

**SANTA FE COUNTY
PROFESSIONAL SERVICES AGREEMENT
WITH IMPACT PERSONAL SAFETY
TO PROVIDE ANGER MANAGEMENT CLASSES
TO TEEN COURT PARTICIPANTS**

THIS AGREEMENT is made and entered into this 1st day of December, 2010 by and between Santa Fe County, hereinafter referred to as ("the County") and IMPACT Personal Safety, a New Mexico non-profit organization with a principal address located at P.O. Box 8350, Santa Fe, NM 87504, hereinafter referred to as ("the Contractor").

WHEREAS, pursuant to NMSA 1978, Sections 13-1-125 this is a "small purchase," for the provision of the professional services; and

WHEREAS, the County desires to engage the Contractor to render anger management classes to certain Teen Court participants charged with a misdemeanor, and the Contractor is willing to render such services; and

WHEREAS, the County requires these services as part of its Teen Court Program and the Contractor is willing to provide the services under this Agreement and both parties wish to enter into this Agreement;

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

1. SCOPE OF WORK

The contractor shall perform the following work:

The Contractor will provide an Anger Management Training Course component (hereinafter the "Training Course") for designated participants of County's Teen Court Program. Contractor will develop the curriculum and course essentials of the Training Course with concurrence by County. The Training Course will consist of a series of three monthly classes for Teen Court Program participants who will be screened and referred to the Training Course by County's Teen Court Program.

The Training Course components will consist of three monthly classes entitled: 1) Verbal Experiential Course; 2) Personal Safety Class; and 3) What Would Provoke Me Class. All the components of the Training Course classes and/or sessions will be taught or facilitated by licensed professionals, and in the manner set forth below:

In addition to the above requirements, under this Scope of Work, the Training Course components shall also consist of the following: Two 60 minute group sessions and one 3 hour group session with 6-18 teens per month that have misdemeanor charges and are in need of behavioral therapy based on the intake screening that has been completed by participants and given to Teen Court staff for referral to the Contractor for attendance to the Training Course. The monthly 60 minute sessions are the Personal Safety Class and the What Would Provoke Me Class. The monthly 3 hour class is the Verbal Experiential Course. Each Teen Court participant who is referred to attend the Training

Course will be required to complete and attend all class sessions. The Contractor shall be responsible for verifying the following information for each monthly Training Course for each participant and provide them to the Teen Court staff of County.

- a.) The Contractor shall certify that the Training Course is close ended. The Contractor will be required to submit such verification of each teen's participation in the Component so that the teen can move on to the next step of the Teen Court Program. "Close ended" means that all participants referred by Teen Court to attend the Training Course shall attend each session in consecutive order as approved by County.
- b.) The Contractor shall take attendance and provide attendance records to County Teen Court staff certifying whether or not each participant attended all sessions of The Training Course.
- c.) At the end of the last group session for each teen participant, the Contractor shall provide an evaluation of the class and facilitator(s) that will be sent back to County's Teen Court staff within one week of close of the last session. The evaluation shall include, but is not limited to, information from the participant of what they learned from The Training Course. The evaluation form shall be approved by the County.
- d.) Contractor shall have is licensed facilitator be aware of and encourage resiliency factors and educate teens on how to prevent/reduce risk factors. Information indicating that such factors have been provided by Contractor to the licensed facilitators will be provided to the County.

The contents of the components and/or curriculum of The Training Course prepared by Contractor shall include the following at a minimum:

- a.) Each session should focus on a certain aspects of anger management to include: boundaries, personal safety, provocations, perceptions, controlling emotions, and maintaining personal or professional relationships. These requirements are based on discussion and collaboration between Contractor and Teen Court staff and are subject to change after evaluation of the Component for that month in which the Component will occur.
- b.) Contractor shall provide the County Teen Court Program staff with a copy of the proposed class components or curriculum of the Training Course prior to commencing the monthly class sessions.

Requirements of Facilitator's for The Training Course sessions: Contractor shall certify that the facilitator of each session of The Training Course meets the following criteria:

- a.) Facilitator should be culturally competent to better serve the youth and have a good understanding of community norms.
- b.) Facilitator must have at minimum four (4) yrs. experience working with youth ages 14-18 years old with anger or assault and battery related issues.
- c.) Facilitator must have the appropriate professional license to facilitate the class sessions he or she will teach and must be a licensed educator, counselor, or therapist. Proof of professional licensure shall be provided to the County's Teen Court staff prior to commencing the monthly class sessions of the Training Course.
- d.) Facilitator must be able to communicate effectively with youth and produce an environment that is comfortable and welcoming to encourage open discussion.

- e.) Facilitator must be available late afternoons after 3:30 p.m. to run the classes that cannot interfere with the SFPS school schedule.
- f.) Facilitator must be able to effectively facilitate a maximum of 18 teens at one time.
- g.) Facilitator will be required to take attendance for each session and report back to Teen Court staff as required under the terms of this Agreement.

2. COMPENSATION AND INVOICING

- A. In consideration of its obligations under this Agreement the Contractor shall be compensated as follows:

In no event shall the total compensation paid to Contractor by County under this Agreement exceed \$4,500 inclusive of gross receipts tax.

The County shall pay Contractor \$750.00 for 3 sessions at the following cost schedule and times on a monthly basis:

Personal Safety Class	\$150.00/ per 60 minute session
What Would Provoke Me	\$150.00/per 60 minute session
Verbal Experiential Class	\$450.00/ per 3 hour session

TOTAL \$750.00/ per month for the series of

- B. The Contractor shall submit, on a monthly basis, a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought under the terms and conditions of the Agreement.

The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services pursuant to this Agreement. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

- C. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
- D. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments to Contractor.

3. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate two years later, unless earlier terminated pursuant to Section 4, "TERMINATION," of this Agreement.

4. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the County. Notwithstanding any other provision in this Agreement, the County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the Scope of Work, specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

5. INDEPENDENT CONTRACTOR

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use the County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

6. PERSONNEL

- A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.
- B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of nor have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

7. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

8. SUBCONTRACTING

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

9. INDEMNITY

- A. The Contractor shall defend, indemnify, and hold harmless the County and its Elected Officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.
- B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.
- C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

10. RECORDS AND INSPECTIONS

- A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").
- B. To the extent its books and records relate to (i) its performance of this Agreement or

any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

11. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the 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 Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

12. PERMITS, FEES, AND LICENSES

The Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

13. RELEASE

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

14. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval of the County.

15. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHTS

- A. The County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.
- B. The Contractor acknowledges and agrees that any material produced in whole or in part under or pursuant to this Agreement is a work made for hire. Accordingly, to

the extent that any such material is copyrightable in the United States or in any other country, the County shall own any such copyright.

16. CONFLICT OF INTEREST

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

17. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1, "SCOPE OF WORK," of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

18. 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.

19. EQUAL OPPORTUNITY COMPLIANCE

- A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

20. 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.

21. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligation hereunder, the Contractor shall comply with all applicable laws, ordinances, and obligations.

- B. 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 Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the federal and state district courts of New Mexico, located in Santa Fe County.

22. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Section 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

23. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

24. FACSIMILE SIGNATURES

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

25. LIMITATION OF LIABILITY

The County's liability to the Contractor for any breach of this Agreement by the County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section 2, "COMPENSATION AND INVOICING", of this Agreement. In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

26. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by the County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq.

27. INSURANCE

- A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage

for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.

- C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.
- D. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.
- E. Malpractice/Errors and Omissions Insurance. Contractor shall procure and maintain during the life of this Agreement professional liability or errors and omissions insurance in amounts not less than \$1,000,000 per occurrence, \$2,000,000 per aggregate.

28. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

- A. It is a non-profit organization duly organized and in good standing under the laws of the State of New Mexico.
- B. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.
- C. It will maintain throughout the life of this Agreement, its registration, licensure to conduct business in the State of New Mexico, and its status of "good standing" with the New Mexico Public Regulation Commission.

29. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

30. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County

Legal Department
102 Grant Avenue / P.O. Box 276
Santa Fe, NM 87504-0276

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

IMPACT Personal Safety
Attn: Alena Schaim
PO Box 8350
Santa Fe, NM 87504

31. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNITY, RECORDS AND INSPECTION, RELEASE, CONFIDENTIALITY, COPYRIGHT, COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW, NO THIRD-PARTY BENEFICIARIES, NEW MEXICO TORT CLAIMS ACT, INSURANCE, AND SURVIVAL.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SANTA FE COUNTY

Katherine Miller
Katherine Miller,
Santa Fe County Manager

APPROVED AS TO FORM

Stephen C. Ross
Stephen C. Ross
Santa Fe County Attorney

11-15-10
Date

FINANCE DEPARTMENT APPROVAL

Teresa C. Martinez
Teresa C. Martinez
Santa Fe County Finance Director

11/18/2010
Date

IMPACT PERSONAL SAFETY

Alena Schaim
(Signature)

12/1/10
Date

Alena Schaim
(Print name and title)

FEDERAL IDENTIFICATION NUMBER: 85-0475597