MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CONSULATE OF MEXICO IN ALBUQUERQUE, NEW MEXICO, THE
CONSULATE GENERAL OF MEXICO IN EL PASO, TEXAS
AND
THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT OF THE STATE OF
NEW MEXICO OF THE UNITED STATES OF AMERICA
REGARDING COLLABORATION TO FACILITATE CONSULAR ASSISTANCE
AND PROTECTION IN PROCEEDINGS INVOLVING MEXICAN CHILDREN
AND ADOLESCENTS

The Consulate of Mexico in Albuquerque, New Mexico, the Consulate General of Mexico in El Paso, Texas (hereinafter individually referred to as "the Consulate"), and the Children, Youth and Families Department of the State of New Mexico of the United States of America (hereinafter referred to as "CYFD"), jointly referred to as "the Participants," enter into this Memorandum of Understanding (hereinafter referred to as "MOU"): 

CONSIDERING the joint interest of the Participants in assuring enforcement of the rights set forth in the Consular Convention between the United States of America and the United Mexican States, 57 Stat. 800; Treaty Series No. 985 (hereinafter referred to as the "Bilateral Convention"), as well as the Vienna Convention on Consular Relations of 1963, 21 U.S.T. 77, T.I.A.S. No. 6820 (hereinafter referred to as the "Vienna Convention");

BEARING IN MIND that the Bilateral Convention and the Vienna Convention provide for the right to consular notification and access in certain cases where foreign nationals are involved in legal proceedings abroad;

RECOGNIZING that children and adolescents represent a vulnerable sector of the population, not only because of their lack of physical and mental maturity, but also because of the complex immigration dynamics that they face alongside their families, especially in the border states of New Mexico and Texas;

AFFIRMING that one of the primary functions of the Consulate is to provide assistance and protection to Mexican nationals and defend their interests, with special emphasis on those who are in a situation of vulnerability;
EMPHASIZING that the mission of CYFD is to improve the quality of life of children and adolescents based on the principles of respect, responsiveness, and kindness, regardless of their nationality and/or immigration status;

CONSCIOUS of the need to collaborate to efficiently address custody cases involving children and adolescents of Mexican nationality residing within the territory of the U.S., through the development of a bilateral mechanism that contributes to the early identification of those who require consular assistance and protection;

Have reached the following understanding:

I. TERM

This MOU is effective from the date of its signature and continues in effect until any Participant decides to discontinue its participation in this MOU, by giving ninety (90) days advance notice in writing

II. PURPOSE

The purpose of this MOU is to define the responsibilities of each Participant and establish the bases for their collaboration to ensure that consular assistance and protection are provided in a timely manner to Mexican children and adolescents involved in various proceedings with the CYFD, seeking to promote their best interest.

III. DEFINITIONS

For the purposes of this MOU, the following definitions will apply:

A. **Mexican National.** Any person who was born in Mexico or abroad to a Mexican parent.

B. **Children and Adolescents.** Any person from birth to eighteen (18) years of age, born in Mexico or abroad to a Mexican parent.

C. **National System for Integral Family Development** (DIF). Agency in Mexico charged with ensuring the integral protection of the rights of children and adolescents, based on the principle
of the best interest of children, as well as the integral development of the individual, the family, and the community.

D. **Consulate.** Office that represents the government of a country abroad and whose function is to protect the interests of its nation and nationals.

E. **Consular Notification.** Written and/or verbal communication addressed to the **Consulate** notifying immediately, through the most expeditious means for the cases involving Mexican children and adolescents under **CYFD** custody.

F. **Consular Access.** Right of consular officers to be allowed to freely communicate, visit, and conduct physical or remote interviews with Mexican children and adolescents under the temporary preventive care or custody of **CYFD**, as well as to request and receive the information necessary to adequately follow up on the status of the cases.

G. **CYFD Staff.** Trained professional who is familiar with and monitors cases involving children and adolescents who are under the temporary preventive care or custody of the **CYFD**.

H. **Repatriation.** Assisted return of a child or adolescent to Mexico with the purpose of releasing him/her to the custody of Mexican authorities.

I. **Reunification.** Assisted return of a child or adolescent to Mexico with the purpose of reuniting him/her with the relatives who exercise his/her custody.

IV. **APPLICABLE TREATIES**

**Vienna Convention.** **CYFD** recognizes that, in accordance with Articles 5 (a) and (h) and 37 (b) of the Vienna Convention, one of the **Consulate's** functions is to care for the interests of Mexican individuals abroad, particularly those of the most vulnerable persons. **CYFD** has a duty to inform the **Consulate**, without delay, where the appointment of a guardian or trustee appears
to be in the interests of a minor or other person lacking full capacity who is a Mexican national.

**Bilateral Convention.** CYFD recognizes that the Consulate has the right to access information in cases involving Mexican children and adolescents, as set out in Article VI of the Bilateral Convention.

**V. RESPONSIBILITIES OF THE PARTICIPANTS**

A. **CYFD** commits to the following:

1. **Consular Notice.** When **CYFD** obtains custody of a Mexican child or adolescent who has been abandoned, abused or neglected, it must notify the Consulate, without delay, by email or by the most expeditious means available, attaching the form contained in Annex 1 to this MOU. As used in this MOU, "without delay" will mean no deliberate delay and it will notify as soon as reasonably possible under the circumstances.

   **CYFD** Staff handling the case must provide information that is as complete and correct as possible in Annex 1, relying on the nationality and identity documents of the Mexican children and adolescents and their families that are available to them.

   If **CYFD** learns at a later time that a child or adolescent is a Mexican national, **CYFD** must notify the Consulate, without delay, by email or by the most expeditious means available, attaching the form contained in Annex 1 to this MOU.

   In the specific case of children and adolescents involved in juvenile court proceedings, whether or not detained, **CYFD** will advise the Mexican national about his/her right to contact the Consulate and will inform the Consulate without delay by email or using the most expeditious means available, attaching the form contained in Annex 1 to this MOU.

   With regard to open investigations initiated by **CYFD** involving children or adolescents who are not in its custody, **CYFD** may inform the families involved of their right to establish contact with the Consulate at any time during the process when it
becomes apparent that the case concerns Mexican nationals. CYFD may request assistance for open investigations involving Mexican nationals on a case-by-case basis.

2) **Consular Access.** To the extent allowed by law, Consulate’s Officers will have the right to visit and interview the Mexican children and adolescents who are in the custody of CYFD, who will grant consent and facilitate the conditions to achieve that purpose.

CYFD may allow the Consulate or the family members of the child or adolescent to participate in case coordination and update meetings, as well as in scheduled calls between the family members and their CYFD Staff. Such participation will be subject to approval by CYFD Staff and the attorney representing the child, adolescent, or family member when represented by legal counsel.

CYFD considers DIF to be a governmental social services agency as defined under the New Mexico Children’s Code, NMSA 1978, 32A-4-33(B)(9) and 32A-2-33(B)(8). DIF, with the support of the Mexican Ministry of Foreign Affairs of Mexico and consulates, permanently offers several services and social programs for the benefit of the Mexican community residing abroad, including children and adolescents, and, with the support of CYFD, requires timely access to relevant information for the opening, follow-up, resolution, and closure of the cases involving Mexican children and adolescents including reports, orders, and sentences from the Court which are available.

For Juvenile Delinquency Cases, CYFD and the Consulate will comply with New Mexico Children’s Code, NMSA 1978, 32A-2-32. If the Consulate wishes to obtain confidential information regarding a Juvenile Delinquency Case, the Consulate must petition the court showing their legitimate interest in the case work or the work of the court. The Consulate must also not otherwise release the information or records.

CYFD recognizes that the Consulate may request more information about a Mexican national’s case, but CYFD may not be able to provide such information absent legal authorization.
The **Consulate** will respect the New Mexico Children's Code's statutory confidentiality requirements in abuse, neglect, and delinquency proceedings, under which **CYFD** may not disclose confidential information related to children in its custody or parties to its proceedings to persons to whom disclosure is not specifically authorized under the Children's Code absent a court order.

3) **Due Process.** **CYFD** will consider parents who are in Mexico, the United States and even those who are detained in either country for family reunification, and **CYFD** will facilitate their participation in hearings and communication with their children via telephone, video call or any other available means unless limited under court order.

Effective language services are provided to serve the needs of parents, children, and adolescents with limited English proficiency. If the child, adolescent, or parent is not fluent in English, **CYFD** will provide assistance in their preferred language so that, throughout the process, they receive oral and written information in their preferred language.

**CYFD** Staff must send directly to the **Consulate** any requests for socioeconomic or psychological assessments or services available in Mexico for children, adolescents and their families.

4) **Protection of Information.** Except where disclosure is permitted or required by federal or state law, **CYFD** will maintain as confidential information that the **Consulate** provides on the cases involving Mexican children, adolescents and their families, refraining from sharing with other government or private agencies any personal or biometric data (address, nationality, immigration status, photographs, fingerprints, iris images) that may infringe on the privacy and security of their holders.

5) **Repatriation and reunification of Mexican minors.** **CYFD** will cooperate with the **Consulate** in the safe and orderly repatriation and family reunification of Mexican children and adolescents to Mexico when it is in the best interest of the children and adolescents as determined by **CYFD**.
Reports from DIF sent by the Consulate will be valid to document the living condition of parents and/or family members and may serve as grounds for the reunification.

CYFD will provide to the Consulate, and the parent, or guardian a copy of the corresponding Court order authorizing the repatriation or family reunification of Mexican children and adolescents accompanied by a consular agent and/or CYFD staff. The Consulate will send DIF the copy of such Court order.

To the extent resources allow, CYFD will assist in obtaining U.S. or Mexican nationality, identity and travel documents, as appropriate, for the Mexican children and adolescents who are repatriated or reunited.

CYFD will furnish in advance to the Consulate the planned itinerary for repatriation or reunification to Mexico. Consular officials may assist with the transport of children to Mexico for the purpose of reunification or repatriation. CYFD may reimburse the cost of travel.

6) **Access to CYFD services and programs.** To the extent of its powers and limitations, CYFD will make available to Mexican children and adolescents and their families those community services and programs that will help them improve their quality of life and family dynamics.

7) **Community outreach activities.** To the extent resources allow, CYFD will participate in the mobile consulates, Saturday work events, and special sessions that the Consulate organizes in the State of New Mexico for the purpose of providing information about its various services and programs to the Mexican community. The Consulate will provide the dates and locations where the events will be held with advance notice.

8) **Staff training.** CYFD will promote training among its staff in order to better understand and enforce this MOU, with the support of the Consulate, which may offer presentations about the various services it offers to Mexican nationals living abroad.
B. The Consulate:

1) Search and location of family members. Based on the information provided in the Consular Notification, the Consulate will initiate the search for the family members of the children and adolescents, with the assistance of the Mexican consular network in the United States and the various federal, state, and municipal authorities in Mexico at the request of CYFD. The Consulate will share the results of the investigations in writing with CYFD Staff.

Once the family members have been located, the Consulate, CYFD, and/or family members may request for the Consulate to participate in coordination meetings with CYFD Staff to learn about the status of the cases, as well as in any telephone or virtual communication in which the family members or the children and adolescents require the presence of consular staff.

This request will be subject to approval by CYFD and the respondent attorney, guardian ad litem, and/or youth attorney representing the child, adolescent, and/or family member when represented by legal counsel. Where the parties agree for the Consulate to participate, CYFD will not oppose it.

Likewise, the Consulate may, with the support of the aforementioned Mexican authorities, facilitate notice and service of process to Mexican nationals who are involved in New Mexico Children’s Court Proceedings so that they may make any statement they deem appropriate, including in cases involving parents detained in Mexico or the United States.

2) Access to information. The Consulate will submit and follow up on requests for socioeconomic and psychological assessments or services available in Mexico for children and adolescents and their families that CYFD may need from DIF, sharing the results of the assessments in writing with CYFD Staff.

3) Search, verification and issuance of identity and nationality documents. The Consulate will assist CYFD in the search, verification, and issuance of identity and travel documents, certified copies of Mexican birth, marriage, and death certificates necessary to process the cases involving Mexican children and adolescents. The above to
the extent resources allow and within the requirements and limitations set forth in the applicable Mexican regulations.

4) **Protection of information.** The **Consulate** will abide by all federal, state, and local laws, regulations, rules, and procedures relating to the requirements of confidentiality of information that **CYFD** shares with the **Consulate** on cases involving Mexican children and adolescents.

**CYFD** recognizes that the **Consulate** may request more information about a Mexican minor's situation, but **CYFD** may not be able to provide such information absent statutory authorization.

The **Consulate** will respect the New Mexico Children's Code's statutory confidentiality requirements in abuse and neglect and delinquency proceedings, under which **CYFD** may not disclose confidential information related to children in its custody or parties to its proceedings to persons to whom disclosure is not specifically authorized under the Children's Code absent a court order.

5) **Repatriation and reunification of Mexican children and adolescents.** The **Consulate** undertakes to make the necessary arrangements with the support of the Mexican Ministry of Foreign Affairs and DIF for the safe and orderly return of children and adolescents repatriated and/or reunited with their families in Mexico.

To the extent resources allow and subject to the limitations and requirements set forth in the Mexican regulations in force on the matter, the **Consulate** will assist in the issuance of the necessary Mexican nationality, identity, and travel documents for children and adolescents who are repatriated or reunited.

The **Consulate** may, with the support of the Mexican Ministry of Foreign Affairs, coordinate the issuance and dispatch of remote permits for the issuance of Mexican passports for children and adolescents by their parents in Mexico.

The **Consulate** will assist **CYFD** in the procedures to obtain, if necessary before repatriation and/or reunification, the Mexican birth certificate of children or adolescents born to Mexican parents, bearing in mind that such document will facilitate their access to educational and health services in Mexico. The above to the extent resources allow
and subject to the requirements set forth in the applicable Mexican regulations.

The **Consulate** may appoint a consular agent to travel with them and **CYFD** designated staff during their repatriation and/or reunification to Mexico, to witness their arrival at the designated airport, and to assist in the handover process to the authorities and authorized family members. CYFD may reimburse the cost of travel.

In the case that the best interest of the children and adolescents means that they will have to be repatriated due to an absence of family members to care for them in the United States and Mexico, the **Consulate** will request DIF to make efforts to find the most suitable place of residence for their integral development.

In the instance where a Mexican domiciled parent has an infant, child, or adolescent who was born in the United States and where the infant, child, or adolescent requires medical care, the **Consulate** will assist with repatriation of the infant, child, or adolescent to receive such medical care.

In addition, the **Consulate** will direct the infant, child, or adolescent to DIF where it is determined that the infant, child, or adolescent would not be safe if returned to their parents or guardians in Mexico.

**VI. ADDITIONAL PROVISIONS**

1) This MOU may be amended by written consent of the Participants.

2) The Participants will promote the policies and procedures necessary to implement this MOU.
3) Communications concerning this MOU will be made electronically, in writing, delivered in person, or sent by mail to the following physical and/or electronic addresses:

Consulate of México en Albuquerque
1610 4th Street NW, Albuquerque, NM, 87102
protealb01@sre.gob.mx
protealb02@sre.gob.mx
protealb03@sre.gob.mx

Consulate General of Mexico in El Paso
910 E. San Antonio Ave. El Paso, Texas, 79901
conepeaso@sre.gob.mx
proteccionepa04@sre.gob.mx
proteccionepa05@sre.gob.mx

The Children, Youth and Families Department of the State of New Mexico
1120 Paseo de Peralta Santa Fe, NM 87502
cyfd.immigration@cyfd.nm.gov.

4) The addresses to which communications relating to this MOU must be sent may be changed by notifying the other Participant in a timely manner of the changes.

5) This MOU, as a statement of intent and collaboration, is subject to and does not alter any applicable laws or policies, particularly any laws or policies that may authorize or limit the activities of each of the Participants, does not create binding or enforceable legal obligations and/or rights of any kind with respect to the Participants, either to each other or to third parties, and does not create enforceable legal obligations and/or rights for any other person or entity.
6) Similarly, neither this MOU nor its content implies, under any circumstances, that there is or there could be an employment or agency relationship between the Embassy, the Consulates of Mexico and/or its employees and CYFD, or vice versa.

7) The Participants may hold consultations at any time in order to address any issue regarding the interpretation or application of this MOU. Consular Officers and CYFD Staff responsible for consular relations will meet quarterly to discuss, clarify, and coordinate activities in areas of mutual interest and concern.

8) This MOU has been negotiated and executed in the State of New Mexico and will be governed by and construed under the applicable laws of the Participants, including but not limited, by laws of the State of New Mexico, the laws of the United Mexicans States and the provisions of the Bilateral Convention, and the Vienna Convention.

Signed in Albuquerque, New Mexico, U.S.A., on December 6, 2022, in duplicate, in English and Spanish, both texts being equally authentic.

**CONSULATE OF MÉXICO IN ALBUQUERQUE**

Amb. Norma Ang Sánchez  
Consul of Mexico

**THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT OF THE STATE OF NEW MEXICO OF THE UNITED STATES OF AMERICA**

Hon. Barbara J. Vigil  
Cabinet Secretary

**CONSULATE GENERAL OF MÉXICO IN EL PASO**

Mauricio Ibarra Ponce de León  
Consul General
ANNEX I

Notice to Mexican Consulate of Mexican National Child In CYFD Custody

CONFIDENTIAL

To: Consulate of Mexico, Protection Department

The New Mexico Children, Youth and Families Department (CYFD) has taken into custody the following child, who is believed to be a national of Mexico.

Child’s name:
Type of case:

☐ Abuse and Neglect  ☐ Juvenile Delinquency

The pending legal case, if any, is:
   Case No.:
   Charge(s):
   County:
   Address:
   Date of next hearing:

The following additional information will be provided if available:

☐ The minor has been identified as a Mexican national.
☐ The parent or custodian of this Mexican or Mexican-American minor has requested that the Consulate be notified.
☐ The Department has learned that a non-custodial parent(s) resides in Mexico.
☐ In the custody of Juvenile Justice Facilities, the minor has been charged with:

Date of birth:
Place of birth:
Passport #:
Mother’s name:
Father’s name:
Home address:
Family phone:

CYFD Contact: (name, address, phone and fax of CYFD staff member).

We welcome any assistance your office can provide to this child, including identifying family members or other resources that might benefit this child.