



**INTER-GOVERNMENTAL SERVICE AGREEMENT BETWEEN
NEW MEXICO DEPARTMENT OF PUBLIC SAFETY
AND CITY OF SANTA FE**

THIS AGREEMENT by and between the New Mexico Department of Public Safety (herein referred to as the "DPS"), City of Santa Fe (herein referred to as the "Fiduciary") and Santa Fe Police Department (herein referred to as the "Agency") and collectively "the Parties".

WHEREAS, the DPS and the Agency each charged with protecting the health, safety and welfare of the citizens of New Mexico; and

WHEREAS, the DPS serves as the Fiduciary for the Region III Task Force; and

WHEREAS, City of Santa Fe serves as the Fiduciary for the Santa Fe Police Department; and

WHEREAS, the DPS, the City of Santa Fe Police Department, Town of Taos Police Department, Taos County Sheriff's Office, New Mexico Department of Public Safety (State Police), and the Espanola Police Department, are parties to Memorandum of Understanding Region III Drug Task Force (the MOU) dated January 6, 2020 that provides for how the Parties will jointly cooperate and assist with the prevention, investigation, control and prosecution of unlawful drugs, narcotics and controlled substances and related crimes within the Southwest Border HIDTA - New Mexico, Region III; and

WHEREAS, according to the MOU, the DPS is designated as the fiscal agent for purposes of the MOU and activities conducted by the Parties to the MOU; and

WHEREAS, the law enforcement activities and strategy of the HIDTA Region III area are funded annually by a federal HIDTA grant, which provides assistance to law enforcement entities to reduce drug trafficking and production in the HIDTA Region III; and

WHEREAS, the DPS as fiscal agent under the MOU is the recipient of HIDTA Grant #G23SN0005A in the amount of \$320,013.00 on behalf of the Region III Multi-Jurisdictional Task Force.

WHEREAS, the Agency, a signatory on the MOU, is an entity that is active and participating in HIDTA-related activities and initiatives and is eligible for reimbursement from the HIDTA Grant. The Agency participation involves overtime hours spent by the Agency enforcement officers engaging in undercover narcotics investigations and other activities to support the HIDTA strategy; and

WHEREAS, the DPS also wish to provide for the process by which the Agency who engages and participates in HIDTA-related activities to support the strategy of the HIDTA program, submit invoices to the Fiduciary and DPS, as fiscal agent for Region III, reimburses the Fiduciary for overtime and other expenses associated with its HIDTA-related activities; and

WHEREAS, federal regulations governing the award and administration of federal grants awarded to

non-federal agencies require that grant contractors agree to be subject to certain federal requirements and regulations pertaining to HIDTA grants; and

NOW THEREFORE, in consideration of the promises and mutual obligations herein, the Parties hereto do mutually agree as follows:

1. SCOPE OF PARTICIPATION

- a. The Agency's participation in HIDTA Region III activities to support the HIDTA strategy consists, without limitation, of overtime hours spent by Agency's law enforcement officers, agents, deputies, and police officers engaging in undercover narcotics investigations and other activities to support the HIDTA strategy. Other HIDTA-related activities are those program activities described on the budget submitted by the HIDTA Region III in its annual HIDTA grant application.
- b. The DPS and the Agency agree that all HIDTA activities set forth in Section 1 of this Agreement shall be completed in full to the satisfaction of the DPS as fiscal agent and in accordance with all federal requirements of the HIDTA grant funding, and for amounts not-to-exceed the sum of the annual HIDTA grant, and for no other cost, amount, fee, or expense.

2. THE AGENCY SHALL:

- a. Depending on the frequency of HIDTA activities and initiatives during the HIDTA grant period, the Agency's law enforcement agents will prepare an invoice with supporting documentation evidencing the Agency's police overtime hours and other HIDTA-related expenses associated with HIDTA programs and activities. The Fiduciary will submit the invoice and supporting documentation to Region III Task Force on behalf of the Agency. The invoice and supporting documentation will be verified by Region III Task Force and then submitted to the DPS for reimbursement.
- b. The total amount payable to the Fiduciary/Agency under this Agreement shall not exceed the total amount of the annual HIDTA grant funding, inclusive of any applicable tax, for that fiscal year.
- c. The amount of the annual HIDTA grant is a maximum, not a guarantee that the HIDTA activities performed or engaged in by the Agency in this Agreement shall equal the amount of the HIDTA grant. The Parties do not intend for the Agency to continue to engage in HIDTA activities without reimbursement when the HIDTA grant funding has been exhausted. Reimbursement is based on the availability of the HIDTA grant funding for that grant period.

(1) The Region III HIDTA representative for receipt of the invoice and supporting documentation will be:

Scott McFaul, Lieutenant
Region III Task Force
Scott.mcfaul@state.nm.us
(505) 670-5791

Or such other individual as may be designated in the absence of the Region III HIDTA representative.

(2) The Agency's budgeted amounts to be paid are as stated on **Attachment B** (pending approval of the Office of National Drug Control Policy via the Southwest Border HIDTA-New Mexico).

(3) In the event the Agency materially breaches this Agreement, the DPS may, without penalty, withhold reimbursement to the Agency.

3. The DPS SHALL:

- a. As fiscal agent under the MOU, review the invoice and supporting documentation and submit reimbursement directly to the Fiduciary.
- b. Notify the Agency when reimbursements to the Agency have reached the total available HIDTA grant funding for that year. Reimbursement is based on the availability of the HIDTA grant funding for that grant period.

(1) The total amount payable to the Fiduciary under this Agreement shall not exceed Thirteen thousand five hundred twenty Dollars (\$13,520.00) unless an amendment is approved.

4. EFFECTIVE DATE AND TERM

- a. This Agreement shall, upon due execution by all Parties, become effective as of the date of last signature by the Parties hereto.
- b. The term of this Agreement is from the date of last signature by the Parties through June 30, 2024, and is subject to earlier termination:
 - (1.) if the DPS ceases to be designated as the fiscal agent under the MOU,
 - (2.) if the MOU is dissolved by the Parties to the MOU, or
 - (3.) termination pursuant to Section 5 (Termination) below occurs.

5. TERMINATION

Termination for Convenience: Either party may terminate this Agreement for any reason by providing 30 days written notice. If notice is given, the Agreement will terminate at the end of 30 days thereafter, and the liabilities of the Parties hereunder for further performance of the terms of the Agreement shall cease, but the Parties shall not be released from duty to perform up-to-the date of termination.

6. CONTINUED HIDTA GRANT FUNDING

This Agreement is contingent upon the DPS's annual award of HIDTA grant funding. If sufficient HIDTA grant funding is not received this Agreement shall terminate upon written notice by the DPS to the Agency, or the Parties to this Agreement may agree to suspend performance under this Agreement until such time as HIDTA grant funds are available. A termination shall be without penalty to the DPS, and the DPS shall have no duty to reimburse the Agency for overtime or expenditures made in the performance of this Agreement. The DPS's decision as to whether sufficient HIDTA grant funding is available to fulfill the purposes of this Agreement shall be final and not subject to challenge by the Agency in any way or forum, including a lawsuit.

7. PERSONNEL

All HIDTA-related tasks and activities under this Agreement shall be performed by the Agency or under the Agency's supervision on behalf of the Region III Task Force.

8. RELEASE

- a. Upon its receipt of all reimbursements or payments due under this Agreement, the Fiduciary/Agency releases the DPS, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.
- b. The Parties agree to not purport to bind the other to any obligation not assumed herein by the other, unless the party has given express written authority to do so, and then only within the strict limitations of that authority.

9. CONFIDENTIALITY

Any confidential information provided to or developed by the Agency in the performance of this Agreement shall be kept confidential and shall only be made available to any individual or organization in accordance with applicable federal or state law.

10. CONFLICT OF INTEREST

The Agency agrees to maintain written standards of conduct covering conflict of interest. The Agency warrants that none of its employees will participate in the selection, award, or administration of this Agreement if he or she has a real or apparent conflict of interest.

11. COMPLIANCE WITH APPLICABLE LAW AND REGULATION; CHOICE OF LAW; WARRANTY

In performing HIDTA-related tasks and activities hereunder for which the Agency will receive reimbursement from a federal HIDTA grant, the Agency shall comply with all applicable Federal statutes, regulations and HIDTA award terms and conditions including, but not limited to,

- a. 28 CFR Part 69 (New Restrictions on Lobbying),
- b. 2 CFR Part 25 (Universal Identifier and System of Award Management (SAM)),
- c. CFR Part 180 (Suspension and Debarment),
- d. 28 CFR Part 23 (Criminal Intelligence Systems),
- e. Section 6 of the HIDTA Program Policy and Budget Guidance,

This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. The DPS and the Agency agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be state district courts of New Mexico located in Santa Fe County.

The Agency warrants and represents that it is not listed as an excluded party under the federal System for Award Management (SAM) as a debarred or suspended or otherwise excluded from participation in a HIDTA grant funded program.

12. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an amendment in writing executed by the Parties hereto.

13. ENTIRE AGREEMENT; INTEGRATION

This Agreement incorporates all the agreements, covenants, and understandings between the Parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous agreement, covenant or understandings, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this Agreement.

14. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

15. NOTICES

Any notice required to be given to the Parties hereto shall be in writing and shall be delivered in person or by U.S. mail, either first class or certified, return receipt requested, postage prepaid to the following:

**New Mexico Department of Public Safety
Attn: Jason R. Bowie, Secretary
P. O. Box 1628
Santa Fe, New Mexico 87504-1628**

16. FACSIMILE SIGNATURES

The Parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

17. INSURANCE

General Conditions: The Agency shall maintain sufficient personal and property insurance consistent with the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1 through 41-4-29, as amended.

18. NEW MEXICO TORT CLAIMS ACT; LIABILITY

Each party to this Agreement 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 Agreement. Each party shall be liable for its own actions in accordance with this Agreement. Any liability incurred by the DPS or the Agency in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act NMSA 1978, Section 41-4-1, et seq., as amended.

The Parties and their "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 the Tort Claims Act. No provision in this Agreement shall be construed to modify or waive any provision of the New Mexico Tort Claims Act.

19. LIABILITY

By entering into this agreement, 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 the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, *et seq.*, NMSA 1978, as amended. This paragraph is intended only to define the liabilities between the Parties hereto and is not intended to modify, in any way, the Parties' liabilities as governed by the federal, state, local, or common law of the New Mexico Tort Claims Act.

20. RECORDS AND AUDIT

The Parties agree to maintain all books, documents, papers, accounting records and other evidence pursuant to this Agreement and to make such materials available at their respective offices at all reasonable times for six (6) years after completion of the Project.

21. THIRD PARTY BENEFICIARY CLAUSE

The Parties specifically agree that this Agreement is not intended to create in any way a third-party beneficiary in the public or any member thereof or to authorize anyone not a party to the Agreement to maintain a suit for wrongful death, bodily and/or personal injury to a person, damage to property, and/or any other claim(s) whatsoever. This Agreement was not intended to and does not create any rights in any persons not a party hereto.

22. ASSIGNMENT

Neither party shall assign or transfer any interest in this Agreement without prior written approval of the other party.

23. APPLICABLE LAW

This Agreement and the rights and duties of the Parties hereto shall be governed by, and construed in accordance with, the internal laws of the State of New Mexico without regard to principles of conflicts of laws.

24. WAIVER OF JURY TRIAL

To the extent permitted by law, the Parties hereby irrevocably knowingly and expressly waive any right to trial by jury in any action or proceeding.

- a. to enforce or defend any rights under or in connection with this agreement or any amendment, instrument, document, or agreement delivered in connection herewith, or
- b. arising from any dispute or controversy in connection with or related to this agreement and agree that any such action or proceeding shall be tried before a court and not before a jury.

25. SCOPE OF THE AGREEMENT

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 agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this Agreement.

26. CONSTRUCTION

In construing this Agreement, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Agreement. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. This Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if all Parties had prepared it.

27. SURVIVAL

The provisions of following paragraphs shall survive termination of this Agreement: RELEASE, CONFIDENTIALITY, COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; TORT CLAIMS ACT; SURVIVAL.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first written below:

NEW MEXICO DEPARTMENT OF PUBLIC SAFETY

By: _____
 Jason R. Bowie, Cabinet Secretary
 New Mexico Department of Public Safety

Date: _____

Reviewed for legal form and sufficiency

By: _____
 Mathew Chavez, Chief Legal Counsel
 New Mexico Department of Public Safety

Date: _____

CITY OF SANTA FE

By: John Blair
 John Blair (Sep 27, 2023 12:15 MDT)
 John Blair, City Manager

Date: Sep 27, 2023

Attest:

By: Kristine Bustos Mihelcic
 Kristine Bustos Mihelcic, City Clerk XIV

City Attorney's Office:

By: Marcos Martinez
 Marcos Martinez (Aug 7, 2023 08:05 MDT)
 Senior Assistant City Attorney

Approved for Finances:

By: Emily K. Oster
Emily K. Oster (Sep 26, 2023 18:01 MDT)

Emily Oster, Finance Director

SANTA FE POLICE DEPARTMENT

By: _____

Date: _____

**ATTACHMENT B
HIDTA GRANT AWARD #23SN0005A**

Resource Recipient – SANTA FE POLICE DEPARTMENT

Overtime Hours Worked on Behalf of the Region III Task Force

Investigative - Law Enforcement Officer, in the amount of \$13,520.00 but not to exceed the 2023 federal general pay scale or the amount of \$20,707.00 per officer per year.

Budget Detail

2023 - New Mexico

Initiative - Region III Multi-Jurisdictional Drug Task Force

Investigation

Award Recipient - New Mexico Department of Public Safety (G23SN0005A)

Resource Recipient - City of Santa Fe

Indirect Cost: 0.0%

Awarded Budget (as approved by ONDCP)		\$1,124,915.00
Overtime	Quantity	Amount
Investigative - Law Enforcement Officer	2	\$13,520.00
Total Overtime		\$13,520.00
Total Budget		\$13,520.00

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 Police/Administration	DATE 9/7/2023
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ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				(enter as <u>positive</u> #)	(enter as <u>negative</u> #)
Overtime	2230315	501400	POL2422302	13,520	

REVENUES				(enter as <u>negative</u> #)	(enter as <u>positive</u> #)
NMDPS DFA/FED-HIDTA Pass thru grant	2230315	490210	POL2422302	(13,520)	

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

To record Agreement between the State of New Mexico Department of Public Safety and the City of Santa Fe for the Region III Drug Task Force Grant, Expires 6/30/2024.	(Complete section below if BAR results in a net change to ANY Fund)												
Project Ledger Code POL2422302/Grant ID:S2409	<table border="1" style="width: 100%;"> <tr> <th>Fund(s) Affected</th> <th>Fund Balance Increase/ Decrease</th> </tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr> <td>TOTAL:</td> <td style="text-align: center;">0</td> </tr> </table>	Fund(s) Affected	Fund Balance Increase/ Decrease									TOTAL:	0
Fund(s) Affected	Fund Balance Increase/ Decrease												
TOTAL:	0												

AnnaMarie Bowen Prepared By {print name}	9/7/2023 Date	(Use this form for Finance Committee/ City Council agenda items ONLY)	Andy Hopkins Budget Officer	Sep 21, 2023 Date
Division Director Signature {optional}	Date	CITY COUNCIL APPROVAL City Council Approval Date	Finance Director {≤ \$5,000}	Date
Department Director Signature	Date	Agenda Item #:	City Manager {≤ \$60,000}	Date



City of Santa Fe

Summary of Contract, Agreement, Amendment & Lease

All applicable fields to be completed by department (complete 1.b only if you are processing an amendment):

1.a Munis Contract: 3204317

Procurement # (RFP/ITB# If any):

Contractor: Region III Drug Task Force

Procurement Method: Small Purchase ☐ RFP ☐ ITB ☐ Sole Source ☐ GSA ☐ Cooperative ☐ Exempt ☒

Description/Title: Agreement Participant (MOU) Region III Drug Task Force SFPD. MOU is required for all participating agencies (\$13,520.00 plus GRT)

Contract: ☐

Agreement: ☐

Lease/Rent: ☐

Amendment: ☐

Term Start Date: upon signature

Term End Date: 06/30/2024

Total Contract Amount: \$13,520.00

☐ Approved by Council (If over the City Manager's approval threshold, you must go through GB)

Contract / Lease:

1.b Amendment #: to the Original Contract/Lease #

Increase/(Decrease) Amount \$:

Extend Expiration Date to:

☐ Approved by Council (If the original went through GB, all amendments must go through GB regardless of the amendment reason) Date:

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)
MOU - DPS Region III Agreement for Region III Drug Task Force, participant SFPD.

3. **Procurement History:**

Purchasing Officer Review:

Sep 25, 2023

Date:

Comment & Exceptions: Exemption 13-1-98A entity to entity

4. **Funding Source:**

Andy Hopkins
Org / Object: 2230315/501400

Sep 21, 2023

Date:

Budget Officer Approval:

Comment & Exceptions: Grants - MOU Agreement

5. **Grant History (if applicable):**

Grants Administrator Approval:

Date:

Staff Contact who Completed This Form: AnnaMarie Bowen

Phone #: x5122

To be recorded by City Clerk:

Email: acbowen@santafenm.gov

Clerk #

Date of Execution:

ITT Representative (attesting that all information is reviewed)

Title




Date

City of Santa Fe, New Mexico

memo

DATE: September 7, 2023

TO: John Blair, City Manager

VIA: Emily Oster, Finance Department Director
Travis Dutton-Leyda, Chief Procurement Officer
Kyra Ochoa, Community Health and Safety Director 
Paul Joye, Chief of Police 
Matthew Champlin, Deputy Chief of Police *unavailable* 

FROM: Aaron Ortiz, Captain 

ITEM AND ISSUE:

Request for the Approval of a Memorandum of Understanding (MOU) – Region III Drug Task Force/Agreement between the Department of Public Safety and Sub-Recipient of the Region III High Intensity Drug Trafficking Areas Funding. There is no cost to the Santa Fe Police Department and any overtime paid pursuant to this MOU/Agreement is reimbursed through federal grants for a total of \$13,520.00 plus GRT. Term is 1 year. (Region III Drug Task Force); Captain Aaron Ortiz, ajortiz@santafenm.gov, ext.5283.

BACKGROUND AND SUMMARY:

The attached MOU/Agreement is a renewal for the existing MOU/Agreement already in place. The Santa Fe Police Department continues its commitment to the Region III Drug Task Force and its abatement of narcotics within the City of Santa Fe and surrounding areas.

ACTION REQUESTED:

The Santa Fe Police Department respectfully requests your review and approval, the funding source is General Fund. FUND: 100/ORG: 2230315/501400 for FY24. Munis contract number is 3204317. Thank you in advance for your assistance.











23-0580 New Mexico Department of Public Safety


Final Audit Report

2023-09-27

Created:	2023-09-26
By:	Xavier Vigil (xivigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA0jxi2ln948Jf1FRnrmAtgAsLDDh5Zn0L

"23-0580 New Mexico Department of Public Safety" History

-  Document created by Xavier Vigil (xivigil@ci.santa-fe.nm.us)
2023-09-26 - 10:32:32 PM GMT- IP address: 63.232.20.2
-  Document emailed to ekoster@santafenm.gov for signature
2023-09-26 - 10:33:44 PM GMT
-  Email viewed by ekoster@santafenm.gov
2023-09-26 - 11:58:44 PM GMT- IP address: 104.47.64.254
-  Signer ekoster@santafenm.gov entered name at signing as Emily K. Oster
2023-09-27 - 0:01:29 AM GMT- IP address: 63.232.20.2
-  Document e-signed by Emily K. Oster (ekoster@santafenm.gov)
Signature Date: 2023-09-27 - 0:01:31 AM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to jwblair@santafenm.gov for signature
2023-09-27 - 0:01:33 AM GMT
-  Email viewed by jwblair@santafenm.gov
2023-09-27 - 5:47:39 PM GMT- IP address: 216.207.130.218
-  Signer jwblair@santafenm.gov entered name at signing as John Blair
2023-09-27 - 6:15:55 PM GMT- IP address: 216.207.130.218
-  Document e-signed by John Blair (jwblair@santafenm.gov)
Signature Date: 2023-09-27 - 6:15:57 PM GMT - Time Source: server- IP address: 216.207.130.218
-  Document emailed to Kristine Mihelcic (kmmihelcic@santafenm.gov) for signature
2023-09-27 - 6:15:59 PM GMT

 Email viewed by Kristine Mihelcic (kmmihelcic@santafenm.gov)

2023-09-27 - 8:35:45 PM GMT- IP address: 104.47.65.254

 Document e-signed by Kristine Mihelcic (kmmihelcic@santafenm.gov)

Signature Date: 2023-09-27 - 8:35:54 PM GMT - Time Source: server- IP address: 63.232.20.2

 Agreement completed.

2023-09-27 - 8:35:54 PM GMT