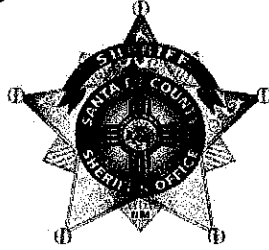


SANTA FE COUNTY SHERIFF'S OFFICE




Robert A. Garcia
Sheriff
986-2455
ragarcia@santafecounty.org

Ron E. Madrid
Undersheriff
986-2455
rmadrid@santafecounty.org

35 Camino Justicia – Santa Fe, New Mexico 87508

MEMORANDUM

Date: October 5, 2011
To: Board of County Commissioners
From: Robert Riggs / Major 
Subject: FY11 Edward Byrne - JAG (2011-DJ-BX-3212)

Board of County Commissioner:

Approval is request to budget \$59,614.00 for the 2011 Edward Byran Justice Assistance Program, PA # 2011-DJ-BX-3212 that was awarded jointly to the Santa Fe County Sheriff's Office and The City of Santa Fe Police Department. From that funding, \$21,515.00 was awarded to the Sheriff's Office to purchase the following:

- Mini Camera Pro (SCI-DVR90)
- Electrical Box Camera (SCI-SC7001)
- Xtremelife Hidden Camera (SCI-DVR1310)
- Trunk Lid Gun Mount GR2500
- Gun rack for Shotgun/AR15 SC-917-B

The cameras will be utilized for suspect surveillance and case documentation for prosecution purposes. The trunk/gun-rack mounts will insure that all weapons are properly secured to prevent theft and will assist in keeping our deputies safe while on duty.

A Pass-through Fund has been set up for the remaining \$38,099.00 in which will be disbursed to The City of Santa Fe Police Department.

Your consideration on this matter is greatly appreciated. Thank you.

SANTA FE COUNTY

RESOLUTION 2011 - _____

A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM

Whereas, the Board of County Commissioners meeting in regular session on November 8, 2011, did request the following budget adjustment:

Department / Division: Sheriff's Office/Public Safety Fund Name: Law Enforcement Operations Fund
 Budget Adjustment Type: Budget Increase Fiscal Year: 2012 (July 1, 2011 - June 30, 2012)

BUDGETED REVENUES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
246	1201	372	09.01	Grant / Dept of Justice - Edward Byrne Memorial Justice Assistance Program PA# 2011-DJ-BX-3212	59,614.00	
TOTAL (if SUBTOTAL, check here)					59,614.00	

BUDGETED EXPENDITURES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
246	1201	424	50.92	Contractual Serv.(LEOF)/Pass-through Fund Awarded amt - City of SF Police Dept	38,099.00	
246	1201	424	80.99	Non-Capital Purchase / Inventory Exempt	21,515.00	
TOTAL (if SUBTOTAL, check here)					59,614.00	

Requesting Department Approval: _____ Title: Mayor Date: 12/6/11
 Finance Department Approval: _____ Date: _____ Entered by: _____ Date: _____
 County Manager Approval: _____ Date: _____ Updated by: _____ Date: _____

SANTA FE COUNTY

RESOLUTION 2011 - _____

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT: Name: Robert Garcia/Sheriff Dept/Div: Sheriff's Office/Public Safety Phone No.: (505) 986-2455

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 1) Please summarize the request and its purpose.
Request to increase is to budget \$59,614.00 awarded to the Sheriff's Office and the SF Police Dept. The funding awarded to the Sheriff's Office will assist in purchasing camera equipment and weapon mounting hardware for patrol vehicles.

a) Employee Actions

Line Item	Action (Add/Delete Position, Reclass, Overtime)	Position Type (permanent, term)	Position Title

b) Professional Services (50-xx) and Capital Category (80-xx) detail:

Line Item	Detail (what specific things, contracts, or services are being added or deleted)	Amount
80.99	Mini Camera Pro(SCL-DVR90)	8019.00
	Electrical Box Camera (SCI-SC7001)	1827.00
	Xtremelife Hidden Camera (SCL-DVR1310)	599.00
	Trunk Lid Gun Mount GR2500	1470.00
	Gun rack for shotgun/AR15 SC-917-B @ \$9600.00	9600.00

- 2) Is the budget action for RECURRING expense _____ or for NON-RECURRING (one-time only) expense _____

SANTA FE COUNTY

RESOLUTION 2011 - _____

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT: Name: Robert Garcia/Sheriff Dept/Div: Sheriff's Office/Public Safety Phone No.: (505) 986-2455

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 3) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:
 - a) If this is a state special appropriation, YES NO NO X
If YES, cite statute and attach a copy.
 - b) Does this include state or federal funds? YES X NO NO
If YES, please cite and attach a copy of statute, if a special appropriation, or include grant name, number, award date and amount, and attach a copy of a award letter and proposed budget.

TITLE: FY11 EDWARD BYRNE GRANT
EQUIPMENT & SERVICES FOR THE CITY AND COUNTY OF SANTA FE
PROJECT #: 2011-DJ-BX-3212
AWARD PERIOD: October 1, 2010 to September 30, 2014
AWARD AMOUNT: \$59,614.00

- c) Is this request is a result of Commission action? YES NO NO X
If YES, please cite and attach a copy of supporting documentation (i.e. Minutes, Resolution, Ordinance, etc.).
- d) Please identify other funding sources used to match this request.
N/A

SANTA FE COUNTY

RESOLUTION 2011 - _____

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

Approved, Adopted, and Passed This 8th Day of November, 2011.

Santa Fe Board of County Commissioners

Virginia Vigil, Chairperson

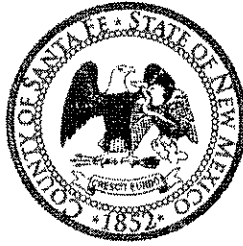
ATTEST:

Valerie Espinoza, County Clerk

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Memorandum

To: Santa Fe Board of County Commissioners

From: Tila Rendon-Varela, Procurement Specialist, Senior *TRV*

Date: October 27, 2011

Re: *Requesting Approval of an Award of Agreement #2012-0052-DWI/TRV to Christus St. Vincent Regional Medical Center, Care Connection Program*

ISSUE:

The Santa Fe County Purchasing Division requests authorization to award a Professional Services Agreement to Christus St. Vincent Regional Medical Center, Care Connection Program, the only offeror for Detoxification Services.

BACKGROUND:

The Santa Fe County Purchasing Division solicited a Request for Proposal (RFP) pursuant to 13-1-112 NMSA 1978 with two addendums. The intent of the solicitation was to provide Santa Fe County residents with a professional alcohol and drug detoxification facility to serve public inebriates and others suffering from alcohol and/or drug addiction by providing safe temporary lodging, detoxification services and an opportunity to access treatment, thereby reducing the burden on law enforcement and on hospital emergency services.

Through the public solicitation of the Request for Proposal (RFP), advertisements were run in the Santa Fe New Mexican, the County website and sent to six (6) vendors. Only one (1) vendor submitted a proposal and it met all requirements of the RFP. The proposal was received from Christus St. Vincent Regional Medical Center, Care Connection Program.

RECOMMENDATION:

The Santa Fe County Purchasing Division requests authorization and approval to enter into contract #2012-0052-DWI/TRV with Christus St. Vincent Regional Medical Center in the amount of \$300,000.00 for one year with an option to renew for three additional years on a year-to-year basis. Funding is provided by the Local DWI Grant Program Fund.

**PROFESSIONAL SERVICES AGREEMENT
WITH CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER,
CARE CONNECTION PROGRAM
TO PROVIDE DETOXIFICATION SERVICES**

THIS AGREEMENT is made and entered into on this ____ day of _____, 2011, by and between **SANTA FE COUNTY** (hereinafter referred to as the "County"), a New Mexico political subdivision, and **Christus St. Vincent Regional Medical Center, Care Connection Program** (hereinafter referred to as the "Contractor").

WHEREAS, Santa Fe County DWI Program is committed to providing Santa Fe County residents with a professional alcohol and drug detoxification facility to serve public inebriates and others suffering from alcohol and/or drug addiction by providing safe temporary lodging, detoxification services and an opportunity to access treatment, thereby reducing the burden on law enforcement and on hospital emergency services;

WHEREAS, in accordance with Section 13-1-112 NMSA 1978, the County issued Request of Proposal (RFP) No. 2012-0052-DWI/TRV for this service;

WHEREAS, the Contractor has a Custodial Drug license and licensed staff who can provide detoxification services for the Santa Fe County Community Services Department, DWI Prevention Program;

WHEREAS, the County requires the services of the Contractor, and the Contractor 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 WORK

The Contractor shall provide the following:

- a. A facility in which detoxification services are provided in a licensed and professional manner. The detoxification facility shall service and treat adult men and women and be capable of an annual minimum intake of 700 individuals or patients.
- b. Detoxification services that reduce or prevent alcohol and/or drug abuse or addiction through an active case management system consisting of detoxification treatment and referrals.
- c. Safe transportation of individuals or patients to the Contractor's detoxification facility.
- d. Treatment of alcohol and drug abuse or addiction that includes a continuum of care for individuals suffering from alcohol or drug abuse or addiction.
- e. Collect data in the form of written reports which can be used to evaluate the Contractor's facility and services. Data collection shall consist of information such as

the number of clients or patients served; the demographics of clients or patients served; the substance abuse profiles of clients or patients served; recidivism analysis, and data relating to Contractor's continuum of care and referral of clients or patients to other resources and services.

- f. Submission to the County by January 15, 2012 and April 15, 2012 of written progress reports describing the number of clients or patients served; the demographics of clients or patients served; the substance abuse profiles of clients or patients served; recidivism analysis, and data relating to Contractor's continuum of care and referral of clients or patients to other resources and services.
- g. Submission to the County by July 1, 2012 of a written final progress report describing Contractor's activities in the number of clients or patients served; the demographics of clients or patients served; the substance abuse profiles of clients or patients served; recidivism analysis, and data relating to Contractor's continuum of care and referral of clients or patients to other resources and services.

2. COMPENSATION, INVOICING, AND SET-OFF

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

- 1) County shall pay to the Contractor for services performed to the satisfaction of County as follows:
 - \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than January 15, 2012;
 - \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than April 15, 2012;
 - \$100,000.00 upon the County's receipt and acceptance of Contractor's written final progress report that is due no later than July 1, 2012.
- 2) The total amount payable to the Contractor under this Agreement, exclusive of gross receipts tax shall not exceed three hundred thousand dollars (\$300,000.00) per year. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.
- 3) This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The County will notify Contractor if and when County has paid Contractor the full not-to-exceed amount stated above prior to the expiration of the term of this Agreement. Absent an approved amendment to the contract amount, Contractor will not be compensated in excess of the not-to-exceed amount stated above for deliverables and services performed.

B. 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.

C. 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 one year later, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). The County has the option to extend the contract at the same price, terms and conditions for a period of three (3) additional years, on a year-to-year basis, upon the approval of the Santa Fe County. The County may exercise this option by submitting a written notice to Contractor that the Agreement will be extended an additional year. The notice must be submitted to Contractor at least sixty days prior to expiration of the initial Agreement.

4. ADDITIONAL SERVICES

A. The parties agree that all tasks set forth in Paragraph 1, SCOPE OF WORK of this Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 2, COMPENSATION, INVOICING, AND SET-OFF, of this Agreement, and for not other cost, amount, fee, or expense.

B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this Agreement.

5. 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. 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 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.

6. 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.

7. 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 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.

8. 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.

9. 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.

10. 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 or 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.

11. 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.

12. 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 the prior written approval of the County.

13. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

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, including any material that may be subject to copyright.

14. 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.

15. 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.

16. 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.

17. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Sections 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.

18. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment 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.

19. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

A. In performing its obligations hereunder, the Contractor shall comply with all State and County laws, ordinances, or regulations, including all regulation of the State Fire Marshall.

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

20. 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.

21. INDEMNIFICATION

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.

22. 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.

23. NOTICES

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
Office of the County Attorney
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Contractor: St. Vincent Regional Medical Center, CARE Connection Program
Alex Valdez, CEO
455 St. Michaels Drive
Santa Fe, NM 87505

24. CONTRACTOR’S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

A. 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.

B. This Agreement and Contractor’s obligations hereunder do not conflict with Contractor’s corporate agreement or any statement filed with the Public Regulation Commission on Contractor’s behalf.

C. Contractor is legally registered and licensed to operate as a business in New Mexico and Santa Fe County, and is properly licensed by the New Mexico Board of Pharmacy to provide the services anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

D. Contractor is in compliance with the National Commission on Corrective Health Care (NCCHC), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Drug Enforcement Agency (DEA), and the Health Insurance Portability and Accountability Act (HIPAA) and shall maintain such compliance throughout the duration of the Agreement.

E. Contractor’s staff and personnel are licensed or certified as required by their respective functions at the Facility and Contractor shall ensure that such licensure or certification is maintained throughout the term of this Agreement.

25. FACSIMILE SIGNATURES

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

26. 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.

27. NO THIRD-PARTY BENEFICIARIES

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

28. 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 \$1,050,000.00 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. Professional Liability [Malpractice/Errors and Omissions Insurance]. The Contractor shall procure and maintain during the life of this agreement professional liability (errors and omissions) insurance, with policy limits of not less than \$1,500,000.00 per occurrence, \$2,500,000.00 per aggregate.

29. PERMITS, FEES, AND LICENSES

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.

30. NEW MEXICO TORT CLAIMS ACT

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, Section 41-4-1, et seq.

31. 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.

32. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

The Contractor hereby irrevocably appoints, Corporation Services Company (Scheuer Yost and Patterson, PC), a New Mexico resident company located at, 125 Lincoln Ave, Suite 223, Santa Fe, NM 87501, as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as though the Contractor were actually and personally served within the state of New Mexico.

32. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

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

SANTA FE COUNTY:

CONTRACTOR:

Virginia Vigil, Chairperson
Board of County Commissioners

(Signature)

ATTEST:

Valerie Espinoza
County Clerk

By: _____
(Print Name)

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32. SURVIVAL

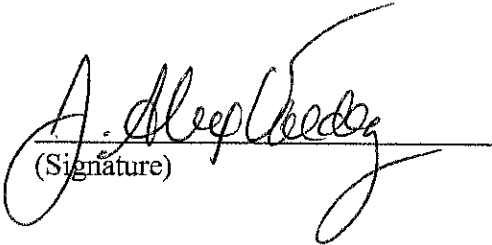
The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

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SANTA FE COUNTY:

CONTRACTOR:

Virginia Vigil, Chairperson
Board of County Commissioners



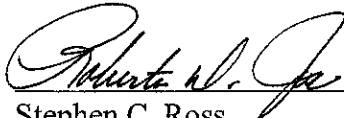
(Signature)

ATTEST:

Valerie Espinoza
County Clerk

By: _____
(Print Name)

Approved as to Form:

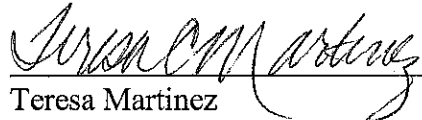


Stephen C. Ross
Santa Fe County Attorney

Its: _____
(Print Title)

FEDERAL TAX I.D. NUMBER

Finance Department Approval:



Teresa Martinez
Santa Fe County Finance Director

10/27/2011

Memorandum

To : Santa Fe Board of County Commissioners

From : Steve Shepherd
SF County Health & Human Services Division

Date : October 12, 2011

Subject : **Professional Service Agreement between Santa Fe County and United Way of Santa Fe County.**

Issue:

A Professional Service Agreement between Santa Fe County and the United Way of Santa Fe County for funding the United Way Project Launch Program needs to be approved to allow payment for program activities in federal fiscal year 2012.

Background:

Santa Fe County was asked by the New Mexico Department of Health (NMDOH) to participate in a federal grant for "Project Launch" as the required local partner of the state entity (NMDOH). The grant is used to replicate a program that was developed by the United Way of Santa Fe County in another location in Santa Fe. The program was known as the "Agua Fria Children's Zone Project; it is now known as the Santa Fe Children's Project. Professional Service Agreements were approved by the BCC for federal fiscal year 2009 in the amount of \$ 732,674, and \$ 733,000 federal fiscal years 2010 and 2011.

This is a federal grant that is expected to continue for one more fiscal year in an amount around \$ 733,000, assuming money is available on the federal level.

Recommendation:

Staff recommends that the Santa Fe Board of County Commissioners approve the Professional Service Agreement with the United Way of Santa Fe County in the amount of \$ 733,000 for federal fiscal year 2012.

**PROFESSIONAL SERVICES AGREEMENT
WITH UNITED WAY OF SANTA FE COUNTY
FOR THE PROVISION OF "PROJECT LAUNCH" SERVICES**

THIS AGREEMENT is made and entered into on this ____ day of _____, 2011, by and between **SANTA FE COUNTY** (hereinafter referred to as the "County"), a New Mexico political subdivision, and **United Way of Santa Fe** (hereinafter referred to as the "Contractor").

WHEREAS, the New Mexico Department of Health (NMDOH) successfully applied to the federal Substance Abuse and Mental Health Administration for funding under the Project LAUNCH (Linking Actions for Unmet Needs in Children's Health) grant program; and

WHEREAS, the New Mexico Department of Health (NMDOH) has released a fourth year of federal Substance Abuse and Mental Health Administration funding under the Project LAUNCH; and

WHEREAS, the County is required under a separate Memorandum Of Agreement, dated August 30, 2011 to contract for these services with the United Way of Santa Fe for contractual work being performed under this contract in the amount of \$733,000 for federal fiscal year 2011; and

WHEREAS, the County of Santa Fe committed to act as "local authority" for the project under a Memorandum of Understanding dated August 30, 2011; and

NOW, THEREFORE, the parties agree as follows:

I. SCOPE OF WORK

- A. Santa Fe County shall contract with United Way of Santa Fe Children's Project (SFCP) to:
1. Provide coordination and supervision of the Pre-K classes and family support programming at Aspen Community Magnet School , including management and oversight of parent advisory council; submit to the State-level Project LAUNCH Co-Directors and the Young Child Wellness Council minutes of advisory council meetings and outcome data on the number of families receiving services;
 2. Provide out-of-school time programs and program management at Aspen Community Magnet School for children through third grade and provide quarterly outcome data on the number of children served, the types of programs, and attendance at each;
 3. Provide program management and services for evidence-based programming that supports Project LAUNCH's five prevention and promotion strategies, including but not limited to:

- a. **Use of developmental assessments in a range of child serving settings**
 - i) Continue administering standardized screening tools to care givers and children in appropriate settings;
 - ii) Provide quarterly outcome data on the number of screening tools given, including but not limited to: Ages & Stages Questionnaire (ASQ), ASQ:SE, Edinburg, Knowledge of Infant Development Inventory (KIDI), the results, and the number of referrals made;

- b. **Integrate behavioral health into primary care settings**
 - i) Identify a sub-group of the Local Young Child Wellness Council that will: focus on behavioral health in primary care settings, identify specific activities that will improve integration of behavioral health into primary care settings, and identify goals and how they relate to the Strategic Plan;
 - ii) Identify policies, through the recommendations of the Local Young Child Wellness Council, to improve delivery and access to infant mental health services in primary care;
 - iii) Provide quarterly data which demonstrates the number of primary care settings that provide behavioral health services for children and families in Santa Fe County;
 - iv) Develop and submit to the State-level Project LAUNCH Co-Directors, by October 31, 2011, an Implementation Plan for Positive Parenting Program (Triple P) that spells out plans for Years 1 and 2 of Triple P programming, including but not limited to: the number of providers to be trained, number of trainings to be offered, number of sites that will provide interventions, plans to inform and educate potential providers, plans for social marketing and public awareness; plans to expand and grow the program, and specific components of the local Project LAUNCH Strategic Plan that is addressed by Triple P activities;
 - v) Provide Triple P Level 2 and 3 interventions in primary care settings to parents with specific concerns about their child's (birth – age eight) development or behavior;
 - 1. Report quarterly the number, level, and site of interventions;
 - 2. Report quarterly the number of families served through the interventions;
 - 3. Provide information regarding the number of newly trained providers and provider sites each quarter;

- c. **Provide mental health consultation**
 - i) Submit to the State-level Project LAUNCH Co-Directors, by December 1, 2011, a written description of the mental health

consultation model being implemented through the Santa Fe Children's Project/Project LAUNCH which identifies the core program components: solid program infrastructure, highly-qualified consultants, and high-quality services, as cited in *What Works?: A Study of Effective Early Childhood Mental Health Consultation Program*. Washington, DC: Georgetown University Center for Child and Human Development; include information on implementation of the mental health consultation model, how and where it will be used, including the level of intervention intensity; the name and qualifications of the mental health consultant(s); and how the model fits in the strategic plan;

- ii) Create a written plan for training, supervision, and support needs of the consultant(s) by March 31, 2012;
- iii) Provide quarterly outcome data indicating the effectiveness of the model and as it is implemented, including outcomes at the child, family, staff, and program level;

d. Offer home visiting services

- i) Support two home visitors with a case load of 15 families each and one home visitor with a case load of 12 families and train the SFCP provider network of eight (8) home visitors in First Born® model and in Infant Mental Health best practices;
- ii) Provide quarterly outcome data from developmental assessments used during home visiting that identify developmental delays and warning signs and are appropriately referred;
- iii) Promote strength-based relationship skills between parents/care givers and children in home visiting services;
- iv) Provide quarterly outcome data on the number of mental health referrals made as a result of home visits with mothers and children through age three;
- v) Increase the number of referral agreements, provide a list of agencies with whom there are written agreements, and provide a written plan, by April 30, 2012, for service coordination and removal of barriers of care for mothers and children needing those services;
- vi) Provide quarterly information about training and number of providers trained on each topic;
- vii) Provide and document outreach activities to pregnant women at the Santa Fe Indian Hospital to increase Native American enrollment in the First Born home visiting program and Triple P;

e. Provide family strengthening and parent skills training

- i) Support a Community Outreach Professional to continue the community school and neighborhood outreach programming, such as

- adult classes, parent workshops, family activity nights, and community gardens at the Aspen Community Magnet School;
 - ii) Provide quarterly outcome data that reflects the number of successfully completed community school and neighborhood outreach programs including the type of programming and number of participants attending each session;
 - iii) Convene Community Conversations quarterly at various locations in Santa Fe County, using the Harwood Institute Model for Civic Engagement, to discover the interests, needs, and concerns of constituents in the identified communities and provide a written report to the State-level Project LAUNCH Co-Directors and the Local Young Child Wellness Council after each Conversation that details who attended, what the community members want and how the SFCP and the Local Young Child Wellness Council can best address the identified needs, how to draw more community members to the next Conversation, and an evaluation of the effectiveness of the conversations;
 - iv) Train SFCP clients to advocate for their needs through a Neighborhood Empowerment Group at selected sites;
4. Provide management of local Project LAUNCH activities, including but not limited to:
- a. Convene and meet regularly (at least quarterly) with the Local Young Child Wellness Council and submit the minutes of each meeting to the State-level Project LAUNCH Co-Directors;
 - b. Demonstrate evidence of increased collaboration with local early childhood service systems by increasing the number of new participating partners in the Local Young Child Wellness Council, particularly primary care and mental health practitioners as well as those entities identified as important within the Project LAUNCH Request for Applications (RFA), note in the minutes the names of new Council members; provide specific data related to activities to build collaborative relationships with Pueblos in Santa Fe County;
 - c. Meet monthly with the State-level Project LAUNCH Co-Directors to provide updates on the status of the local LAUNCH initiative and staffing, including related initiatives and programs working in collaboration with the SFCP to improve child wellness; explain how these activities are relevant to the rest of the state and what lessons learned can be applied in other communities throughout New Mexico; and how the State-level Project LAUNCH can support this work to create system change; discuss successes, challenges, and emerging issues and strategize how to address these issues;
 - d. Participate in conference calls, grantee meetings, and trainings with the Federal Project Officer (FPO), Technical Assistance Specialists, and/or

- Cross-Site Evaluators, as determined by the FPO. Travel to be reimbursed at the mileage and per diem rate prescribed in the regulations of the New Mexico Mileage and Per Diem Act;
- e. Cooperate with the Project LAUNCH Federal Project Officer, Project LAUNCH Cross-Site Evaluators, and State Project LAUNCH Co-Directors;
 - f. Submit quarterly reports to State-level Project LAUNCH Co-Directors, which reflect progress toward compliance with Scope of Work, including outcome data on all goals and objectives in the local Strategic Plan, no later than 15 days after the close of the quarter. The final report should also include a detailed accounting of expenditures for the budget period;
 - g. Provide an updated Strategic Plan by January 31, 2012, which includes evidence of completed goals and new goals to be added as a response to the Community Conversations and work of the Young Child Wellness Council;
 - h. Provide all required and requested data for the Substance Abuse and Mental Health Services Administration (SAMHSA) report system: Transformation Accountability (TRAC), Government Performance and Results Act (GPRA), and the Cross-Site Evaluation (CSE);
 - i. Submit, with the quarterly report, a written report of all professional development conferences attended and all LAUNCH funded trainings provided describing how the information received at the conference/training will be used/implemented in Santa Fe County and the implications for state-wide dissemination, include the names of LAUNCH funded staff who participated;
 - j. Identify DOH/MCH and SAMHSA Project LAUNCH as a funding source in the facility and in any printed documents, media presentations, training programs and training materials, brochures, and programs which are purchased or produced under this Agreement;
 - k. Submit all material specifically related to Project LAUNCH, developed for public or media distribution, including but not limited to advertising or media campaigns, pamphlets, brochures,, etc, or public service announcements, to State Project LAUNCH Co-Directors for approval prior to final distribution;
 - l. Ensure diversity of programs and structure. Ensure that programs offered meet federal cultural and linguistic access standards to better serve the target population;
5. Sub-contract with a program approved vendor to provide evaluation of the project including, but not limited to:
- a. Determine the costs of implementing the program across the various populations served;
 - b. Define the quality of implementation of evidence-based programs and practices (process evaluation);

- c. Describe the strength of local and State or tribal partnerships;
- d. Detail the effectiveness of grant funded interventions;
- e. Cooperate with the Project LAUNCH Cross-Site Evaluators, Federal Project Officer, Technical Assistance Specialists, and State Project LAUNCH Co-Directors;
- f. Provide all data requested by the Cross-Site Evaluators and the SAMHSA reporting requirements within the Transformation Accountability (TRAC) and Government Performance and Results Act (GPRA) system;
- g. Participate in conference calls, meetings, and trainings requested by Project LAUNCH Cross-Site Evaluators, Federal Project Officer, or State-level Project LAUNCH Co-Directors;
- h. Identify DOH/MCH and SAMHSA Project LAUNCH as a funding source in the facility and in any printed documents, media presentations, training programs and training materials, brochures, and programs which are purchased or produced under the Agreement.

FY12 Budget

Deliverable 1: Pre-K Coordination and Supervision	\$ 74,669.00
Deliverable 2: Out-of-School Time Program Management	\$ 143,173.00
Deliverable 3: Evidence-based Program Management and Services	\$ 181,530.00
Deliverable 4: Local Project LAUNCH Activities Management	\$ 196,228.00
Deliverable 5: Evaluation	\$ 137,400.00
Total:	\$ 733,000.00

B. Services will be performed in **Santa Fe County, New Mexico.**

C. Performance Measures.

CONTRACTOR shall substantially perform the following Performance Measures: Through satisfactory completion of the Scope of Work set forth above, the CONTRACTOR will assist the DOH to meet the portions of its 2012 Strategic Plan that relate to the DOH’s mission to prevent, protect, provide, promote and partner to improve health services systems and assure that critical public health functions and safety net services are available. Further, a specific measure identified is:

Program Area 2: Public Health

Objective 1: Increase the capacity of the Department of Health to decrease disparities.
Performance Measures:

- Increase the percentage of first newborns/moms receiving support services/parenting through community home visiting/support programs.

- Reduce the number of children witnessing violence (exposed to domestic or sexual violence) as expressed by the percentage of children present at a domestic violence scene.

II. COMPENSATION, INVOICING, AND SET-OFF

- A. Total compensation under this Agreement shall not exceed \$733,000.00 and is to be paid as follows:
1. Payments to the Contractor shall be made on a monthly or bi-monthly basis for approved invoices. Payment shall be made upon receipt and approval of a detailed, certified invoice and acceptance of the work by authorized county personnel. Thirty (30) days shall be allowed for payment after receipt of the invoice.
 2. Payments made under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments.

III. 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 November 15, 2012, unless earlier terminated pursuant to Section V (Termination) or Section VI (Appropriations and Authorizations).

IV. ADDITIONAL SERVICES

- A. The parties agree that all tasks set forth in Paragraph 1, SCOPE OF WORK of this Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 2, COMPENSATION, INVOICING, AND SET-OFF, of this Agreement, and for not other cost, amount, fee, or expense.
- B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this Agreement.

V. 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. 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 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.

VI. 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.

VII. 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 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.

VIII. 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.

IX. 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.

X. 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 or 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.

XI. 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.

XII. 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 the prior written approval of the County.

XIII. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

- 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.

XIV. 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.

XV. 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.

XVI. 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.

XVII. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Sections 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.

XVIII. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

- A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment 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.

XIX. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations.
- 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. Contractor and the County agree that the exclusive forum for any litigation between them arising out of

or related to this Agreement shall be federal and state district courts of New Mexico, located in Santa Fe County.

XX. 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.

XXI. INDEMNIFICATION

- 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.

XXII. 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.

XXIII. NOTICES

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
 Office of the County Attorney
 102 Grant Avenue
 Santa Fe, New Mexico 87501

To the Contractor: United Way of Santa Fe
 ATTN: Katherine Freeman
 440 Cerrillos Road, Suite A
 Santa Fe, NM 87501

XXIV. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

- A. 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.
- B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the Public Regulation Commission on Contractor's behalf.
- C. Contractor is legally registered and licensed to operate as a business in New Mexico and shall maintain such registration in good standing throughout the duration of the Agreement.

XXV. FACSIMILE SIGNATURES

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

XXVI. 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.

XXVII. NO THIRD-PARTY BENEFICIARIES

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

XXVIII. 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 \$1,050,000.00 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.

XXIX. PERMITS, FEES, AND LICENSES

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.

XXX. NEW MEXICO TORT CLAIMS ACT

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, Section 41-4-1, et seq.

XXXI. 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.

XXXII. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

The Contractor hereby irrevocably appoints, _____, a New Mexico resident company located at, _____, Santa Fe, NM 87501, as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as though the Contractor were actually and personally served within the state of New Mexico.

XXXIII. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

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

SANTA FE COUNTY:

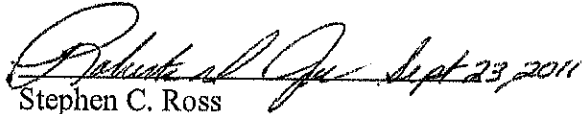
CONTRACTOR:

Virginia Vigil, Chairperson
Board of County Commissioners

Katherine Freeman

Valerie Espinoza
County Clerk

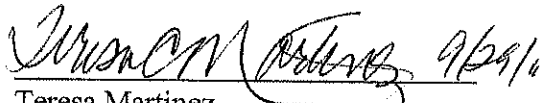
Approved as to Form:


Stephen C. Ross
Santa Fe County Attorney

Its: _____
(Print Title)

FEDERAL TAX I.D. NUMBER

Finance Department Approval:

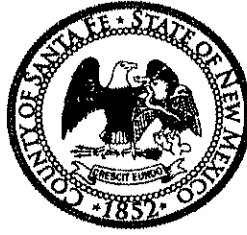

Teresa Martinez
Santa Fe County Finance Director

_____ 85-0163601 _____

Harry B. Montoya
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Roman Abeyta
County Manager

MEMORANDUM

DATE: November 8, 2011
TO: Board of County Commissioners
VIA: Katherine Miller, County Manager
FROM: Lisa A. Roybal, Executive Administrator
RE: An Ordinance Enacting Amendments to Ordinance No. 2010-12
(The Santa Fe County Code of Conduct)

BACKGROUND:

Under Matters from the Ethics Board:

ORDINANCE 2011-___, An Ordinance Enacting Amendments to Ordinance No. 2010-12 (The Santa Fe County Code of Conduct), Amending Definitions, Amending Disclosures to Require Affirmative Disclosures of Conflicts Resulting in Recusal or Otherwise, Increasing the County Ethics Board to Five Members, Including an Additional Penalty of Removal from Office, and Repealing Inconsistent Language. (Public Hearing)

At the August 30 Board of County Commission Meeting, the Ethics Board brought forward an agenda item for *Consideration of Publication Of Title And General Summary Of Ordinance No. 2010-12-, An Ordinance Amending Ordinance No. 2010-12 Enacting A Santa Fe County Code Of Conduct And Repealing Ordinance No. 2004-3*. The Commission gave direction to staff to proceed with Publication for Title and General Summary.

The Ethics Board held a follow up meeting on October 3, 2011 for Discussion and Direction concerning Language regarding "Volunteers" in the Code Of Conduct Ordinance.

Santa Fe County Ordinance 2010-12; Code of Conduct requires volunteers of County government to complete a Conflict of Interest Form. Section 2 states that Elected Officials, Appointed Officials, Employees and Volunteers of Santa Fe County government be independent, impartial and responsible to the people; that decisions of the government and development of policy are made fairly, legally

and as the result of a fair and open process; that public office or the pursuit of public office should not be used for personal gain or influence and the public have and maintain confidence in the integrity of government. This Ordinance provides for transparency and expected conduct within County government and is a key element of County operations.

With the above said, Volunteers are also a key element of County operations and they enhance the delivery of County services provided to the community. Volunteering is a way for people to participate in their local community and positively contribute to its effectiveness. As a diverse County, there are different types of volunteers that assist Santa Fe County such as, but not limited to helping at the Senior Centers, the Corrections Department, Teen Court, our Volunteer Firefighter Program, Sheriff Deputy Reserve Officers, and community members who provide feedback through community meetings or focus groups. Some volunteer work time may be as limited as one hour of time. Most volunteers do not have the authority to make decisions that affect County business or have the authority to purchase goods or services with County resources, and some volunteer time may be as limited as one hour; therefore would not encounter the same type of conflicts of interest as an appointed official, elected official, or an employee.

The current language requires all volunteers to complete the Conflict of Interest Form notwithstanding the information above. Mandating all volunteers to complete the Conflict of Interest Forms annually can be burdensome and can discourage members of our community to volunteer their time and skills. The County can continue to hold volunteers accountable to our expectations by mandating each volunteer not covered under Ordinance 2010-12 complete an agreement outlining their role and our expectations and rules prior to performing any volunteer work with Santa Fe County.

In order to address this item, some modifications to the volunteer definition language to make it more coherent within the Code of Conduct Ordinance.

A draft copy of the Ordinance is attached for your review.

REQUESTED ACTION:

The Ethics Board and County staff recommends the approval of the amendments to the Ordinance No. 2010-12.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2011-__

AN ORDINANCE ENACTING AMENDMENTS TO ORDINANCE NO. 2010-12 (THE SANTA FE COUNTY CODE OF CONDUCT), AMENDING DEFINITIONS, AMENDING DISCLOSURES TO REQUIRE AFFIRMATIVE DISCLOSURES OF CONFLICTS RESULTING IN RECUSAL OR OTHERWISE, INCREASING THE COUNTY ETHICS BOARD TO FIVE MEMBERS, INCLUDING AN ADDITIONAL PENALTY OF REMOVAL FROM OFFICE, AND REPEALING INCONSISTENT LANGUAGE

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO, THE FOLLOWING AMENDMENTS TO ORDINANCE NO. 2010-12 ("CODE OF CONDUCT"):

Section One. Definitions. Section Four of Ordinance No. 2010-12 shall be and hereby is amended with the following additional definition:

"S. **"Contract"** means an agreement between two or more parties, whether express or arising by operation of law;"

Section Two. Definitions. Subsection Four (K) (Definition: "Family") of Ordinance No. 2010-12 shall be and hereby is repealed and the following additional definition substituted:

"K. **"Family"** means an individual's spouse, domestic partner, parent, child, sibling and like in-laws, by consanguinity or affinity, and persons, related or unrelated, living within the household;"

Section Three. Definitions. A new subsection Four (S) (Definition: "Immediate Family") of Ordinance No. 2010-12 shall be and hereby is enacted:

"S. **"Immediate Family"** means a spouse, domestic partner, child of a sibling, a parent, a grandparent, a grandchild, like in-laws, and like step-relationships."

Section Four. Definitions. Subsection Four(R) (Definition: "Volunteer") of Ordinance No. 2010-12 shall be and hereby is amended, as follows:

"Volunteer" means a person who provides services without being paid and without expectation of payment, and includes a volunteer firefighter or emergency responder (notwithstanding receipt of reimbursement for expenses pursuant to the volunteer recruitment and retention incentive program), a volunteer member of the Sheriff's reserve, any other volunteer who is not supervised or monitored by a County employee or Elected Official, a volunteer who has the authority to make

~~decisions that affect County business, or a volunteer who has the ability to purchase goods or services with County resources. -- not an Elected Official, Appointed Official or an Employee who provides services for the County as a volunteer, without being paid and without expectation of payment for those services.~~

Section Five. Conflicts of Interest, Disclosure. Subsection 10(A) ("Conflicts of Interest, Disclosure") of Ordinance No. 2010-12 shall be and hereby is amended, as follows:

"A. Elected Officials, Appointed Officials, Employees or Volunteers shall strictly avoid transactions and relationships that create a Conflict of Interest. Where a Conflict of Interest is unavoidable, the Elected Official, Appointed Official, Employee or Volunteer has an affirmative duty to disclose the Conflict of Interest and has an affirmative duty to subordinate the conflicting interest to the public interest."

Section Six. Prohibited Use of Campaign Funds. Subsection 20(C) ("Prohibited Use of Campaign Funds, payments to a member of the candidate's Immediate Family") of Ordinance No. 2010-12 shall be and hereby is amended, as follows:

"C. Campaign funds shall not be paid to a member of the Immediate Family of the candidate as an employee or for goods or services provided to the campaign unless the amounts paid do not exceed the fair market value of the goods or services provided."

Section Seven. County Ethics Board. Subsection 24(A) of Ordinance No. 2010-12 shall be and hereby is amended, as follows:

"A. There shall be created a Santa Fe County Ethics Board that shall consist of five members who shall be appointed by the Board of Commissioners. At least one citizen member shall be appointed; the citizen member shall not be affiliated with County government in any capacity, including, but not limited to, employment (including employment for which the salary is in any way funded by or through the County), appointment, election, or serving as a volunteer. The members of the County Ethics Board may not hold elected public office or office with any political party within the County. Each member shall serve a two year term, subject to reappointment thereafter."

Section Eight. County Ethics Board. Section 24 of Ordinance No. 2010-12 shall be and hereby is amended with the addition of the following subsections L, M and N:

"L. A member of the Ethics Board may be removed by the Board of County Commissioners for just cause;

"M. A vacancy on the Board shall be filled in the same manner as the initial appointment and the appointment shall continue for the remainder of the unexpired term of the departing Board member.

"N. Members of the Board shall not receive any salary or compensation for services."

Section Nine. Ex Parte Communications, Recusal. Subsection 27 of Ordinance No. 2010-12 shall be amended as follows:

"B. RECUSAL.

"1. An Elected Official or Appointed Official shall recuse himself or herself in any pending administrative adjudicatory matter in which the official is unable to make a fair and impartial decision or in which there is a reasonable doubt about whether the official can make a fair and impartial decision, including:

"a. when the official has a personal bias or prejudice concerning a party or its representative or has prejudged a disputed evidentiary fact. For the purposes of this paragraph, "personal bias or prejudice" means a predisposition toward a person based on a previous or ongoing relationship, including a professional, personal, familial or other intimate relationship, that renders the official unable to exercise his or her functions impartially;

"b. when the official or anyone living in the official's household has a pecuniary or Financial Interest in the outcome of the proceeding;

"c. when, during previous employment, the official served as an attorney, adviser, consultant or witness in the matter in controversy; or

"d. when the official announced how he or she would rule on the adjudicatory proceeding or a factual issue in the adjudicatory proceeding.

"2. The Elected Official or Appointed Official recusing himself or herself shall disclose the specific reason for a recusal contemporaneous with the recusal.

~~"32.~~ An Elected Official or Appointed Official shall not be required to recuse himself or herself in any pending administrative adjudicatory matter merely because the official possesses and discusses general viewpoints on public policy that an application may raise. Similarly, an Elected Official shall not be required to recuse himself or herself in any pending administrative adjudicatory matter merely because the Elected Official made representations during a political campaign on viewpoints on public policy that an application may raise.

"43. If, prior to the hearing, an Elected Official or Appointed Official fails to recuse himself or herself when it appears that grounds exist, a party shall promptly notify the Elected Official or Appointed Official of the grounds for recusal. If Elected Official or Appointed Official declines to recuse himself or herself upon request of a party, the official shall provide a full explanation in support of his refusal to recuse himself or herself.

"54. If, during the hearing, an Elected Official or Appointed Official fails to recuse himself or herself when it appears that grounds exist, a party shall promptly notify the Chair of the grounds for recusal. If the Elected Official or Appointed Official declines to recuse himself or herself, the Chair may entertain a motion to excuse the official from further participation in the matter. If the motion is successful, the official shall be excused from further participation in the matter."

Section Ten. Section 29 of Ordinance No. 2010-12 shall be and hereby is amended with an additional subparagraph 29(E), as follows:

"SECTION 29. PENALTIES.

"A person who violates this Ordinance is guilty of a misdemeanor and is subject to one or more of the following:

"A. a fine of up to three hundred dollars (\$300.00) for each separate violation of this Ordinance;

"B. a public reprimand;

"C. a recommendation to the District Attorney that the violation be pursued in criminal or other proceedings;

"D. proceedings and penalties pursuant to the Santa Fe County Personnel Handbook, where appropriate; and

"E. a recommendation to the District Attorney that proceedings to remove the person from elected office be commenced pursuant to NMSA 1978, § 10-4-1 *et seq.* (1909, as amended)."

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Virginia Vigil, Chair

ATTEST:

Valerie Espinoza, Clerk

Approved as to form:



Stephen C. Ross, County Attorney