

**ACTION SHEET
PUBLIC UTILITIES COMMITTEE MEETING OF 9/3/14**

ISSUE NO. 14

Request for approval of Resolution No. 2014-_____. A resolution supporting the New Mexico Litter Control and Beautification Act of 1985 which provides public funds in the form of grants for the purpose of enhancing local litter control and beautification programs. (Gilda Montano) (Councilor Trujillo)

Public Utilities Committee – 9/3/14
Finance Committee – 9/15/14
City Council – 9/23/14

PUBLIC UTILITIES COMMITTEE ACTION: Approved.

SPECIAL CONDITIONS OR AMENDMENTS: Add Councilors Rivera and Ives and sponsors.

STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR			
COUNCILOR MAESTAS	X		
COUNCILOR BUSHEE	Absent		
COUNCILOR DIMAS	X		
COUNCILOR IVES	X		

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2014-____ Santa Fe Beautiful (NMCB) Grant

SPONSOR(S): Councilors Trujillo, Rivera and Ives

SUMMARY: The proposed resolution supports the New Mexico Litter Control and Beautification Act of 1985 which provides public funds in the form of grants for the purpose of enhancing local litter control and beautification programs.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: Yes

DATE: September 4, 2014

ATTACHMENTS: Resolution
FIR

1 **Section 1.** Endorses and supports such a program and delegates the administration of such
2 program to Keep Santa Fe Beautiful, as indicated in Exhibit "A" attached hereto and incorporated
3 herein by reference.

4 **Section 2.** Authorizes Keep Santa Fe Beautiful Inc. to plan, budget and apply for a grant
5 under the ACT which if approved, will be used to fund said programs.

6 **Section 3.** Requests the State Tourism Department, Litter Control Beautification Section to
7 consider and approve said application and program. Said program is in accordance with the Act and
8 related regulations governing the use and expenditure of said funds.

9 PASSED, APPROVED and ADOPTED this ____ day of _____ 2014.

11 _____
12 JAVIER M. GONZALES, MAYOR

13 ATTEST:

14 _____
15
16 YOLANDA Y. VIGIL, CITY CLERK

17
18 APPROVED AS TO FORM:

19 
20 _____
21 KELLEY A. BRENNAN, CITY ATTORNEY

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23
24
25 *M/Melissa/Resolutions 2014/NMCB Grant*

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): A RESOLUTION SUPPORTING THE NEW MEXICO LITTER CONTROL AND BEAUTIFICATION ACT OF 1985 WHICH PROVIDES PUBLIC FUNDS IN THE FORM OF GRANTS FOR THE PURPOSE OF ENHANCING LOCAL LITTER CONTROL AND BEAUTIFICATION PROGRAMS.

Sponsor(s): Councilors Trujillo, Rivera and Ives

Reviewing Department(s): Public Utilities, City Attorney's Office, Finance Department

Persons Completing FIR: Gilda Montano Date: 7-21-14 Phone: 955-2215

Reviewed by City Attorney: Kelly A. Berman Date: 7/21/14
(Signature)

Reviewed by Finance Director: Teresa Gara Date: 7/24/14
 Assistant (Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The purpose of the resolution is to authorize Keep Santa Fe Beautiful to plan, budget and apply for a grant pursuant to the New Mexico Litter Control and Beautification Act of 1985 which provides public funds in the form of grants for the purpose of enhancing local litter control and beautification programs.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

_____ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY 14/15	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected BU 22813

Personnel*	\$35,900	_____	_____	\$ _____	_____	_____	_____	BU 22813
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$9,250	_____	_____	\$ _____	_____	_____	_____	BU 22813
Total:	\$45,150	_____	_____	\$ _____	_____	_____	_____	_____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Grant	\$45,150	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ 45,150	_____	\$ _____	_____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

This grant is a recurring application that the City has applied for and been granted every year since 1985. The grant monies are allocated for Keep Santa Fe Beautiful's many programs that promote litter prevention, beautification, recycling and other solid waste management. Also the monies are used to hire youth to work under the Parks arterial crews. They help with litter, weeds and illegal dumping clean ups and beautification projects.

Funds are budgeted and 100% reimbursable as the funds are expended. The grant allows Keep America Beautiful Certified affiliates the opportunity to apply for monies to promote their programs.

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

It would be very difficult for Keep Santa Fe Beautiful/City of Santa Fe to continue with these very important programs that Keep Santa Fe Clean & Beautiful.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Keep Santa Fe Beautiful brings in \$16.98 worth of volunteer hours and in kind donations for every dollar that the city spends on Keeping Santa Fe Clean & Beautiful. We consider this to be a PLUS for the City of Santa Fe.

**LITTER CONTROL & BEAUTIFICATION
GRANT AGREEMENT**

THIS AGREEMENT, made and entered into on the date of last signature by a party below, is by and between the STATE OF NEW MEXICO, NEW MEXICO TOURISM DEPARTMENT, hereinafter referred to as "Department" and the City of Santa Fe, hereinafter referred to as "Public Entity".

RECITALS

WHEREAS, the purpose of the "New Mexico Litter Control and Beautification Act," NMSA 1978, §§ 67-16-1 to -14 (1985, as amended through 2001), hereinafter referred to as the "Act," is to control litter by authorizing Department to eliminate litter from the State to the maximum practical extent through a State-coordinated plan of education, control, prevention, and elimination;

WHEREAS, Section 67-16-12 (B) (3) of the Act provides that Department may allocate up to fifty percent (50%) of the funds generated annually by the Act to local governments to establish and sustain local keep America beautiful system programs;

WHEREAS, Section 67-16-12 (B) (4) of the Act provides that Department may allocate up to sixty percent (60%) of fees generated annual to local governments to establish a youth employment program to aid in litter control and beautification projects;

WHEREAS, Public Entity is a local government as defined under the Act; and

WHEREAS, the parties hereto intend to fulfill the requirements of the Act through this Agreement.

NOW, THEREFORE, in consideration of the covenants contained herein and pursuant to the Act, the parties agree as follows:

SECTION ONE – THE DEPARTMENT AGREES TO:

Upon its approval of the Public Entity’s grant application for program resources funds and/or youth employment funds:

1. Allocate funds generated by the Act and pay to Public Entity an amount not to exceed the sum of \$ **45,150.00** (the "Funds") for Public Entity to establish or sustain a local Keep America Beautiful system program, pursuant to Section 67-16-12(B)(3) of the Act; and/or to fund a youth employment program to aid in litter control and beautification projects pursuant to Section 67-16-12(B)(4) of the Act; and as stipulated by the attached Exhibit 1, Grant Award Distribution, which is incorporated herein.



2. Not reimburse the Public Entity more than fifty percent (50%) of the Funds during the first half of the fiscal year in which this Agreement is executed.

3. Reimburse funds on a quarterly basis. For the purpose of this Agreement, quarters are designated as: July through September; October through December; January through March; and April through June.

4. Review the Public Entity's written requests to reallocate funds from the program resources allocation to the youth employment allocation, based on the Public Entity's need to support local youth interests.

5. Review the Public Entity's written requests to reallocate funds from the youth employment allocation to the program resources allocation, based on the Public Entity's need to implement programs and projects.

6. Amend the Public Entity's budget if the Department approves a request to amend in writing.

SECTION TWO - PUBLIC ENTITY AGREES TO:

1. Perform and complete the Litter Control, Graffiti, Beautification, Recycling, and related community programs and tasks as in furtherance of the statewide keep America beautiful system programs, pursuant to the Act, and as further set forth in Exhibit 1 attached hereto, which is hereby incorporated herein by this reference and made a part of this Agreement as though set forth herein in full.

2. Spend the funds allocated herein as required by, and according to, the provisions of the Act and the applicable rules and regulations of the Department.

3. Mail reimbursement requests postmarked on or before the tenth (10th) calendar day after the end of each quarter, EXCEPT FOR THE FOURTH QUARTER. Public Entity must submit its final requests for reimbursement for the fourth quarter postmarked no later than June tenth (10th), except for request on reimbursement for Youth Employment, which Public Entity may submit postmarked as late as July tenth (10th).

4. Include *at least* the following in its requests for reimbursement to Department:
- a. A detailed accounting of expenditures of all funds allocated and paid herein by line item;
 - b. Copies of detailed Public Entity purchase documents, receipts and proof of payment for equipment, materials, or supplies purchased, (including model and serial numbers, if any) necessary to perform the programs;
 - c. Copies of the payroll for youth employees; and
 - d. Such other information as may be required by Department.

7. Expend funds allocated under this agreement on equipment, projects, promotional programs, services, and other matters, only if they are related to litter prevention, elimination, control programs, and beautification.

8. Make reallocation requests in writing to Department.

9. Keep accounting records for the Litter Control, Graffiti, Beautification, Recycling, and related community programs and submit an accounting and performance report to Department with its final request for reimbursement.

10. Include at least the following in its performance report:

- a. An accounting of expenditures of all funds allocated and paid herein by line item;
- b. A certification that Public Entity used purchased equipment only for the purpose of fulfilling this Agreement under the Act and for no other purpose;
- c. A detailed summary of accomplishments towards the objectives and goals of the program;
- d. Any other information necessary to explain the program accomplishments; and
- e. Such other information as may be required by Department.

11. Use equipment purchased in whole or part with funds allocated and paid under this Agreement only for the anti-litter and beautification purposes required by the Act.

12. Not assign or transfer any interest in this Agreement and shall not assign any claims or money due or that may become due under this Agreement.

13. Not subcontract any portion of the services to be performed, or programs to be fulfilled and accomplished, or consultants to be hired, under this Agreement without prior written approval of Department.

14. Maintain detailed records documenting the date, time, and nature of services rendered and the progress of programs undertaken and understands that these records shall be subject to inspection by Department, the Department of Finance and Administration, and the New Mexico State Auditor. Department shall have the right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the Department to recover excessive illegal payment.

15. Not currently have and not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance or service required of it under this Agreement.

16. Release Department, its officers, and employees, and the State of New Mexico as provided for by law from all liabilities, claims and obligations whatsoever arising from or under this Agreement upon final payment of the amount due under this Agreement.

17. Not purport to bind the State of New Mexico to any obligation not assumed herein, unless Public Entity has written authority to do so, and then only within the strict limits

of that authority.

SECTION THREE – BOTH PARTIES AGREE THAT:

1. They will strictly adhere to the requirements set forth in Department's Litter Control and Beautification Grant Requirements Rule (as amended) for grant approval, allocation, and reporting.

2. The Department will not disburse grant monies until Public Entity submits proper written documentation of its expenditures.

3. The Public Entity's requests for reallocation of funds are not valid without Department's prior written approval and that reallocations of funds do not require a formal amendment to this Agreement, provided Department does not increase Public Entity's allocation.

4. The Public Entity's illegal or unauthorized expenditures under this agreement shall constitute a debt to the State of New Mexico, owed by Public Entity, its successors, or assigns. In the case of such debt, parties agree that Department may elect to withhold or recover allocations from Public Entity, its successors, or assignees by appropriate legal action.

5. Direct costs of travel or per diem incurred by Public Entity shall be the sole responsibility of Public Entity, unless Public Entity proposes and requests direct and separate travel reimbursement and the Department gives advance approval in writing.

6. Equipment purchased through the grant described in this Agreement that has a service life longer than this Agreement shall be used for agreement purposes for the length of that equipment's service life. Before the Department reimburses the Public Entity's expenses for such equipment purchased for more than five hundred dollars (\$500.00), the parties shall agree and specify its expected service life based on the kind of equipment, amount of anticipated use, service that will be performed, and the equipment's normal service life.

7. The Public Entity's failure to submit reimbursement requests postmarked on or before the dates outlined in SECTION TWO for the first three quarters will result in a penalty assessed on the invoice equal to ten percent (10%) of the total invoice submitted for that quarter. PUBLIC ENTITIES' REQUESTS POSTMARKED AFTER THE FOURTH QUARTER DEADLINES OUTLINED IN SECTION TWO WILL NOT BE PAID.

8. The Public Entity's records, detailing date, time, and nature of services rendered and the progress of programs undertaken shall be subject to inspection by Department, the Department of Finance and Administration, and the New Mexico State Auditor and the Department shall have the right to audit billings both before and after payment.

9. Payment under this Agreement shall not foreclose the right of Department to recover excessive illegal payment.

SECTION FOUR – AMENDMENT:

This Agreement shall not be altered, changed or amended except by a written instrument, executed by both parties.

SECTION FIVE–DEPARTMENT’S AUTHORIZATION OF EXPENDITURES:

Department reserves the right to terminate this Agreement if funds appropriated by the Legislature are insufficient to fulfill its obligations under this Agreement. The Department’s decision as to whether funds under the Act are sufficient for fulfillment of this Agreement shall be final.

SECTION SIX – INDEPENDENT CONTRACTOR:

Public Entity and its agents and employees are independent contractors fulfilling their obligations to Department under this Agreement and are not employees of the State of New Mexico. Public Entity and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of State vehicles, or any other benefits afforded to the employees of the State of New Mexico as a result of this Agreement.

SECTION SEVEN – TERM and TERMINATION:

1. This Agreement shall not take effect until executed by the parties hereto. This Agreement shall terminate on **June 30, 2015**, unless terminated pursuant to the following paragraphs of this SECTION.

2. Department may terminate this Agreement if Public Entity fails to commence program activities by the end of the second quarter of the fiscal year or if Public Entity does not comply with restrictions on its expenditures.

3. Either party may cancel this Agreement with thirty (30) days written notice to the other party. By such termination, neither party may nullify obligations already incurred for performance or failure to perform for the programs rendered prior to the date of termination of the Agreement. However, neither party shall have any obligation to perform services or make payment for services or specified programs rendered after such date of termination.

SECTION EIGHT – INTEGRATION:

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof. No prior agreements or understanding, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this Agreement.

SECTION NINE – PUBLIC ENTITY’S ACQUIRED PROPERTY:

If upon termination or expiration of this Agreement Public Entity has any property acquired pursuant to this Agreement, then Public Entity shall only dispose of it as directed by Department.

SECTION TEN – CONTROLLING LAW:

The laws of the State of New Mexico shall govern this Agreement. The parties agree that the District Courts of the State of New Mexico have jurisdiction over any lawsuits brought by either party to enforce its rights hereunder. Venue shall be in Santa Fe County, New Mexico.

SECTION ELEVEN – UNEXPENDED AND UNENCUMBERED PROJECT BALANCES:

Any unexpended or unencumbered balance allocated by Department under this Agreement shall revert to Department.

SECTION TWELVE – INTENT OF AGREEMENT:

This Agreement is not intended by any of the provisions or any part of the Agreement to create in the public, or any member thereof, a third party beneficiary; nor is it intended to authorize anyone not a party to this Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury, damage(s) to property(ties), and/or any other claims(s) whatsoever pursuant to the provisions of this Agreement.

SECTION THIRTEEN – NEW MEXICO TORT CLAIMS ACT:

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, NMSA 1978, Sections 41-4-1 to -14 (1985, as amended through 2002). This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties’ liabilities as governed by common law or the New Mexico Tort Claims Act. Public Entity and its “public employees,” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defenses, and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provisions of the New Mexico Tort Claims Act.

SECTION FOURTEEN – ACCOUNTABILITY OF RECEIPTS & DISBURSEMENTS:

There shall be strict accountability for all receipts and disbursements relating hereto.

SECTION FIFTEEN – EQUAL OPPORTUNITY COMPLIANCE:

Public Entity agrees to abide by all federal and state laws, rules, and regulations

pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, Public Entity agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If Public Entity is found to have failed to comply with these requirements during the term of this Agreement, Public Entity agrees to take appropriate steps to correct these deficiencies.

SECTION SIXTEEN – CIVIL RIGHTS LAWS AND REGULATION COMPLIANCE:

Department and Public Entity shall comply with all federal, state, and local laws and ordinances applicable to the work called for herein. Department and Public Entity further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, and the New Mexico Human Rights Act.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates below specified.

New Mexico Tourism Department
"DEPARTMENT"

By: _____
Monique Jacobson, Cabinet Secretary

Date: _____

City of Santa Fe
"PUBLIC ENTITY"

By: _____
Javier M. Gonzales, Mayor

Date: _____

As to form and legal sufficiency

By: _____
Erin K. McSherry, Legal Counsel

Attest:

Yolanda Y. Vigil, City Clerk

Approved as to form:

MDM 9/4/14

Kelley A Brennan, City Attorney

Approved:

Teresita Garcia, Assistant Finance Director

City of Santa Fe, New Mexico

BUDGET ADJUSTMENT REQUEST (BAR)

DEPARTMENT / DIVISION / SECTION / UNIT NAME					DATE	
Public Utilities/Environmental Services Div./KSFB					09/05/2014	
ITEM DESCRIPTION	BU / LINE ITEM	<--(Finance Dept Use Only)-->		INCREASE	DECREASE	
		SUBLEDGER / SUBSIDIARY	DR / (CR)			
Operating Supplies	22813.530200			5,000		
Out of State	22813.560200			2,000		
In State	22813.560250			100		
Transporatation out of state	22813.560500			400		
Printing & Publishing	22813.561800			750		
Advertising	22813.561850			750		
Youth Employment	22813.500110			35,900		
Registration/Dues	22813.560700			250		
Dept of Tourism	21712.490300			(245,150)		
JUSTIFICATION: (use additional page if needed) --Attach supporting documentation/memo				TOTAL	\$ 45,150	\$ -

New Mexico Clean and Beautiful Grant Agreement breakdown FY 2014-2015

Gilda Montaño Prepared By Date: 9/5/2014	CITY COUNCIL APPROVAL City Council Approval Required <input type="checkbox"/> City Council Approval Date: <input type="text"/> Agenda Item #: <input type="text"/>	[Signature] Budget Officer Date: 9/10/14
[Signature] Division Director Date: 9/8/14		[Signature] Finance Director Date:
[Signature] Department Director Date: for Nick Schiavo		[Signature] City Manager Date: