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5/29/09

**MEMORANDUM OF AGREEMENT
BETWEEN**

**SANTA FE COUNTY AND THE SANTA FE PUBLIC SCHOOLS
TO PROVIDE A SUMMER RECREATIONAL PROGRAM**

THIS MEMORANDUM OF AGREEMENT (the "Agreement") is entered into as of this 10 day of June, 2009, by and between **Santa Fe County**, a political subdivision of the State of New Mexico, (herein referred to as "the County") and **Santa Fe Public Schools**, located at 610 Alta Vista, Santa Fe, NM 87505, a State of New Mexico public school district, (herein referred to as "SFPS").

WHEREAS, the County and SFPS are interested in providing a safe and nurturing environment for children during the summer months; and

WHEREAS, the County and SFPS are interested in helping students improve academic performance during the summer months; and

WHEREAS, a summer program provided as a result of this Agreement will provide students with activities which will instill the value of leadership, teamwork, and achievement to the benefit of the Santa Fe County communities; and

WHEREAS, the County requires these services and SFPS is willing to provide these services 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 SERVICE

SFPS shall provide the following services:

- A. SFPS will staff and conduct a six-week summer program for approximately one hundred and sixty (160) students in grades first through sixth at the following schools: Agua Fria Elementary School and Eldorado Elementary School. The program will focus on increasing academic achievement by providing academic activities, cultural activities, individualized tutoring, arts and crafts programs, literacy programs, recreational activities and field trips.
- B. SFPS will provide the following personnel for the summer program at each of the two elementary schools:
 - i. A site coordinator to supervise and manage the program at the school site. The site coordinator will manage staff, students and keep track of attendance, registration and registration fee payments. The site coordinator will plan and implement appropriate activities for the students. The site coordinator will also ensure student safety. The site coordinator will coordinate programs with visiting youth providers and recruit community groups to volunteer or collaborate with the summer program. The site coordinator must have, as a minimum, a Bachelor of Arts or Science degree.
 - ii. Certified instructors to provide educational activities and experiences that correspond to learning during the regular school year and support the New Mexico Standards and Benchmarks. The certified instructors will create lesson plans that provide for enriching opportunities for the students. A certified instructor must have a New Mexico teaching certificate.

- iii. Tutors to provide one-on-one tutoring and small group instruction to students. The tutors will coordinate with and assist the certified instructors. A tutor must have, as a minimum, an Associate of Arts degree.
- iv. Recreational aides to lead and oversee recreational activities. The aides will assist the certified instructors and other personnel. An aide must be a high school student or a high school graduate.

2. PAYMENT

In consideration of its obligations under this Agreement, the County shall pay SFPS as follows:

- A. The total compensation to be paid under this Agreement including fees and costs, shall not exceed \$20,000.00, including any gross receipts, for the Agua Fria Elementary School as follows:

Expense Category	Amount
Personnel Expenditures	\$15,000.00
Materials/Supplies/	\$4,300.00
Field Trips	\$700.00
TOTAL	\$20,000.00

- B. The total compensation to be paid under this Agreement including fees and costs, shall not exceed \$20,000.00, including any gross receipts, for the Eldorado Elementary School as follows:

Expense Category	Amount
Personnel Expenditures	\$20,000.00
TOTAL	\$20,000.00

- C. SFPS shall submit a written request for payment to the County whenever 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.

SFPS 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. 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.

- D. In the event SFPS breaches this Agreement, the County may, without penalty, withhold any payments due SFPS 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. In the event the six-week program provided for in this Agreement is discontinued at either or both schools prior to the expiration of the full six-week period, SFPS shall reimburse the County on the pro rata basis of \$1,500 per day for

each day the program fails to operate.

- E. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

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 on December 31, 2013, unless terminated pursuant to Paragraph 4, "TERMINATION," of this Agreement.

4. TERMINATION

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. By such termination, no party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

5. LIABILITY

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation of requirements applicable to the performance of the Agreement.

6. AMENDMENT

This Agreement shall not be altered, changed, or amended except by an amendment executed in writing signed by both parties.

7. COUNTER PARTS; FACSIMILE SIGNATURES

This Agreement may be executed in several counter parts, each of which shall be an original and all of which constitute one and the same instrument. The parties hereto agree that a facsimile signature shall have the same force and effect as an original for all purposes.

8. ENTIRE AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto. No prior agreements, covenants or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

9. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the ordinances of the County of Santa Fe and the laws of the State of New Mexico. Venue shall be in Santa Fe County, New Mexico.

10. LIABILITY

As between parties, each party acknowledges that it will be responsible for claims or damages arising from personal injury or damage to persons or property to the extent they result from negligence of its employees or agents. No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq. The liability of the Santa Fe Public School district shall be subject in all cases to the immunities and limitation of the New Mexico Tort Claims Act, Section 41-4-1, et seq., NMSA 1978, as amended.

11. SEVERABILITY

The invalidity or unenforceability of any term or provision of this Agreement will in no way affect the validity or enforceability of any other term or provision to the extent permitted by law.

12. MARKETING MATERIALS

Neither party will use the other's name in any publicity or advertising material without prior written consent of the other party.

13. COOPERATION AND DISPUTE RESOLUTION

The parties will meet as necessary to discuss and evaluate the progress of the program involved in this Agreement. The parties agree that, to the extent compatible with the separate and independent management of each, they will maintain effective liaison and close cooperation. If a dispute arises related to the obligations or performance of either party under this Agreement, representatives of the parties will meet in good faith to resolve the dispute.

14. NONDISCRIMINATION

Neither party will discriminate against program participants and employees on the basis of race, religion, national origin, sex, sexual orientation, age or handicap.

15. CONFIDENTIALITY

The parties in accordance with applicable federal and state laws and regulations regarding confidentiality of records of students will maintain the confidentiality of any records.

16. CONFLICT OF INTEREST

That the parties warrant that they have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

17. NOTICES

Any notice required to be given to the Santa Fe Public Schools pursuant to the terms and provisions of this Agreement will be in writing and will be sent by certified mail, return receipt requested, postage prepaid, as follows:

Santa Fe Public Schools
610 Alta Vista
Santa Fe, NM 87505

Phone: 505-467-2000

All notices required to be given to the County under this Agreement shall be mailed to:

Santa Fe County
Legal Department
102 Grant Ave.
Santa Fe, NM 87504

18. NO THIRD-PARTY BENEFICIARIES

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

19. NOTICE OF PENALTIES

The Procurement Code, NMSA 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.

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

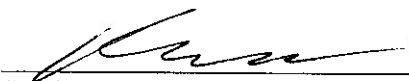
SANTA FE COUNTY





Roman Abeyta
Santa Fe County Manager

APPROVED AS TO FORM:



Stephen C. Ross
Santa Fe County Attorney

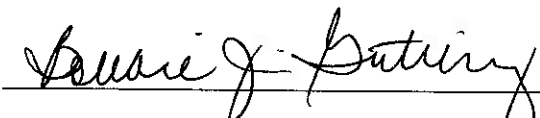
5-11-09
Date

FINANCE DEPARTMENT APPROVAL:



Teresa Martinez
Santa Fe County Finance Director

SANTA FE PUBLIC SCHOOLS:



By: Bobbie J. Gutierrez
(Print Name)

6-10-09
Date

Its: Superintendent
(Print Title)

FEDERAL IDENTIFICATION NO.
