



MOA15-4213

**MEMORANDUM OF AGREEMENT
BETWEEN THE BOARD OF EDUCATION OF THE LOS ALAMOS PUBLIC
SCHOOLS AND THE INCORPORATED COUNTY OF LOS ALAMOS**

THIS MEMORANDUM OF AGREEMENT ("MOA" or "Agreement"), is made and entered into by and between the **Los Alamos Public School Board**, the governing body of a New Mexico local political subdivision ("LAPS") and the **Incorporated County of Los Alamos** ("County") to be effective for all purposes as of July 1, 2015. LAPS and the County are sometimes referred to in this MOA individually as a "Party" and collectively as the "Parties."

Whereas, substance abuse prevention programs can empower the County's youth to meet the challenges of life by creating and reinforcing healthy behavior and lifestyles and by reducing the risks that contribute to truancy, plus alcohol, tobacco and other drug misuse and abuse;

Whereas, suicide prevention programs can help diminish the risk of suicide by County youth;

Whereas, it may not be possible to entirely eliminate the risk of self-inflicted harm but it is possible to reduce this risk through prevention, intervention, and education:

Whereas, the LAPS considers daily onsite prevention services to be vital in their efforts to address the issues of substance abuse, tobacco and nicotine use, suicide ideation, and truancy; and

Whereas, the Juvenile Justice Advisory Board ("JJAB"), local behavioral health service providers, County, and local law enforcement officials agree that school-based prevention programs and services (collectively hereafter "prevention services") address a critical need of the County's youth.

NOW, WHEREFORE, for good and valuable mutual consideration, including the funding by County for school-based prevention services, and mutual covenants hereinafter set forth, the Parties do hereby agree as follows:

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LOS ALAMOS COUNTY, NM Jocelyn Warner - Deputy



1. PURPOSE.

The purpose of this Agreement is for County to pay remuneration for LAPS to provide professional services related to substance abuse and suicide prevention, to include school and community based youth prevention and intervention services, as more particularly below.

2. SCOPE OF AGREEMENT.

A. Los Alamos Public Schools shall:

- a) Submit to County a 3 to 5 year strategic prevention plan for provision of prevention services by June 30, 2016, utilizing guidelines and documents produced by the Substance Abuse and Mental Health Services Administration ("SAMHSA"), the New Mexico Alcohol Tobacco and Other Drug Abuse ("ATODA") Prevention Training System, and/or the New Mexico Office of Substance Abuse Prevention ("OSAP"). LAPS shall follow its plan for the remainder of the contract.
- b) Hire or contract with individuals or entities to provide prevention services within LAPS, and may include the hiring of a "Prevention Specialist." The LAPS Prevention Specialist will work directly with school staff, LAPS students and community youth, and their families or guardian(s). LAPS will designate an individual or entity to coordinate the development and implementation of a strategic prevention plan as well as evaluate the plan's effectiveness. Areas to be included in the strategic prevention plan must include, but are not limited to, minor's substance abuse, tobacco and nicotine use, suicide ideation, and truancy and other emerging at-risk behaviors, such as bullying and inter-student hazing. The Prevention Specialist shall be certified by the New Mexico Credentialing Board for Behavioral Health Professionals and be trained and supervised by LAPS to successfully perform the duties as outlined in the Prevention Specialist Job Description provided of LAPS. The Prevention Specialist must also serve as the Certified Prevention Specialist on the local Drinking While Driving ("DWI") Council of the County and may be required to chair the Community Resiliency Subcommittee of the Los Alamos Community Health Council.
- c) Submit written reports on forms provided by County or in a format acceptable to the County, covering each three-month/quarter period of the term of the Agreement, with the first such period beginning July 1, 2015. The reports shall include financial information describing LAPS use and expenditures of County funding and, at a minimum, summary information for the following:
 - i. A description of the prevention programs, services, or classes that have been held over the quarter with number of staff, students, and families and how LAPS believes the participants have benefited from the prevention services or how youth and family behaviors have been, if at all, impacted by the prevention programs and services.
 - ii. The level and results, if quantified, of LAPS collaboration and coordination efforts with other community prevention service providers, including but not limited to

- JJAB, Teen Center, Family Strengths Network, community behavioral health providers, medical practitioners, and other organized youth groups.
- iii. Reporting of performance measures and outcomes that are defined by LAPS, then presented to and agreed upon by County and LAPS, prior to the first quarterly report submission. LAPS will describe how the organization has gathered the required data, monitored and evaluated performance, and determined effectiveness the programs.
 - iv. A detailed description of any proposed changes to be made in the prevention services or programs to achieve the purposes of the Agreement.
 - v. A summary of opportunities provided for participant input and feedback and a description of the results.
 - vi. A description of any proposed changes in prevention services based on participant input and how LAPS plans to incorporate this information into the design and implementation of new and existing programs.
 - vii. A summary of LAPS participation or coordination of at least four (4) prevention-related programs/events/activities per school year with other youth-serving community organizations.
 - viii. LAPS shall furnish these reports to the County Social Services Division within thirty (30) days after the end of each reporting period.
- d) If LAPS contracts for the performance of these services, LAPS warrants and agrees that the procurement of the services shall be in compliance with the New Mexico Procurement Code, NMSA 1978, §§ 13-1-1 through 13-1-135.1, and with the Los Alamos County Code of Ordinances, Procurement Code, sections 31-1 through 31-288 as in affect and as may be amended from time to time.

B. Los Alamos County shall:

- a) Review and process all invoices and supporting documentation submitted by LAPS related to this MOA and make payments to LAPS in accordance with Section 4 below; and
- b) Have the right to audit LAPS' books and records, both financial and programmatic, to verify LAPS' use and expenditures of the County's funding paid to LAPS as reported to the County under Section 2.A(c) above. If the County determines that any of the County's funding paid to LAPS was not properly expended in accordance with the terms and conditions of the MOU, as it may be amended by the Parties, the County shall give LAPS written notice of the improper expenditures. Subject to Section 9.M, the County may reduce the funds paid to LAPS by the amount any improper expenditures disclosed by the audit and reported to LAPS.

3. TERM AND EFFECTIVE DATE.

The term of this MOA shall commence on July 1, 2015 and shall continue until June 30, 2018 unless earlier terminated as provided herein, but may be then be renewed for up to three (3) additional 1-year periods under the same terms and conditions unless modified by mutual amendment.

4. COSTS.

A. Funding by County for prevention services will not exceed **SIXTY-FIVE THOUSAND DOLLARS (\$65,000.00)** per County fiscal year and will be paid quarterly on a reimbursable basis upon receipt of an itemized invoice showing LAPS expenses related to the prevention programs and services.

B. LAPS agrees that it will pay all relevant and applicable local, state and federal taxes related to provision of prevention services. It is understood and agreed by LAPS that it is an independent contractor for provision of professional services.

C. Monthly Invoices. LAPS shall submit itemized monthly invoices to County's Social Services Division showing amounts spent for program expenses, including salaries, supplies, rental fees, advertising, special projects/activity costs, software, any NMGRT, and total amount payable. Payment of undisputed amounts shall be due and payable thirty days after County's receipt of the invoice

D. The parties agree that County, pursuant to Los Alamos County Code of Ordinances § 31-234, will not be liable for any costs or obligations for goods or services that were improperly or unlawfully procured.

5. TERMINATION.

A. This MOA may be terminated in its entirety, 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. The termination provisions described herein, shall not nullify obligations already incurred for performance or failure to perform prior to the date of termination.

B. This MOA shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by the County Council. County shall make reasonable efforts to give LAPS at least ninety (90) days advance notice that funds have not been and/or not expected to be appropriated for the purpose of this Agreement.

6. 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 this MOA. Each Party shall be liable for its own actions or inactions in accordance with state law and nothing herein shall be deemed a waiver, indemnity, or to otherwise create or affect liabilities between the parties. No Party to this MOA shall be responsible for the liability incurred as a result of the other Party's acts or omissions in connection with this MOA or in performance under this MOA. This MOA contains the understanding between the County and LAPS only and shall not create or confer on any other person or entity any right or benefit, substantive or procedural, enforceable at law or otherwise against the named parties, their officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, consultants, or advisors. By entering into this MOA, neither Party shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this MOA. Any liability incurred in connection with this MOA is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, sections 41-4-1 through 41-4-27, or as may be amended. This paragraph is intended only to define the liabilities between the Parties hereto and it is not intended to modify, in any way, the Parties' liabilities as governed by common law or the New Mexico Tort Claims Act. No provision in this MOA modifies and/or waives any provision of the New Mexico Tort Claims Act.

7. INSURANCE.

LAPS shall maintain in full force and effect a commercial general liability insurance policy during the term of this MOA in an amount equal to or exceeding that required under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-19, or as may be amended.

8. NOTICES.

Any notices required, or permitted, to be given under this MOA shall be in writing and served by personal delivery or by mail, postage prepaid, to the Parties at the following addresses:

LAPS:

Superintendent
Los Alamos Public Schools
Post Office Box 90
Los Alamos, New Mexico 87544

County:

Social Services Manager
Incorporated County of Los Alamos
1505 15th Street, Suite A
Los Alamos, New Mexico 87544

9. MISCELLANEOUS PROVISIONS.

A. This MOA is made under and shall be governed by the laws of the State of New Mexico and the Los Alamos County Code of Ordinance provisions referenced herein, without regard to any conflicts of law principles that would require the application of the law of any other jurisdiction.

B. County, pursuant to its Procurement Code, section 31-115 and 31-116, has the right, at reasonable times, to inspect, watch, or monitor the prevention services as well as audit any LAPS records related to provision of preventions services other than prevention service records protected from disclosure by local, state or federal laws. LAPS agrees that is will, pursuant to Los Alamos County Code of Ordinances § 31-117, report any anticompetitive practices related to expenditure of County funding by the District that it is aware of, or becomes aware of, during the term of this Agreement.

C. The Parties are subject to the New Mexico Inspection of Public Records Act ("IPRA"), NMSA 1978, Chapter 14, Article 2. Parties agree, pursuant to Los Alamos County Code of Ordinances § 31-118, that both will take all reasonable actions to facilitate compliance with IPRA, however both presume that some prevention service records may be protected from disclosure by other local, state or federal laws. The parties further agree that it will maintain all records in accordance with state and local record retention polices and will notify the other party of any intent to dispose of Agreement related records at least ninety (90) days before disposal.

D. In the event that any of the terms and conditions of this MOA, or the application of any such term or condition to any person or circumstance, shall be held invalid by any court having jurisdiction in the premises, the remainder of the MOA and the application of such terms or conditions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

E. LAPS agrees that if it hires any private party sub-contractors to fulfill the terms of this Agreement, any sub-contractor will be required to submit to LAPS and County required campaign disclosure statements pursuant to NMSA 1978, § 13-1-191.1.

F. This MOA shall be subject to filing with, and to such changes or modifications as may from time-to-time be directed, by competent regulatory authority, if any, in the exercise of its discretion.

G. This MOA constitutes the entire MOA and understanding of the Parties with respect to the subject matter herein. The parties agree that no modification of this MOA shall be binding unless such modification is in writing and is duly executed by authorized representatives of the Parties.

H. Each Party represents and warrants to the other Party that it has the requisite power and authority to execute this MOA and to perform the obligations set out in the MOA. The execution and delivery of this MOA and the performance of the obligations set out herein have been duly authorized by all necessary action on the part of each

Party. The obligations set out herein will, upon execution hereof by each Party, be valid and binding obligations of such Party, enforceable against such Party in accordance with the terms and conditions herein except to the extent that enforceability hereof or thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles, regardless of whether enforcement is sought in equity or at law.

I. Each Party represents and warrants to the other Party that the execution and delivery of the MOA by such Party does not violate any applicable law or regulation by which the Party is bound, by any applicable court or administrative order or decree, or any MOA or contract to which it is a party.

J. This MOA shall be binding upon and inure to the benefit of the Parties and their respective authorized successors and assigns. Nothing in this MOA shall create or be deemed to create any third-party beneficiary rights in any person not a party to this MOA. No Party may assign its rights, or delegate its obligations under this MOA without the prior written consent of the other Party, which consent shall not be unreasonably delayed or denied.

K. Any term or condition of this MOA may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set out in a written instrument duly executed and delivered by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this MOA in any one or more instances shall be deemed to be or construed to be a waiver of the same or any other terms or condition herein on any future occasion. No delay short of the statutory period of limitations in asserting or enforcing any right hereunder shall be deemed a waiver of such right.

L. This MOA was negotiated by the Parties, each of which was represented by legal counsel, and this MOA shall not be construed against any Party on the ground that such Party was the author of the MOA or of any provision thereof.

M. In the event of any claims or disputes between the County and LAPS regarding this MOU (each a "Claim"), the parties agree to submit the Claim to mediation, with a single mediator mutually acceptable to the parties, in accordance with the New Mexico Mediation Procedures Act. If the parties do not settle the Claim in mediation, then the Claim shall be subject to binding arbitration in accordance with the New Mexico Uniform Arbitration Act, before a single arbitrator who is mutually acceptable to the parties. If the parties have not agreed on an arbitrator within fifteen (15) days after either party makes a written demand for arbitration, then either party may file a motion with the Chief Judge of the New Mexico District Court, 1st Judicial District requesting appointment of an arbitrator in accordance with Section 44-7A-12 NMSA.

N. This MOA may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument as if all the Parties to the aggregated counterparts had signed the same instrument. Without limiting the manner in which the MOA may be executed and delivered, a Party shall be

considered to have fully executed and delivered this MOA by executing a counterpart of this MOA and sending the execution page by facsimile or other electronic means to the other Party.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement on the date(s) set forth below.

ATTEST


SHARON STOVER
COUNTY CLERK




INCORPORATED COUNTY OF LOS ALAMOS


BY: 
HARRY BURGESS
COUNTY MANAGER

DATE 6/15/13

APPROVED AS TO FORM:


REBECCA W. EHLER
County Attorney

LOS ALAMOS PUBLIC SCHOOL BOARD

BY: 
KURT STEINHAUS DATE 6-12-13
SUPERINTENDENT, LOS ALAMOS PUBLIC
SCHOOLS AND AUTHORIZED REPRESENTATIVE
FOR AND ON BEHALF OF THE OF THE LOS
ALAMOS PUBLIC SCHOOL BOARD