

**MEMORANDUM OF AGREEMENT  
BETWEEN THE TOWN OF EDGEWOOD  
AND SANTA FE COUNTY**

This Memorandum of Agreement entered into on this 6 day of June, 2012, by and between **Santa Fe County**, a political subdivision of the State of New Mexico ("County") and the **Town of Edgewood**, a New Mexico political subdivision (hereinafter "Town of Edgewood").

**WHEREAS**, the Town of Edgewood conducts a summer recreational program that benefits the youth of Santa Fe County;

**WHEREAS**, the County wishes to assist the Town of Edgewood by providing funding for the summer recreational program that will benefit the youth of Santa Fe County;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**1. SCOPE OF DUTIES OF THE PARTIES**

**A. Town of Edgewood shall:**

- a) Conduct a summer recreational program to the youth of Santa Fe County. The Wildlife West Program, to begin four sessions: June 4-8, 2012, June 25-29, 2012, July 9-13, 2012 and July 23-27, 2012.
- b) Conduct a summer recreational program that serves 25 students ages 7-12; up to 5 students ages 13-15. 30 students total at each session.
- c) Conduct a summer recreational program at 87 N. Frontage Road, Edgewood, NM 87015 from 9:00 a.m. to 12:00 p.m.
- d) Provide snacks and water for participants in the summer recreational program.
- e) Provide fun, hands-on adventure including close-up encounters with rescued native New Mexico wildlife: Mexican gray wolves; cougars; elk; mule deer; javelin; and the New Mexico black bear.
- f) Provide experienced zookeepers; to teach the details of basic animal care and gain knowledge about New Mexico's wildlife and natural resources.
- g) Provide enrichment for the animals by creating "piñatas" to be distributed to the animals at the end of the week. Watch a live raptor presentation given by Tom Smylie, wildlife conservationist, author, educator, and long-time falconer.
- h) Participate in various art activities, conservation projects, and environmental games, while learning the importance of caring for all of our natural resources.

All activities and games will be planned and directed by two certified teachers who have experience working with each group of students. There is a low student to day camp staff ratio. A family barbeque will be provided at the end of the week where day campers can share their experiences and celebrate the week. Children will receive a certificate upon completion.

**B. Santa Fe County shall:**

- a) Provide to the Town of Edgewood an amount of funding not-to-exceed four thousand five hundred dollars (\$4,500.00) inclusive of any gross receipts tax, to conduct the summer recreational program described above. The County shall provide a lump sum of \$4,500.00 to the Town of Edgewood within 15 business days from the effective date of this Agreement. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

**3. TERM**

The term of this Agreement shall be on the date of execution by the parties (the Effective Date) and shall terminate on September 30, 2012 unless terminated earlier pursuant to Section 4. The summer recreational program shall conclude August 1, 2012.

**4. TERMINATION**

Each party shall have the right to terminate this Agreement upon written notice, in the event of the other party's material breach hereof which is not cured within ten (10) days after notice specifying such breach. By such termination, no party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. No party shall be relieved of liability to the other party for damages sustained because of any breach of the Agreement.

**5. ASSIGNMENT**

Neither party shall assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the other party.

**6. NO THIRD-PARTY BENEFICIARIES**

The Town of Edgewood and the County are the only parties to this Agreement. Nothing in this Agreement provides any benefit or right, directly or indirectly, to third parties. This Agreement was not intended to and does not create any rights in any persons or party not a party to this Agreement.

**7. LIABILITY**

Each party shall be liable for its own actions in accordance with this Agreement. Neither party shall be responsible for liability incurred as a result of the other party's negligence, 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, § 41-4-1, *et seq.*, NMSA 1978, as amended.

## **8. NO WAIVER OF IMMUNITIES, DEFENSES OR PROTECTIONS**

Nothing in this Agreement waives or alters any immunities, defenses or protections provided to the Town of Edgewood or the County, and their respective employees, agents, board members, commissioners or officers, under New Mexico or federal law.

## **9. DISPUTE RESOLUTION**

Disputes on any matter relating to this Agreement shall be discussed and resolved by authorized representatives of each party who have the authority to bind the party that they represent. The parties shall use their best efforts to amicably and promptly resolve the dispute. If the parties are unable to resolve the dispute within a reasonable time period as determined by the representatives, the parties may pursue any other legal means for resolving disputes which may arise from or under this Agreement.

## **10. AMENDMENT**

This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.

## **11. INTEGRATION CLAUSE**

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

## **12. APPLICABLE LAW; VENUE**

This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. Town of Edgewood and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the State District Court of New Mexico, First Judicial District, located in Santa Fe County.

## **13. APPROPRIATIONS AND AUTHORIZATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Santa Fe County Board of County Commissioners and, 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 Town of Edgewood. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Town of Edgewood for expenditures made in the performance of this Agreement incurred after written notice to the Town of Edgewood is provided by the County pursuant to this paragraph. 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 Town of Edgewood.

#### **14. REQUIRED APPROVALS**

This Agreement will not be final or binding upon the Town of Edgewood until or unless approved by the superintendent of the Town of Edgewood and Santa Fe County.

#### **15. FACSIMILE SIGNATURES**

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

#### **16. EQUAL OPPORTUNITY COMPLIANCE**

Each party agrees to abide by all federal and state laws, rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, each party assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any activity performed under this Agreement. If a party is found not to be in compliance with these requirements during the life of this Agreement, that party agrees to take appropriate steps to correct these deficiencies.

#### **17. INVALID TERM OR CONDITION**

If any term or condition of this Agreement shall be held void, invalid or unenforceable, such provision shall be severed from the remainder of the Agreement and the remainder of this Agreement shall not be affected and shall be valid and enforceable.

#### **18. NOTICES**

Any notice required by this Agreement shall be given in writing to the parties designated below. Notice shall be effective when delivered personally to any party, or three business days after deposited, postage fully prepaid, registered or certified, in an official receptacle of the U.S. Postal Service.

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For the Town of Edgewood: Karen Mahalick, AICP  
Town of Edgewood  
P.O. Box 3610  
Edgewood, NM 87015

For County:

Katherine Miller, Manager  
Santa Fe County  
ATTN: Lisa Roybal  
102 Grant Avenue  
Santa Fe, NM 87504

**19. COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS**

The Town of Edgewood and the County shall assure compliance with all applicable state and federal statutes and regulations in the performance of this Agreement.

**20. RECORDS, AUDITS, INSPECTIONS AND FINAL RECORDS UPON COMPLETION OF SUMMER PROGRAM**

The Town of Edgewood shall maintain detailed books, documents, accounting records and other evidence pertaining to the services and costs incurred in conducting the summer program identified in Paragraph 1.A of this Agreement. The Town of Edgewood shall maintain all records of its expenditures for the summer recreational program in a method consistent with generally accepted accounting principles and procedures and shall be maintained so that the County or its fiscal agent can audit such books and records. The Town of Edgewood shall make such records and information available at their respective offices for inspection by the County or its fiscal agent at all reasonable times during the Agreement period, including before and after payment and for three (3) years from the date of payment to the Town of Edgewood under this Agreement.

The County has the right to inspect at reasonable times, any facility or location where summer program activities described in Paragraph 1.A above are conducted.

Upon Town of Edgewood completion of the summer recreational program and no later than September 30, 2012, it shall submit to the County a detailed, certified description or report of all services, activities conducted and completed and all expenditures made pursuant to this Agreement. The report shall describe the recreational activities provided, the participants and their place of residency.

**21. FORCE MAJEURE**

Neither the County nor the Town of Edgewood shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

**22. AMENDMENT**

This Agreement shall not be altered, changed, or amended except by instrument in writing signed by the parties to this Agreement.

IN WITNESS WHEREOF, the parties set their hands.

**SANTA FE COUNTY:**

 Date: 6.5.12  
Katherine Miller  
Santa Fe County Manager

Town of Edgewood:

\_\_\_\_\_  
Karen Mahalick, AICP, Administrator

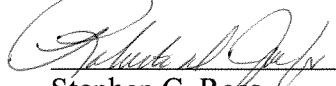
Finance Department

 Date: 6/4/12  
Teresa Martinez, Director

ATTEST:

\_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

 Date: 5/30/12  
Stephen C. Ross  
Santa Fe County Attorney

**SANTA FE COUNTY:**

Katherine Miller Date: 6.5.12  
Katherine Miller  
Santa Fe County Manager

**Town of Edgewood:**

Karen Mahalick Date: 6-6-12  
Karen Mahalick, AICP, Administrator

**Finance Department**

Teresa Martinez Date: 6/4/12  
Teresa Martinez, Director

**ATTEST:**

Stephanie B. Miller Date: 6/6/12

**APPROVED AS TO FORM:**

Stephen C. Ross Date: 5/30/12  
Stephen C. Ross  
Santa Fe County Attorney