

**PUBLIC WORKS DEPARTMENT**

**ADOPT-A-MEDIAN/PARK AND RIGHT-OF-WAY VOLUNTEER AGREEMENT**

Tortilla Flats/Dean Alexis(hereafter referred to as the "Volunteer or Adoptee") hereby agrees to Adopt-A-Park/Median Program Agreement including a right-of-way to and from and on behalf of the citizens of Santa Fe, (hereinafter referred to as "The City"), as of the date executed by both parties, whichever occurs last.

**WHEREAS**, the City has instituted an Adopt-a-Median/Park program to encourage and obtain volunteer support from civic-minded entities and individuals for the development, improvement and/or maintenance of City parks and street medians; and

**WHEREAS**, Volunteer desires to "adopt" a park or street median by voluntarily providing certain services; and

**NOW THEREFORE**, the parties agree as follows:

**1. THE PARTIES RESPONSIBILITIES REGARDING THE PARK OR STREET MEDIAN ADOPTED BY THE VOLUNTEER**

**A.** The City agrees to be responsible for:

1. Watering as the City, in its sole discretion, determines is needed, during spring and summer months, possibly during the fall and winter months.
2. At the request of the Volunteer or Adoptee, City crews may construct City owned actual improvements on median and right-of-way if work schedule and City budget allows.
3. In recognition of the Volunteer the City shall install a sign at the park or street median stating that the park or street median has been adopted by the Volunteer and the Volunteer continues to contribute his or her services to the City.

**B.** The "Volunteer" agrees to be responsible for:

1. Volunteer shall provide the following prescribed services at (location) median on  
Calle Del Cielo
2. Make monetary donations to the City for use on the improvements of a specific median and right-of-way.  
way.
3. Maintain median, and/or parks and/or rights-of-way free of litter, debris and weeds on a weekly basis  
during the peak season (April through October) tapering to monthly caretaking during the off season (November through March).
4. Adhere to Adopt a Median Program's pre-approved landscaping plan indicating location and number  
of approved planting materials, paving materials, and any other additional landscape features, including but not limited to: See attached Landscape Design guidelines.
  - a. trimming and pruning of vegetation and trees as the City deems is necessary and
  - b. replacement of dead or damaged shrubs or vegetation when needed.
  - c. sweeping of slab-type median and right-of-way if attached or in parks.
  - d. payment of \$185.00 for each Adopt-a-Median sign, which the City will place on the appropriate median.

C. The Volunteer agrees to the following conditions and requirements imposed by the Adopt a Median Program:

1. **VOLUNTEER UNDERSTANDS THAT PERFORMANCE OF THE SERVICES SPECIFIED IN THIS AGREEMENT MAY INVOLVE SOME RISK OR INJURY TO THE VOLUNTEER. VOLUNTEER AGREES TO ASSUME THE RISKS WHICH ACCOMPANY THE PERFORMANCE OF THE VOLUNTEER SERVICES AND WILL MAKE NO CLAIM OF ANY KIND AGAINST THE CITY, OR NEW MEXICO STATE HIGHWAY DEPARTMENT, ITS AGENTS OR EMPLOYEES FOR ANY INJURIES WHICH MAY ARISE FROM THE PERFORMANCE OF THE VOLUNTEER SERVICES.**
2. Volunteer agrees to defend, indemnify and hold the CITY or NEW MEXICO STATE HIGHWAY DEPARTMENT harmless from any claims, actions or any other proceedings, which may be brought against the City, it's agents or employees arising from the Volunteer's performance from the services specified in this Agreement.
3. **Mandatory:** all Volunteers must notify the Parks Division with a minimum of one week notice before scheduled work is planned on medians or parks and be a **MINIMUM OF 16 YEARS OF AGE AND UTILIZE SAFETY PRECAUTIONS SUCH AS VESTS, TRAFFIC SIGNS AND CONES (Public Works Department will provide)** during job detail on medians.
4. The Volunteer and its agents are required to schedule all maintenance with the Keep Santa Fe Beautiful Coordinator or Parks Division Crew in order to schedule traffic control and flagging Personnel from the Parks Division . All Volunteers shall bear all costs of the Adopt-a-Median Program.
5. The Volunteer agrees to receive no fee, money, remuneration or reimbursement of any kind whatsoever from the City for the services and responsibilities set forth in this Agreement.
6. The Volunteer, sub volunteers and any of its agents shall sign the attached City of Santa Fe Volunteer Waiver Form before performance of this Agreement.
7. The Volunteer shall sign the attached Statement of Responsibility and Waiver of Liability upon execution of this Agreement.

## **2. TERMINATION**

Non-compliance or breach of this Agreement by the Volunteer or its agents shall result in the immediate termination of this Agreement and forfeiture of the adopted median the right-of-way and any rights or responsibilities of the Volunteer and the City under this Agreement.

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least 15 days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

## **3. STATUS OF VOLUNTEER**

The Volunteer and its authorized agents, sub volunteers and/or Volunteer's employees, are independent volunteers performing professional services for the City and are not employees of the City. The Volunteer, and it's 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.

## **4. THIRD PARTY BENEFICIARIES**

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Volunteer. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

## **5. INSURANCE**

The Volunteer, at its own cost and expense, is requested to buy and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the MAXIMUM amount which the city could be held liable under the New Mexico Tort Claims Act for the each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Volunteer shall furnish the City with a Copy of a Certificate of Insurance or other evidence of Volunteer's compliance with the provisions of this section as a condition prior to performing services under this Agreement. Volunteer is requested to also obtain and maintain Workers Compensation insurance, required by law, to provide coverage for Volunteer's employees throughout the term of this Agreement. Volunteer shall provide the City with evidence of its compliance with such requirements. Notwithstanding the foregoing, if a Volunteer or its agents do not carry comprehensive general liability insurance, they may request and receive a waiver of this particular requirement by submitting a written request along with signed City Volunteer Waiver forms signed by the Volunteer and its agents, along with the application to be approved by the City Manager.

#### **6. INDEMNIFICATION**

The Volunteer, sub volunteers and/or its Volunteer's authorized agents shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Volunteer's performance under this Agreement as well as the performance of Volunteer's employees, agents, representatives and sub volunteers.

#### **7. SUBCONTRACTING OR ASSIGNMENT**

The Volunteer shall not subcontract or assign any portion of the services to be performed under this Agreement without the prior written approval of the City.

#### **8. APPROPRIATIONS**

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

#### **9. CONFIDENTIALITY**

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

#### **10. CONFLICT OF INTEREST**

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

#### **11. AMENDMENT**

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

#### **12. SCOPE OF AGREEMENT**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understanding have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the

parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**13. REPRESENTATIONS AND WARRANTIES**

The Volunteer hereby warrants that it is in compliance with the Americans with Disabilities Act, 29 CFR 1630.

**14. APPLICABLE LAW**

This Agreement shall be governed by the ordinances of the city of Santa Fe and the laws of the state of New Mexico.

CITY OF SANTA FE:  
BRIAN SNYDER, CITY MANAGER

DATE: 5/31/18

24/10/2018

ATTEST:

Yolanda Y. Vigil  
YOLANDA Y. VIGIL, CITY CLERK dlw

VOLUNTEER:

By: See Attached

Volunteer signature

DATE:

APPROVED AS TO FORM:

Kelley Brennen

KELLEY BRENNEN, CITY ATTORNEY

DATE:

4/9/18

**KEEP SANTA FE BEAUTIFUL  
PUBLIC WORKS DEPARTMENT  
VOLUNTEER AGREEMENT  
STATEMENT OF RESPONSIBILITY  
AND WAIVER OF LIABILITY**

DATE: 4-3-18

NAME: Tortilla Flats/Dean Aleis

MEDIAN ASSIGNMENT: Calle Del Cielo

I.. Volunteer and any subvolunteers and/or authorized agents, Tortilla Flats, agree to defend, protect, indemnify, and hold the City of Santa Fe and New Mexico State Department harmless from any personal injury or property damage suffered by the (VOLUNTEERS), it's members and participants, the State, or by third parties resulting from the (MAINTENANCE). II. Volunteer and any subvolunteers and/or authorized agents, understand it is policy that any person accepting a Volunteer Assignment does so with the clear understanding that he/she will receive no fee or remuneration for his/her services.

III. Volunteer and any subvolunteers and/or authorized agents, understand that City is requesting but not requiring the Volunteer to obtain and carry any comprehensive liability insurance and has agreed to hold harmless and indemnify the City as set forth in detail in the Volunteer Agreement.

IV. Volunteer and any subvolunteers and/or authorized agents, understand that no person who is not carried on the regular City payroll is eligible for any of the insurance services and benefits provided to regular paid staff personal. This includes Workmen's Compensation. **ANY INJURY OR ILLNESS SUFFERED BY A VOLUNTEER, SUBVOLUNTEER AND/OR AUTHORIZED AGENT DURING THE TIME HE/SHE IS PERFORMING HIS/HER VOLUNTEER ASSIGNMENT WILL BE ENTIRELY HIS/HER OWN RESPONSIBILITY REGARDLESS OF WHAT ENTITY OR PERSON CAUSED THE INJURY OR**

ILLNESS.

Signature



Print Name

DEAN G. ALEXIS

Date

4-3-18

Address

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87502

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505 9882191

E-mail

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