

SFPS Contract Number 17-18-S&S-291-MOU

MEMORANDUM OF AGREEMENT
BETWEEN SANTA FE PUBLIC SCHOOLS
AND
THE CITY OF SANTA FE, NEW MEXICO

THIS MEMORANDUM OF AGREEMENT ("Agreement") is made and entered into by and between the City of Santa Fe (the "City") and Santa Fe Public Schools (the "SFPS"). The date of this Agreement shall be the date when it is executed by the City and SFPS, whichever occurs last.

WHEREAS, for the past approximately thirty years, the City and SFPS have agreed that it is in the best interests of the City and the SFPS to jointly administer the School Crossing Guard program because both parties have the same goal of ensuring that SFPS elementary school children safely cross the City's streets in order to get to school; and

WHEREAS, for the first 25 years, the City provided administrative support services and hired City employees to staff the School Crossing Guard program; and

WHEREAS, for the specified three fiscal years, the SFPS reimbursed the City for ½ of the City's actual costs as follows:
FY 09/10 - \$174,709.74; FY 10/11 - \$151,170.62; FY 11/12 - \$179,575.83; and

WHEREAS, for the specified five fiscal years the City

reimbursed the SFPS as follows: FY 12/13 - \$175,000; FY 13/14 - \$127,877.37; FY 14/15 - \$169,093.58; FY 15/16 \$175,000 and FY 16/17 \$175,000.

WHEREAS, the SFPS has informed the City that it desires to continue the responsibility for administering the School Crossing Guard program entirely; and

WHEREAS, the City agrees to continue to assign the responsibility for administering the School Crossing Guard Program to the SFPS and to partially reimburse SFPS' actual costs in administering the Program.

THEREFORE, the City and the SFPS agree that in order to administer, operate and establish provisions for the School Crossing Guard Program and to maintain traffic control devices within City right of way, each party shall be bound by the following terms:

1. SCOPE OF SERVICES AND RESPONSIBILITIES

A. The City shall:

(1) Maintain traffic control devices contained within City right of way, including the following:

(a) Signs related to the control of traffic and pedestrians (i.e., School Crossing signs, Stop signs, Do Not Enter signs, etc.).

(b) Pavement markings such as lane lines, stop bars, and arrows.

(c) School flashers.

B. The SFPS shall:

(1) Administer the School Crossing Guard Program, including, without limitation, the following:

- (a) Hiring, supervising, disciplining, and terminating employees (the "Personnel").
- (b) Training and supervising Personnel.
- (c) Providing equipment and supplies (i.e., uniforms, safety equipment, vehicle costs, mileage, etc.).
- (d) Compensating Personnel.
- (e) Arranging for substitute personnel during absences.
- (f) Placing Crossing Guards.
- (g) Should SFPS decide to sub-contract any of the above duties, whether in its entirety or partially, through contracts with private entities, SFPS would remain responsible for the administration of the program in its entirety.

(2) Provide the City with school times prior to each school year for the purpose of programming the school flashers. Notify the City within 5 working days prior of any changes to school times.

C. Both the City and SFPS agree:

(1) The SFPS will serve as fiscal agent for the Program. The SFPS shall maintain a separate accounting of all expenditures of the Program, including but not limited to, invoices, contracts and expenditures to sub-contractors.

2. COMPENSATION

A. SFPS and the City shall include sufficient funds within their respective annual operating budgets to support the anticipated expenditures of the Program.

B. The City shall pay SFPS for half of its actual, documented costs incurred in administering the Program in an amount not to exceed one hundred eighty-five thousand dollars and zero cents (\$185,000.00) per fiscal year, for fiscal years 2018, 2019, 2020, 2021, which amount shall be paid out in installments, upon quarterly requests for payment, accompanied by supporting documentation, from the SFPS.

3. TERM

This Agreement shall terminate on June 30, 2021, unless terminated sooner pursuant to Article 4 below.

4. TERMINATION

A. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least 30 days prior to the intended date of termination.

B. However, this Agreement may not be terminated during any school year, so as not interrupt the need to provide crossing guards for school age children during the school year.

C. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

5. STATUS OF CONTRACTOR

Neither party's agents and employees shall accrue leave, retirement, insurance, bonding, use of the other party's vehicles, or any other benefits afforded to the other party's employees as a result of this Agreement.

6. CONFIDENTIALITY

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

7. CONFLICT OF INTEREST

Both parties warrant that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

8. ASSIGNMENT; SUBCONTRACTING

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

9. RELEASE

Both parties release each other, their officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this Agreement. The parties agrees not to purport to bind each other to any obligation not assumed herein by the parties unless the parties have express written authority to do so, and then only within the strict limits of that authority.

10. THIRD PARTY BENEFICIARIES

By entering into this Agreement the parties do not intend to create any right, title, or interest in or for the benefit of any person other than the City and the SFPS. No person shall claim any right, title, or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

11. RECORDS AND AUDIT

The SFPS shall maintain detailed time records that indicate the date, time, and nature of services rendered. These records shall be subject to inspection by the City. The City shall have the right to audit the billing both before and after payment; payment under this Agreement shall not foreclose the right of the City to recover excessive illegal payments.

12. APPLICABLE LAW; CHOICE OF LAW; VENUE

This Agreement shall be governed by the ordinances of the city of Santa Fe and the laws of the state of New Mexico.

13. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto. The parties expressly agree that the Program is dynamic in nature with regard to the number of crossing guards needed in order to provide for the safety of school bound children, and agree that the decision to increase or decrease as circumstances warrant upon mutual agreement of the City Manager, on behalf of the City, and the Superintendent, on behalf of SFPS, without requiring formal written amendments to this Agreement and without violating the terms of this Agreement.

14. SCOPE OF AGREEMENT

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

15. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe or incurred by SFPS in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and SFPS and their respective "public employees" as defined in the New

Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

16. NOTICES

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

CITY: Brian Snyder, City Manager
City of Santa Fe
P. O. Box 909
Santa Fe, New Mexico 87504-0909

SFPS: Veronica C. Garcia Ed.D., Superintendent
Santa Fe Public Schools
610 Alta Vista Street
Santa Fe, New Mexico 87501

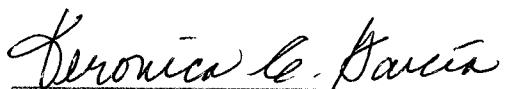
IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:


ALAN M. WEBBER, MAYOR

DATE: 5/29/2018

SANTA FE PUBLIC SCHOOLS:


Veronica C. Garcia, Ed.D.
Superintendent of Schools

DATE: 5.8.18

ATTEST:

Yolanda Y. Vigie
YOLANDA Y. VIGIE
CITY CLERK
cc mtg 4/25/18

APPROVED AS TO FORM:

MBM 3/22
KELLEY A. BRENNAN, CITY ATTORNEY

Santa Fe Public Schools:

Carl Gruenler 5/2/18
Carl Gruenler, SFPS Chief
Financial Officer

APPROVED:

Kent De Young
ADAM JOHNSON, *Kent De Young*
DIRECTOR FINANCE DEPARTMENT
(Interim)

Gabe Romero
Gabe Romero, SFPS Initiator
Director of School Security