monthly payments to the Contractor for services and costs specified in **Attachment 2 - Budget**. The Contractor shall submit certified and documented invoices and vouchers monthly for actual work performed and expenses incurred to the Agency. The Contractor's failure to submit such payment vouchers, invoices, and supporting documentation within fifteen (15) days after they are due may result in the non-availability of funds for payment and/or the denial of payment by the Agency.

ARTICLE V. Return of Funds

Upon termination of this Agreement, or after the services provided for herein have been rendered, surplus money, if any, shall be returned by the Contractor to the Agency.

ARTICLE VI. Termination of Agreement

A. Grounds. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. Notice; Agency Opportunity to Cure.

1. Except as otherwise provided in Article (VI)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Article XXIII, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

D. Termination Management. If this agreement is terminated pursuant to its provisions, or if the parties mutually agree to discontinue their contractual relationship, or upon expiration of the term of the AGREEMENT, immediately upon expiration or receipt by either the Agency or the Contractor of notice of termination of this agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this agreement without

written approval of the Agency, except as provided in part (4) of this paragraph, below; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this agreement, and 4) if providing health services or client support as part of the scope of work of this agreement, continue to provide essential services and supports to ensure the health and safety of individual clients as directed by the Agency during the period of termination management. This requirement is not avoided by an inadvertent expiration of term for the agreement. In this event the Agency may temporarily extend the term, enter into a new short-term agreement or otherwise enter into an agreement, consistent with the New Mexico Procurement Code until all transition of services are completed. As of the date of termination of this agreement, the Contractor shall furnish to the Agency: (a) a complete detailed inventory of nonexpendable Agency property or equipment provided to or purchased by the Contractor with agreement funds as defined in Article 31 (Property) of this agreement, and (b) a final closing of the financial records and books of accounts which were required to be kept by the Contractor under the provisions of this agreement regarding financial records. Any non-expendable personal property or equipment provided to or purchased by the Contractor with agreement funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

ARTICLE VII. Funds Accountability

The parties shall provide for strict accountability of all monies made subject to this Agreement. The Contractor shall maintain fiscal records, follow generally accepted accounting principles, and account for all receipts and disbursements of funds transferred to the Contractor pursuant to this Agreement. The Contractor will include all monies made subject to this Agreement in the annual audit and will provide the Agency with a copy of the annual audit.

ARTICLE VIII. Maintenance of Records

A. The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

B. If Contractor receiving state or federal funds from the Agency shall comply, if applicable, with auditing requirements under the Single Audit Act (31 U.S.C. §7501, et seq.) and the New Mexico State Auditor's rules and regulations. If the Contractor is determined to be a sub recipient and not a vendor under the federal Single Audit Act, the Contractor shall comply with the audit requirements of the Single Audit Act. This includes the Contractor retaining its financial records for a period five years after the time the audit was released.

C. If the Contractor receives more than \$250,000 in federal funding, or more than \$750,000 from the Agency, in any single fiscal year, the Contractor shall prepare annual financial statements and obtain an audit of, or an opinion on, the financial statements from an external Certified Public Accountant.

D. The Contractor shall maintain the financial statements for a period of no less than six years and shall make the financial statements and the CPA's audit or opinion available to the Agency upon request.

E. Applicable annual financial reports shall be submitted to the Agency no later than six months following the close of the Contractor's fiscal year.

F. To ensure proper delivery and receipt, the Contractor shall submit their annual audit report or financial reports (if no audit was required to):

Children, Youth and Families Department
Contract Audit Unit
1120 Paseo de Peralta, Room
103 Santa Fe, New Mexico
87501

G. The Agency may take corrective action as deemed necessary for Contractor's failure to comply with 19-A through 19-F above. Corrective action may include, but is not limited to, termination of agreement and preclusion from engaging Contractor in the future.

ARTICLE IX. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

The Contractor shall maintain complete confidential records for the benefit of clients, sufficient to fulfill the provisions of the Scope of Work, and to document the services rendered under the Scope of Work. All records maintained pursuant to this provision shall be available for inspection by the Agency. The Contractor shall comply with the Federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and applicable regulations and all other state and federal rules, regulations and laws protecting the confidentiality of information. If the Contractor may reasonably be expected to have access to Agency's Protected Health Information (PHI) and will perform business associate functions as defined by HIPAA, Contractor shall execute the HIPAA/HITECH Business Associate Agreement as a separately executed mandatory agreement which is hereby incorporated by reference into and made part of this agreement. Failure to execute the HIPAA/HITECH Business Associate Agreement when required by the Agency shall constitute grounds for termination of this agreement in accordance with Article 4 (Termination) of this agreement.

ARTICLE X. Amendments

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article VI herein, or to agree to the reduced funding.

ARTICLE XI. Assignment

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

ARTICLE XII. 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 Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the exclusive jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

ARTICLE XIII. Acquisition of Property

The parties agree that neither party shall acquire any property as the result of this Agreement, unless approved by the Agency or defined in the scope of work.

ARTICLE XIV. Liability

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation or requirements applicable to the performance of the Agreement. Each party shall be liable for its actions according to this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. seq., NMSA 1978, as amended.

ARTICLE XV. Execution of Documents

The Agency and the Contractor agree to execute any document(s) necessary to implement the terms of this Agreement.

ARTICLE XVI. Sub-Contracts

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval by the Agency Secretary or Designee. No such subcontract shall relieve the primary Contractor from any obligations and liabilities under this Agreement, nor shall subcontract obligate direct payment from the Agency. Contractor must notify subcontractors that they are subject to Article VIII - Maintenance of Records of this agreement.

ARTICLE XVII. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws, 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 of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

ARTICLE XVIII. Workers' Compensation

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

ARTICLE XIX. Lobbying Certification

The Contractor, by signing below, certifies to the best of his/her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid by or on the behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been

paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of facts upon which reliance is placed when this transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. (United States Code). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

ARTICLE XX. New Mexico Employees Health Coverage
(Governmental entities are excluded from this provision)

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agrees to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the State of New Mexico.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs.

ARTICLE XXI. Background Checks

Agency contractors that have or could have primary custody of children for at least twenty hours per week are required to comply with NMAC 8.8.3 et. seq. requiring background checks on any employee, staff, volunteer or student intern, that has direct care responsibilities or potential unsupervised physical access to clients. Additionally, all Information Technology (IT) contractors are required to have a background check. The contractor must submit to Agency Background Check Unit fingerprint cards and the appropriate fee for such employees, volunteers or staff required to have background checks. The Agency Background Check Unit will conduct nationwide, state and abuse and neglect background checks on required staff or volunteers in accordance with NMAC 8.8.3 standards. An Agency eligibility letter must be in the employee, volunteer or staff member's personnel file prior to that individual having any unsupervised direct contact or unsupervised potential access to clients.

ARTICLE XXII. Product of Service -- Copyright.

A. All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim

of ownership by or on behalf of the Contractor.

B. Client information developed under this agreement may not be used by the Contractor or be transferred to a third party in any form, including aggregate data, without the express written permission of the Agency, except to fulfill the provisions of the Scope of Work under this agreement.

ARTICLE XXIII. Appropriations

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, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

ARTICLE XXIV. Property

A. Title to all property furnished by the Agency shall remain in the Agency. Title to all property acquired by the Contractor, including acquisition through lease-purchase agreement, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this agreement shall immediately vest in the Agency upon delivery of such property to the Contractor. Title to other property, the costs of which is to be reimbursed to the Contractor under this agreement, shall immediately vest in the Agency upon 1) issuance for use of such property in the performance of this agreement or 2) use of such property in the performance of this agreement or 3) reimbursement of the cost thereof by the Agency, whichever first occurs.

B. Title to the Agency property shall not be affected or lose its identity by reason of affixation to any realty or attachment at law.

C. The Contractor shall maintain a property inventory and administer a program of maintenance, repair, and protection of Agency property so as to assure its full availability and usefulness for performance under this agreement. In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of, or damage to Agency property during the period of this agreement, it shall use the proceeds to repair or replace the Agency property.

ARTICLE XXV. Licensure

If required for the performance of the Scope of Work herein, the Contractor agrees to retain professional licensure, accreditation, credentialing or continuing education required to perform the scope of professional services provided for the Agency. The Contractor agrees to make evidence of licensure or other regulatory requirements for the scope of professional services available to the Agency if requested in writing.

ARTICLE XXVI. Federal Grant or Other Federally Funded Agreements.

A. Lobbying. The Contractor shall not use any funds provided under this agreement, either directly or indirectly, for the purpose of conducting lobbying activities or hiring a lobbyist or lobbyists on its behalf at the federal, state, or local government level, as defined in the Lobbyist Regulation Act, NMSA 1978, Sections 2-11-1, *et. seq.*, and applicable federal law. No federal

appropriated funds can be paid or will be paid, by or on behalf of the Contractor, or any person for influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreement, or the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal agreement, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of any applicable federal agreement, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. **Suspension and Debarment.** For agreements that involve the expenditure of federal funds, each party represents that neither it, nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under this agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that it, its employees, and independent contractors are not otherwise ineligible for participation in federal healthcare or education programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against it or its employees or independent contractors. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.

C. **Fiscal and Administrative Standards.** Contractors shall adhere to all local, state and federal regulations as applicable to their operations. For Agreements that involve the expenditure of federal funds, Contractors shall adhere to fiscal and administrative standards in accordance with:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)
- <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>
- State of New Mexico Manual of Model Accounting Practices (MAP's) issued by the New Mexico Department of Finance and Administration-Financial Control Division
- <http://www.nmdfa.state.nm.us/Manuals.aspx>
- The State of New Mexico State Auditor, State Audit Rule
- http://www.saonm.org/state_auditor_rule
- Title 2 CFR, Chapter 1, Part 170, Reporting Sub-award and Executive Compensation Information.
- Title 2 Grants and -Agreements Subtitle A Chapter II Part 200,
- FASB and AICPA Statements and Professional Pronouncements.
- U.S. General Accounting Office, Government Auditing Standards, (The Yellow Book, current revision).
- FASB and AICPA Statements and Professional Pronouncements.

D. **Political Activity.** No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

E. Grantor and Contractor Information.

1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:
 - i. CFDA Number – N/A
 - ii. Program Title – N/A
 - iii. AGENCY/OFFICE – N/A
 - iv. GRANT NUMBER – N/A
2. CONTRACTOR’S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) is 069420818.

F. Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013) [Federal Grant funded projects only].

3. This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
4. The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
5. The Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.

G. For agreements and subgrants that involve the expenditure of federal funds for amounts in excess of \$150,000, requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — For agreements that involve the expenditure of federal funds, Contractors that apply or bid for an agreement exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

I. For agreements that involve the expenditure of federal funds, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

Contractor – City of Santa Fe

Alan M. Webber, Mayor

Date: _____

Attest:

Yolanda Y. Vigil, City Clerk

Date: _____

City Attorney's Office:

Marcos Martinez
Marcos Martinez (Jun 5, 2020 11:22 MDT)

Senior Assistant City Attorney

Date: _____

Approved for Finances:

Mary McCoy, Finance Director

Date: _____

Agency – New Mexico Children, Youth and Families Department

Secretary or Designee, CYFD

Date: _____

Chief Financial Officer, CYFD

Date: _____

Approved as to legal form and sufficiency.

Office of General Counsel, CYFD

Date: _____

Attachment 1 – Scope of Work
City of Santa Fe

Goal:

To improve the Juvenile Justice System and decrease the incidences of juvenile delinquency in the community while increasing the emphasis on prevention and early intervention in juvenile justice services.

Objective:

To provide a continuum of cost effective services and temporary, non-secure alternatives to detention for youth who have been arrested or referred to the juvenile probation office or are at risk of such referral.

Activities:

The Contractor shall:

- A. Develop and maintain a juvenile justice advisory board, herein referred to as the “Community Advisory Board (CAB)”, as required by statute under the Juvenile Continuum Act and the New Mexico Administrative Code 8.14.13.7(E). The Contractor, through the Juvenile Justice Continuum Coordinator (refer to paragraph B), will organize and coordinate regular meetings of the CAB.

The CAB will:

- 1. Develop and improve the “Comprehensive Strategic Plan” for juvenile justice and detention reform in the City of Santa Fe to be updated a minimum of once per year;
 - 2. Set policy for the Comprehensive Strategic Plan and the activities supported under this Agreement;
 - 3. Determine the duties and responsibilities of the Juvenile Justice Continuum Coordinator, in accordance with the Scope of Work;
 - 4. Provide oversight for the programs/service identified in the Scope of Work;
 - 5. Continue to collaborate with the City and County to ensure improvements in the operational collaboration of local resources and service providers; and
 - 6. Maintain a plan for sustainability of the programs/services implemented by the CAB.
 - 7. Comply with, plan and implement strategies to address racial and ethnic disparities among youth who come into contact with the juvenile justice system, to assure equal treatment for all of the State’s youth; and
 - 8. Help jurisdictions through, Juvenile Detention Alternatives Initiative, establish more effective and efficient systems, so youth involved in the juvenile justice system will have opportunities to develop into healthy adults.
- B. Contract with or hire a Juvenile Justice Continuum Coordinator who will:
 - 1. Organize, coordinate and provide staff support for the CAB; this will include board development activities in conjunction with the CAB chair;

2. Inform the Agency's Program Manager of the date of each meeting and submit a copy of the written minutes of each meeting, within thirty (30) days of the meeting;
 3. Coordinate/oversee the programmatic delivery of subcontract requirements of local Continuum service providers;
 4. Submit to the Agency's Program Manager monthly requests for reimbursement. Such requests will be submitted on Agency Program Invoice and Expenditure Report forms, signed and sated by an authorized agent of the Contractor, to ensure that requests for reimbursement are submitted by the due date of the fifteenth (15) day of the following month, unless otherwise approved by the Agency's Program Manager, in advance;
 5. Provide data reports as required by the federal government, corresponding to the activities described in this Scope of Work. The Agency's Program Manager will provide the data report format. Programmatic data reports will be submitted monthly to the Agency and must accompany the monthly invoice. Failure to submit such programmatic data and financial reports may result in notice to the Contractor of non-availability of funds and/or the denial of payment by the Agency.
 6. Provide the Agency standardized progress reports monthly;
 7. Submit to the Agency a written "Final Report" no later than 15 days after the termination of this Agreement and such other reports deemed necessary by the Agency. The Final Report shall contain at a minimum, but not be restricted to:
 - a. accomplishments/milestones achieved during this Agreement period;
 - b. reporting on program specific performance measures and related outcomes;
 - c. statements regarding obstacles and progress made;
 - d. continuing development and improvement of the Comprehensive Strategic Plan for the continuum programs and services; and
 - e. provide plan for sustainability of programs/services.
 8. Attend meetings as required by the Agency.
- C. The Contractor, based upon their application for the Juvenile Justice Continuum Gant and Title II Formula, Grant, submitted for state fiscal year 2021, and incorporated herein by reference, agrees to contract with or hire to provide the following services as detailed in the aforementioned grant application which has been incorporated by reference, to youth, referred by the required partners or that are at risk of receiving such a referral, reimbursed based upon the fixed prices and number of youth to be served listed in Attachment 2 – Budget:
1. Strengthening Families;
 2. Intensive Community Monitoring; and
 3. Gender Specific.

Duties and Responsibilities:

The Contractor shall:

- A. Ensure that the CAB meets all goals and objectives and completes activities as specified in this contract and in compliance with all applicable state and federal laws.

- B. The Contractor agrees that funds received under this award will not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for program activities.
- C. The Contractor understands that the Agency reserves the right to conduct periodic on-site monitoring visits upon reasonable notice to the Contractor and sub-contractors prior to each visit.
- D. The Contractor understands that it will be subject to additional financial and programmatic on-site monitoring, which may be on short notice, and agrees that it will cooperate with any such monitoring.
- E. Attend meetings and trainings as required by the Agency.
- F. Provide copies of the CAB's meeting minutes within thirty (30) days of the meeting.
- G. The Contractor agrees to demonstrate an emphasis on effective, evidence-based strategies.
- H. Ensure that all programs must commence and be operational within ninety (90) days of the last signatory executing this Agreement. If the Contractor's program has not commenced or is not operational within that timeframe, the Contractor must report in writing to the Agency the steps taken to initiate the program, the reasons for the delay, and the expected starting date prior to the end of the ninety (90) days. If this justification is not received prior to the end of the ninety (90) days, the Contractor's program, at the Agency's discretion, may be terminated and the funds allocated to that program redistributed to other sites or programs.
- I. Submit reimbursement invoices to the Agency no later than fifteen (15) days after the end of each month. At a minimum, invoice documentation must include:
 - 1. The approved Agency's Program Invoice and Expenditure Report forms; and
 - 2. Any supporting documentation the Agency requires to verify the expense. This includes, but is not limited to invoices, receipts, time sheets, payroll registers, general ledger account reports, and proof of payment.
- J. Submit monthly programmatic data reports no later than fifteen (15) days after the end of each month. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or handwritten.
- K. Submit a final closeout report outlining all accomplishments, measurement of goals and objectives, and barriers to successful implementation or completion of this program within fifteen (15) days of the termination date of this Agreement. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or handwritten.
- L. The Contractor agrees to comply with any and all additional reporting requirements or informational requests imposed by the Agency, Department of Justice, Office of Justice

Programs, or the New Mexico Legislature. The Agency will notify the Contractor of any additional reporting requirements as they are imposed.

M. Through the Budget Adjustment Request (BAR) form, submit to the Agency any amendments by the Contractor to request changes and/or corrections for any programmatic, administrative, or financial element associated with this Agreement. The Agency, by written notice, has the right to deny any amendment request. All final BAR forms must be submitted to the Agency no later than forty-five (45) days prior to the end of the fiscal year. Requests submitted after that date may not be accepted or approved. Upon BAR approval the line items in Attachment 2-Budget will be updated. A contract amendment will be processed in the event that the total compensation is increased or decreased.

N. Communication and details concerning this Agreement shall be directed to the following representative:

<u>Agency</u>	<u>Contractor</u>
Consuelo Garcia	Kyra Ochoa
Grant Management Unit Grant Manager	Community Services Dept. Director
Children, Youth and Families Department	City of Santa Fe
P.O. Drawer 5160, Room 541	500 Market St, Ste. 200
Santa Fe, NM 87502	Santa Fe, NM 87504
(P) 505-470-7494	(P) 505-955-6603

O. The Contractor's obligation to the Agency shall not end until all close out requirements are completed. Activities during this period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balances, and accounts receivable to the Agency), performance measurement reports and determining the custodianship of records.

P. The Contractor shall obtain written approval from the Agency for any travel outside the State of New Mexico with funds provided under this Agreement. Per Diem and mileage, and other miscellaneous expense, will be paid in accordance with the Department of Finance and Administration (DFA) Rule 2.42.2 NMAC. The request will be in the Agency provided form and format.

Q. The Contractor will include all applicable provisions of this Agreement in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

R. The Contractor, as well as all sub-contractors, is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

S. The Contractor agrees to comply with applicable restrictions on sub-contracts that do not acquire and provide a Data Universal Numbering System (DUNS) number. This special condition does not apply to an award to an individual who received the award as a natural

person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

- T. The Contractor agrees that award funds may not be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

This restriction does not apply to the use of funds for any federal, state, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Any such activity funded under this Agreement must be reported to the Agency immediately.

- U. The Contractor is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers, as pursuant to Executive Order 13513. "Federal Leadership on Reducing Text Messaging While Driving", 74 Fed. Reg. 51225 (October 1, 2009).

- V. The Contractor understand and agrees that any training or training materials developed or delivered with funding provided under this contract must adhere to the Office of Justice Programs Training Guiding Principles for Grantee and Sub-grantees, available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.

- W. Mandatory Reporting Information: Under New Mexico law, all persons are mandatory reporters of suspected abuse or neglect of children. If the contractor suspects abuse or neglect in the audited facilities, the contractor must contact the New Mexico Statewide Central Intake Hotline (SCI) at 1-855-333-SAFE or #SAFE from a cellphone.

The Agency shall:

- A. Reimburse Contractor for verified services provided and incurred costs as stated in Attachment 2 – Budget.
- B. Provide information and/or make referrals for training and technical assistance.
- C. Based on periodic program and fiscal reviews, the Agency retains the sole discretion to reduce the budget of Contractors who do not provide sufficient services, do not submit the required programmatic and financial reports as required, or do not expend funds under this Agreement in a timely manner. The Agency retains the sole discretion to reduce contract amount and reallocate the resulting funds to a Contractor that is able to provide the required services during the contract period. Additionally, any funds not used per the budget as stated in Attachment 2 – Budget shall revert unless otherwise allowed by the Agency in writing.

- D. The Agency will review:
1. Sub-contracts and programs for accomplishment of Outcomes and Performance Measures as set forth in this Agreement.
 2. The Community Advisory Board activities and member participation in periodic meetings of the CAB, including minutes of each Board meeting to be provided to the Agency.
 3. Any additional funding received by the Contractor for the specific activities and programs included in this Agreement, including efforts by the Contractor to sustain and enhance funding for these programs. The Agency also retains the sole discretion to adjust amounts received under this Agreement if funds are received by the Contractor from other sources for the same services and activities to be performed under this Agreement.

Data Collection:

As a condition of funding, the Contractor agrees to report, at minimum, the following demographics, core measures and performance measurements.

Demographics:

- A. City, State and Zip Code for each youth served;
- B. Race/Ethnicity;
- C. Population Served:
 1. At-Risk Youth;
 2. First Time Offender;
 3. Repeat Offender;
 4. Sex Offender;
 5. Status Offender; and
 6. Violent Offender.
- D. Youth Currently in Detention;
- E. Gender:
 1. Male;
 2. Female; or
 3. Transgender.
- F. Month and Year of Birth;
- G. Geographic Location:
 1. Urban;
 2. Tribal;
 3. Rural; or
 4. Frontier.
- H. Other Population Information:
 1. Mental Health;
 2. Substance Abuse;
 3. Truant/Dropout; or
 4. Pregnant.

Core Measures:

- A. New youth admissions during this reporting period;
- B. Number of program youth carried over from previous reporting period;
- C. Total number of youth in the program;
- D. Total number of youth who exited the program during the reporting period;
- E. Number of youth who exited the program having completed the program requirements during the reporting period;
- F. Percent of youth who successfully completed the program;
- G. How many youth is your program designed to serve;
- H. Number of current program youth who had an arrest during the reporting period;
- I. Number of current program youth who were committed to a juvenile facility during the reporting period;
- J. Number of program youth who had a re-arrest during the reporting period;
- K. Number of program youth who were re-committed during the reporting period;
- L. Number of program youth who were re-sentenced/received a subsequent consequence during the reporting period;
- M. Number of program youth with gang activity; and
- N. Number of program youth who reported being satisfied with the program.

Program Specific Performance Measures:

- A. Strengthening Families Program:
 - 1. Increased academic success measured by parents, school and student reports;
 - 2. Increased school engagement;
 - 3. Increased behavioral component;
 - 4. Decreased alcohol use;
 - 5. Decreased drug use; and
 - 6. Increased parent-child relationship.
- B. Intensive Community Monitoring Program:
 - 1. Decreased recidivism; and
 - 2. Less time served in detention during the follow-up period of seven hundred ninety (790) days.
- C. Gender Specific:
 - 1. Decreased drug use;
 - 2. Increased social competence (both parent and teacher observed);
 - 3. Increased cumulative GPA; and
 - 2. Student attitude toward drug use.

Local Site-Specific Performance Measures:

- A. Strengthening Families Program:
 - 1. Parent competence and engagement in school;
 - 2. Student substance abuse related risk;
 - 3. Increased attendance measured by five percent (5%) increase in attendance, five percent (5%) increase in grades and five percent (5%) promotion to next grade;
 - 4. Academic success; and

5. Targeted negative behavior reduction.
- B. Intensive Community Monitoring Program:
1. Decrease of five percent (5%) in negative criminal behavior;
 2. Increase of five percent (5%) in grades, attendance and overall behavior in school or educational setting;
 3. Decreased number of contacts made with each client;
 4. Number of clients who successfully complete the program requirements; and
 5. Reduced recidivism six (6) months after exiting the program
- C. Gender Specific:
1. Reduced bullying and other negative behaviors among both genders;
 2. Reduced body image issues;
 3. Increased team building;
 4. Increased understanding that both genders have similar issues that need to be addressed and remedied; and
 5. Increased attendance at school, better grades and better behavior.

**Attachment 2 – Budget
City of Santa Fe**

A. <u>Continuum and Board Activities:</u>				
Continuum Coordinator	\$22	x	700 Hours	= \$15,400
Travel				= 480
Youth Committee Members				= 300
5% Program Support				= <u>4,111</u>
				\$20,291
B. <u>Strengthening Families Program:</u>				
Based on serving 50 Youth				
Youth Group	\$165	x	84 Session	= \$13,860
Adult Group	\$165	x	60 Session	= <u>13,860</u>
				\$27,720
C. <u>Intensive Community Monitoring Program:</u>				
Based on serving 34 Youth				
Intake/Assessment	\$65	x	34 Youth	= \$2,210
Case Management	\$40	x	306 Hours	= 12,240
Family Support	\$40	x	136 Hours	= 5,440
Home Visit	\$40	x	100 Visits	= 4,000
Discharge Plan	\$75	x	34 Youth	= <u>\$2,550</u>
				\$26,440
D. <u>Gender Specific:</u>				
Based on serving 50 Youth				
Girls Circle	\$165	x	32 Circles	= \$5,280
Boys Council	\$165	x	40 Sessions	= <u>6,660</u>
				\$11,880
Total Grant Award not to exceed:				<u>\$86,331</u>

The Contractor shall be required to source a minimum of forty percent (40%) of the total budgeted grant amount with local matching funds. The local matching funds may consist of money, land, equipment or in-kind services. Matching funds should be expended at the same rate as the grant funds and must be reported on the monthly invoices.

Budgeted and contracted Grant Amount	\$86,331
40% Minimum Match Liability for City of Santa Fe	<u>\$34,532</u>
Projected Budgeted Amount	\$120,863

*Per Diem and Mileage rates based upon the Administration (DFA) Rule 2.42.2.

FUNDING INFORMATION:

Juvenile Continuum Grant Fund (State General Fund)

**FOR THE PERIOD OF FY21: July 1, 2020 through June 30, 2021:
The total amount of the contract for FY21 shall not exceed \$86,331.00**

State General Fund: FY21: <u>\$86,331.00</u>
State General Fund: FY22: <u>\$86,331.00</u>
State General Fund: FY23: <u>\$86,331.00</u>
State General Fund: FY24: <u>\$86,331.00</u>
Total = <u>\$345,324.00</u>






21-20846 City of Santa Fe_For Review

Final Audit Report

2020-06-05

Created:	2020-06-05
By:	Irene Romero (ikromero@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjqR4Ux2EM9PW1bmDQACYIkFlgyB_ph4

"21-20846 City of Santa Fe_For Review" History

-  Document created by Irene Romero (ikromero@ci.santa-fe.nm.us)
2020-06-05 - 5:17:09 PM GMT- IP address: 63.232.20.2
-  Document emailed to Marcos Martinez (mdmartinez@santafenm.gov) for signature
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-  Email viewed by Marcos Martinez (mdmartinez@santafenm.gov)
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-  Document e-signed by Marcos Martinez (mdmartinez@santafenm.gov)
Signature Date: 2020-06-05 - 5:22:52 PM GMT - Time Source: server- IP address: 67.0.223.20
-  Signed document emailed to Marcos Martinez (mdmartinez@santafenm.gov) and Irene Romero (ikromero@ci.santa-fe.nm.us)
2020-06-05 - 5:22:52 PM GMT

IN WITNESS THEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

Date: _____

ATTEST:

YOLANDA Y. VIGIL,
CITY CLERK

APPROVED AS TO FORM:

ERIN K. MCSHERRY
CITY ATTORNEY

APPROVED:

MARY T. MCCOY
FINANCE DIRECTOR

22768.51040
Business Unit/Line Item

City of Santa Fe, New Mexico

memo

Date: June 1, 2020

To: Finance Committee – June 29, 2020
Quality of Life Committee – July 1, 2020
City Council – July 8, 2020

From: Alexandra Ladd, Director, Office of Affordable Housing

Re: Approval of RFP# P/20/15 and 2020-21 AHTF Contracts

ACTION REQUESTED:

Review and approve the allocation for the 2020-2021 Affordable Housing Trust Fund (AHTF)/General Fund and the attached contracts awarded in response to RFP# P/19/24 (Total: \$950,000)

RFP# 20/16 (AHTF)	CONTRACT #	VENDOR #	ORG #	OBJ#	AMOUNT
HABITAT FOR HUMANITY	3201901	2677	2402750	510500	\$ 80,000.00
NM INTERFAITH HOUSING	3201909		2402750	510500	\$ 200,000.00
SF RECOVERY CENTER	3201902	2761	2402750	510500	\$ 50,000.00
SF CIVIC HOUSING AUTHORITY	3201904	1667	2402750	510500	\$ 200,000.00
SF CIVIC HOUSING AUTHORITY	3201905	1667	2402750	510500	\$ 140,000.00
YOUTHWORKS	3201906	2400	2402750	510500	\$ 40,000.00
RFP# 20/16 (GENERAL FUND)					
SFPS - ADELANTE	3201907	1027	1002750	510500	\$ 60,000.00
NMCEH	3201908	2084	1002750	510500	\$180,000.00

BACKGROUND

Affordable Housing Trust Funds (AHTF) are generated from development activity (developer fees, pre-inclusionary housing agreements), payoffs of City-held liens, and land sales from Tierra Contenta. When the funds reach a threshold balance, the City funds affordable housing projects and activities to benefit income-qualified grantees. Eligible housing activities are outlined in SFCC Chapter 26-3. Uses of funds are determined by the housing needs identified in the City's Five Year Strategic Housing Plan and regulated by the NM Mortgage Finance Authority for compliance with the NM Affordable Housing Act.

ITEM and ISSUE

Every year, the City’s Office of Affordable Housing issues two RFPs: one for the allocation of CDBG funds and the second for AHTF funds. The intent of the simultaneous procurement is that the funds are complementary. CDBG can assist direct beneficiaries earning less than 80% of the area median income (AMI) and AHTF can assist earners up to 120% of the AMI. Likewise, CDBG funds can be used to support public services and public facilities while AHTF is used only for affordable housing, whether for capital costs or direct financial assistance to income qualified beneficiaries. Because AHTF funds are local revenue, criteria for how they are used can be more localized to better meet Santa Fe’s unique needs.

In early February 2020, RFP #P/20/16 and RFP #P/20/15 were posted. Eleven applications were submitted for CDBG funding and nine for the AHTF funds. The Community Development Commission (CDC) met on March 4 to hear applicant presentations. Ten CDBG applications and seven AHTF applications were deemed responsive and eligible for funding. Funding amounts were determined based on a variety of factors related to priority needs identified in the City’s Consolidated Plan as well as other goals identified in the Five Year Affordable Housing Strategic Plan. Because the funding requests for AHTF far exceeded was available, two projects will be supported through the Office of Affordable Housing’s General Fund’s set aside for rental assistance.

RFP# 20/15 PY 2020-21				
Recommended Projects	Qualified Grantee	Grant Funds	Program Income (PI)	Total Funding Amount
Mortgage Principal Reduction	Habitat for Humanity	\$80,000	\$0.00	\$80,000
Rental Unit Construction	SF Civic Housing Authority (Calle Resolana)	\$200,000	n/a	\$200,000
	NM Interfaith Housing Corp (Siler Yards)	\$200,000	n/a	\$200,000
Rental Unit Rehab	SF Civic Housing Authority (Country Club Apartments)	\$140,000	n/a	\$140,000
Rental Assistance	Santa Fe Recovery Center (Sober Living “Bridge” Homes)	\$50,000	n/a	\$50,000
	Youthworks (Shelter Now)	\$40,000	n/a	\$40,000
	SFPS – Adelante	\$60,000	n/a	\$60,000
	NM Coalition to End Homelessness	\$180,000	n/a	\$180,000
Total (AHTF & General Fund)		\$950,000	\$0.00	\$950,000.00

**RESTATED AND AMENDED JOINT POWERS AGREEMENT
ESTABLISHING THE REGIONAL COALITION OF LANL COMMUNITIES BY
AND AMONG THE INCORPORATED COUNTY OF LOS ALAMOS, THE CITY
OF SANTA FE, SANTA FE COUNTY, THE CITY OF ESPANOLA, RIO ARRIBA
COUNTY, THE TOWN OF TAOS, TAOS COUNTY AND THE SOVEREIGN
GOVERNMENTS OF THE PUEBLO OF OHKAY OWINGEH AND THE PUEBLO
OF JEMEZ**

THIS RESTATED AND AMENDED JOINT POWERS AGREEMENT (the "Agreement") is entered into by and among the Incorporated County of Los Alamos, New Mexico, the City of Santa Fe, New Mexico, Santa Fe County, New Mexico, the City of Espanola, New Mexico, Rio Arriba County, New Mexico, the Town of Taos, New Mexico, [and] Taos County, New Mexico, Ohkay Owingeh Pueblo and the Pueblo of Jemez (each a "Party" or "Member" and, together, the "Parties" or "Coalition Members").

RECITALS

WHEREAS, the Parties are political subdivisions of the State of New Mexico (the "State") or sovereign federally recognized Indian Tribal Governments, and

WHEREAS, Los Alamos National Laboratory ("LANL") is one of the largest employers in northern New Mexico and a critical economic driver in the region; and

WHEREAS, the local economy and environment of each of the Parties is affected by LANL's activities and programming; and

WHEREAS, the Parties share a common interest in assuring that LANL's missions remain sustainable and diversified, while assuring protection of the environment; and

WHEREAS, the Parties share the goals of engaging LANL, the U.S. Department of Energy, the State of New Mexico, and other government agencies with respect to local concerns about LANL's activities, and of increasing the Parties' ability to participate in and influence federal and state government decision-making affecting LANL; and

WHEREAS, as described in Section 2 of this Agreement, the Parties have common powers with respect to promoting economic development, cultural and educational activities, and environmental protection for the benefit of their citizens; and

WHEREAS, the Parties are authorized by the Joint Powers Agreements Act, Sections 11-1-1 through 11-1-7 NMSA 1978 (the "Act"), to create a joint powers authority for the purpose of exercising powers common to the Parties specified in this Agreement; and

WHEREAS, the Parties desire to create a joint powers agency pursuant to the Act to carry out the purposes described in this Agreement in accordance with the terms and conditions set out below.

AGREEMENT

NOW, THEREFORE, the Parties hereby agree as follows:

1. Creation of Regional Coalition of LANL Communities. The Parties hereby

create the Regional Coalition of LANL Communities (“Regional Coalition” or “Coalition”), which is a political subdivision separate from the Parties, which shall act on behalf of the Parties with respect to the subject matters of this Agreement. The Coalition is a political subdivision of the state of New Mexico.

2. Authority of the Regional Coalition. The Regional Coalition shall have the authority to exercise the following powers common to the Parties in accordance with New Mexico state law with respect to LANL and LANL-related activities and issues:

A. Promotion of economic development, including:

- (i) promotion of new missions for LANL that the citizens of the Coalition Members support;
- (ii) advocacy of long-term stable funding of LANL missions;
- (iii) promotion of new and diverse scientific endeavors at LANL, focusing on employment and educational opportunities within the Coalition Members' jurisdiction;
- (iv) support of business incubation and business development on non-federal lands;
- (v) support of workforce training and development; and
- (vi) promotion of awareness of LANL and its contributions toward and impact on the region.

B. Promotion and coordination of environmental protection and stewardship, including:

- (i) clean-up activities and site maintenance to ensure consistency with community values and future use goals;
- (ii) planning activities to address future use goals, stewardship needs and obligations, and prevention of future contamination;
- (iii) evaluation of cleanup planning, implementation and oversight for protection of workers and neighboring communities.

C. Participation in regional planning, including:

- (i) evaluation of policy initiatives and legislation for impacts on Coalition Members;
- (ii) development of long-term relationships between local, state and federal officials and LANL officials;
- (iii) coordination of regional planning with LANL strategic

initiatives and other advocacy organizations and initiatives.

D. Evaluation of policy initiatives and legislation for impact on the Regional Coalition, including:

(i) Participation in public comment and outreach initiatives to influence decision-making concerning LANL activities;

(ii) Advocacy in state and federal legislative process and administrative proceedings.

E. In exercising the common powers of the Parties described in Subsections (A) through (D) of Section 2 above, the Regional Coalition shall have the additional common powers to:

(i) enter into contracts, including office leases and personal property rental agreements, but shall not acquire or own any real property, vehicles, or debt;

(ii) acquire office equipment and supplies and other personal property as necessary to accomplish the purposes of this Agreement;

(iii) contract with an executive director, legal counsel, experts, and administrative staff, as necessary; provided, however, the Coalition shall not hire employees;

(iv) develop and adopt an annual budget for operations, and bill and collect payments from Coalition Members in accordance with this Agreement and the duly adopted annual budget, subject to Section 5(C);

(v) establish bylaws and policies to govern its affairs, including policies relating to fiscal management, travel, reimbursement, and annual audits, subject to Section 5(C);

(vi) receive, deposit, expend, and invest public monies, subject to Section 5(C);

(vii) lobby state and federal officials, but only to the extent consistent with state and federal law and grant requirements;

(viii) apply for and to receive state, federal, and other grants, appropriations, and donations, subject to Section 5(C);

(ix) sell any of the Regional Coalition assets deemed by the Board to be unnecessary, excess, obsolete, or scrap in accordance with New Mexico state law, subject to Section 5(C);

(x) sue and be sued in any court of competent jurisdiction, subject to the limitations and immunities under New Mexico state law, including without limitation, the New Mexico Tort Claims Act, Section 41-4-1, et seq., NMSA 1978: and

(xi) do any and all other lawful things that are reasonably necessary and appropriate to carry out the purposes of this Agreement and exercise the express common powers of the Parties specified above; and

3. Regional Coalition Board of Directors.

The Regional Coalition shall be governed by a board of directors (the "Board") who shall be appointed as follows:

A. The governing body of each Party shall appoint a director, who shall be an elected public official of that Party, with current experience in strategic planning, economic development, environmental protection or the legislative process.

B. The governing body of each Party shall appoint replacement directors to fill vacancies in the board position appointed by that Party. Such replacement directors shall have the qualifications described in subsection A of this Section 4.

C. Each Director shall have a term of office as specified by the governing body of the Party appointing that Director. Directors may be reappointed for additional terms as determined by the Party appointing that Director.

D. The governing body of each Party shall appoint at least one and no more than two alternates (each an "Alternate Director") to serve as a director in the absence of the Director. An Alternate Director shall have the qualifications described in subsection A of this Section 4, except that the Alternate Director may be either an elected official or an employee of the Party represented by the Party appointing the Alternate Director.

4. Meetings and Duties of the Board.

A. Meetings of the Regional Coalition shall be held at least quarterly and at such additional times and in such locations as the Board determines.

B. Meetings shall be held in compliance with the New Mexico Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978.

C. A majority of directors shall constitute a quorum for the transaction of business. A majority vote of the quorum shall be required for the adoption of resolutions, bylaws, policies and plans; to enter into contracts and leases; to make purchases over \$2,500; to adopt an annual budget; appoint officers of the Board; delegate authority; and to take any other official action on behalf of the Board.

D. The Board shall:

(i) adopt bylaws, which shall not be inconsistent with this Agreement and which shall (among other things) govern the selection, duties, removal, and replacement of Board officers, conflicts of interest, conduct of meetings, compliance with the Open Meetings Act, voting, formation and conduct of subcommittees, amendments, and reporting;

(ii) appoint officers of the Board, which shall include a chair, vice chair, treasurer, and secretary, who shall serve one-year terms;

(iii) adopt written resolutions, plans, strategies, and policies to carry out the purposes of this Agreement and govern the exercise the Parties' common powers specified in Subsections (A), (B), (C), (D), and (E) of Section 2, including a code of conduct, and travel, per diem, and expense reimbursement policies;

(iv) develop an annual budget for each fiscal year, which shall begin on July 1 and end on June 30 of the following year;

(v) comply with all federal, state, and other grant accounting, expenditure, and reporting requirements;

(vi) delegate its authority and duties under this Agreement, as necessary and appropriate, to a Member, subcommittee, executive director or other contractor, including the task of developing proposed bylaws, plans, strategies, policies, budgets, and other materials to be proposed and considered for adoption by the Board in accordance with this Agreement;

(vii) keep minutes of its meetings in accordance with the Open Meetings Act, including posting on the organization website after they are approved by the board;

(viii) assure that none of the revenues of the Regional Coalition inure to the benefit of any individual or entity, except as compensation for services rendered or payment for goods, property or legal rights, or reimbursement of expenses.

(ix) to the extent applicable to the Board's activities, comply with all laws applicable to political subdivisions of the state of New Mexico.

5. Fiscal Agent.

A. As soon as practicable after approval of this Agreement by the New Mexico Department of Finance and Administration ("DFA"), the Board shall enter into an agreement ("Fiscal Agent Agreement") with a Member of the Coalition to serve as the Coalition's fiscal agent. The Fiscal Agent Agreement shall describe the duties of the fiscal agent, consistent with this Agreement.

B. The Board shall adopt by resolution policies and procedures prepared by the fiscal agent to assure the Coalition complies with all laws applicable to political subdivisions of the state of New Mexico governing the receipt, expenditure, investment, budgeting, depositing, and accounting of public money ("Fiscal Policies"). The Board may incorporate into its Fiscal Policies the policies and procedures of any Member that is also a political subdivision of the state of New Mexico.

C. The fiscal agent shall follow generally accepted accounting principles (GAAP) and shall maintain strict segregation of Coalition funds from other funds managed by the fiscal agent, and shall strictly account for and segregate federal funds from non-federal funds.

D. The fiscal agent shall provide for strict accountability of all receipts and disbursements of Coalition funds in accordance with NMSA 1978, Section 11-1-4 of the Joint Powers Agreements Act. The fiscal agent shall authorize, review, and approve all expenditures of Coalition funds to assure such expenditures are consistent with the Coalition's annual budget, the Fiscal Policies, and applicable federal and New Mexico state law.

E. As soon as practicable after a Fiscal Agent Agreement terminates for any reason, the Board shall execute a new Fiscal Services Agreement with another Member of the Coalition. The Board shall not authorize the expenditure of any Coalition funds, and no Member shall be obligated to contribute funds to the Coalition, unless and until a Fiscal Agent Agreement is in full force and effect.

6. Effective Date; Term; Member Withdrawal; Termination.

A. The effective date of this Agreement shall be the date it is approved by the DFA, which shall not occur until all Members have duly approved and executed this Agreement.

B. The term of this Agreement shall be perpetual, subject to subsection D below.

C. Any Member may withdraw from this Agreement by providing written notice of withdrawal to the Board Chair and, thereafter, shall no longer be a party to this Agreement. Such withdrawal shall not terminate this Agreement as to the remaining Members. The withdrawing Member shall not be entitled to refund of any funds it contributed to the Coalition prior to withdrawal.

D. This Agreement may be terminated by a written agreement to terminate executed by all Parties or by vote of the Board by two-thirds or more of the Directors.

7. Disposition of Coalition Funds Upon Termination. Any surplus funds of the Regional Coalition remaining at the time this Agreement is terminated shall be returned to the Parties in proportion to their respective contributions. Any funds provided by federal agencies shall be disposed of or returned in accordance with the federal grant requirements and applicable law.

8. Amendment; Addition and Withdrawal of Members.

A. Subject to Paragraph B below, this Agreement shall not be altered, changed, or amended except by a written instrument executed by the Parties and approved by the DFA.

B. A Tribal government, New Mexico County, or New Mexico City may become a Member of the Coalition and a Party to this Agreement upon request and approval by the Board, and any Member may withdraw from this Agreement pursuant to 6(C). The parties' intent is that a Tribal government shall not waive its sovereign immunity as a result of entering into this Agreement. This Agreement shall automatically be amended to incorporate such addition or

withdrawal of a Member without further approval by DFA. In the case of an additional Member, the amendment date shall be the date of the Board action approving the addition; in the case of withdrawal, the amendment date shall be the date of the Member's notice of withdrawal.

9. Privileges and Immunities. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of any such public agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of the Act, as provided in Section 11-1-6 NMSA 1978.

10. Governing Law. This Agreement shall be governed by the laws of the State of New Mexico; provided that, with respect to any tribal government that is a Party, it is hereby recognized that the powers and status of such Party, as a tribal government, is subject to the laws of the United States.

11. Counterparts. This Agreement may be executed in counterpart originals.

12. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter hereof.

13. Replacement of Prior Joint Powers Agreement. This Agreement replaces and supersedes the prior Joint Powers Agreement executed among the Parties, approved by the Department of Finance and Administration on October 13, 2011, including all amendments thereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement, which shall become effective as of the date of approval by the New Mexico Department of Finance and Administration.



City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:

Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

DATE: June 1, 2020

TO: Quality of Life Committee, Public Utilities/Public Works Committee, and Governing Body

VIA: Erin McSherry
City Attorney

From: *Elias Isaacson*
Elias Isaacson, Planning & Land Use Director

ISSUE:

This proposal includes amendments to Sections 14-6.2(A)(5)-(8) SFCC 1987 and 14-11.4 SFCC 1987 of the Land Use Code. The proposed amendments aim to improve administration and enforcement of the City's Short-Term Rental (STR) program and to create a system for imposing civil penalties on owners that operate STR units without proper authorization from the Land Use Department. The legislative sponsors of these amendments include Mayor Webber and Councilors Lindell, Romero-Wirth, and Villarreal. Under Section 14-3.3(A)(4), all amendments to the Land Use Code require a public hearing, review, and recommendation from the Planning Commission prior to consideration by the Governing Body.

(Elias Isaacson Planning and Land Use Director, esisaacson@santafenm.gov, 955-6 370; and Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

EXECUTIVE SUMMARY:

Amendments to two (2) existing ordinances are under consideration.

Amendments to Subsection 14-6.2(A)(5)-(8) SFCC 1987 will amend and clarify the existing Short-Term Rental Ordinance. The ordinance will retain the City's existing limitation on the total number of permits that may be issued by the land use department, which is a maximum of one-thousand (1000) permits. The City previously adopted this limitation by resolution. Additionally, the ordinance will prospectively limit the number of Short-Term Rental Permits to one per natural person. The Ordinance will also prospectively limit the proximity of



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Short-Term Rental units on Residentially Zoned property and will require a local operator for Short-Term Rental Units. Finally, the ordinance will require permit holders and host platforms to adhere to new record -keeping and reporting provisions.

Amendments to Section 14-11.4 SFCC 1987 include provisions for adopting civil penalties, a civil fine schedule, and civil citation procedures for Land Use Code enforcement actions. The amended ordinance would also clarify the circumstances under which the Land Use Director may revoke permits, including short-term rental permits, and would permit the Land Use Director to order a one-year waiting period for application for a short-term rental permit by a person who has violated the Short-Term Rental Ordinance.

Section 14-3.3, "Amendments to Text of Chapter 14," outlines the process for amending the text of the Land Use Code. To make a positive recommendation to the Governing Body, the Planning Commission must find that a text amendment meets the six criteria set forth in Section 14-3.3(B). The criteria are set forth below, followed by the Land Use Director's assessment of each.

(1) compliance with law;

The proposed amendments comply with municipal, state, and federal law concerning the regulation of short-term rentals.

(2) consistency with the general plan;

Although the General Plan does not speak directly to the regulation of short-term rental units, the proposed amendments will further many of the themes and policies set forth in the General Plan, including enhancing the quality of life for residents; fostering economic diversity; maintaining Santa Fe's unique personality, sense of place and character; and preserving an community-oriented downtown.

(3) consistency with other policies adopted by the governing body;

The policy objectives behind the proposed amendments are consistent with other policies adopted by the Governing Body and are described on the attached chart, which summarizes the sponsors' policy objectives and regulatory strategies.

(4) consistency with the purpose and intent of Chapter 14 and of the section being amended;

The proposed amendments are consistent with the general purposes of the Land Use Code, as set forth in SFCC Section 14-1.3, because they are intended to promote the health, safety, order, convenience, prosperity, and general welfare of the residents of Santa Fe.



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(5) consideration of how the amendment relates to other provisions of the Santa Fe City Code and the avoidance of unintended consequences; and

The proposed amendments to the Short-Term Rental Ordinance and the Land Use Code Enforcement Ordinance are intended to work in concert and with other provisions of the Santa Fe City Code, including the provisions governing business licenses and the collection of lodgers' tax.

(6) consistency with any approved neighborhood conservation overlay districts.

The amendments are consistent with the regulations that apply in the City's overlay districts.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval to the Governing Body of the proposed ordinance amendments to clarify and amend the existing Short-Term Rental Ordinance set forth in Subsection 14-6.2(A)(5) SFCC 1987. Staff also recommends that the Planning Commission recommend approval to the Governing Body of the proposed ordinance amendments that would amend Section 14-11.4 SFCC 1987 by adopting civil penalty provisions, a civil fine schedule, and civil citation procedures for Land Use Code enforcement actions.

ATTACHMENTS:

1. Proposed Text Amendments
2. Chart Summarizing Policy Objectives and Regulatory Strategies
3. FIRs

1 **CITY OF SANTA FE, NEW MEXICO**

2 **BILL NO. 2020-__**

3 **INTRODUCED BY:**

4
5 Mayor Alan Webber

6 Councilor Signe I. Lindell

7 Councilor Carol Romero-Wirth

8 Councilor Renee Villarreal

9
10 **AN ORDINANCE**

11 **AMENDING SECTION 14-11.4 OF THE LAND DEVELOPMENT CODE TO ADOPT**
12 **CIVIL PENALTY PROVISIONS, A CIVIL FINE SCHEDULE, AND CIVIL CITATION**
13 **PROCEDURES FOR LAND USE CODE ENFORCEMENT ACTIONS; AND TO**
14 **PERMIT THE LAND USE DIRECTOR TO ORDER A ONE-YEAR WAITING PERIOD**
15 **FOR APPLICATION FOR SHORT-TERM RENTAL PERMIT BY A PERSON WHO**
16 **HAS VIOLATED THE SHORT-TERM RENTAL ORDINANCE, SECTION 14-6.2(A)(5)**
17 **SFCC 1987.**

18
19 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

20 **Section 1. Section 14-11.4 of the Land Development Code (being Ord. No.**
21 **2011-37, § 14, as amended) is amended to read:**

22 **14-11 ENFORCEMENT**

23 **14-11.4 REMEDIES AND PENALTIES**

24 **(A) Remedies**

25 **(1) If a *structure* is erected, constructed, reconstructed, *altered*, repaired,**

1 converted, or maintained in violation of Chapter 14; or a *structure* or *property* is used
2 in violation of Chapter 14; or if any other violation of this chapter occurs,
3 the *governing body*, *city attorney*, enforcement officer, or other proper *city* official
4 may institute appropriate actions or proceedings to prevent, restrain, correct, or abate
5 such violation or to mandate compliance.

6 (2) The *land use director* may:

7 (a) withhold or revoke permits that the director is authorized to
8 issue, including construction *permits* and short-term rental permits, if the
9 applicant or permittee has violated a regulation relating to the granting of the
10 permit, or if in the judgment of the land use director the public welfare
11 requires that the permit be revoked or withheld;

12 (b) withhold or revoke *certificates of occupancy*;

13 (c) withhold the recording of *plats* or *development* plans;

14 (d) order discontinuance of illegal use of land or *structures*;

15 (e) order discontinuance of any illegal work being done;

16 (f) order removal of illegal *structures* or *alterations*; ~~and~~

17 (g) order that any land or *structure* modified in violation of this
18 Chapter be restored to compliance; or

19 (h) order a one (1)-year waiting period for *application* for a short-
20 term rental *permit* by a person who has operated a *short-term rental unit* in
21 violation of the short-term rental ordinance, subsection 14-6.2(A)(5), or has
22 failed to pay or report taxes on the *short-term rental unit* as required by law.

23 (3) The *land use director* may use one or more of the remedies and
24 penalties provided in this Article 14-11 without limiting the authority of the *land use*
25 *director* or other officials to take other enforcement actions provided in this Code,

1 including the suspension or revocation of a *permit* by the *building official* pursuant to
2 Chapter 7 Building and Housing, or ~~[to pursue]~~ the pursuit of other legal remedies.

3 (B) **Fines, Imprisonment**

4 Violations of Chapter 14 or of terms of approvals made pursuant to this chapter
5 may be punished as provided in ~~[Article]~~ Section 1-3 SFCC 1987 (General Penalty) ~~[of~~
6 ~~the Santa Fe City Code]~~.

7 (C) **Civil Penalties**

8 (1) Assessment of Civil Fines. In addition to other penalties or remedies,
9 the land use director may assess a ~~[penalty fee may be assessed for construction with~~
10 ~~proper permit approvals in accordance with a schedule adopted by resolution of~~
11 ~~governing body]~~ civil fine for any of the following:

12 (a) violation of any provision of Chapter 14;

13 (b) construction or other development without a required permit ;

14 (c) rental of a short-term rental unit without a permit or
15 registration;

16 (d) misrepresentation of fact on an application submitted to the
17 land use department; or

18 (e) failure to pay or report fees or taxes owed.

19 (2) Civil Fine Schedule. Each act subject to a civil fine constitutes a
20 separate civil violation. For violations that can be remedied within one day, each day
21 after receipt of notice of violation constitutes a separate civil violation. A civil violation
22 shall subject the applicant, permittee, owner, operator of a short-term rental unit,
23 and/or tenant, as applicable, to the following civil fines for violations during any
24 consecutive thirty-six (36)-month period:

25 (a) a civil fine of one hundred dollars (\$100.00) for the first

1 offense;

2 (b) a civil fine of two hundred and fifty dollars (\$250.00) for the
3 second offense; and

4 (c) a civil fine of five hundred dollars (\$500.00) for the third and
5 subsequent offenses.

6 (3) Civil Citation. If the *land use director* determines that a civil penalty
7 should be assessed, the land use department shall issue a written civil citation.

8 (a) Delivery. The civil citation shall be posted on the *property* in a
9 conspicuous place; delivered in person; or mailed by certified mail, return
10 receipt requested, to the last-known address of the *applicant, permittee, owner,*
11 operator of a *short-term rental unit*, and/or tenant, as applicable.

12 (b) Form and Contents. The civil citation shall contain the
13 following information:

14 (i) the address where the violation occurred;

15 (ii) a description of the specific violation;

16 (iii) a statement of whether this is the first, second, or third
17 or subsequent offense;

18 (iv) instructions for submitting payment of the civil fine;

19 (v) a statement that within fifteen (15) days of issuance of
20 the civil citation the cited person must either pay the civil fine or
21 submit a written request for hearing;

22 (vi) the name and phone number of the *city* employee from
23 whom the person cited may obtain further information or submit a
24 request for hearing; and

25 (vii) a copy of this subsection 14-11.4.

1 (4) Administrative Hearing.

2 (a) Request for Hearing. A person who is issued a civil citation
3 may request an administrative appeal hearing before a hearing officer, who
4 shall be appointed by the city manager. A request for hearing must be made in
5 writing and must be submitted to the *land use director* within fifteen (15) days
6 of the date that the civil citation was posted, delivered, or mailed.

7 (b) Deposit Pending Appeal. An amount equal to the civil fine
8 assessed must accompany a request for hearing. The *city* shall hold the payment
9 as a deposit until the hearing officer makes a decision. The hearing officer shall
10 schedule a hearing within thirty (30) days of the request for hearing. If the
11 hearing officer upholds the civil citation, the *city* shall apply the deposit toward
12 the civil citation. If the hearing officer decides in favor of the requestor, the *city*
13 shall return the deposit to the requestor.

14 (5) Appeal to District Court. If the hearing officer denies an appeal, the
15 appealing party may file an appeal in the first judicial district court under Rule 1-074
16 NMRA. If the court rules in favor of the appealing party, the *city* shall dismiss the civil
17 citation and return the deposit to the requester.

18 (6) Revenue. The revenue generated through civil fines shall be retained by
19 the land use department and shall be used exclusively for enforcement of the land use
20 code.

21 **(D) Revocation of Approvals**

22 Land use and *development* approvals, [~~such as~~] including but not limited to special
23 use *permits*, *development* plan approvals, variances, design approvals by the HDRB[~~or~~
24 ~~BCDDRC and~~], construction *permits*, or short-term rental *permits*, may be revoked by
25 whichever body or official approved them, upon determining that there exists a substantial,

1 continuing, or recurring violation of any of the conditions of approval or other provisions of
2 this Code and that revocation is an appropriate remedy given the nature of the violation.

3 (1) The procedure to revoke an approval shall be similar to the procedure
4 for its issuance.

5 (a) For an approval that was granted by a *land use board* or
6 the *governing body*, a public hearing shall be required at the same body to
7 consider revocation. The *land use director* shall provide public notice of the
8 revocation hearing by publication of the meeting agenda and/or a public
9 hearing notice and by posting the *property* as required for the approval
10 hearing. The *land use director* shall also provide notice fifteen (15) days prior
11 to the hearing by certified mail with return receipt requested to the permittee
12 and to any *person* who has filed a written complaint concerning the violation.

13 (b) The *land use director* or other administrative official may
14 revoke an approval that he or she has granted upon written notice delivered to
15 the permittee by hand, by posting a notice on the *property* where the violation
16 occurs, or by certified mail with return receipt requested.

17 (2) Vacation of recorded subdivision *plats* shall be as provided in Section
18 3-20-12 NMSA 1978 and Section 23-1.2 SFCC 1987. Revocation of approved
19 amendments to the *general plan* future land use map or the official zoning map shall
20 be as provided for *city*-initiated amendments to those maps.

21 APPROVED AS TO FORM:

22
23 

24 ERIN K. McSHERRY, CITY ATTORNEY

25 *Legislation/2020/Bills/Chapter 14 Civil Penalties*

FISCAL IMPACT REPORT

General Information:

(Check) Bill: X Resolution: _____

Short Title(s): Chapter 14 Civil Penalties

Sponsor(s): Mayor Alan Webber, and Councilors Lindell, Romero -Wirth, and Villarreal

Reviewing Department(s): Land Use, City Attorney Office, Finance

Staff Completing FIR: Elias Isaacson Date: 06/01/20 Phone: 505-955-6370

Reviewed by City Attorney:  Date: Jun 10, 2020

Reviewed by Finance Director:  Date: Jun 15, 2020

Summary:

This Bill amends Section 14-11.4 SFCC 1987 by adopting civil penalty provisions, a civil fine schedule, and civil citation procedures for Land Use Code enforcement actions. The Bill also clarifies the circumstances under which the Land Use Director may revoke permits, including short-term rental permits, and would permit the Land Use Director to order a one-year waiting period for application for a short-term rental permit by a person who has violated the Short-Term Rental Ordinance, Section 14-6.2(A)(5) SFCC 1987.

Departments Affected:

Land Use, Tourism, and Finance

Consequences of Not Enacting Legislation:

If this Bill is not adopted, enforcement of the Short-Term Rental Ordinance (Section 14-6.2) will remain difficult to enforce, and issues with unpermitted short-term rental units and other violations of the Short-Term Rental Ordinance are likely to persist at unacceptable levels.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

No conflicts or duplications exist. The amendments contained in the Bill complement existing enforcement provisions in Section 1.3 SFCC 1987 and Section 14-11.4 SFCC 1987. This Bill relates to a companion Bill that amends the Short-Term Rental Ordinance set forth in Subsection 14-6.2(A)(5) SFCC 1987. That Bill retains the existing maximum of one thousand (1000) short-term rental permits in the City; prospectively limits the number of short-term rental permits to one per natural person; prospectively limits the proximity of short-term rental units on residentially zoned property; requires a local operator for short-term rental units; and establishes new record keeping and reporting requirements for short-term rental units.

Performance and Administrative Implications:

The revised Bill will make the City's short-term rental program easier to enforce and administer by creating a clearer framework to enforce violations of Chapter 14.

Fiscal Implications:

The impact to revenue will depend on the number of civil fines the Land Use Department issues. The City can expect this number to be greater at first, and then taper off over time as more properties are brought into compliance.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	\$ _____	\$ _____	\$ _____	_____	_____	_____	
Capital Outlay	\$ _____	\$ _____	\$ _____	_____	_____	_____	
Contractual/ Professional Services	\$ _____	\$ _____	\$ _____				
Operating	\$ _____	\$ _____	\$ _____				\$ _____
Total:	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Revenue

Revenue Type	FYE 21	FYE 22	FYE 23	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ <u>71,250</u>	\$ <u>35,625</u>	\$ <u>17,812</u>	<u>R</u>	<u>100</u>
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ <u>71,250</u>	\$ <u>35,625</u>	\$ <u>17,812</u>		

Revenue Narrative:

The impact to revenue will depend on the number of civil fines the Land Use Department issues. The City can expect this number to be greater at first, and then taper off over time as more properties are brought into compliance. This projection assumes 250 fines will be issued in the first year, with a 50% reduction in fines each subsequent year until ultimately leveling off at a persistent rate of 40 fines per year. This projection assumes a fine of \$285, based on the average of the escalating fine amounts included in the Bill.










Chapter 14 Civil Penalties

Final Audit Report

2020-06-16

Created:	2020-06-10
By:	Jesse Guillen (jbguillen@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAmE0DQvnVp88bq1WLw-COnA_lbD3FBjLV

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City of Santa Fe, New Mexico

memo

Date: June 22, 2020

To: Members of the Quality of Life Committee, Public Works and Utilities Committee, Finance Committee, and Governing Body

From: Members of the Planning Commission

Via: Sally A. Paez, Assistant City Attorney

Subject: Proposed Amendments to Short-term Rental Ordinance and Land Use Code Enforcement Ordinance

On Thursday, June 18, 2020, the Planning Commission held a public hearing on proposed amendments to the Short-term Rental (STR) Ordinance, Santa Fe City Code (SFCC) Section 14-6.2(A)(5)-(6), (8); and the Land Use Code Enforcement Ordinance, SFCC Section 14-11.4. Under the SFCC, proposed amendments to the text of Chapter 14 must be submitted to the Commission for review and recommendation at a public hearing, and the Governing Body must review the Commission's recommendations and any public comments received prior to taking final action on the legislation. SFCC § 14-3.3(A)(4).

The Planning Commission received a large volume of public comment on these proposals. Staff distributed written public comments from twenty-four 24 people to the Commission, including many comments received after the formal deadline. Additionally, twenty-nine (29) members of the public spoke at the public hearing.

The Planning Commission discussed the draft legislation at length but ultimately postponed a decision on a recommendation due to the extent of the proposed substantive changes and the high volume of public comment received. The Commission will finalize its recommendation at its July 16, 2020 meeting and will consider additional written public comments received by July 9, 2020. The Commission does not plan to accept additional live comment at the July 16, 2020 hearing.

Meanwhile, the Planning Commission understands that other City committees will be considering the proposed legislation at upcoming meetings. The

Commission offers the following input and suggestions made by individual Commissioners at the June 18, 2020 meeting for consideration by these other committees. These suggestions refer to the page and line numbers of the draft Short-term Rental legislation considered at the June 18, 2020 hearing.

- **Global:** The draft legislation would remove the current distinction between STR units on residentially zoned property, which are subject to the permit limits, and STR units on non-residentially zoned property (including the Business Capital District, “BCD”) and resort property, which must be registered but are not subject to the permit limits. Suggest that this aspect of the proposal warrants further consideration and should perhaps be withdrawn.
- **Page 4, lines 19-21:** This provision states that one purpose of the legislation is to prevent the reduction of long-term housing availability. Suggest further review of whether the assumptions underlying this provision are accurate, perhaps through further consultation with Alexandra Ladd.
- **Page 5, line 25, to page 6, line 1:** This provision states that the land use director shall issue permits only to “natural persons.” Suggest clarifying that although a permit must be held in the name of a natural person, the subject property can be owned by a legal or business entity, such as a trust or LLC. For example, suggest adding language as follows: “If the subject property is owned by a legal or business entity, the permit must be held in the name of any person with legal authority to act on behalf of that entity. The fact that a permit must be issued to a natural person does not mean that the property cannot be titled in such entities as a revocable trust, an LLC, or a corporation.”
- **Page 6, lines 6-11:** This provision states that a permit is not transferrable. Suggest considering whether there should be exceptions to this rule. For example, suggest adding the following language: “A transfer that does not result in new ownership of the property, such as a transfer to the owner’s revocable trust for estate planning purposes or a transfer to an LLC where there is no change in the ownership interest in the property, is not considered a transfer for purposes of this subparagraph.”
- **Page 7, lines 3-5:** This provision states that an STR unit cannot be rented more than once in a 7-day period. Suggest further consideration of whether this applies to an STR unit on non-residentially zoned property.
- **Page 12, lines 5-10:** This provision states that a permit shall not be issued for a new STR unit on residentially zoned property if there is already a permitted STR unit within 75’. Suggest the following: (1) consider whether this rule is appropriate for all parts of the city, or whether there should be a different rule (perhaps no proximity limitation) in areas or council districts where there is not a problem with STR density; (2) suggest further review of whether 75’ is the appropriate radius; and (3) suggest further review of whether the 75’ radius should be measured from the applicant’s property boundary (as set forth in the draft) or whether it

should be measured from the center of the parcel, as determined by the city's GIS program (which was used when analyzing the effect of this provision).

- **Page 17, pages 6-11:** Suggest revising the “grandfather” provision to clarify that an STR with an existing registration shall be considered to have a valid permit under the new regulations and that the permit may be timely renewed as long as it is not revoked due to non-compliance.



City of Santa Fe, New Mexico

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Alan Webber, Mayor

Councilors:

Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

MEMORANDUM

DATE: June 29, 2020

TO: Quality of Life Committee, Public Utilities/Public Works Committee, Finance Committee, and Governing Body

FROM: *Elias Isaacson*
Elias Isaacson, Planning & Land Use Director

RE: Legislative Update - Short-Term Rental & Land Use Code Enforcement

Executive Summary:

Amendments to the Short-Term Rental Ordinance set forth in Subsections 14-6.2(A)(5)-(8) SFCC 1987 are under further review and will not be presented for consideration at this time. Amendments to the Land Use Code Enforcement Ordinance set forth in Section 14-11.4 SFCC 1987 will move forward through the Council Committees as originally scheduled.

Legislative Update:

This proposal originally included two separate bills, one amending the Short-Term Rental (STR) Ordinance set forth in Subsections 14-6.2(A)(5)-(8) SFCC 1987, and the other amending the Land Use Code Enforcement Ordinance set forth in Section 14-11.4 SFCC 1987. The proposed amendments aim to improve administration and enforcement of the City's STR program.

All amendments to the Land Use Code require a public hearing, review, and recommendation by the Planning Commission prior to consideration by the Governing Body. On June 18, 2020, the Planning Commission reviewed both bills at a public hearing. The Planning Commission wanted more time to review the amendments and the public comment received. The Commission postponed a formal recommendation but provided the attached memorandum, which includes initial input on both bills.

On June 24, the bill sponsors, which include Mayor Webber and Councilors Lindell, Romero-Wirth, and Villarreal, decided to table the amendments to the STR Ordinance to consider additional revisions based on input received thus far. Amendments to the Land Use Code Enforcement Ordinance will continue on the original committee schedule.

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Bill No. 2020-__ Nuisance Abatement

SPONSOR(S): Councilors Lindell, Villarreal, Romero-Wirth, and Vigil Coppler

SUMMARY: The Bill amends, repeals, and creates various Sections of Section 10-9 SFCC 1987, the Nuisance Abatement Ordinance.

PREPARED BY: Jesse Guillen, Legislative Liaison

FISCAL IMPACT: Yes, but unknown at this time

DATE: June 23, 2020

ATTACHMENTS: Policy Brief
Bill
Fiscal Impact Report

Below are the proposed changes to the Nuisance Ordinance, aimed at making the nuisance abatement process more transparent and effective at solving chronic nuisances in Santa Fe.

ORDINANCE AMENDMENTS

ADJUST THE CURRENT DEFINITION OF A NUISANCE

Our nuisance ordinance very broadly defines a nuisance as:

A. Any building or structure which is ruined, damaged or dilapidated to such an extent, or any real property which is covered with ruins, rubbish, wreckage or debris to such an extent that the building, structure or real property threatens harm to the public comfort, health, well-being, peace or safety.

B. Any property or vehicle on or in which any [of the following] illegal activities as established in federal law, New Mexico state statute, or Santa Fe city code occur or which is used to commit, conduct, promote, facilitate any illegal activities and, because of such activity or use, the property threatens harm to the public comfort, health, peace, well-being or safety.

C. A loud or unruly gathering as defined in this subsection.

D. A nuisance as defined or described in any other section of the city code.

E. Knowingly creating, performing, or maintaining anything affecting any number of citizens without lawful authority that is either:

(1) Injurious to public health, safety, [morals] or [welfare] well-being; or

(2) Interferes with the exercise and enjoyment of public rights, including the right to use public or private property.

Justification: This definition gives the City the authority to use discernment in issuing nuisance violations as it sees fit on a case by case basis. It is broad enough to cover anything that may be a nuisance, without being so specific as to limit the application of the ordinance. The current definition can also apply to “blighted” or abandoned properties, designating them nuisance properties and therefore subject to nuisance enforcement.

HOLD THE PROPERTY OWNER RESPONSIBLE

All nuisance warnings, violations, or other communications will be issued to the property owner. All responsibility of nuisance violations and repercussions will fall on the property owner. All communication from the City in regard to nuisance properties will be directed to property owners.

Justification: Targeting property owners ensures that they are made aware of troublesome tenants and that the owner will always be held responsible. We anticipate this will incentivize property owners to properly screen tenants as well as address nuisance issues as they arise.

BROADEN DEFINITION OF “PROPERTY” TO INCLUDE MULTI- UNIT PROPERTIES

A single property will be defined by ownership, not number of units. If a property owner owns multiple units on a single piece of land or in a single complex, it will be considered one property. If multiple owners own units within a condominium or townhouse complex, these are considered separate properties.

Justification: This definition will limit property owners from being able to spread nuisance violations across multiple owned units at the same location.

INSTITUTE A NUISANCE TRIGGERING SYSTEM

Six (6) police calls, land use code violations, or constituent complaints, or any combination thereof, to a property within any six (6) month period will trigger an internal Nuisance Investigation. A letter will be sent to the property owner informing them of the “incidents” and the investigation. If the investigation determines a nuisance exists, the warning and abatement process will be initiated.

The city shall not include calls for law enforcement, fire, or other first responders in the investigation if the caller had reasonable belief that an individual was in need of intervention or emergency assistance.

The City may initiate an internal investigation of a possible nuisance property that meets some but not all of the aforementioned requirements to trigger an internal investigation. For example, if a property only has 3 calls in 6 months, but they are for severe nuisances or illegal activities, it could still be deemed a nuisance by internal investigation.

Justification: This process will alert the City to possible nuisance properties before they become chronic nuisances, as well as allow the City to investigate severe, if infrequent, violators.

INSTITUTE AN INTERNAL REVIEW PROCESS

Constituent and Council Services will monitor and review all nuisance cases prior to a warning and abatement being issued. The investigation will consider number of police calls, severity of infractions, number and character of constituent calls, police statements, neighborhood testimony, past abatement plans, and any other information available to make a determination of nuisance.

Justification: This process allows the City to exercise discretion to determine if a nuisance exists. This will protect property owners from “nosey neighbors” who may frequently call the City to complain about minor issues, as well as allow the City flexibility to issue violations to severe, if infrequent, violators.

INSTITUTE AN ABATEMENT PLAN PROCEDURE

If a property is deemed a nuisance by the internal investigation, the City will issue a written nuisance violation and mandate the property owner submit an abatement plan. The abatement plan, to be submitted by the property owner to the City no later than 15 days after issuance, must include concrete steps and a timeline to abate the nuisance. The City will review and approve the abatement plan. If the

property owner needs assistance to compile their nuisance plan, the City will provide a recommended abatement plan to the homeowner.

The abatement plan cannot consist solely of eviction of victims or innocent tenants.

Once a property has been determined to be in compliance, the property will enter into a monitoring period of three (3) months. Once this monitoring period is complete, a letter will be sent to the property owner notifying them of their compliance and removal from probation.

Justification: Abatement plans allow the property owner a chance to abate the nuisance before being fined or brought to court. It gives the City multiple opportunities to engage with the property owner, and to collaborate on a plan to alleviate the problem.

ADD SECTION ON TENANTS' RIGHTS

Add section on protection of tenants:

Neither a property owner nor the city shall:

- A. Prohibit or limit a tenant's right to summon police or other emergency assistance based on the tenant's reasonable belief that the tenant or any other individual is in need of intervention or emergency assistance; or
- B. Impose monetary or other penalties on a tenant who summons police or emergency assistance if the assistance was requested or dispatched based on a reasonable belief that the tenant or other individual was in need of intervention or emergency assistance.

Justification: This provision protects tenants and ensures their right to call for help when needed.

DEFINE NON-COMPLIANCE REPERCUSSIONS AND ENFORCEMENT PROCESS

If a property owner fails to provide an approved abatement plan within 15 days, or they do not comply with the abatement plan within 30 days of approval, they will be considered non-compliant. At this time, the City can choose to step in and abate the nuisance, at the expense of the property owner. An additional fine of \$100 per day for each day of non-compliance can be charged to the property owner at the discretion of the City.

If the owner continues non-compliance, including non-payment, for a period of 90 days, the City can take the property owner to District Court and recommend to the courts to place a lien on the property, to force the sale of the property, or to seize the property. After 90 days of non-compliance and the City decides to pursue the case in court, the \$100 per day fine will no longer accumulate. The maximum fine will be \$9000.

The City can also pursue the issue in District Court if the property has three (3) separate nuisance violations in any two (2) year period, regardless of abatement.

Nuisance Ordinance Amendments

Justification: These changes will strengthen enforcement by instituting civil fines and by outlining a clear enforcement process to prosecute non-compliance. Additionally, the new nuisance process and case management process will provide the City much more evidence of non-compliance if the case is brought before the court. The City will have a much stronger defense after attempting to work with the property owner over the course of several months to abate the nuisance.

underscored material = new
[bracketed material] = delete

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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2020-__

INTRODUCED BY:

Councilor Signe I. Lindell

Councilor Renee Villarreal

Councilor Carol Romero-Wirth

Councilor JoAnne Vigil Coppler

AN ORDINANCE

**RELATING TO THE NUISANCE ABATEMENT ORDINANCE, SECTION 10-9 SFCC
1987; AMENDING SECTION 10-9.2 TO ALIGN THE INTENT WITH THE PURPOSE
OF THE BILL; AMENDING SECTION 10-9.3 TO AMEND AND ADD DEFINITIONS;
AMENDING SECTION 10-9.4 TO MAKE THE PROPERTY OWNER RESPONSIBLE;
REPEALING AND READOPTING A NEW SECTION 10-9.5 TO ESTABLISH A
PROCESS FOR A NUISANCE INVESTIGATION AND ABATEMENT PROCESS;
REPEALING AND READOPTING A NEW SECTION 10-9.6 TO ESTABLISH
TENANTS' RIGHTS; AMENDING SECTION 10-9.7 TO ESTABLISH ENFORCEMENT
PROVISIONS TO HOLD THE PROPERTY OWNER ACCOUNTABLE; AMENDING
SECTION 10-9.8 REGARDING RESERVATION OF LEGAL OPTIONS; AMENDING
SECTION 10-9.9 REGARDING APPEALS; AMENDING SECTION 10-9.10 TO
REMOVE EXTRANEOUS LANGUAGE; REPEALING SECTION 10-9.11 REGARDING
SUPPLEMENTARY REMEDIES FOR PUBLIC NUISANCES; AND AMENDING**

1 **SECTION 10-9.13 REGARDING THE RIGHT OF ENTRY.**

2
3 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

4 **Section 1. Section 10-9.2 of SFCC 1987 (being Ord. No. 2005-1 § 9, as**
5 **amended) is amended to read:**

6 **10-9.2 Intent.**

7 A. The abatement of public nuisances for the protection of public health, safety,
8 and ~~[welfare]~~ well-being is a matter of local concern. The purpose of this section is to abate
9 public nuisances. ~~[The remedies provided in this section are directed at the property involved~~
10 ~~without regard to ownership, title or right of possession and the culpability or innocence of~~
11 ~~those who hold these rights.]~~ The remedial actions provided in this section are intended to be
12 civil in nature.

13 B. The purpose of this section is to ~~[reduce the costs of providing police, fire,~~
14 ~~and other emergency response services]~~ prevent the use of property as a public nuisance and
15 to minimize the impact of nuisance properties on surrounding neighborhoods by imposing a
16 civil fee against ~~[person responsible]~~ the property owner for conducting, aiding, allowing,
17 permitting, or condoning a public nuisance at a ~~[residence or other private]~~ property ~~[for the~~
18 ~~recovery of costs associated with providing law enforcement, fire, and other emergency~~
19 ~~response services to public nuisances].~~ If the city deems the property owner to be non-
20 compliant with the required abatement plan, the city may issue fines and may request that a
21 district court place a lien on the property pursuant to Section 10-9.7 SFCC 1987.

22 **Section 2. Section 10-9.3 of SFCC 1987 (being Ord. No. 2005-1 § 10, as**
23 **amended) is amended to read:**

24 **10-9.3 Definitions.**

25 For the purposes of this section the following definitions shall apply unless the context

1 clearly indicates or requires a different meaning.

2 *Abate* means to repair, replace, remove, destroy, bring to a halt, eliminate, or, where
3 that is not possible or feasible, to suppress, reduce, or minimize.

4 *Abatement plan* means a document including the name and address of the property
5 owner and, if applicable, the person(s) in charge of the property; the street address or a
6 description sufficient for identification of the property, building, structure, or land upon or
7 within which the nuisance is occurring; a description of or reference to the relevant nuisance
8 activities; an outline of the steps required to rectify the public nuisance(s), including a timeline
9 for completion; and an agreement by the property owner that the city may (1) inspect the
10 property as necessary to determine compliance with the abatement plan; (2) if the property
11 owner fails to comply with the abatement plan by the deadline outlined within the abatement
12 plan, abate the nuisance and recover costs, expenses, and monetary penalties pursuant to 10-9.7
13 SFCC 1987.

14 *Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever
15 source or by whatever process produced.

16 *Alcoholic beverage* means alcohol, spirits, liquor, wine, beer, and every liquid or solid
17 containing alcohol, spirits, wine, or beer, and which contains one-half of one percent (.5%) or
18 more of alcohol by volume and which is fit for beverage purposes either alone or when diluted,
19 mixed, or combined with other substances.

20 *Building* means a structure, as defined herein, which is enclosed with walls and a roof
21 so that there are no sides left open.

22 *Contraband* means any personal property which is illegal to own.

23 *Juvenile* means any person under eighteen (18) years of age.

24 *Loud or unruly gathering* means a party or gathering of two (2) or more persons at or
25 on a [~~residence or other private~~] property, who are causing noise that disturbs the peace or

1 obstructs public streets, including crowds of people who have spilled into public streets.

2 Incident means:

3 A. A response to the relevant property from law enforcement, fire, or other
4 emergency response provider;

5 B. Land use code citation; or

6 C. Constituent complaint.

7 *Person* means natural persons and every legal entity whatsoever, including but not
8 limited to sole proprietors, corporations, limited liability companies, partnerships, limited
9 partnerships, and associations.

10 *Personal property* means all property of every kind and nature whatsoever, including
11 cash, vehicles, animals, intangible property, and contraband, but not including real property of
12 any kind.

13 *Property* means property of all kinds, including real property and personal property, [~~as~~
14 ~~defined herein~~] including a home, yard, apartment, condominium, hotel, motel, vacant lots,
15 abandoned buildings, or a hall or meeting room, whether occupied on a temporary or permanent
16 basis, whether occupied as a dwelling, and whether owned, leased, rented, or used with or
17 without compensation.

18 Property owner means a person who holds fee simple title to any property, or a person
19 acting lawfully on behalf of the person who holds title.

20 *Public nuisance or nuisance* means:

21 A. Any building or structure which is ruined, damaged or dilapidated to such an
22 extent, or any real property which is covered with ruins, rubbish, wreckage or debris to such
23 an extent that the building, structure or real property threatens harm to the public comfort,
24 health, well-being, peace or safety; or

25 B. Any property or vehicle on or in which any [~~of the following~~] illegal activities

1 as established in federal law, New Mexico state statute, or Santa Fe city code occur or which
2 is used to commit, conduct, promote, facilitate any illegal activities and, because of such
3 activity or use, the property threatens harm to the public comfort, health, peace, well-being or
4 safety. [~~For purposes of this section, the illegal activity shall have the same definition as that~~
5 ~~contained in the section of the New Mexico Statutes Annotated (NMSA), as amended, or~~
6 ~~Chapters XII or XX SFCC 1987, as amended, listed after the illegal activity:~~

7 (1) ~~Prostitution, Section 30-9-2 NMSA; patronizing prostitutes, Section~~
8 ~~30-9-3 NMSA, promoting prostitution, Section 30-9-4 NMSA; or accepting earnings~~
9 ~~of a prostitute, Section 30-9-4.1 NMSA;~~

10 (2) ~~Sexual exploitation of children by prostitution, Section 30-6A-4~~
11 ~~NMSA;~~

12 (3) ~~Sexual exploitation of children, Section 30-6A-3 NMSA;~~

13 (4) ~~Trafficking in controlled substances, Section 30-31-20 NMSA;~~
14 ~~distributing controlled substances to a minor, Section 30-31-21 NMSA; distribution of~~
15 ~~a controlled substance, Section 30-31-22 NMSA; possession of a controlled~~
16 ~~substance, Section 30-31-23 NMSA; distributing a counterfeit controlled substance,~~
17 ~~Section 30-31-22B NMSA; distributing, manufacture, or possession of an imitation~~
18 ~~controlled substance, Section 30-31A-4 NMSA; sale of an imitation controlled~~
19 ~~substance to a minor, Section 30-31A-5 NMSA;~~

20 (5) ~~Unlawful possession, delivery, manufacture or delivery to a minor of~~
21 ~~drug paraphernalia, Section 30-31-25.1 NMSA;~~

22 (6) ~~Commercial gambling, Section 30-19-3 NMSA; permitting premises~~
23 ~~to be used for gambling, Section 30-19-4 NMSA; dealing in gambling devices,~~
24 ~~Section 30-19-5 NMSA;~~

25 (7) ~~Unlawful carrying of a deadly weapon, Section 30-7-2 NMSA~~

1 and Section 20-19 SFCC 1987; unlawful possession of a handgun, Section 30-7-2.2
2 NMSA; negligent use of a weapon, Section 30-7-4 NMSA; unlawful possession of a
3 switchblade, Section 30-7-8 NMSA; receipt, transportation or possession by a felon of
4 a firearm or destructive device;

5 (8) — Dangerous use of explosives, Section 30-7-5 NMSA; negligent use of
6 explosives, Section 30-7-6 NMSA; unlawful sale, possession or transportation of
7 explosives, Section 30-7-7 NMSA; possession of explosives, Section 30-7-19 NMSA;
8 possession of explosive device or incendiary device, Section 30-7-19.1 NMSA;

9 (9) — Shooting at a dwelling or occupied building or shooting at or from a
10 motor vehicle, Section 30-3-8 NMSA;

11 (10) — Selling, serving, giving away, disposing of, exchanging, delivering,
12 procuring, possessing or permitting the sale of alcoholic beverages to, for or by any
13 person under lawful age or to an intoxicated person, Sections 60-7A-16 and 60-7B-1
14 NMSA; using property to provide, offer or permit the consumption of intoxicating
15 liquors by persons under the age of twenty one (21) without a parent's or guardian's
16 knowledge or consent or the order of a practicing physician, or as part of a religious
17 ceremony, or failing to use reasonable control and ordinary care to keep persons under
18 the age of twenty one (21) from consuming intoxicating liquors on one's property.

19 (11) — The sale of alcoholic beverages at any place other than a valid (not
20 suspended or revoked) licensed premises, Section 60-7A-4.1 NMSA; or the unlawful
21 manufacture of alcoholic beverages, Section 60-7A-7 NMSA; or

22 (12) — Dog fighting, Section 30-18-9 NMSA; or]

- 23 C. A loud or unruly gathering as defined in this subsection.
- 24 D. A nuisance as defined or described in any other section of the city code.
- 25 E. Knowingly creating, performing, or maintaining anything affecting any

1 number of citizens without lawful authority that is either:

2 (1) Injurious to public health, safety, [~~morals~~] or [~~welfare~~] well-being; or

3 (2) Interferes with the exercise and enjoyment of public rights, including
4 the right to use public or private property.

5 *Real property* means land and all improvements, buildings, and structures, and all
6 estates rights and interests, legal and equitable, in the same, including, but not limited to, all
7 forms of ownership and title, future interests, condominium rights, time-share rights,
8 easements, water rights, mineral rights, oil and gas rights, space rights, and air rights.

9 ~~[Residence or other private property means a home, yard, apartment, condominium,
10 hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a
11 temporary or permanent basis, whether occupied as a dwelling, party or other social function,
12 and whether owned, leased, rented, or used with or without compensation.]~~

13 ~~*Response costs* means the costs associated with responses by law enforcement, fire and
14 other emergency response providers to loud or unruly gatherings including, but not limited to:~~

15 A. ~~Salaries and benefits of law enforcement, fire or other emergency response
16 personnel for the amount of time spent responding to, remaining at, or otherwise dealing with
17 loud or unruly gatherings, and the administrative costs attributable to such response(s);~~

18 B. ~~The cost of any medical treatment to or for any law enforcement, fire or other
19 emergency response personnel injured responding to, remaining at or leaving the scene of a
20 loud or unruly gathering;~~

21 C. ~~The cost of repairing any city equipment or property damaged, and the cost of
22 the use of any such equipment, in responding to, remaining at or leaving the scene of a loud or
23 unruly gathering.~~

24 ~~*Responsible person* means a person or persons with a right of possession in the
25 residence or other private property on which a public nuisance is located, including, without~~

1 ~~limitation:~~

- 2 A. ~~— An owner of the residence or other private property; or~~
3 B. ~~— A tenant or lessee of the residence or other private property;~~
4 C. ~~— The landlord of another person responsible for the gathering;~~
5 D. ~~— The person(s) in charge of the residence or other private property; and~~
6 E. ~~— The person(s) who organizes, supervises, officiates, conducts or controls the~~
7 ~~gathering or any other person(s) accepting responsibility for such a gathering].~~

8 *Structure* means anything constructed, erected, or placed upon real property which is so
9 firmly attached to the land as to be reasonably considered part of the real estate, and includes
10 building of every type and nature whatsoever.

11 *Underage person* means any person under twenty-one (21) years of age.

12 *Vehicle* means every device in, upon, or by which any person or property is or may be
13 transported or drawn upon a highway, including any frame, chassis, or body of any vehicle or
14 motor vehicle, except devices moved exclusively by human power or used exclusively upon
15 stationary rails or tracks.

16 **Section 3. Section 10-9.4 of SFCC 1987 (being Ord. No. 2011-2 § 4) is amended**
17 **to read:**

18 **10-9.4 Responsibility.**

19 A. Every property [~~occupant, lessee or holder~~] owner of any possessory interest
20 of a [~~residence or other private~~] property within the city of Santa Fe is required to maintain,
21 manage, and supervise the property and all persons thereon in a manner so as not to violate the
22 provisions of this section. The [~~owner of the~~] property owner remains liable for such
23 violations regardless of any contract or agreement with any third party regarding the property.

24 B. The [~~responsible person~~] property owner shall not conduct, aid, allow, permit,
25 or condone a public nuisance at the owner's [~~residence or other private~~] property.

1 C. If ~~[a responsible person for the nuisance]~~ the property owner of the property
2 on which a nuisance occurs is a juvenile, then the parents or guardians of that juvenile and the
3 juvenile will be jointly and severally liable for the ~~[response]~~ abatement costs or fines
4 incurred pursuant to this section.

5 D. ~~[To incur liability for response costs imposed by this section, t]~~ A [responsible
6 ~~person]~~ property owner need not be present when a nuisance occurs in order for an
7 investigation, submittal of an abatement plan, fines, or a lien against the property to result [the
8 ~~response giving rise to the imposition of response costs]~~. This section therefore imposes
9 vicarious as well as direct liability upon a ~~[responsible person]~~ property owner.

10 **Section 4. Section 10-9.5 of SFCC 1987 (being Ord. No. 2011-2 § 5) is hereby**
11 **repealed.**

12 **Section 5. [NEW MATERIAL] A new Section 10-9.5 of SFCC 1987 is ordained**
13 **to read:**

14 **10-9.5 Nuisance investigation and abatement plan.**

15 A. Internal nuisance investigation.

16 1. The city shall initiate an internal nuisance investigation when a property
17 accumulates six (6) incidents within a six (6) month period. Such investigation shall
18 consider the number and severity of the incidents; law enforcement, fire, or first
19 responder statements; neighborhood testimony; past abatement plans; the relative impact
20 of the incidents on the public; and any other available information with which to make a
21 determination of a nuisance. The city shall not include calls for law enforcement, fire, or
22 other first responders in an investigation, if the caller was seeking emergency assistance
23 for the safety of themselves or others.

24 2. When it has initiated an internal nuisance investigation, the city shall
25 send the property owner a letter describing the relevant incidents and alerting the owner

1 that the City has initiated an investigation.

2 3. If, in consultation with the city attorney's office, the assigned City
3 representative determines a nuisance exists pursuant to the internal nuisance
4 investigation, the City shall issue a notice of violation and initiate the abatement process.

5 4. The City may start an internal nuisance investigation before six (6)
6 incident occur, if the incidents are egregious.

7 B. Abatement process.

8 1. In its notice of violation, the city shall require the property owner to
9 submit an abatement plan.

10 2. The property owner shall submit the abatement plan to the city within
11 fifteen (15) days after receipt of the notice of violation. If the deadline for submission
12 falls on a Saturday, Sunday, or federal or city holiday, the deadline shall be extended to
13 the next regular business day.

14 3. Corrective action in the abatement plan may include any of the
15 following:

16 a. More effective screening of tenants, lease provisions, and lease
17 enforcement;

18 b. Implementing physical improvements;

19 c. Providing security for the property;

20 d. Evicting persons responsible for the nuisance activity; an
21 abatement plan shall not solely consist of eviction;

22 e. Pursuing other remedies available to the owner pursuant to any
23 lease or other agreement and approved by the city.

24 4. After review, the city shall approve or deny the abatement plan submitted
25 by the property owner. If the city determines the abatement plan is inadequate to abate

1 the nuisance(s), it shall be denied. If the city denies the abatement plan, the property
2 owner shall have five (5) additional days to submit an updated abatement plan. If the
3 property owner fails to provide an abatement plan, or if the city denies the abatement plan
4 a second time, the property is noncompliant and the property owner shall be subject to the
5 enforcement provisions of Section 10-9.7 SFCC 1987.

6 5. If the city approves the abatement plan, it will monitor the property for
7 compliance pursuant to the timeframe included in the abatement plan. If the property is in
8 compliance, the City will continue to monitor the property for a period of three (3)
9 months. If the property does not receive another notice of violation during the probation
10 period, the property will be considered compliant. The city shall send the property owner
11 a certified letter verifying compliance and removal from probation.

12 6. If the property owner fails to provide an approved abatement plan within
13 fifteen (15) days, or does not comply with the abatement plan within thirty (30) days of
14 approval, or as otherwise provided for in the abatement plan, then the city will consider
15 the property owner non-compliant.

16 **Section 6. Section 10-9.6 of SFCC 1987 (being Ord. No. 2011-2 § 6) is hereby**
17 **repealed:**

18 **Section 7. [NEW MATERIAL] A new Section 10-9.6 of SFCC 1987 is ordained**
19 **to read:**

20 **10-9.6 Tenants' rights.**

21 Neither a property owner nor the city shall:

22 A. Prohibit or limit a tenant's right to summon police or other emergency assistance
23 based on the tenant's reasonable belief that the tenant or any other individual is in need of
24 intervention or emergency assistance; or

25 B. Impose monetary or other penalties on a tenant who summons police or

1 emergency assistance if the assistance was requested or dispatched based on a reasonable belief
2 that the tenant or other individual was in need of intervention or emergency assistance.

3 **Section 8. Section 10-9.7 of SFCC 1987 (being Ord. No. 2011-2 § 6) is amended**
4 **to read:**

5 **10-9.7 ~~[Billing and collection]~~ Enforcement Provisions.**

6 A. The ~~[response costs]~~ expenses and monetary penalties assessed after a
7 property is deemed a nuisance shall be a debt owed to the city of Santa Fe by the ~~[responsible~~
8 ~~person]~~ property owner held liable in subsection 10-9.4 SFCC 1987 for the nuisance and, if
9 the property owner is a juvenile, the debt shall be owned by the juvenile's parents or
10 guardians. ~~[Notice of the costs for which the responsible person is liable shall be mailed via~~
11 ~~certified mail within fourteen (14) days of the response giving rise to such costs. The notice~~
12 ~~shall contain the following information:~~

13 (1) ~~— The name of the person(s) being held liable for the payment of such~~
14 ~~costs;~~

15 (2) ~~— The address of the residence or other private property where the~~
16 ~~nuisance occurred;~~

17 (3) ~~— The date and time of the response;~~

18 (4) ~~— The law enforcement, fire or emergency service provider who~~
19 ~~responded;~~

20 (5) ~~— The date and time of any previous warning given pursuant to~~
21 ~~subsection 10-9.5 SFCC 1987 and previous responses to nuisances at the residence or~~
22 ~~other private property in question within the previous twelve (12) months; and~~

23 (6) ~~— The recovery cost assessed as set forth in the cost recovery schedule.]~~

24 B. ~~[The responsible person shall remit payment of the noticed response cost to the~~
25 ~~city of Santa Fe within sixty (60) days of the date of the notice.] If the city determines that an~~

1 owner is non-compliant, and the nuisance presents an imminent risk to the health and safety of
2 the public, the city may abate the nuisance, at the expense of the property owner. Additionally,
3 the city may charge the property owner a fine of one hundred dollars (\$100.00) per day for each
4 day of non-compliance.

5 C. ~~[The city may place a lien upon property where the nuisance occurred for any~~
6 ~~costs not paid within three (3) months of notice in paragraph A. above.]~~ The city shall send
7 via certified mail notification of the costs and/or fines for which the owner is liable within
8 fourteen (14) days of the determination of non-compliance giving rise to such costs. The
9 notice shall contain the following information:

10 (1) The name of the person(s) being held liable for the payment of such
11 costs and/or fines;

12 (2) The address of the residence or other property where the nuisance
13 occurred;

14 (3) The date and time of nuisance notices, as well as reports, evidence,
15 and timeline of non-compliance; and

16 (4) Notice of the opportunity to appeal the determination within fifteen
17 (15) days, pursuant to Section 10-9.9.

18 D. If the property owner fails to comply with the City's notice and fines, including
19 non-payment of abatement costs or fines, within ninety (90) days, the city may file an action
20 against the property owner in district court, recommending any appropriate action including, but
21 not limited to, placing a lien on the property, forcing the sale of the property, allowing entry
22 onto the property to abate the nuisance, or seizing the property. After ninety (90) days of non-
23 compliance the one hundred (\$100.00) per day fine shall no longer accumulate. The maximum
24 amount of the cumulative fines shall be nine thousand dollars (\$9,000.00).

25 ~~[C. — The city may place a lien upon property where the nuisance occurred for any~~

1 ~~costs not paid within three (3) months of notice in paragraph A. above.]~~ The city may also file
2 in district court if an internal investigation concludes that three incidents have occurred after a
3 notice of violation, in any two (2) year period, regardless of the property owner's abatements.

4 **Section 9. Section 10-9.8 of SFCC 1987 (being Ord. No. 2011-2 § 8) is amended**
5 **to read:**

6 **10-9.8 Reservation of legal options.**

7 Nothing in this section shall be construed as a waiver by the city of any right to seek
8 reimbursement for ~~[response services]~~ abatement costs or unpaid fines through other legal
9 remedies or procedures. The procedures provided for in this section are in addition to any other
10 statute, ordinance or law, civil or criminal. ~~[This section in no way limits the authority of peace~~
11 ~~officers or private citizens to make arrests for any criminal offense arising out of conduct~~
12 ~~regulated by this section.]~~

13 **Section 10. Section 10-9.9 of SFCC 1987 (being Ord. No. 2011-2 § 8) is amended**
14 **to read:**

15 **10-9.9 Appeals.**

16 Administrative Hearing.

17 A. Request for Hearing. A person who is issued a notice of violation may
18 request an administrative appeal hearing before a hearing officer, who shall be
19 appointed by the city manager. A request for hearing must be made in writing and must
20 be submitted to the address included in the notice, within fifteen (15) days of the date
21 of receipt of the notice of violation.

22 B. Deposit Pending Appeal. An amount equal to any fines assessed at the
23 time of notice of violation must accompany a request for hearing. The city shall hold
24 the payment as a deposit until the hearing officer makes a decision. If the hearing
25 officer upholds the notice of violation, the city shall apply the deposit towards the fines

1 and/or abatement. If the hearing officer decides in favor of the requestor, the city shall
2 return the deposit to the requestor.

3 C. Appeal to District Court. [Any] If the hearing officer denies an appeal,
4 the person upon whom the city [imposes response costs pursuant to subsection 10-
5 9.4 SFCC 1987] imposed abatement costs or fines shall have the right to petition
6 district court for a writ of certiorari pursuant to Rule 1-075 NMRA.

7 **Section 11. Section 10-9.10 of SFCC 1987 (being Ord. No. 2011-2 § 8) is**
8 **amended to read:**

9 **10-9.10 Procedures in general.**

10 A. The remedies provided in this section are cumulative and supplementary to
11 each other to the criminal remedies provided by any criminal ordinance or statute, other civil
12 remedies, and any administrative proceedings to revoke, suspend, fine, or take other action
13 against any license. The city may pursue the remedies provided in this section, or other
14 ordinances or statutes, other civil actions or remedies, administrative proceedings against a
15 license, or any one (1) or more of the available remedies, and may do so simultaneously or in
16 succession.

17 B. All actions under this section are civil and remedial in nature.

18 C. The city attorney for the city of Santa Fe may file a civil action to abate any
19 nuisance in the District Court for the First Judicial District. [~~Investigation and assistance to~~
20 ~~the city attorney shall be by persons designated by the city manager. A private citizen, in the~~
21 ~~name of the city may also bring an action under this section.~~]

22 D. Actions under this section may affect the use, possession, enjoyment, and title
23 to real property. Accordingly, the city may file and record a notice of lis pendens against the
24 real property involved if the use, possession, enjoyment, or title may be affected.

25 E. The defendants to an action under this section and the persons liable for the

1 remedies in this section may include the property itself and any persons owning or claiming
2 any legal or equitable interest or right of possession in the property.

3 F. In addition to remedies necessary to abate the nuisance, the city shall be
4 entitled to costs and reasonable attorney's fees.

5 **Section 12. Section 10-9.11 of SFCC 1987 (being Ord. No. 2011-2 § 8) is hereby**
6 **repealed:**

7 **Section 13. Section 10-9.13 of SFCC 1987 (being Ord. No. 2011-2 § 8) is**
8 **amended to read:**

9 **10-9.13 Right of entry of inspection officer for examination of premises.**

10 The inspection officer may enter, at all reasonable times, if the inspection officer has
11 the occupant's [~~or custodian's~~] consent, any [~~house or premises~~] property within the city to
12 ascertain the existence of any nuisance. If the occupant's or [~~custodian's~~] consent is [~~refused~~]
13 not given or is otherwise unobtainable, an inspection order may be sought or an emergency
14 inspectorial search conducted pursuant to the procedures set forth in Sections 24-1-16 through
15 24-1-19 NMSA 1978 of the Public Health Act. The inspection officer may investigate the
16 conditions found and make reports, provided that such entering and investigation are for the
17 sole purpose of ascertaining the conditions entrusted to the officer's supervision and provided
18 further that the officer's reports are limited to matters pertaining to the officer's duties.

19 APPROVED AS TO FORM:

20 
21 _____

22 ERIN K. McSHERRY, CITY ATTORNEY

23
24
25 *Legislation/2020/Bills/Nuisance Abatement*

FISCAL IMPACT REPORT

General Information:

(Check) Bill: X Resolution: _____

Short Title(s): Nuisance Abatement

Sponsor(s): Councilors Lindell, Villarreal, Romero-Wirth, and Vigil Coppler

Reviewing Department(s): Council and Constituent Services, City Attorney's Office

Staff Completing FIR: Jennifer Faubion Date: 6/18/2020 Phone: 505-955-6033

Reviewed by City Attorney: *Eric McCreary* Date: Jun 30, 2020

Reviewed by Finance Director: *Mary McCay* Date: Jun 30, 2020

Summary:

The Bill amends Section 10-9 SFCC 1987, the Nuisance Abatement Ordinance. In order to address nuisance properties, the Bill establishes a process that includes an investigation and abatement process. The process puts the onus to abate the nuisance on the property owner by requiring a nuisance abatement plan. Other changes establish tenants' rights and provide consistency for the nuisance abatement process.

Departments Affected:

Primary: Council and Constituent Services, Land Use Department, Attorney's Office

Secondary: Police, Fire, and City Manager

Consequences of Not Enacting Legislation:

Nuisance abatement will continue to be cumbersome, time-consuming, and render the City limited in its ability to protect neighborhoods from chronic nuisances. Nuisances will continue to be difficult to abate, leaving neighborhoods without government assistance to protect them for months or sometimes years. Without this legislation, the City has very little power to abate nuisances without taking the matter to district court. Nuisance abatement will continue to be a reactive solution instead of a proactive one.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

As the definition of a nuisance could include violations of other laws, the nuisance ordinance is in companionship with many other parts of the City Code, most commonly, the Noise Ordinance, the Land Use code, and the criminal code.

Performance and Administrative Implications:

The Bill assigns the responsibility of monitoring nuisance properties to the Council and Constituent Services Department. This legislation allows the City to work with property owners to abate nuisances, issue civil penalties for non-abatement, and take corrective action against property owners before going to court. This legislation and nuisance abatement program is not intended to require additional staff, but will help streamline the abatement process to be more proactive and effective. Under the new program, Code Enforcement, Police, and Constituent data (calls) will be monitored by Constituent Services in order to proactively address nuisances. The City will play a more active role with property owners to abate nuisances.

Fiscal Implications:

This legislation will reduce the City staff work hours spent on nuisance properties by enabling the City to monitor and address nuisances before they become more difficult problems and without going to court. We will also collect civil penalties which will directly contribute to the General Fund. We anticipate those revenues to be small.

Fiscal Impact

 Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	\$ _____	\$ _____	\$ _____	_____	_____	_____	
Capital Outlay	\$ _____	\$ _____	\$ _____	_____	_____	_____	
Contractual/ Professional Services	\$ _____	\$ _____	\$ _____				
Operating	\$ _____	\$ _____	\$ _____				\$ _____
Total:	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

This legislation will require no additional expenditures, aside from hearing officers at a current rate of approximately \$150/hour, as its implementation is already included in staff job descriptions and responsibilities. It is unknown how often a hearing officer will be utilized as a result of adoption of this Bill. This legislation will free up staff time to devote to other responsibilities but will not have direct fiscal impact.

Revenue

Revenue Type	FYE	FYE	FYE	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

Some revenue will be generated by the fines charged to non-compliant property owners.

Nuisance Abatement

Final Audit Report

2020-06-30

Created:	2020-06-30
By:	Jesse Guillen (jbguillen@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIFJEWrbHS2Lq00dsKQjxCQ8vfl0Ywmy0

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