

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE STATE OF NEW MEXICO HISTORIC PRESERVATION DIVISION,
DEPARTMENT OF CULTURAL AFFAIRS
AND
SANTA FE COUNTY**

FEB 07 2019

HISTORIC PRESERVATION DIVISION

LGH 109842

I. INTRODUCTION

This Memorandum of Understanding (MOU) recognizes mutual interests, concerns, and responsibilities in the creation and implementation of a volunteer SiteWatch Program for Santa Fe County, New Mexico. This MOU is entered into by and between the State Historic Preservation Officer ("the SHPO") on behalf of the New Mexico Historic Preservation Division of the Department of Cultural Affairs, ("the HPD/DCA"), and Santa Fe County, a political subdivision of the state of New Mexico.

II. DEFINITIONS

- A. "Cultural Resources" means any structures, places, sites, or objects having historic, archaeological, scientific, architectural, or other cultural significance.
- B. "Parties" means the New Mexico Historic Preservation Division of the Department of Cultural Affairs and Santa Fe County, a political subdivision of the state of New Mexico.
- C. "New Mexico SiteWatch Coordinator" means the person identified by HPD/DCA as the primary point of contact and responsible for all SiteWatch programs in the State.
- D. "Santa Fe County SiteWatch Liaison" means the person identified by Santa Fe County as the primary point of contact for the County's Program responsibilities under this MOU.
- E. "Local Chapter Coordinator" means the volunteer appointed by the HPD/DCA New Mexico SiteWatch Coordinator to oversee the SiteWatch Program for the Santa Fe County region and the primary point of contact for the HPD/DCA's Site Watch Program responsibilities under this MOU.
- F. "SiteWatch Program" or "SiteWatch" means a program administered by HPD/DCA that trains members of the public to monitor Cultural Properties as volunteer Site Stewards. Through agreements with state and federal land management agencies, as well as private land owners and volunteers who act as Site Stewards, Site Watch provides an organizational framework and monitoring protocols for both agencies and volunteers.
- G. "Site Steward" means a non-governmental, private citizen volunteer, certified by HPD/DCA and specifically assigned by the Local Chapter Coordinator to regularly visit a Program site.

III. PURPOSE

The historic, cultural, and archaeological sites ("Cultural Resources") of the State of New Mexico are a valuable and non-renewable resource to the citizens of New Mexico, Santa Fe County, and the United States. Many historic, cultural, and archaeological sites throughout New Mexico, including those located in Santa Fe County, are currently subject to vandalism and other forms of disturbance or destruction. This detrimental activity continues, in part, due to the public's limited awareness of the true value of the resources and limited governmental surveillance of these locations. The Parties believe that a cooperative program of recurring visitation of historic, cultural, and archeological resources within Santa Fe County by trained volunteers will help diminish the rate of vandalism, disturbance and destruction of these resources.

IV. TERMS

- A. The parties hereby agree to cooperate by partnering in the SiteWatch Program. SiteWatch will continue to operate under the guidance of the HPD/DCA, as the agency in charge of state-wide program coordination and volunteer training. The local SiteWatch Chapter will monitor Cultural Resources on lands under the jurisdiction of Santa Fe County. Santa Fe County will continue a

relationship with the local SiteWatch chapter and HPD as a land management agency for which Site Stewards monitor Cultural Resources. Assumption of a leadership role shall not impose any additional liabilities on the HPD/DCA arising from these duties.

- B. To the extent that funding is available, HPD/DCA will designate an employee to serve as a part - time New Mexico SiteWatch Coordinator who shall receive assistance from HPD/DCA appointed, volunteer Local Chapter Coordinators.
- C. To the extent that funding is available, the County will designate an employee, known as the Santa Fe County SiteWatch Liaison, to work cooperatively with the New Mexico SiteWatch Coordinator, the Local Chapter Coordinator, and with designated County staff, to implement the Program for lands under the County's jurisdiction.
- D. Cultural Resources will be recommended for monitoring by the Santa Fe County SiteWatch Liaison in consultation with the Local Chapter Coordinator and the New Mexico SiteWatch Coordinator.
- E. All Site Stewards will be trained to conduct basic volunteer monitoring activities and will be certified by HPD/DCA. These activities may include but are not limited to photography, supplemental site mapping, and informal updates to land managers on site condition. SiteWatch training is not a professional certification and informal observations should not be used in lieu of professional evaluation by an archaeologist certified to work on state land. Under the Program, local volunteers will continue to act as Site Stewards. Their primary duty will be to monitor specifically assigned Cultural Resources by visiting them and assisting with activities related to the preservation and protection of cultural resources as directed by the Local Chapter Coordinator in consultation with the Santa Fe County SiteWatch Liaison and the New Mexico SiteWatch Coordinator.
- F. The Santa Fe County SiteWatch Liaison will execute separate volunteer agreements with certified Site Stewards to enable visitation of specific Cultural Resources within the County's jurisdiction. Volunteers are considered Site Stewards only for the Cultural Resources for which they possess executed, specific volunteer agreements.
- G. Upon execution of any County volunteer agreement under the Program, the County shall provide the Local Chapter Coordinator and Site Stewards with appropriate identification that authorizes visitation of designated Cultural Resources within Santa Fe County pursuant to this MOU.
- H. Site Stewards will periodically visit and observe designated Cultural Resources within Santa Fe County. Any unauthorized disturbance observed at these Cultural Resources will be reported as directed under the Program procedures developed by the Parties. The Local Chapter Coordinator, and Site Stewards will not act in any law enforcement capacity, and they will not intervene in any third party actions on behalf of the County.

V. AUTHORITIES

- A. HPD/DCA enters this MOU pursuant to its authority under the Cultural Properties Act, NMSA 1978, Section 18-6-1 through 18-6-17 (2015), the Cultural Properties Protection Act, NMSA 1978, Section 18-6A-1 through 18-6A-6 (2004), as well as the National Historic Preservation Act of 1966, 54 U.S.C. § 306108 et. seq., as amended.
- B. The County enters this MOU pursuant to NMSA 1978, Sections 18-6A-4(E), 18-6A-5 (1993).

VI. RESPONSIBILITIES

The Parties agree to the following duties and responsibilities under this MOU:

A. HPD/DCA shall:

1. Continue to administer SiteWatch Program procedures and standards for overall operations;
2. Articulate a set of procedures for training and administration of SiteWatch Program volunteers;
3. Work with the Local Chapter Coordinator to insure monitors have appropriate site records;
4. Select and train SiteWatch Program volunteers;
5. Provide Santa Fe County with an annual report by November 5th. The report will include but not be limited to volunteer time, mileage and activities. The New Mexico SiteWatch Coordinator will dictate and facilitate appropriate volunteer reporting of time, mileage and volunteer activities from the local SiteWatch chapter to HPD.
6. Administer SiteWatch Program public information on a statewide level.

B. SANTA FE COUNTY shall:

1. Assign a County employee to serve as the Santa Fe County SiteWatch Liaison, who will be responsible for:
 - (a) developing Program operating procedures in cooperation with the New Mexico SiteWatch Coordinator for scheduling, reporting methods, and priorities;
 - (b) providing support to the Local Chapter Coordinator and Site Stewards; and
 - (c) working directly with the Local Chapter Coordinator to respond to reports of vandalism, looting or other problems reported by Site Stewards.
2. Identify priority Cultural Resources to be monitored, inventoried, stabilized or recorded, which have been listed on the State Register of Cultural Properties or the National Register of Historic Places, have been deemed eligible to be so listed, or otherwise identified as culturally or historically significant Cultural Resources on County lands.
3. Execute volunteer agreements with Site Stewards to regularly visit identified locations of Cultural Resources under the County's jurisdiction.
4. Identify the reporting procedures to be followed and the agencies or law enforcement officers to be contacted when any unauthorized disturbance of Cultural Resources is identified by Site Stewards.

C. APPROPRIATIONS AND AUTHORITY. This MOU is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of Santa Fe County and/ or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this MOU shall terminate upon written notice by Santa Fe County to the HPD/ DCA. Such termination shall be without penalty to Santa Fe County. Santa Fe County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by Santa Fe County. Santa Fe County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this MOU shall be final and not subject to challenge by HPD/DCA in any way or forum, including a lawsuit.

D. BOTH PARTIES shall:

1. Communicate as necessary to review Program progress and discuss Program activities.

2. Meet at least annually, by February 28th or more often if necessary, to evaluate the effectiveness of the Program. This meeting will review and make recommendations concerning monitoring goals and training needs.
3. Work with the Site Watch Chapter Coordinator to continually monitor the activities of the Program.
4. Copy each other in communications to the Local Chapter Coordinator.

VII. TERM

This MOU shall remain in effect for five (5) years from the date of the last signature by the Parties and may be renewed for an additional five (5) year term, upon written agreement by all signatories.

VIII. FINANCING

- A. Each Party executing a volunteer agreement with Local Chapter Coordinators or Site Stewards shall be responsible for payment of any expenses so identified in the volunteer agreement, to the extent authorized by law.
- B. Each Party assumes the salary and other administrative costs which are attributable to its own employees who preform duties under this MOU.
- C. Nothing herein shall be construed as obligating either Party to expend monies in any contract, or other obligation for the future payment of monies, in excess of appropriations authorized by law and administratively allocated for this work.

IX. GENERAL TERMS AND CONDITIONS

- A. **MODIFICATION AND TERMINATION:** This MOU may be amended, revised, or terminated in writing at any time by the mutual agreement of the Parties. Either Party may terminate its participation in this MOU by providing thirty (30) days written notice to the other Party.
- B. **RECORDS:** All books, accounts, reports, files, and other records relating to this MOU shall be subject to inspection and audit at reasonable times by the Parties to this MOU for five (5) years after termination of the MOU.
 1. Upon request of the HPD/DCA, records shall be produced at the SHPO, 407 Galisteo Street, Ste. 236, Santa Fe, NM 87501.
 2. Upon request of the County, records shall be produced at the Santa Fe County Division of Open Space and Trails, 205 Montezuma Avenue, Santa Fe, New Mexico 87501.
- C. **EQUAL OPPORTUNITY/NONDISCRIMINATION:** The Program or activities conducted under this MOU will be in compliance with the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Executive Order 11246, other nondiscrimination statutes, namely, Section 504, Title IX, and the Age Discrimination Act of 1975, and in accordance with the regulations of the Secretary of Agriculture (7 CFR-15, Subparts A & B) which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from any agency thereof.
- D. **INDEMNIFICATION:** Santa Fe County does not have the authority to indemnify and hold

harmless the State of New Mexico from any and all claims, liability, losses, damages, charges, etc. The State of New Mexico does not have the authority to indemnify and hold harmless Santa Fe County from any and all claims, liability, losses, damages, charges, etc. The State of New Mexico shall be responsible for errors, omission and negligence of its employees and Santa Fe County shall be responsible for the errors, omission and negligence of its employees. No provision of this MOU modifies or waives any sovereign immunity or limitation of liability enjoyed by either of the Parties, or their respective "public employees," at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

- E. OTHER TERMS: This MOU in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, and individuals.
- F. LIMITATIONS: This MOU shall not be construed to limit or expand the statutory responsibilities beyond those granted by law.

X. SIGNATURE AUTHORITY

This MOU is entered into and becomes effective upon signature of the Parties. This document supersedes any previous SiteWatch MOU's between the Parties. By signing below, the signer certifies that he or she has the authority to enter into this MOU and has read the foregoing and agrees to accept the provisions herein.

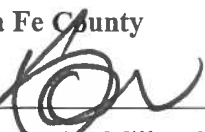

APPROVED BY:

Department of Cultural Affairs
New Mexico Historic Preservation Division

BY: 
Jeff Pappas, State Historic Preservation Officer

DATE: 2/12/19

Santa Fe County

BY: 
 Katherine Miller, Santa Fe County Manager

DATE 1.22.19

Approved as to form

BY: 
R. Bruce Frederick, Santa Fe County Attorney

DATE 1-14-19

Finance Department

BY: 
Stephanie S. Clarke, Finance Director

DATE 1/17/19

