

AGREEMENT

This Agreement (the “Agreement”) is effective July 15, 2024, between YWCA Billings, 909 Wyoming Avenue, Billings, Montana (“YWCA”), and City of Billings, Montana (“City”). YWCA and Billings may be referred to herein individually as a “Party” and collectively as the “Parties”. The purpose of this partnership is to outline the roles, activities, and reimbursement between Parties for the operations of the Northern Lights Family Justice Center (“Northern Lights”) in Billings.

RECITALS

1. A family justice center (FJC) is a concept that co-locates government and community-based organizations under one roof to provide coordinated services to survivors of family violence, including domestic violence, sexual assault, child abuse, elder abuse, and human trafficking.

2. In June 2023, the City contracted with the Family Justice Center Alliance (“Alliance”) to assess community readiness for and assist in the development of an FJC to serve victims of domestic violence and sexual assault and their children.

3. After studying the community and conducting a study tour, focus groups, and strategic planning meetings, the Alliance provided a strategic planning report which included several recommendations to move forward with planning an FJC to serve Yellowstone County.

4. YWCA is a 501(c)(3) non-profit organization that provides vital support and services to survivors of domestic violence, sexual assault, and human trafficking to assist them towards a brighter, violence-free future.

5. YWCA has a vacant building as a result of the construction of a new shelter and housing units for individuals experiencing domestic violence, sexual assault, and human trafficking and is willing to provide an initial location to house an FJC on its campus.

6. YWCA is also willing to employ the necessary full- and part-time positions to operate the FJC with funding support from the City.

7. The City and YWCA share an interest in mitigating the factors leading to public safety issues in our community, including supporting families in creating stable, caring, and safe environments in which to raise children by partnering to open a family justice center in Billings. The Center will be known as Northern Lights.

8. In December 2023, the City and YWCA executed an agreement to fund a position to coordinate the planning process to launch an FJC. This Agreement is intended to replace the December 18, 2023, agreement and not supplement that funding.

AGREEMENT

IT IS HEREBY AGREED AS FOLLOWS:

1. **Incorporation of Recitals.** The recitals are incorporated into this Agreement by this reference.

2. **Term.** The Agreement is effective July 15, 2024, and will remain in place until such time either party gives the other party notice as described in Section 6 and Section 14 below.

3. **Amount.** The City agrees to contribute \$200,000 in FY 2025 and FY 2026. In FY 2027 this commitment will be adjusted to not less than the value of one (1) mill annually to the operation of the Northern Lights Family Justice Center.

4. **YWCA Rights and Duties.**

- a. YWCA agrees to register Northern Lights Family Justice Center, LLC, as a subsidiary of YWCA Billings, with the Montana Secretary of State.
- b. YWCA will take responsibility for all administrative aspects of operation.
 - i. YWCA will maintain financial records that identify all revenues and expenditures of Northern Lights distinct from other YWCA operating costs.
- c. YWCA will employ all necessary positions to operate Northern Lights. Positions include one (1) full-time Coordinator and two (2) full-time Services Navigators. Additional anticipated positions to be added as the project grows include: one (1) full-time Director, one (1) full-time Legal Advocate/Paralegal, one (1) full-time Civil Attorney, one (1) full-time Therapist specializing addressing trauma in adults, and one (1) full-time Therapist specializing in addressing trauma in children.
- d. YWCA will provide office space on the YWCA campus at 909 Wyoming Ave. for all necessary FJC functions including adequate office space for City personnel housed at Northern Lights.
- e. YWCA agrees to reserve one-third (1/3) of the positions on the Northern Lights Family Justice Center, LLC board of managers for City appointees. The appointment process and required qualifications of board of managers members shall be specified by the YWCA.
- f. The Coordinator/Director will provide a report on operations and status of Northern Lights to the Billings City Council on a semi-annual basis, once in August or September and once in February or March. This report shall be in writing and include a presentation to Council, if requested by the City.
- g. YWCA will submit an invoice for payment twice annually in July and January.

5. **City's Rights and Duties.**

- a. The City agrees to pay its' annual allocation in two (2) equal installments in July and January.
- b. The first payment shall be made upon receipt of the invoice from YWCA requesting payment but no earlier than July 1, 2024.

- c. Unless otherwise agreed by the Parties, all subsequent payments shall be made on a semi-annual basis upon receipt of invoice requesting payment if Northern Lights has been operational for a majority of the previous six (6) months.
- d. The City agrees to locate the City of Billings DV unit, including Billings Police DV Investigators, at least one City DV prosecutor, and at least one victim-witness specialist at Northern Lights on the YWCA Campus on a schedule determined by the City and based on availability of City staff.
- e. The City will require all Billings Police Patrol Officers to participate in four (4) hours of training, annually, on topics related to domestic violence, sexual assault, human trafficking, elder abuse, and/or Northern Lights operating protocols and operations. Additionally, at least one additional optional training related to domestic violence, sexual assault, and human trafficking will be offered annually.
 - i. The Billings Police Department Chief and Training Sergeant will coordinate the training with the Northern Lights Director and/or Coordinator.
- f. The City will appoint one-third (1/3) of the directors to the Northern Lights board of managers in accordance with the qualifications and process described by the YWCA.

6. Default and Termination. Default shall be deemed to have occurred upon either party's failure or refusal to perform any term or condition of this agreement, provided thirty (30) days' notice of default is given to the defaulting party and the defaulting party fails or refuses to either cure or commence curing such default and diligently pursuing curation efforts to conclusion within ninety (90) days after having been provided written notice of such default. If such default is not cured within such period, either party may terminate this Agreement as of the expiration of such cure period or on such later date as may be specified in such notice.

Either party may terminate this Agreement at any time upon not less than ninety (90) days written notice.

In the event the City terminates this Agreement, the YWCA shall be paid for the amount of work performed or services rendered to date of termination per the Agreement.

7. Relationship of Parties. The parties agree that YWCA and the City shall at all times be acting and performing as independent contractors. The YWCA shall neither have nor exercise any control or direction over the methods by which the City or its personnel perform services. The City shall neither have nor exercise any control or direction over the methods by which YWCA or its personnel, including the Coordinator position described herein, perform services, nor shall YWCA or its personnel, including the Coordinator position described herein, be deemed employees of the City for any purpose whatsoever. Nothing herein shall be construed to create a joint venture or partnership between the parties or to authorize any party to act as an agent for any other party.

8. **Permits, laws, and taxes.** YWCA shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Agreement. All actions taken by the YWCA under this Agreement shall comply with all applicable statutes, ordinances, rules and regulations. The YWCA shall pay all taxes pertaining to its performance under this Agreement.

9. **Nonwaiver.** The failure of either party at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

10. **Attorney's Fees and Costs.** In the event it becomes necessary for either Party to this Agreement to retain an attorney to enforce any of the terms or conditions of the Agreement or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs.

11. **Litigation Location.** The parties agree that this Agreement shall be governed in all respects by the laws of the state of Montana, and the parties expressly agree that venue shall be in the Montana Thirteenth Judicial District County for Yellowstone County and there shall be no other venue for resolution of disputes arising from the Agreement or the performance of its terms.

12. **Indemnity.**
YWCA shall:

- a. Indemnify and hold the City, its officers, agents, and employees harmless from any and all losses, damage and liability to the extent caused by any intentional or negligent act on the part of YWCA or its agents or employees.
- b. Not indemnify and hold the City harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or reasonable attorneys' fees and costs to the extent caused by the wrongful or negligent acts, error or omission of the City occurring during or as a result of the performance of the Agreement.
- c. Where claims, lawsuits or liability, including reasonable attorneys' fees and costs arise from any wrongful or negligent act of both the City and YWCA, YWCA shall indemnify and hold the City harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, to the extent caused by the YWCA's or any subcontractor's wrongful or negligent acts occurring as a result from the YWCA's performance pursuant to this Agreement.

The City shall:

- d. Indemnify and hold YWCA, its officers, agents, and employees harmless from any and all losses, damage and liability to the extent caused by any intentional or negligent act on the part of the City or its agents or employees.

- e. Not indemnify and hold the YWCA harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or reasonable attorneys' fees and costs to the extent caused by the wrongful or negligent acts, error or omission of the YWCA occurring during or as a result of the performance of the Agreement.
- f. Where claims, lawsuits or liability, including reasonable attorneys' fees and costs arise from any wrongful or negligent act of both the YWCA and the City, the City shall indemnify and hold the YWCA harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, to the extent caused by the City's or any subcontractor's wrongful or negligent acts occurring as a result from the City's performance pursuant to this Agreement.

13. **Insurance.** YWCA shall maintain in good standing the insurance described in this Section. Before rendering any services under this Agreement, YWCA shall furnish the City with proof of insurance in accordance with this Section.

- a. YWCA shall provide the following insurance:
 - i. Workers' compensation and employer's liability coverage as required by Montana law.
 - ii. Commercial general liability, including contractual liability assumed under an insured agreement and personal injury coverage in the amount of \$750,000 per claim and \$1,500,000 per occurrence.
 - iii. Automobile liability in the amount of \$1,500,000 per accident.
 - iv. Professional liability in the amount of \$1,500,000 per claim.

Each policy of insurance required by this Section shall provide for no less than 30 days' advance written notice to the City prior to cancellation.

The City shall be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies.

YWCA shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. YWCA shall maintain workers' compensation insurance coverage for all members and employees of YWCA's business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA.

YWCA shall furnish the City with copies showing one of the following: (1) proof of registration as a registered contractor under Title 39, Chapter 9, MCA; (2) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (3) proof of exemption

from workers' compensation granted by law for independent contractors.

14. **Notice.** Any notice required or permitted to be given under or relating to this Agreement shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid, or by overnight courier to the other party as follows:

YWCA
ATTN: Erin Lambert, CEO
909 Wyoming Ave.
Billings, MT 59101

City of Billings
ATTN: Chris Kukulski, City Administrator
210 North 27th Street
P.O. Box 1178
Billings, MT 59103-1178

Notices shall be deemed effective as of three (3) business days after the date of mailing (in case of notice given by mail) or on the date of delivery if hand delivered, including delivery by overnight courier. Either party may at any time change its address for notification purposes by mailing or delivering a notice as required hereinabove stating the change and setting forth the new address.

15. **Entire Agreement.** This Agreement, including any exhibits hereto, contains the entire understanding of the parties with respect to its subject matter. This Agreement supersedes all prior and contemporaneous agreements and understandings between the parties, written or oral, with respect to its subject matter, and there are no restrictions, agreements, promises, warranties, covenants, or undertakings between the parties with respect to the subject matter hereof other than those expressly set forth herein.

The December 18, 2023, agreement between the parties to fund a position to coordinate the planning of the launch of a family justice center is terminated and cancelled upon approval and execution of this agreement.

16. **Amendments.** In the event that the services provided under this Agreement require the parties to revise this Agreement to assure compliance with new laws and regulations, YWCA and the City agree to negotiate in good faith to establish appropriate policies and procedures and to amend this Agreement. If the parties are unable to amend or revise this Agreement to assure compliance, either party may terminate this Agreement prior to the implementation date of any relevant law or regulation. Only a written instrument duly executed by the parties may amend this Agreement.

17. **Assignment.** Except as otherwise provided in this Agreement, neither party may assign, delegate, transfer, or otherwise dispose of any of its rights, duties, or obligations hereunder without the prior written consent of all parties hereto.

18. **Severability.** In the event that any provision of this Agreement or the application thereof to any person in any circumstance is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such holding shall not affect any other provision of this Agreement, or the application thereof in any other circumstance.

19. **Advertising and Publicity.** The City and YWCA each reserve the right to use and control the use of its name and all symbols, trademarks, and service marks presently existing or later established by it. Neither the City nor YWCA shall use the other party’s name, symbols, trademarks, or service marks in advertising or promotional materials or otherwise without the prior written consent of that party and shall cease any such use immediately upon written notice from the other party or termination of this Agreement, whichever is sooner.

20. **No Third-Party Beneficiaries.** Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as a third party beneficiary or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the parties hereto and their successors and assigns.

21. **Contract Modifications for Prospective Legal Events.** In the event any state or federal laws or regulations, now existing or enacted or promulgated after the effective date of this Agreement, are interpreted by judicial decision, a regulatory agency or legal counsel in such a manner as to indicate that the structure of this Agreement may be in violation of such laws or regulations, YWCA and the City shall amend this Agreement as necessary. To the maximum extent possible, any such amendment shall preserve the underlying economic and financial arrangements between YWCA and the City.

CITY OF BILLINGS, MONTANA

DocuSigned by:
William A. Cole 8/8/2024
20A11D5423334EE

William A. Cole, Mayor Date

ATTEST:

By: *Denise R. Boldman*
0559C92148D9A4F0

City Clerk

YWCA BILLINGS

DocuSigned by:
Erin Lambert 8/1/2024
0F546CFA1AC616A

Erin Lambert, CEO Date