

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

THIS MEMORANDUM OF AGREEMENT (hereinafter, "Agreement") is entered on this the 29 day of August 2017, by and between **Santa Fe County** (hereinafter referred to as "County"), a New Mexico political subdivision, and the **Town of Edgewood**, (hereinafter referred to as the "Town"), a municipality located at 1911 Historic Route 66, Edgewood, New Mexico 87015.

RECITALS

WHEREAS, in the spirit of cooperation, mutual respect and service to the residents of the County and the Town, this Agreement confirms the parties' commitment and mutual cooperation which recognizes that the partnering activities between government entities may produce community and constituency benefits beyond what might be produced independently; and

WHEREAS, this Agreement is exempt from the provisions of the Procurement Code, NMSA 1978, Section 13-1-98(A); and

WHEREAS, the County plans to design and construct a 22,000 square foot healthcare facility in the Town of Edgewood (East Mountain Regional Health Facility) that will provide primary medical, dental, and behavioral health services with subspecialties and extended hours to service approximately 13,000 patients; and

WHEREAS, the new healthcare facility will replace the present clinic in Edgewood that is housed in a portable building and is in dire need of replacement; and

WHEREAS, the Town seeks to partner with the County and participate in the design and construction of the healthcare facility to ensure that residents and citizens of the East Mountain Region and the Town of Edgewood have access to quality healthcare; and

WHEREAS, the County and Town agree that the design and construction of a new healthcare facility is of mutual interest and benefit to the County and Town and all funds contributed by the Town will be expended for the design, and/ or constructions of the new healthcare facility and purchasing furnishings and equipment.

NOW, THEREFORE, the parties mutually agree as follows:

1. SCOPE OF AGREEMENT

By this Agreement, the Town agrees to provide the County with funds in the amount of \$35,000.00, for the design, construction and/ or the purchase of furnishings or equipment for the new healthcare facility in Edgewood (East Mountain Regional Health Facility).

2. FUNDING; COMPENSATION

A. During the term of this Agreement, the Town shall contribute \$35,000.00 in funding to the County for the County's use to design, construction and/ or the purchase of furnishings or equipment for the new healthcare facility.

3. EFFECTIVE DATE AND TERM

This Agreement shall become effective upon the date of last signature by the parties and shall terminate no later than December 30, 2018, unless earlier terminated pursuant to Section 4 (Termination) or Section 13 (Appropriations and Authorizations). The term of this Agreement may be extended upon mutual agreement of the parties and by an instrument in writing.

4. TERMINATION

A. Termination of Agreement. This Agreement may be termination by the County upon written notice to the Town at least 30 days prior to the intended date of termination. By such termination, no party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

B. Termination of Agreement for Cause. If a party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if a party violates any of the covenants, agreements, or stipulations of this Agreement, the non-breaching Party shall thereupon have the right to suspend or terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date thereof.

Notwithstanding the above, no party shall be relived of liability to the other party for damages sustained because of the breach of the Agreement.

5. PERSONNEL

A. The County represents that it has, or will secure at its own expense, all personnel required to perform the services required of the County under this Agreement.

6. ASSIGNMENT

The Town shall not assign or transfer any interest or obligation in this Agreement without the prior written approval of the County.

7. NO THIRD-PARTY BENEFICIARIES

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

8. RELEASE

Final payment of the all amounts due under the Agreement shall operate as a release of the Town, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

9. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omission in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act §41-4-1, et seq., NMSA 1978.

10. AMENDMENT

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

11. INTEGRATION CLAUSE

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

12. APPLICABLE LAW; VENUE

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

13. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorization being made by the governing body of each party and if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by the affected party to the other party. Such termination shall be without penalty to either party, and either party shall have no duty to reimburse the other party for expenditures made in the performance of this Agreement. Either party is expressly not committed to expenditure of funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the governing body of each party. The decision as to whether sufficient appropriations and authorizations have been made for fulfillment of this Agreement shall be made by the affected party and such decision shall be final and not subject to challenge by the other party.

14. FACSIMILE SIGNATURES

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

15. NEW MEXICO TORT CLAIMS ACT

No provisions of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by the County of its “public employees” at common law or under the New Mexico Tort Claims Act, NMSA 1978, §41-4-1, et seq.

16. PROHIBITED ACTIVITY

The County is prohibited from using funds provided herein or personnel employed in the administration of this Agreement for political activities, sectarian or religious activities, lobbying or political patronage.

17. RECORDS AND FINANCIAL AUDIT

To the extent its books and records relate to its performance of this Agreement, or cost(s) or pricing data (if any) set forth in this Agreement or that the Town has agreed to provide to the County under this Agreement, the Town agrees to: (i) maintain such books and records during the term of this Agreement and for a period of six 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; (iii) to keep such books and records in accordance with generally accepted accounting principles (“GAAP”).

18. PENALTIES FOR VIOLATIONS OF LAW

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

19. EQUAL OPPORTUNITY COMPLIANCE

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

20. INVALID TERM OR CONDITION

If any term or condition of this Agreement shall be held invalid or unenforceable, the reminder of this Agreement shall not be affected and shall be valid and enforceable.

21. 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.

COUNTY: Attn: Santa Fe County Manager
Santa Fe County
102 Grant Avenue
P. O. Box 276
Santa Fe, New Mexico 87501-0276

TOWN: Attn: Carla Salazar, Deputy Clerk
Town of Edgewood
P.O. Box 3610
Edgewood, New Mexico

22. SURVIVAL

The provisions of the following paragraphs shall survive the termination of this Agreement: RECORDS AND FINANCIAL AUDIT; RELEASE; APPLICABLE LAW VENUE; NO THIRD PARTY BENEFICIARIES; SURVIVAL.

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date of last signature below.

SANTA FE COUNTY



Henry P. Roybal, Chair
Santa Fe County Board of County Commissioners


ATTESTATION:



Geraldine Salazar
Santa Fe County Clerk

8-29-2017
Date

Approved as to form

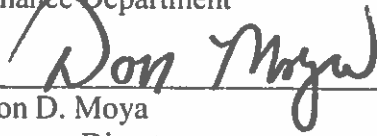


Gregory S. Shaffer
County Attorney

8-29-17

Date

Finance Department



Don D. Moya
Finance Director

8-29-17

Date

TOWN OF EDGEWOOD:



John Bassett, Mayor

08/29/17

Date

Approved as to form

N/A

Randy M. Autio
Attorney for the Town of Edgewood

Date

Finance Department:



Juan Torres, Clerk/ Treasurer
Finance Director

08/29/17

Date