

**MEMORANDUM AGREEMENT BETWEEN
THE BOARD OF EDUCATION OF THE GADSDEN INDEPENDENT SCHOOLS AND
DONA ANA COUNTY FOR THE USE OF PROPERTY OWNED BY DONA ANA COUNTY**

THIS MEMORANDUM AGREEMENT is entered into between the Board of Education of the Gadsden Independent School District ("GISD"), by and through its Superintendent, and the Board of County Commissioners of Dona Ana County ("the County"), by and through its County Manager, collectively referred to herein as "the Parties". This Agreement is effective as of the date of the last party to sign it on the signature page below.

The purpose of this Agreement is to allow GISD to use certain real property owned by the County for a bus stop location, as a pick-up and drop-off site for GISD students who attend school nearby, and as a temporary parking lot for parents and others who are in the process of dropping-off and picking-up students who attend GISD's schools. No charge for the use of this property is to be paid by GISD nor received by the County.

The Parties agree as follows:

1. **DESCRIPTION AND USE OF PROPERTY:** The County grants to GISD nonexclusive use of the parking facilities located at 170 and 180 La Fe Avenue, Mesquite, New Mexico, more commonly known as the parking facilities at the "Del Cerro Community Center." The parking facilities consist of 30 regular lined parking spaces, 2 Handicap parking spaces, together with driveway areas leading to and from La Fe Avenue and ingress and egress into and around each of the 32 parking spaces. The parking facilities are located within Lots 19 and 20 of Del Cerro Estates, Section 16, Township 25 South, Range 3E NMPM, Dona Ana County, New Mexico. The parking facilities are depicted on the attached graphic (EXHIBIT "A"), outlined in blue. The parking facilities are collectively referred to herein as "the Premises."
2. **TERM:** This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement shall expire Twenty-Four (24) months after the effective date. This Agreement may thereafter be extended on a year-by-year basis by mutual written consent of the Parties. If the Parties fail to extend this Agreement, GISD's holding over or continued use or occupancy of the Premises shall be construed as a month to month use subject to the same terms and conditions set forth in this Agreement.
3. **NO PAYMENT FOR USE OF THE PREMISES:** No payment is to be made by GISD nor any payment received by the County for GISD's use of the Premises as permitted by this Agreement.
4. **TERMINATION:** Each Party has the option of canceling this Agreement by giving sixty (60) days written notice to the other party. GISD agrees to vacate the premises by the end of the sixty (60) day notice period once written notice of termination is served by the County or by GISD. By such termination neither party may nullify obligations already incurred prior to the date of termination.
5. **NOTIFICATION AND CONTINUATION OF NMPSIA INSURANCE COVERAGE REQUIRED:** Use of the Premises by GISD is contingent upon GISD notifying the New Mexico Public School Insurance Authority ("NMPSIA") of this Memorandum Agreement, of GISD's use of the Premises and GISD maintaining its statutory insurance coverage for the Premises and for its activities on or about the Premises during the term of this Agreement and any extension thereof.

6. **MAINTENANCE OF THE PREMISES:** GISD will keep the Premises in good and clean condition, reasonable wear and tear excepted. During its use of the Premises, GISD will provide security at the Premises at a level consistent with the security provided elsewhere on GISD campuses for bus stops and student pick-up and drop-off areas. The County shall improve or repair the Premises consistent with its annual budget and its policies or practices applicable to parking facilities of a similar nature. The County will provide any snow removal from the Premises as may be necessary to GISD's use of the Premises.
7. **CONDITION OF PREMISES UPON SURRENDER:** At the termination of this Agreement, GISD shall surrender the Premises in the condition in which they were at the inception of this Agreement, excepting that GISD shall not be responsible for deterioration caused through reasonable use and ordinary wear and tear.
8. **ACCESS FOR INSPECTION, MAINTENANCE AND OTHER USES NOT INCONSISTENT WITH THIS AGREEMENT:** GISD shall permit the County access to the Premises at all reasonable times in order to inspect the condition, use, safety or security of the Premises, to make any necessary repairs or improvements or to perform any necessary maintenance which the County is responsible for. The County may also use the Premises for any other uses it may desire during times when the Premises are not being used by GISD, so long as the uses by the County are not inconsistent with GISD's use of the Premises under this Agreement.
9. **NEW MEXICO TORT CLAIMS ACT:** By entering into this Agreement, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions 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. This paragraph is intended only to define the liabilities between the Parties hereto and it is not intended to modify, in any way, the Parties' liabilities as governed by common law or the New Mexico Tort Claims Act. GISD and its "public employees" as defined in the New Mexico Tort Claims Act, and the County and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.
10. **THIRD PARTY BENEFICIARY:** This Agreement is not intended to create in the public, or any member thereof, any third-party beneficiary status or to authorize anyone not a party to the Agreement to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s).
11. **SUCCESSION:** Provisions of this Agreement shall apply and extend to all successors and assigns of the Parties.
12. **MERGER OF PRIOR AGREEMENTS:** This Agreement includes all of the conditions, agreements, and understandings between the Parties concerning the subject matter of this Agreement, and all such conditions, understandings and agreements have been merged into this written Agreement. No prior condition, agreement or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this written Agreement.
13. **GOVERNING LAW:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Mexico.
14. **PRINCIPAL CONTACTS AND NOTICES:** The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed above.

GISD: Efren Yturralde, Superintendent Telephone No.: (575) 882-6200
Gadsden Independent Schools
4950 McNutt Road, Sunland Park
NM, 88063

The County: [Name and Title] Telephone No.: (575) ____-____
Dona Ana County Manager
[Address]

- 15. **HEADINGS AND INTERPRETATION:** The marginal headings or titles to the paragraphs of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.
- 16. **AMENDMENT:** This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto.

IN WITNESS WHEREOF, each party is signing this Memorandum Agreement on the date stated below that party's signature.

BOARD OF EDUCATION OF THE GADSDEN INDEPENDENT SCHOOL DISTRICT

BY:

EFREN YTURRALDE
SUPERINTENDENT, GADSDEN INDEPENDENT SCHOOL DISTRICT

DATE:

DONA ANA COUNTY

BY:

COUNTY MANAGER

DATE: _____