



Agenda

Regular Meeting of the Quality
of Life Committee
January 22, 2025 at 5:00 PM
Council Chambers, City Hall
200 Lincoln Avenue

Procedures for Quality of Life Committee Meeting

Viewing: Members of the public may view the meeting through the Government Channel on Comcast Channel 28 and Comcast HD928 or may stream the meeting live on the [City of Santa Fe's YouTube channel](#). The YouTube livestream can be accessed from most smartphones, tablets, or computers.

The agenda and packet for the meeting will be posted at <https://santafe.primegov.com/public/portal>.

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Consent Agenda
5. Presentations
6. Action Items: Consent Agenda
 - a. Request for Approval of the January 8, 2025, Quality of Life Committee Meeting Minutes. (Marcella A. Apodaca, Business Operations Manager; maapodaca1@santafenm.gov)

Committee Review:
Quality of Life Committee: 01/22/2025
 - b. Request for Approval of a Professional Services Contract With Jake A. Garrison Not to Exceed \$10,818.75 Including NMGRT to Assign Rights and Duties of Declarant in the Las Estrellas Subdivision for a One Year Term. (Patricia Feghali, Assistant City Attorney, pfeghali@santafenm.gov and Terry Lease, Office of Economic Development, Asset Development Manager; tjlease@santafenm.gov)

Committee Review:
Quality of Life Committee: 01/22/2025
Finance Committee: 01/27/2025
Governing Body: 01/29/2025
 - c. Request for Approval of New Mexico Department of Finance and Administration General Fund 93100 Capital Appropriation Project Grant Agreement 24-14222 for Supportive Housing Facilities Renovation in the Amount of \$844,470 with a Reversion Date of June 30, 2026. (Johanna Nelson, Economic Development Director and Affordable Housing Interim Director; jnelson@santafenm.gov).

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate the New Mexico Department of Finance and Administration Funding in the Amount of \$844,470 into Community Development CIP Revenue and WIP Construction

Committee Review:

Quality of Life Committee: 01/22/2025

Finance Committee: 01/27/2025

Governing Body: 01/29/2025

- d. Request for Approval of Budget Amendment Resolution (BAR) in the Amount of \$211,444 to Establish the FY25 Budget for the Santa Fe Regional Film Office Moved from the County of Santa Fe. (Jennifer LaBar-Tapia, Santa Fe Regional Film Office Director; jllabartapia@santafenm.gov).

Committees Review:

Quality of Life Committee: 01/22/2025

Finance Committee: 01/27/2025

Governing Body: 01/29/2025

7. Action Items: Discussion Agenda
8. Executive Session
9. Matters from Staff
10. Matters from the Committee
11. Matters from the Chair
12. Next Meeting:
13. Adjourn

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.

**QUALITY OF LIFE COMMITTEE
WEDNESDAY, JANUARY 8, 2025, 5:00 PM
CITY COUNCIL CHAMBERS, CITY HALL
200 LINCOLN AVENUE, SANTA FE, NEW MEXICO**

1. CALL TO ORDER

A meeting of the Quality of Life Committee was called to order on Wednesday, January 8, 2024, at 5:00 pm, by Councilor Cassutt, Chair, at City Hall, in the City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

2. ROLL CALL

MEMBERS PRESENT

Councilor Pilar Faulkner
Councilor Michael Garcia
Councilor Alma Castro
Councilor Amanda Chavez
Councilor Jamie Cassutt, Chair

MEMBERS ABSENT

OTHERS PRESENT

Johanna Nelson, Director, Economic Development Department
Henri Hammond-Paul, Director, Community Development
Marcella Apodaca, Committee Liaison
Elizabeth Martin, Stenographer, virtually

3. APPROVAL OF AGENDA

MOTION A motion was made by Councilor Chavez, seconded by Councilor Castro, to approve the agenda as presented.

VOTE The motion passed on a roll call vote as follows:

Councilor Faulkner, yes; Councilor Michael Garcia, yes; Councilor Castro, yes; Councilor Chavez, yes; Chair Cassutt, yes.

4. APPROVAL OF CONSENT AGENDA

Items 6 (B, C, J and M) were pulled for discussion.

MOTION A motion was made by Councilor Faulkner, seconded by Councilor Michael Garcia, to approve the Consent Agenda as amended.

VOTE The motion passed on a roll call vote as follows:

Councilor Faulkner, yes; Councilor Michael Garcia, yes; Councilor Castro, yes; Councilor Chavez, yes; Chair Cassutt, yes.

5. PRESENTATIONS

A. COMMUNITY EDUCATORS NETWORK - WALLACE FOUNDATION GRANT

Presentation was heard.

6. ACTION ITEMS: CONSENT AGENDA

A. REQUEST FOR APPROVAL OF THE DECEMBER 4, 2024, QUALITY OF LIFE COMMITTEE MEETING MINUTES.

Approved on consent.

B. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF \$2,000,000 FROM GENERAL FUND BALANCE TO CONSTRUCTION WORK IN PROGRESS FOR SITE PLANNING, DEVELOPMENT, OR PURCHASING OF A BUILDING OR PROPERTY FOR NON-CONGREGATE SHELTERING SOLUTIONS.

MOTION A motion was made by Councilor Michael Garcia, seconded by Councilor Faulkner, to approve the BAR.

VOTE The motion passed on a roll call vote as follows:

Councilor Faulkner, yes; Councilor Michael Garcia, yes; Councilor Castro, yes; Councilor Chavez, yes; Chair Cassutt, yes.

C. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO ITEM #23-0010 WITH KIWANIS CLUB OF SANTA FE TO INCREASE COMPENSATION IN THE AMOUNT OF \$90,000 FOR A NEW TOTAL AMOUNT OF \$390,000 FOR REDUCING THE RELIANCE ON PRIVATE BUSINESS SPONSORSHIPS TO SUPPORT THE NEW YEAR'S EVE AND DIAS DE LOS MUERTOS EVENTS.

MOTION A motion was made by Councilor Faulkner, seconded by Councilor Castro, to approve the request.

VOTE The motion passed on a roll call vote as follows:

Councilor Faulkner, yes; Councilor Michael Garcia, yes; Councilor Castro, yes; Councilor Chavez, yes; Chair Cassutt, yes.

D. REQUEST FOR APPROVAL OF AMENDMENT 3 TO ITEM #21-0659 WITH INSIGHT PUBLIC SECTOR TO INCREASE COMPENSATION IN THE AMOUNT OF \$1,032,885.48 FOR A NEW TOTAL AMOUNT OF \$3,928,004.70 FOR MICROSOFT 365 PRODUCTS AND SERVICES.

Approved on consent.

E. REQUEST FOR APPROVAL OF BUDGET AMENDMENT RESOLUTION (BAR) FROM THE CIP CONSTRUCTION TO RETURN FUNDS FROM CIP COMMUNITY DEVELOPMENT TO THE AFFORDABLE HOUSING TRUST FUND FOR THE LAMPLIGHTER PROJECT IN THE AMOUNT OF \$105,027.

Approved on consent.

F. REQUEST FOR APPROVAL OF THE 2023-2024 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REPORT (CAPER) FOR SUBMITTAL TO THE US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AS A CONDITION TO THE CITY OF SANTA FE'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG).

Approved on consent.

G. REQUEST FOR APPROVAL OF THE CERTIFICATION FOR ALLOCATION 22-ZG1016-48 WITH THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION FOR RECRUITMENT AND RETENTION STIPENDS FOR LAW ENFORCEMENT OFFICERS AT THE SANTA FE POLICE DEPARTMENT IN THE AMOUNT OF \$56,250 FOR FY 25.

Approved on consent.

H. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO INTERGOVERNMENTAL SERVICES AGREEMENT WITH THE STATE OF NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT TO EXTEND THE PERFORMANCE PERIOD TO JUNE 30, 2025.

Approved on consent.

- I. **REQUEST APPROVAL TO PURCHASE A RAPID HIT ID DNA MACHINE FROM FISHER SCIENTIFIC IN THE TOTAL AMOUNT OF \$207,205.50 , USING FUNDING FROM APPROVED STATE OF NEW MEXICO CRIME VICTIMS REPARATION COMMISSION VICTIMS OF CRIME ACT AGREEMENT #25-780-P707-0079.**

Approved on consent.

- J. **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO INTERGOVERNMENTAL SERVICES AGREEMENT ITEM #24-0555 WITH STATE OF NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT TO ADJUST SCOPE OF WORK REDUCING 2.25 VOLUNTEER SERVICE YEARS FROM THE SENIOR COMPANION PROGRAM AND ALLOCATING 2.25 VOLUNTEER SERVICE YEAR'S TO THE CARE COMPANION PROGRAM WITH NO CHANGE IN THE AMOUNT OF COMPENSATION OR NO CHANGE IN THE TERM THROUGH JUNE 30, 2024**

Councilor Michael Garcia recused himself from this item and left the meeting.

MOTION A motion was made by Councilor Castro, seconded by Councilor Faulkner, to approve Amendment No. 1 to agreement #24-0555.

VOTE The motion passed on a roll call vote as follows:

Councilor Faulkner, yes; Councilor Michael Garcia, yes; Councilor Castro, yes; Councilor Chavez, yes; Chair Cassutt, yes.

Councilor Michael Garcia returned to the meeting.

- K. **CONSIDERATION OF RESOLUTION No. 2025-_____. A RESOLUTION ADOPTING ANNUAL OPEN MEETINGS ACT NOTICE REQUIREMENTS FOR 2025.**

Approved on consent.

- L. **CONSIDERATION OF BILL NO. 2024-12 ADOPTION OF ORDINANCE NO. 2024-_____. A BILL MAKING A TECHNICAL CORRECTION; RELOCATING SUBPARAGRAPHS A-G OF SECTION 12-1-23.1 OF ARTICLE I (“DEFINITIONS”) OF EXHIBIT A, CHAPTER 24, SFCC 1987, TO SECTION 12-10-1.10 OF ARTICLE X (“VEHICLE REGULATIONS”) OF THE SAME EXHIBIT.**

Approved on consent.

M. CONSIDERATION OF BILL NO. 2024-13. ADOPTION OF ORDINANCE NO. 2024-_____. A BILL AMENDING SCHEDULE A OF THE UNIFORM TRAFFIC ORDINANCE TO INCREASE PENALTIES FOR MUFFLER NOISE VIOLATIONS, ELIMINATE A DISTINCTION BETWEEN THE CATEGORIES “SECOND OFFENSE” AND “SUBSEQUENT VIOLATIONS”, RECOGNIZING COMMUNITY SERVICE IS AN ALTERNATIVE TO ALL TRAFFIC VIOLATION PENALTIES UNDER THE CITY’S GENERAL PENALTY, AND ESTABLISH AN EFFECTIVE DATE.

MOTION A motion was made by Councilor Chavez, seconded by Councilor Michael Garcia, to approve Bill No. 2024-13.

VOTE The motion passed on a roll call vote as follows:

Councilor Faulkner, yes; Councilor Michael Garcia, yes; Councilor Castro, yes; Councilor Chavez, yes; Chair Cassutt, yes.

7. ACTION ITEMS: DISCUSSION AGENDA

None.

8. EXECUTIVE SESSION

None.

9. MATTERS FROM STAFF

Heard.

10. MATTERS FROM THE COMMITTEE

None.

11. MATTERS FROM THE CHAIR

None.

12. NEXT MEETING: JANUARY 22, 2025

13. ADJOURN

There being no further business before the Committee, the meeting adjourned

at 5:55 pm.

Councilor Jamie Cassutt, Chair

Elizabeth Martin

Elizabeth Martin (Jan 15, 2025 11:19 MST)

Elizabeth Martin, Stenographer



City of Santa Fe, New Mexico

Memorandum



DATE: January 2, 2025

TO: Quality of Life Committee: 01/22/2025
 Finance Committee: 01/27/2025
 Governing Body: 01/29/2025

VIA: Johanna Nelson, Office of Economic Development Director JN

FROM: Patricia Feghali, Assistant City Attorney PF
 Terry Lease, Office of Economic Development, Asset Development Manager TL

ITEM AND ISSUE:

Request for Approval of a Professional Services Contract with Jake A. Garrison, Garrison Law Firm, LLC, Not to Exceed \$10,818.75 Including NMGRT to Assign Rights and Duties of Declarant in the Las Estrellas Subdivision for a One Year Term (Patricia Feghali, Assistant City Attorney; pfeghali@santafenm.gov, Terry Lease, Office of Economic Development, Asset Development Manager; tjlease@santafenm.gov).

BACKGROUND AND SUMMARY:

On December 17, 2019, the City of Santa Fe (“City”) and Santa Fe Estates Incorporated (“Santa Fe Estates”) terminated a 90-year-old agreement (“90-year Agreement”) between the parties. During the due diligence process the City found that under the 90-year Agreement Santa Fe Estates owed the City approximately \$3,016,171, and in order to pay back the City for its debt Santa Fe Estates agreed to give the City full ownership of the remaining 248.03 acres of Santa Fe Estates undeveloped land; 30 acre feet of water to be deposited in the Water Bank; and the assignment of the rights of “Declarant” under the “Declaration of Covenants, Conditions, Restrictions and Easements for Santa Fe Estates”, as amended, (the “**Master Covenants**” or “**Non-Residential Covenants**”), and the “Santa Fe Estates Residential Tracts Declaration of Covenants, Conditions, and Restrictions” (the “**Residential Covenants**”). The Residential Covenants and the Non-Residential Covenants collectively are referred to as the “**Covenants.**”

The Contractor must meet the obligations and requirements for the Declarant (as assigned to the City of Santa Fe when it accepted real property and Declarant’s Rights) under the Las Estrellas Covenants and must perform or oversee the performance of:

- a. Draft necessary changes or amendments to the Covenants in order to remove Parcel 6A from the Residential Covenants.
- b. Convene any necessary meetings and complete all steps and paperwork necessary to amend the Covenants, as described above.
- c. Subject to the restrictions described below, Contractor shall perform all day-to-day duties and exercise all day-to-day authority vested in the Declarant under the Covenants, including but not limited to:
 - (i) keep or cause to keep good and accurate books and accounts of the Las Estrellas Residential and Master Associations, which the City may inspect at any time upon request; and
 - (ii) appoint members of the board of the Associations.
- d. Contractor shall not engage in any of the following activities, except as described above to remove Parcel 6A from the Residential Covenants, without the prior written consent of the City:
 - (i) amend or terminate the Covenants,
 - (ii) encumber, convey, or act or hold itself out as the owner of any or the properties subject to the Covenants; or

- (iii) release or remove all or a portion of any or all of the properties (or any other property) from the effect of the Covenants. The City may, from time to time, assign "Declarant" status of some or all of the properties to another person or entity, including any assignment included as part of any subsequent conveyance of some or all of the properties to another person or entity.
- e. Contractor may delegate any duties to subordinates or to HOA management including without limitation all administrative, record- keeping, accounting, and oversight obligations.

PROCUREMENT METHOD:

This is covered by the Blanket Services Determination, attached.

FUNDING SOURCE:

The funding source is:

Fund Name/Number: Economic Development/212

Munis Org Name/Number: EconDevOps/2122800

Munis Object Name/Number: Service Contracts/510310

Budget Officer Approval: Andy Hopkins **Date:** 01/06/2025

Comment/Exceptions: _____

ACTION REQUESTED:

The Office of Economic Development respectfully requests your review and approval.

ATTACHMENTS:

Declarant Professional Services Agreement

Blanket Services Determination

CITY OF SANTA FE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the “City,” and Jake A. Garrison, hereinafter referred to as the “Contractor,” and is effective as of the date of the last signature by the Parties.

BACKGROUND

Upon acquisition of the properties described in that certain “Termination Agreement” entered into on January 6, 2020, Item # 19-0926 and amended on June 24, 2020, Item # 20-0334, by and between the City and Santa Fe Estates, Incorporated, [SFE Declarant, LLC] (“Santa Fe Estates”), Santa Fe Estates agreed to assign its duties and rights as “Declarant” under the “Declaration of Covenants, Conditions, Restrictions and Easements for Santa Fe Estates”, as amended, (the “Master Covenants” or “Non-Residential Covenants”), and the “Santa Fe Estates Residential Tracts Declaration of Covenants, Conditions, and Restrictions” (the “Residential Covenants”). The Residential Covenants and the Non-Residential Covenants collectively are referred to as the “Covenants.”

On September 11, 2020 the City and Santa Fe Estates executed the “Assignment and Delegation of Declarant Rights and Status”, which formally assigned the rights and duties of the Declarant to the City.

The City wishes to designate Contractor as the City’s authorized agent to act as Declarant under these Covenants, in order for Contractor to act on City’s behalf in regard to these documents.

RECITALS

WHEREAS, the Chief Procurement Officer of the City has made the determination that this Agreement is made in accordance with the provisions of the New Mexico Procurement Code (NMSA 1978, 13-1-28 et seq.) pursuant to NMSA 1978, § 13-1-125; and

WHEREAS, the Contractor is one of such requisite and qualifications and is willing to engage with the City for professional services, in accordance with the terms and conditions hereinafter set out, and the Contractor understanding and consenting to the foregoing is willing to render such professional services as outlined in the Agreement; and

WHEREAS, the Contractor does hereby accept its designation as the City’s authorized agent, rendering services related to Covenants for Santa Fe Estates for the City, as set forth in this Agreement; and

WHEREAS, it is agreed by the parties that the performance of the professional services is for a period of one year, as directed by the City.

NOW, THEREFORE, the parties hereby agree as follows:

1. Scope of Work.

The Contractor shall provide the following services-for the City:

Contractor must meet the obligations and requirements for the Declarant (as assigned to the City of Santa Fe when it accepted real property and Declarant's Rights) under the Las Estrellas Residential and Non-Residential Covenants, Conditions, and Restrictions, and must perform or oversee the performance of:

- a. Draft necessary changes or amendments to the Covenants in order to remove Parcel 6A from the Residential Covenants.
- b. Convene any necessary meetings and complete all steps and paperwork necessary to amend the Covenants, as described above.
- c. Subject to the restrictions described below, Contractor shall perform all day-to-day duties and exercise all day-to-day authority vested in the Declarant under the Covenants, including but not limited to:
 - (i) keep or cause to keep good and accurate books and accounts of the Las Estrellas Residential and Master Associations, which the City may inspect at any time upon request; and
 - (ii) appoint members of the board of the Associations.
- d. Contractor shall not engage in any of the following activities, except as described above to remove Parcel 6A from the Residential Covenants, without the prior written consent of the City:
 - (i) amend or terminate the Covenants,
 - (ii) encumber, convey, or act or hold itself out as the owner of any or the properties subject to the Covenants; or
 - (iii) release or remove all or a portion of any or all of the properties (or any other property) from the effect of the Covenants. The City may, from time to time, assign "Declarant" status of some or all of the properties to another person or entity, including any assignment included as part of any subsequent conveyance of some or all of the properties to another person or entity.
- e. Contractor may delegate any duties to subordinates or to HOA management including without limitation all administrative, record- keeping, accounting, and oversight obligations.

2. Standard of Performance; Licenses.

A. The Contractor represents that it possesses the personnel, experience, and knowledge generally required in the industry to perform the services described under this Agreement.

B. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

3. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at the rate of three hundred dollars (\$350) per hour for work provided by Contractor, or eighty dollars (\$80) per hour by work provided by work done by Contractor's assistants, such compensation not to exceed ten thousand dollars (\$10,000), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (\$10,818.75). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than thirty (30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

4. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate one year from the Effective Date, unless terminated pursuant to paragraph 5 (Termination), or paragraph 6 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

5. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; 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. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. THIS PROVISION IS

NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. **Termination Management.** Immediately upon receipt by either the City 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 City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

6. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City 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.

7. **Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

8. **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 City.

9. **Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

10. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations arising from or under this Agreement, except for any liabilities, claims or obligations arising from any breach of this Agreement or any negligence by the City, its officers or employees. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. Seq. NMSA 1978, as amended. The City and its “public employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

11. 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 City, except as may be required by law or court order.

12. Product of Service - Copyright.

All materials specifically developed for the City under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Proprietary tools or methods used by the Contractor in performing the services shall remain the property of the Contractor. 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.

13. Conflict of Interest; Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor’s representations and warranties in Paragraphs A and B of this Article 13 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor’s representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor’s representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and

notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

14. Amendment.

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 City 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 5 herein, or to agree to the reduced funding.

15. Entire Agreement.

This Agreement, together with any other documents incorporated herein by reference and all related Exhibits and Schedules constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related Exhibits and Schedules, the statements in the body of this Agreement shall control.

16. Penalties for Violation of Law.

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

17. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, 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.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, sec. 38-3-2 . By execution of this Agreement, Contractor acknowledges and agrees to the 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.

19. 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 City.

20. Professional Liability Insurance.

Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

22. Records and Financial Audit.

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 City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments

23. Indemnification.

The Contractor shall defend, indemnify, and hold harmless the City from all actions, proceedings, claims, demands, costs, damages, attorneys' fees, and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, but only to the extent caused by the negligent act or willful misconduct of the Contractor, its officers, employees, servants, subcontractors, or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant, or subcontractor thereof has or is performing services pursuant to this Agreement.

Likewise, the City shall defend, indemnify, and hold harmless the Contractor from all actions, proceedings, claims, demands, costs, damages, attorneys' fees, and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, but only to the extent caused by the negligent act or willful misconduct of the City, its officers, employees, or agents. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. Seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

In the event that any action, suit, or proceeding related to the services performed by either the Contractor or the City, or any of their respective officers, agents, employees, servants, or subcontractors under this Agreement, is brought against either party, the party receiving notice of

such a proceeding shall, as soon as practicable but no later than five (5) days after it receives notice thereof, notify the legal counsel of the other party.

24. New Mexico Tort Claims Act.

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its “public employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

25. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall remain valid and enforceable.

26. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

27. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service, by U.S. mail, either first class or certified, return receipt requested, postage prepaid, , as follows:

To the City: City of Santa Fe
Randy Randall, Interim City Manager
P.O. Box 909
Santa Fe, NM 87504-0909

With a copy to: City of Santa Fe
Erin K. McSherry, City Attorney
P.O. Box 909
Santa Fe, NM 87504-0909
ekmsherry@santafenm.gov

To the Contractor: Jake Garrison
The Garrison Law Firm, LLC
1212 Pennsylvania St, NE
Albuquerque, NM 87110
jake@garrisonlawnm.com

28. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

29. Merger.

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

30. Non-Collusion.

In signing this Agreement, the Contractor certifies the Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City's Chief Procurement Officer.

31. Default/Breach.

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the City may procure the goods or services from another source, and the City may seek all remedies under the terms of this Agreement and under law or equity.

32. Equitable Remedies.

The Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the City irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the City, and the Contractor consents to the City's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. The City's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that the City may have under applicable law, including, but not limited to, monetary damages.

33. Default and Force Majeure.

The City reserves the right to cancel all or any part of any orders placed under this Agreement without cost to the City, if the Contractor fails to meet the provisions of this Agreement and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors

due to any of the above, unless the City shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this Clause shall not be exclusive and are in addition to any other rights now being provided by law or under this Agreement.

34. Does Not Prohibit Other Work.

The City is not aware of any reason that this Agreement would prohibit the City from using Southwest Title and Escrow, which is owned by Contractor, for title work on properties not covered under this Agreement.

***[REST OF PAGE LEFT INTENTIONALLY BLANK]
SIGNATURES APPEAR ON NEXT PAGE***

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

CONTRACTOR:

ALAN WEBBER, MAYOR

Jake A. Garrison

JAKE A. GARRISON
The Garrison Law Firm, LLC – Managing
Member/Attorney

DATE: _____

DATE: Dec 18, 2024

CRS# 03-308835-00-7
Bar Registration # 28137

ATTEST:

ANDREA SALAZAR, CITY CLERK

CITY ATTORNEY’S OFFICE:

Patricia Feghali
Patricia Feghali (Dec 18, 2024 16:49 MST)

ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

EMILY OSTER, FINANCE DIRECTOR



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

Alma G. Castro, District 1

Michael J. Garcia, District 2

Carol Romero-Wirth, District 2

Lee Garcia, District 3

Pilar F.H. Faulkner, District 3

Jamie Cassutt, District 4

Amanda Chavez, District 4

Dear City Staff,

In accordance with State Statute and City Ordinances, this document serves as a blanket services' determination and is valid until June 30, 2025, for the types of general, professional, and construction services that are clearly one of the types pre-established and approved by the State Purchasing Agent and City CPO.

Please continue to obtain determinations for services that do not clearly and fully fit within the types listed below. For mixed or hybrid services, unclear scopes of work, and design-build projects, a specific determination will be required. In these cases, please email purchasing_det@santafenm.gov to obtain the necessary CPO determinations for your procurement needs.

Should you have any questions or require clarification on a particular service, feel free to contact CPD.

The following are General Services:

- Air/bus, vehicle charter/rental service
- Auctioneers
- Audio-visual equipment setup and routine maintenance for events and presentations (including projectors, microphones, and speakers)
- Banking Services (routine, transaction-based)
- Boiler testing/water treatment service
- Bookkeeping service (routine, transaction-based)
- Building alarm systems, service and repair
- Check collection service
- Clothing, textile fabrication repair service
- Commercial laundry service, dry cleaning, etc.
- Communications systems installation, servicing, and repair
- Conference and trade show coordination

General Services (continued):

- Debt collection service
- Delivery/courier service
- Document storage, duplication, retrieval, review, and destruction service
- Drug testing and screening (standard tests)
- Engraving service
- Equipment installation, preventive maintenance, inspection, calibration, and repair
- Equipment rental services
- Exams administration and scoring service
- Executive recruitment
- Firefighting/suppression service
- Food preparation, vending, and catering services
- Health screening, basic diagnostic (wellness, blood pressure monitoring, blood draw, etc.)
- Herbicide application service
- Household goods packing, storage, transportation service
- HVAC system maintenance service
- Information Technology Hosting (only)
- Information Technology Help Desk Services
- Information Technology Services requiring software or equipment
- Information Technology Software and Hardware Support Services
- Interpretive services: written/oral/sign language
- Inventory service
- Janitorial service, carpet cleaning, window washing
- Laboratory testing and analysis (standard tests only)
- Land clearing/debris removal service
- Landscaping—tree planting, grooming service, lawn mowing, etc. (but not landscape architects)
- Language translation service
- Linen rental service
- Marine equipment inspection, certification, and repair

General Services (continued):

- Medical equipment rental or repair service (wheelchairs, walkers, etc.), including measurements, adjustments, and modifications to meet patient needs
- Metal/pipe/wiring detection service
- Office furnishings installation, refurbishment, and repair service
- Package inspection and crating
- Painting service
- Paper shredding
- Parking lot sweeping/snow removal service
- Pest/weed control service
- Photographic/micrographic processing and delivery, includes aerial and ground photography (if analysis is included, then personal service)
- Printing/duplicating service
- Process serving
- Property management (rent collection, property maintenance, etc.)
- Recycling/disposal/litter pickup service
- Retreat and workshop planning, conduct, coordination, etc.
- Security/armored car services
- Shop welding/metal fabrication service
- Software as a Service
- Steam cleaning, high pressure washing, parts cleaning service
- Studio photography service (does not include portrait painting)
- Telephone interview service (conduct of survey using prescribed survey instrument)
- Towing service
- Training – when offered as a regular course by an institution (such as a college or university)
- Travel service — air, surface, water
- Vehicle inspection, lubricating, and repair services
- Videotaping and recording service
- Warehouse dry/cold storage rental service
- Weather information service

The following are Professional Services:

- Accountants (certified public accountants and registered public accountants)
- Actuaries
- Analysts of processes, programs, fiscal impact, and compliance
- Appraisers
- Archeologists
- Architects
- Artwork, original (services creating the artwork)
- Audio/video media productions (design, development, and/or oversight of)
- Auditors
- Broadband
- Business process re-engineering
- Counselors
- Consultants (including IT Consultants)
- Curriculum/Examination development
- Data Backup Services
- Data Storage and Management Services
- Design
- Economists
- Engineers
- Environmental monitoring: noise level, safety, hazardous gas detection, radiation monitoring service, etc.
- Financial Advisors
- Grant writing
- Graphic designers (creative or original in nature)
- Independent Verification and Validation
- Information Technology Hosting when it includes Maintenance and Support
- Information Technology Maintenance
- Information Technology Management

Professional Services (Continued):

- Information Technology Programming
- Information Technology Risk Assessment
- Insurance Adjusters
- Investigators (personnel-related, etc.)
- Investment advisors and management
- Labor negotiators
- Landscape Architects
- Lawyers
- Lobbyists
- Managed Network Services
- Management and system analysts
- Management consultants
- Marketing consultants (including identifying market opportunities, conduct of marketing programs, planning, promotion, market research surveys, etc.)
- Medical arts practitioners
- Network Cybersecurity Services
- Network Installation
- Planners
- Policy Advisors
- Product Development Services
- Program/Project Managers
- Psychologists
- Public relations advisors/Publicists
- Publication development (creation of audio/video productions, brochures, pamphlets, maps, signs, posters, annual reports, etc.)
- Researchers
- Scientists (Bio/Chem/Env/Geo/Hydro/Mech, etc.)
- Speech writers
- Statisticians

Professional Services (Continued):

- Surveyors
- Trade developers
- Training – when it is specifically designed for an agency as opposed to established courses (such as out of the box training offered to all at a training company, university, or college)
- Web design and development

The following are Construction Services:

- Bid-Build (Standard)
- Construction Managers
- New Construction (including buildings, roads, bridges, utilities)
- Remodeling and Renovations (interior and exterior work)
- Demolition (including site clearance)
- Excavation and Earthwork
- Electrical Work (installation, repair, upgrades)
- Permanent installation or upgrades of audio-visual systems (including wiring and structural modifications)
- Plumbing (installation, repair, maintenance)
- Masonry and Concrete Work
- Roofing (installation, repair, maintenance)
- Structural Repair and Reinforcement
- Painting and Finishing (for construction purposes)
- Mechanical Work (HVAC systems, etc.)
- Site Preparation and Land Grading
- Utility Installation and Repair (water, sewer, gas lines)

Travis Dutton-Leyda, Chief Procurement Officer



Date: 11/21/2024

Emily Oster, Finance Director



Date: 11/26/2024








Blanket Services Determination

Final Audit Report


2024-11-26


Created:	2024-11-21
By:	Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAqgOwaNI_DZmo99HuXiloJc1Cdxp6T9hq

"Blanket Services Determination" History

-  Document created by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
2024-11-21 - 4:11:51 PM GMT- IP address: 63.232.20.2
-  Document emailed to EMILY OSTER (ekoster@santafenm.gov) for signature
2024-11-21 - 4:12:58 PM GMT
-  Document emailed to Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature
2024-11-21 - 4:12:58 PM GMT
-  Document e-signed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Signature Date: 2024-11-21 - 4:13:09 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Email viewed by EMILY OSTER (ekoster@santafenm.gov)
2024-11-26 - 7:38:13 PM GMT- IP address: 104.47.65.254
-  Document e-signed by EMILY OSTER (ekoster@santafenm.gov)
Signature Date: 2024-11-26 - 7:52:49 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2024-11-26 - 7:52:49 PM GMT

Signature: Patricia Feghali
Patricia Feghali (Dec 31, 2024 11:42 MST)
Email: pfeighali@santafenm.gov

Signature: 
Email: tjlease@santafenm.gov

Signature: 
Johanna Nelson (Dec 31, 2024 12:17 MST)
Email: jcnelson@santafenm.gov



Date: November 8, 2024

To: Governing Body

Regina Wheeler
Regina Wheeler (Jan 8, 2025 10:35 MST)

Henri Hammond-Paul
HENRI HAMMOND-PAUL (Jan 8, 2025 10:37 MST)

Via: Regina Wheeler, Public Works Department Director

Henri Hammond-Paul, Community Health and Safety Department Director

From: Johanna C. Nelson, Office of Economic Development Director, Community Development

ACTION:

Approval of New Mexico Department of Finance and Administration General Fund 93100 Capital Appropriation Project Grant Agreement 24-14222 in the Amount of \$844,470 for Supportive Housing Facilities Renovation, with a Reversion Date of June 30, 2026. (Johanna Nelson, Interim Affordable Housing Director)

1. Approval of a Budget Amendment Resolution (BAR) to Allocate the DFA Funding in the Amount of \$844,470 into Community Development CIP Revenue and WIP Construction.

BACKGROUND AND SUMMARY:

The 2024 New Mexico Legislature, in SB246, reauthorized the 2020 Appropriation of \$844,470 for Santa Fe Supportive Housing Facilities renovation. The reauthorization was necessitated by extensive due diligence before and after acquisition to accommodate interagency stakeholder requirements. The funding will be used for construction costs to convert the buildings and grounds of the former Lamplighter Inn at 2405 Cerrillos Road to provide 58 units of affordable housing with facilities for support services. Other funding being applied to the project includes \$800,000 from the Affordable Housing Trust Fund for contractual services on the transaction and design, and Community Development Block Grant funds in the amount of \$295,094. Project activities currently underway or complete include remediation, planning, and design. A professional services agreement for construction by the developer has been executed and the project is expected to be completed before the funding reverts in June 2026.

FUNDING SOURCE:

New Mexico Department of Finance and Administration

Fund Name/Number: Community Development / 240

Munis Org Name/Number: CDGrnt-FMD / 2400431

Munis Expenditure Object Name/Number: Subsidy Payments / 510500

Munis Revenue Object Name/Number: NMDFA / 490210

Project Ledger Number: PWD2534525

Grant Award No.: DFA 24-I4222

Grant Manager / Accounting Officer Approval: Erika Lujan
Erika Lujan (Jan 13, 2025 08:36 MST) Date: Jan 13, 2025

Comment/Exceptions: _____

Budget Officer Approval: Andy Hopkins Date: Jan 9, 2025

Comment/Exceptions: _____

CAPITAL ASSET (will this procurement result in a tangible item that costs more than \$5,000?):

Yes | No

Repair or Replacement of Existing Equipment:

Yes | No

If yes -> Repair | Replacement

Please explain: _____

Capital Project:

(New and improvement projects that are going to cost \$10,000 or more)

Yes | No

Anticipated length of project: _____

Asset Manager Approval: _____ Date: _____

Comment/Exceptions: _____

Department Approvals:

IT Components: Yes | No

Vehicles: Yes | No

Facilities, Furniture, Fixtures, Equipment: Yes | No

Approval: _____ Title: _____ Date: _____

Comment & Exceptions: _____

Department Contract Administrator Contact Info:

Roberta Catanach, Project Administrator
Office of Affordable Housing
rlcatanach@santafenm.gov
(505) 955-6421

ATTACHMENTS:

Grant Agreement
Budget Amendment Resolution
Project Ledger ID Form



City of Santa Fe New Mexico

Finance Department

Project Ledger Request Form

Erika Lujan

Erika Lujan (Nov 14, 2024 13:31 MST)



Date of Request: 08/15/2024 req to revise recd 11/14/24 Nov 14, 2024

Project Title: Supportive Housing CIP - Bella Luz Apts.

Project Type: CIP Grant Internal Tracking

Department: Community Development Project Manager: Facilities/Sam Burnett /HC Ext: 505-795-2491

Project Date Range: 08/15/2024 to 06/30/26

Create Fixed Asset

Project ID: <u>PWD2534525</u>
Grant ID: <u>S2519</u>
Approved By: <u>MB 08/21/2024</u>
Entered By: <u>SS 08.20</u> (Finance Use Only)

Multi-Funding (complete all funding sources, should equal 100%)

Funding Source: DFA 24-14222 % of Funding: 100%

MUNIS ORG: 2400431 MUNIS OBJ: 490210 Awarded Amount: \$844,470

Funding Source: _____ % of Funding: _____

MUNIS ORG: _____ MUNIS OBJ: _____ Awarded Amount: _____

Expense String Phase:

A project must have at least one phase identified, this can be used as an additional level of tracking, for example, CIP - Design, Construction, etc. For Grants can be used as reimbursable types, such as transportation, salaries.

(You can create more than one phase and you can default MUNIS ORGs and OBJs, optional)

Phase: Subsidy Payments MUNIS ORG: 2400431 MUNIS OBJ: 510500

Phase: _____ MUNIS ORG: _____ MUNIS OBJ: _____

Phase: _____ MUNIS ORG: _____ MUNIS OBJ: _____

Contract number: _____

Comments/Other: HC req-revise from 3459980 to 2400431

and add 510500 to replace 972970

GRANTS ONLY:

Grantor Name: DFA 24-14222 Awarded Amount: \$844,470.00

AR Charge Code: 2400431.490210

Grant funds multiple projects
(Complete a form for each project)

Grantor Id: 700007 Federal CFDA (if applicable): _____

(If grants please provide all grant award documents with form)

Attached Grant Documentation

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
GENERAL FUND 93100 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of the date it is executed, by and between the Department of Finance and Administration, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and **CITY OF SANTA FE**, hereinafter called the "Grantee". This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the **Laws of 2024, Chapter 65, Section 220**, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

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

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

AGREEMENT

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

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

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

24-14222 \$844,470.00 APPROPRIATION REVERSION DATE: June 30, 2026

Laws of 2024, Chapter 65, Section 220, Eight Hundred Forty-four Thousand Four Hundred Seventy (\$844,470.00), from the General Fund 93100 The time of expenditure for the local government division project in Subsection 401 of Section 35 of Chapter 81 of Laws 2020 to plan, design, construct and renovate a facility for homeless and below-market renters, including housing and services, in Santa Fe in Santa Fe county is extended through fiscal year 2026.

The Grantee's total reimbursements shall not exceed Eight Hundred Forty-four Thousand Four Hundred Seventy \$844,470.00 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, Zero \$0.00, which equals Eight Hundred Forty-four Thousand Four Hundred Seventy \$844,470.00 (the "Adjusted Appropriation Amount").

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

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." [Optional Language if special conditions apply. Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict.] The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

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

- A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:
- i. Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
 - ii. The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
 - iii. The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
 - iv. The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
 - v. In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.
- Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and
- vi. The Grantee shall request approval of its obligation(s) by submitting a Notice of Obligation form as provided by the Department. The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
 - a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.
- B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.
- C. Project funds shall not be used for purposes other than those specified in the Project Description.
- D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

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

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

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

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

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

Grantee: CITY OF SANTA FE
Name: Alan Webber
Title: Mayor
Address: PO Box 909, Santa Fe, NM 87504
Email: mayor@santafenm.gov
Telephone: 505-955-6590

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

Grantee: CITY OF SANTA FE
Name: Emily K. Oster
Title: Finance Director
Address: PO Box 909, Santa Fe, NM 87504
Email: ekoster@santafenm.gov
Telephone: 505-629-3411

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

Department: DFA/Local Government Division
Name: Daniel Catanach
Title: Program Manager
Address: Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email: danieln.catanach@dfa.nm.gov
Telephone: 505-231-6090

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

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

- A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2026** the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.
- B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

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

Early Termination includes:

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

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

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

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

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

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

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

- A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:
- i. The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
 - ii. The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
 - iii. The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

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

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

D. Corrective Action Plan in the Event of Suspension

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

ARTICLE VII. AMENDMENT

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

ARTICLE VIII. REPORTS

A. Database Reporting

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

Quarterly reports are due on the last day of each quarter. Quarter end reporting periods are September 30th, December 31st, March 31st, and June 30th.

B. Requests for Additional Information/Project Inspection

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

- i. request such additional information regarding the Project as it deems necessary; and
- ii. conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form provided by the Department. Payment requests are subject to the following procedures:

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

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

C. Deadlines

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

- i. Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- ii. Twenty (20) days from date of Early Termination; or

iii. Twenty (20) days from the Reversion Date.

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

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

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

- i. The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
- ii. The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- iii. The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
- iv. The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
- v. The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- i. The Grantee has the legal authority to receive and expend the Project's funds.
- ii. This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- iii. This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- iv. The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- v. The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- vi. The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower

protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

- vii. No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

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

- A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.
- B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.
- C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

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

ARTICLE XIII. LIABILITY

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

ARTICLE XIV. SCOPE OF AGREEMENT

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

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

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

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the CITY OF SANTA FE may immediately terminate this Agreement by giving Contractor written notice of such termination. The CITY OF SANTA FE's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the CITY OF SANTA FE or the

Department of Finance and Administration, Local Government Division (DFA/LGD) or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the **CITY OF SANTA FE** or the Department"

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

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

“This contract is funded in whole or in part by funds made available under a DFA/LGD Grant Agreement. Should the DFA/LGD early terminate the grant agreement, the CITY OF SANTA FE may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the CITY OF SANTA FE only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

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

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

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

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

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

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

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

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

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

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

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

GRANTEE

Entity Name

Signature of Official with Authority to Bind Grantee

By: _____
(Print Name)

Its: _____
(Title)

Date

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

By:

Its: Cabinet Secretary or Designee

Date

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

I. Grantee Information

(Make sure information is complete & accurate)

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

City, State, Zip
- C. Contact Name/Phone #: _____
- D. Grant No: _____
- E. Project Title: _____
- F. Grant Expiration Date: _____

II. Payment Computation

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

III. Fiscal Year : _____

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

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

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

Emily K. Oster

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

Grantee Representative

EMILY OSTER

Printed Name

Date: Jan 13, 2025

Printed Name

Date: _____

(State Agency Use Only)

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

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

Division Fiscal Officer Date

Division Project Manager Date

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

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____, _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

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

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

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

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

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

The Total Amount of all Notices of Obligation to Date: _____

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

Department Rep. Approver: _____

Title: _____

Signature: _____

Date: _____

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

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
GENERAL FUND 93100 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of the date it is executed, by and between the Department of Finance and Administration, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and **CITY OF SANTA FE**, hereinafter called the "Grantee". This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the **Laws of 2024, Chapter 65, Section 220**, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

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

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

AGREEMENT

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

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

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

24-14222 \$844,470.00 APPROPRIATION REVERSION DATE: June 30, 2026

Laws of 2024, Chapter 65, Section 220, Eight Hundred Forty-four Thousand Four Hundred Seventy (\$844,470.00), from the General Fund 93100 The time of expenditure for the local government division project in Subsection 401 of Section 35 of Chapter 81 of Laws 2020 to plan, design, construct and renovate a facility for homeless and below-market renters, including housing and services, in Santa Fe in Santa Fe county is extended through fiscal year 2026.

The Grantee's total reimbursements shall not exceed Eight Hundred Forty-four Thousand Four Hundred Seventy \$844,470.00 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, Zero \$0.00, which equals Eight Hundred Forty-four Thousand Four Hundred Seventy \$844,470.00 (the "Adjusted Appropriation Amount").

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

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." [Optional Language if special conditions apply. Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict.] The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

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

- A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:
- i. Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
 - ii. The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
 - iii. The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
 - iv. The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
 - v. In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.
- Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and
- vi. The Grantee shall request approval of its obligation(s) by submitting a Notice of Obligation form as provided by the Department. The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
 - a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.
- B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.
- C. Project funds shall not be used for purposes other than those specified in the Project Description.
- D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

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

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

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

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

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

Grantee: CITY OF SANTA FE
Name: Alan Webber
Title: Mayor
Address: PO Box 909, Santa Fe, NM 87504
Email: mayor@santafenm.gov
Telephone: 505-955-6590

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

Grantee: CITY OF SANTA FE
Name: Emily K. Oster
Title: Finance Director
Address: PO Box 909, Santa Fe, NM 87504
Email: ekoster@santafenm.gov
Telephone: 505-629-3411

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

Department: DFA/Local Government Division
Name: Daniel Catanach
Title: Program Manager
Address: Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email: danieln.catanach@dfa.nm.gov
Telephone: 505-231-6090

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

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

- A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2026** the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.
- B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are **not** expended and an expenditure has **not** occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

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

Early Termination includes:

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

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

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

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

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

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

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

- A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:
- i. The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
 - ii. The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
 - iii. The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

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

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

D. Corrective Action Plan in the Event of Suspension

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

ARTICLE VII. AMENDMENT

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

ARTICLE VIII. REPORTS

A. Database Reporting

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

Quarterly reports are due on the last day of each quarter. Quarter end reporting periods are September 30th, December 31st, March 31st, and June 30th.

B. Requests for Additional Information/Project Inspection

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

- i. request such additional information regarding the Project as it deems necessary; and
- ii. conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form provided by the Department. Payment requests are subject to the following procedures:

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

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

C. Deadlines

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

- i. Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- ii. Twenty (20) days from date of Early Termination; or

iii. Twenty (20) days from the Reversion Date.

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

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

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

- i. The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
- ii. The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- iii. The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
- iv. The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
- v. The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- i. The Grantee has the legal authority to receive and expend the Project's funds.
- ii. This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- iii. This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- iv. The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- v. The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- vi. The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower

protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

- vii. No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

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

- A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.
- B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.
- C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

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

ARTICLE XIII. LIABILITY

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

ARTICLE XIV. SCOPE OF AGREEMENT

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

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

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

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the CITY OF SANTA FE may immediately terminate this Agreement by giving Contractor written notice of such termination. The CITY OF SANTA FE's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the CITY OF SANTA FE or the

Department of Finance and Administration, Local Government Division (DFA/LGD) or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the **CITY OF SANTA FE** or the Department"

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

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

"This contract is funded in whole or in part by funds made available under a DFA/LGD Grant Agreement. Should the DFA/LGD early terminate the grant agreement, the CITY OF SANTA FE may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the CITY OF SANTA FE only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

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

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

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

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

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

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

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

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

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

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

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

GRANTEE

Entity Name

Signature of Official with Authority to Bind Grantee

By: _____
(Print Name)

Its: _____
(Title)

Date

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

By:

Its: Cabinet Secretary or Designee

Date

IN WITNESS WHEREOF, the parties have executed this Capital Appropriation Project as of the dates set forth below.

CITY OF SANTA FE:

SEE ABOVE

ALAN WEBBER, MAYOR

ATTEST:

GERALYN CARDENAS, INTERIM CITY CLERK

CITY ATTORNEY'S OFFICE:

Patricia Feghali
Patricia Feghali (Aug 12, 2024 15:51 MDT)

ASSISTANT CITY ATTORNEY

FINANCE DIRECTOR:

Emily K. Oster

EMILY OSTER

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

I. Grantee Information

(Make sure information is complete & accurate)

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

City, State, Zip
- C. Contact Name/Phone #: _____
- D. Grant No: _____
- E. Project Title: _____
- F. Grant Expiration Date: _____

II. Payment Computation

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

III. Fiscal Year : _____

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

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

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

Emily K. Oster

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

Grantee Representative

EMILY OSTER

Printed Name

Date: Jan 13, 2025

Printed Name

Date: _____

(State Agency Use Only)

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

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

Division Fiscal Officer Date

Division Project Manager Date

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

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____, _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

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

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

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

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

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

The Total Amount of all Notices of Obligation to Date: _____

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

Department Rep. Approver: _____

Title: _____

Signature: _____

Date: _____

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



City of Santa Fe, New Mexico

Memorandum



DATE: January 14, 2025

TO: Quality of Life
Finance Committee
Governing Body

FROM: Jennifer LaBar-Tapia, Santa Fe Regional Film Office Director *Jennifer LaBar-Tapia*
jllabartapia@santafenm.gov, 505-955-6216. Jennifer LaBar-Tapia (Jan 14, 2025 10:19 AM)

RE: FY25 Budget Adjustment Resolution for the Santa Fe Regional Film Office

ITEM AND ISSUE:

Request for Approval of Budget Amendment Resolution (BAR) in the Amount of \$211,444 to be utilized for the Santa Fe Regional Film Office for FY 2025.

Committees Review:

Quality of Life: 01/22/2025
Finance Committee: 01/27/2025
Governing Body: 01/29/2025

BACKGROUND AND SUMMARY:

The Santa Fe Regional Film Office, established in 2016, has been a collaborative effort between the City of Santa Fe and Santa Fe County, jointly funded to support the thriving local film industry.

- **Transition to City Oversight:** in September 2024 the Film Office transitioned from County to City oversight, making the City responsible for its budget, procurement, and all operations for the office (MOA #24-0579).
- **MOA Contributions:** each agency has agreed to \$175,000.00 for FY 2025 to fund the office.
 - City funding sources approved in FY 2025 budget cycle: \$87,500.00 from Tourism Santa Fe and \$87,500.00 from Economic Development.
 - Santa Fe County sent the balance of their annual contribution (\$175,000.00) in December, 2024 in the amount of \$71,876.00. The balance is a result of procurement expenditures, salaries, and benefits before the transition and before the city was invoiced for their annual contribution.

PROCUREMENT METHOD:

N/A

CONTRACT NUMBER:

N/A

FUNDING SOURCE:

See BAR

ACTION REQUESTED:

TOURISM Santa Fe and Community Development respectfully requests your review and approval of this Budget Amendment Resolution (BAR).

Log # {Finance use <u>only</u> }:	
Journal # {Finance use <u>only</u> }:	

City of Santa Fe, New Mexico BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME					DATE	
Community Development / Santa Fe Film Office					10/29/2024	
ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE	
EXPENDITURES				<i>(enter as positive #)</i>	<i>(enter as negative #)</i>	
SF Film Office - Salaries	2607000	500110		134,546		
SF Film Office - FICA/Medicare	2607000	503100		10,293		
SF Film Office - Retirement (PERA)	2607000	503150		30,323		
SF Film Office - Med/Life	2607000	503200		21,791		
SF Film Office - Retiree Health Care	2607000	503250		2,691		
SF Film Office - Workers Comp	2607000	503350		1,345		
SF Film Office - Dental	2607000	503400		755		
Visit Santa Fe - Service Contracts	2130521	510310			(87,500)	
Economic Development - Professional Contracts	2122800	510300			(87,500)	
Visit Santa Fe - Transfer to SF Film Office	2130521	750260		87,500		
Economic Development - Transfer to SF Film Office	2122800	750260		87,500		
REVENUES				<i>(enter as negative #)</i>	<i>(enter as positive #)</i>	
Santa Fe County MOA 24-0579 (cash balance)	2607000	491010		(336,312)		
Santa Fe County MOA 24-0579 (FY25 cost share)	2607000	491010		(71,876)		
SF Film Office - Transfer from Visit Santa Fe	2607000	650213		(87,500)		
SF Film Office - Transfer from Visit Santa Fe	2607000	650213		(87,500)		

JUSTIFICATION: *(use additional page if needed)*
 -Attach supporting documentation/memo

MOA 24-0579 Film Office FY25. TSF and ED share 50/50 of 175,000 and SF County's Portion for FY25 is 175,000	<i>(Complete section below if BAR results in a net change to ANY Fund)</i>	
The FY25 salary expenditures are for new positions: Film Director and Film Coordinator	Fund Balance	Increase/(Decrease)
	260	381,444
	TOTAL:	381,444

Shirley Spencer Prepared By <i>(print name)</i>	10/29/2024 Date	<i>(Use this form for Finance Committee/ City Council agenda items ONLY)</i>	Andy Hopkins Budget Officer
 Jennifer Labar-Tapia (Dec 26, 2024 12:57 EST)	Date	CITY COUNCIL APPROVAL	N/A
Division Director Signature <i>(optional)</i>	Date	City Council Approval Date	Finance Director {≤ \$5,000}
Randy Randall (Dec 26, 2024 11:20 MST)	Date	Agenda Item #:	N/A City Manager {≤ \$60,000}
Department Director Signature	Date		Date



CITY OF SANTA FE

Date: September 13, 2024

To: Governing Body
Finance
Quality of Life

From: Randy Randall, TSF Executive Director *Randy Randall*
Randy Randall | Sep 13 2024 16:23 MDL

Subject: MOA - Transfer of Santa Fe Film Office

Vendor: Santa Fe County, vendor #3906

ITEM AND ISSUE:

Request for the Approval of MOA for the Transfer of Santa Fe Film Office from the SF County to the City of Santa Fe for a Total Amount of \$800,000; (Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 505-955-6209).

Quality of Life	September 18, 2024
Finance Committee	September 23, 2024
Governing Body	September 25, 2024

Action Requested: Approval of MOA

BACKGROUND AND SUMMARY:

The City and the County have jointly funded the Santa Fe Film Office with the County providing the administrative support for the office since its inception. This MOA revision will leave the joint funding in place but will change the administrative support to the City with it falling within the Community Development Department as a separate division.

PROCUREMENT METHOD:

There is no procurement related to this MOA to change administrative support of the joint Santa Fe Film Office.

Chief Procurement Officer Approval: *n/a* **Date:** _____

Comment/Exceptions: *See Determination*

Supporting Information:

CONTRACT NUMBER:

Munis #3250185

SOURCE/REVENUE: Expense Revenue

Funding from the City is shared equally between the Office of Economic Development and TOURISM Santa Fe. FY25 funding in total is \$175,000 split as \$87,500 EID/\$87,500 TSF

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The funding source for ED is:
Fund Name/Number: Economic Development/212
Munis Org Name/Number: Economic Development Ops/2122800
Munis Object Name/Number: Other Consulting/510340

The funding source for TSF is:
Fund Name/Number: VSF Lodger's Tax/213
Munis Org Name/Number: VSF-Admin/2130521
Munis Object Name/Number: Service Contracts/510310

Budget Officer Approval: Andy Hopkins **Date:** _____
Comment/Exceptions: _____

Department Approvals:
IT Components: Yes | No
Vehicles: Yes | No
Facilities, Furniture, Fixtures, Equipment: Yes | No

Approval: _____ **Title:** _____ **Date:** _____
Approval: _____ **Title:** _____ **Date:** _____
Comment & Exceptions: _____

Department Contract Administrator Contact Info:
Shirley Spencer, sjspencer@santafenm.gov, 505-955-6208

ATTACHMENTS:

Proposed MOA with Santa Fe County

SFC CLERK RECORDED 10/09/2024

**RESTATED AND EXTENDED MEMORANDUM OF AGREEMENT
BETWEEN SANTA FE COUNTY AND
THE CITY OF SANTA FE
REGARDING THE SANTA FE REGIONAL FILM OFFICE**

THIS MEMORANDUM OF AGREEMENT (hereinafter "MOA") is entered on this the 24 day of September 2024, between **SANTA FE COUNTY** (hereinafter "County"), a political subdivision of the state of New Mexico, and the **CITY OF SANTA FE** (hereinafter "City").

RECITALS

WHEREAS, the film and media industries contribute millions of dollars annually to the local and regional economy; and

WHEREAS, local governments benefit from the film industry through job creation, direct collection of gross receipts taxes, leases, permitting and other fees, as well as through global exposure of the region for tourism, business recruitment and other activities; and

WHEREAS, in fiscal year 2017, the County and the City jointly established the Santa Fe Regional Film Office and entered into Memorandum of Agreement No. 2016-0358-CMO/MM; and

WHEREAS, the parties entered into subsequent Memorandum No. 2018-0080-CMO/BT; 2019-0175-CMO/BT and 2020-0147-CMO/BT, establishing and amending the funding contributions by the parties for each respective fiscal year for the operation of the Santa Fe Regional Film Office; and

WHEREAS, in 2021, the parties entered into MOA No. 2021-0121-CMO/BT to supersede all prior agreements and establish the funding of the Santa Fe Regional Film Office for the next four years and provide for other duties of the Santa Fe Regional Film Office; and

WHEREAS, in 2022, the parties signed Amendment No. 1 to increase each parties' contributions to increase the capacity of the Santa Fe Regional Film Office; and

WHEREAS, in 2024, the parties wish to move the management and oversight of the staff of the Santa Fe Regional Film Office from the County to the City and to extend the term of their agreement through 2028.

NOW, THEREFORE, the parties mutually agree as follows:

1. RESTATED AGREEMENT

This agreement supersedes and replaces all other agreements between the parties on the topic of the Santa Fe Film Office.

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**2. TRANSFER OF FILM OFFICE DIRECTOR, FUNDS, AND RESOURCES;
ASSIGNMENT OF AGREEMENTS**

A. Transfer of Personnel and Personnel Files. Upon the effective date of this MOA, the County will transfer the personnel files for the Director and staff of the Santa Fe Film Office to the City. The Director shall become a City employee, effective the beginning of the City's first full pay period following the effective date of this MOA. The City shall recognize and accrue on its books all of the Director's accumulated leave; provided, however, that the Director's leave thereafter shall be governed by the City's policies.

B. Funds. Within a reasonable time after the effective date of this MOA, but no later than two months after, the County will transfer to the City (1) the uncommitted fund balance of funds previously dedicated by the City and County for the purposes of the Santa Fe Regional Film Office, as of June 30, 2024, and (2) the County's Fiscal Year 2025 contribution for the operational expenses of the Santa Fe Regional Film Office. The funds will continue to support the Santa Fe Regional Film Office to the extent legally permissible. For any County funds that cannot be used to support the Santa Fe Regional Film Office or upon the termination of this MOA, the City will promptly remit unused County funds back to the County. In the event that the County's Fiscal Year 2024 audit determines that the uncommitted fund balance of previous contributions was less than estimated, the City shall promptly remit the difference to the County.

C. Goods/Supplies. Upon approval of this MOA, the County will transfer to the City the following materials and supplies previously purchased for the Santa Fe Regional Film Office using contributions of the City and County as described in Exhibit A.

D. Contracts. Within a reasonable time after the effective date of this MOA, but no later than two months after, the County shall assign any contracts dedicated to supporting the Film Office to the City.

3. DUTIES OF THE PARTIES

A. The City shall:

1. Provide direct management and oversight of the staff of the Santa Fe Regional Film Office, including recruiting, hiring, and training of staff; provided, however, the City shall seek non-binding County input through the County designated liaison prior to making new staff hires of the Santa Fe Regional Film Office, including, but not limited to, the Director.
2. Provide office space, materials, and supplies necessary to operate and maintain the Santa Fe Regional Film Office consistent with its approved budget;
3. Designate a liaison to work with the County to perform the duties and obligations of the Santa Fe Regional Film Office;

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4. Establish a document retention and protection policy for the Santa Fe Regional Film Office;
5. Contract for goods and services for the Santa Fe Regional Film Office, provided the City shall not commit the County to any contingent liabilities;
6. Include the Santa Fe Regional Film Office in its annual independent audit pursuant to the New Mexico Audit Act, NMSA 1978, Sections 12-6-1, *et seq.*, and 2.2.2. NMAC, *et seq.*, as amended to be included in its published audit;
7. Establish an annual budget for the Santa Fe Regional Film Office consistent with this MOA;
8. Provide funding for operational expenditures of the Santa Fe Regional Film Office as follows:
 - a) Fiscal year 2025 - \$175,000.00
 - b) Fiscal year 2026 - \$200,000.00*
 - c) Fiscal year 2027 - \$200,000.00*
 - d) Fiscal year 2028 - \$225,000.00*.*Contingent upon approved appropriations.

B. The County shall:

1. Designate a liaison to work with the City to perform the duties of and obligations of the Santa Fe Regional Film Office.
2. Provide funding for operational expenses of the Santa Fe Regional Film Office as follows:
 - a) Fiscal year 2025 - \$175,000.00
 - b) Fiscal year 2026 - \$200,000.00*
 - c) Fiscal year 2027 - \$200,000.00*
 - d) Fiscal year 2028 - \$225,000.00*.*Contingent upon approved appropriations.

4. FUTURE INDEBTEDNESS

Subject to NMSA 1978, § 6-6-11 (Bateman Act), Art. IX, Sec. 10, and Article IX, Sec. 12, of the state constitution, and the availability of sufficient appropriations from the Santa Fe County Board of County Commissioners and the Governing Body of the City of Santa Fe, nothing in this MOA shall require the County or the City to become indebted or contract any indebtedness of any kind or nature whatsoever during any current year which, at the end of such current year, is not and cannot be paid out of the money actually collected and belonging to that current year, and any indebtedness for any current year which is not paid and cannot be paid, as provided above, shall be void.

5. TERM AND TERMINATION

A. This MOA shall become effective as of the date of last signature by the parties hereto and shall terminate on June 30, 2028, unless earlier terminated as indicated below.

B. This MOA may be terminated by either party upon delivery of a written notice delivered to the other party at least 90 days prior to the stated date of termination. By such termination, neither party may nullify or avoid any obligations incurred prior to the termination.

6. ASSIGNMENT

Neither party shall not assign or transfer any interest or rights in this MOA without the advance written approval of the other party. Any attempted assignment or transfer without the other party's advance written approval shall be null and void and without any legal effect.

7. LIABILITY

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation of requirements applicable to the performance of this MOA. Each party shall be liable for its actions in accordance with this MOA. Any liability incurred by the County or the City in connection with this MOA is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. The County, City and its public employees as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity; do not waive any defense; and do not waive any limitation of liability pursuant to law. No provision in this MOA modifies or waives any provision of the New Mexico Tort Claims Act.

8. AMENDMENT

This MOA shall not be altered, changed or amended except by an instrument in writing executed by the parties.

9. APPROPRIATIONS AND AUTHORIZATION

The terms of this MOA are contingent upon sufficient appropriations and authorization being made by the Legislature of the State of New Mexico and the governing bodies of the City and the County for the performance of this MOA. If sufficient appropriations and authorization are not made, this MOA shall terminate immediately upon written notice being given by the terminating party to the other party. Any party's decision as to whether sufficient appropriations are available shall be accepted by the other party and shall be final.

10. GOVERNING LAW

This MOA shall be governed by, and construed in accordance with, the laws of New Mexico and the applicable ordinances of the parties.

11. ACCOUNTABILITY

During the term of this MOA and for a period of three years thereafter, each party will maintain accurate and complete records of all disbursements made and monies received by each under this MOA and, upon receipt of reasonable written request, each shall make such records available to the other party and to the any other parties during regular business hours of the Santa Fe Regional Film Office.

12. NO THIRD-PARTY BENEFICIARIES

Nothing in this MOA, express or implied, is intended to confer any rights, remedies, claims or interests upon a person not a party to this MOA.

13. SUCCESSORS AND ASSIGNS:

This MOA will inure to the benefit of the Party's successors or assigns.

14. ENTIRE AGREEMENT

This MOA represents the entire understanding between the parties and supersedes any prior agreements or understandings with respect to the subject of this MOA. No changes, amendments or alterations to this MOA will be effective until in writing and signed by the parties.

15. NOTICES

Any notice required by this MOA shall be given in writing to the parties designated below. Notice shall be effective when delivered personally to any party, or three business days after deposited, postage fully prepaid, registered or certified, in an official receptacle of the U.S. Postal Service.

COUNTY: Santa Fe County
Attn: County Manager
P. O. Box 276
Santa Fe, New Mexico 87504-0276

CITY: Jennifer LaBar-Tapia, Film Office Executive Director
City of Santa Fe
P. O. Box 909
Santa Fe, New Mexico 87504-0909

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IN WITNESS WHEREOF the Parties have duly executed this MOA as of the date of last signature by the parties hereto.

SANTA FE COUNTY

Hank Hughes
Hank Hughes, Chair
Santa Fe County Board of County Commissioners



ATTESTATION:

Katharine E. Clark
Katharine E. Clark
Santa Fe County Clerk

10/01/2024
Date

Approved as to form:

Jeff Young
Jeff Young
Santa Fe County Attorney

10/7/2024
Date

CITY OF SANTA FE:

Alan Webber
Alan Webber, Mayor

Sep 30, 2024
Date

ATTEST:

Gerilyn Cardenas
Gerilyn Cardenas, Interim City Clerk

Sep 30, 2024
Date

GB MTG 09/25/2024 xiv

Approved as to form:

Erin K. McSherry
Erin K. McSherry, City Attorney

Sep 16, 2024
Date

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Memorandum of Agreement No. 2021-0121-CMO/BT

Finance Department:

Emily K. Oster

Emily Oster, Finance Director

Sep 29, 2024

Date

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EXHIBIT A

1. 2 laptops
2. 5 monitors
3. 2 keyboards
4. 1 modem
5. 1 docking station
6. 1 flat screen TV
7. 1 sound bar for the TV
8. All Santa Fe Regional Film Office swag (jackets, vests, backpacks, water bottles, etc.)
9. Framed movie posters
10. Film props/swag/crew wrap collected by the Film Office over the years

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From: DUTTON-LEYDA, TRAVIS K.
To: VIGIL, XAVIER I.; SPENCER, SHIRLEY J.; APODACA, MARCELLA A.; OLGUIN, LORETTA S.; CARDENAS, GERALYN E.
Cc: RANDALL, RANDY; Purchasing; EDWARDS, JAMES W.
Subject: Re: MOA for film office
Date: Thursday, September 12, 2024 1:13:29 PM

New memo please so you don't have to include the procurement checklist and summary of contract.

Also, here is my exemption determination if you don't already have one. Contracts with the county are exempt per NMSA 1978, section 13-1-98 (A).

Thank you.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

<https://santafenm.gov/finance-2/purchasing-1>

Internal Link: https://intranet.santafenm.gov/finance_1

Chart, text



From: VIGIL, XAVIER I. <xivigil@santafenm.gov>
Sent: Thursday, September 12, 2024 1:02:16 PM
To: SPENCER, SHIRLEY J. <sjspencer@santafenm.gov>; APODACA, MARCELLA A. <maapodaca1@santafenm.gov>; OLGUIN, LORETTA S. <lsolguin@santafenm.gov>; CARDENAS, GERALYN F. <gfcardenas@santafenm.gov>
Cc: RANDALL, RANDY <rrandall@santafenm.gov>; DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: RE: MOA for film office

I think we should probably go with Travis's new memo. Travis, please correct me if I'm wrong.

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Xavier (ex-ay-vier) Vigil
Committee and Contracts Coordinator
City Clerk's Office
Community Engagement Department
(505) 955-6514

-----Original Message-----

From: SPENCER, SHIRLEY J. <sjspencer@santafenm.gov>
Sent: Thursday, September 12, 2024 11:59 AM
To: VIGIL, XAVIER I. <xivigil@santafenm.gov>; APODACA, MARCELLA A. <maapodaca1@santafenm.gov>; OLGUIN, LORETTA S. <lsolguin@santafenm.gov>; CARDENAS, GERALYN F. <gfcardenas@santafenm.gov>
Cc: RANDALL, RANDY <rrandall@santafenm.gov>; DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: RE: MOA for film office

Great.... Will a basic memo suffice?

-----Original Message-----

From: VIGIL, XAVIER I. <xivigil@santafenm.gov>
Sent: Thursday, September 12, 2024 11:57 AM
To: SPENCER, SHIRLEY J. <sjspencer@santafenm.gov>; APODACA, MARCELLA A. <maapodaca1@santafenm.gov>; OLGUIN, LORETTA S. <lsolguin@santafenm.gov>; CARDENAS, GERALYN F. <gfcardenas@santafenm.gov>
Cc: RANDALL, RANDY <rrandall@santafenm.gov>; DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: RE: MOA for film office

Hi Shirley, no business license or COI is needed for this agreement.

Xavier (ex-ay-vier) Vigil
Committee and Contracts Coordinator
City Clerk's Office
Community Engagement Department
(505) 955-6514

-----Original Message-----

From: SPENCER, SHIRLEY J. <sjspencer@santafenm.gov>
Sent: Thursday, September 12, 2024 11:40 AM
To: APODACA, MARCELLA A. <maapodaca1@santafenm.gov>; OLGUIN, LORETTA S. <lsolguin@santafenm.gov>; VIGIL, XAVIER I. <xivigil@santafenm.gov>; CARDENAS, GERALYN F. <gfcardenas@santafenm.gov>
Cc: RANDALL, RANDY <rrandall@santafenm.gov>; DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: RE: MOA for film office

Hi All,

I included Travis and GERALYN on the email string....

Also, I need to know what is needed with the packet - will the new memo suffice from Travis? Do we need a COI; don't think I need the SF Business license since this is the county.....

Travis, can we expedite this memo once I transfer into the new memo you created? Also, guessing

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that we can expedite Emily Oster's signature as well? Attached, is what I have currently.
Thanks,
Shirley

-----Original Message-----

From: APODACA, MARCELLA A. <maapodaca1@santafenm.gov>
Sent: Thursday, September 12, 2024 10:50 AM
To: SPENCER, SHIRLEY J. <sjspencer@santafenm.gov>; OLGUIN, LORETTA S. <lsolguin@santafenm.gov>; VIGIL, XAVIER I. <xivigil@santafenm.gov>
Cc: RANDALL, RANDY <rrandall@santafenm.gov>
Subject: RE: MOA for film office

Dear Shirley,

This is a question for the clerk's office.

Regards,

Marcella A. Apodaca
City of Santa Fe
Community Health & Safety Department
Business Operations Manager
505-365-3608 (cell)
505-955-6568 (desk)
maapodaca1@santafenm.gov

-----Original Message-----

From: SPENCER, SHIRLEY J. <sjspencer@santafenm.gov>
Sent: Thursday, September 12, 2024 10:48 AM
To: OLGUIN, LORETTA S. <lsolguin@santafenm.gov>; APODACA, MARCELLA A. <maapodaca1@santafenm.gov>; VIGIL, XAVIER I. <xivigil@santafenm.gov>
Cc: RANDALL, RANDY <rrandall@santafenm.gov>
Subject: FW: MOA for film office

Hi Liaisons,

My Director is asking to submit the captions by today for QOL without the MOA - is this doable?
Not sure when the MOA will be available - so I have included Randy Randall on the email string to respond to this part.

Thanks,
Shirley

-----Original Message-----

From: RANDALL, RANDY <rrandall@santafenm.gov>
Sent: Thursday, September 12, 2024 10:15 AM
To: SPENCER, SHIRLEY J. <sjspencer@santafenm.gov>
Subject: MOA for film office

Do we have the package for the film, commission MOA ready to go with the exception of the actual document?

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We need to get it to quality of life agenda today. Please send them the caption as that should not change.

Randy Randall
Executive Director
TOURISM Santa Fe
505-955-6209

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Signature: 
XAVIER VIGIL (Sep 26, 2024 16:13 MDT)
Email: xivigil@santafenm.gov

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