

MEMORANDUM OF UNDERSTANDING
2008-2009 Standards Based Capital Outlay Project

PROJECT NUMBER: P08-013
Phase II

This Memorandum of Understanding (MOU) is made and entered into by the Public School Facilities Authority, herein referred to as the “PSFA”, and the **Gadsden Independent Schools**, hereinafter referred to as the “DISTRICT”.

This MOU shall not be effective until approved by the parties and the Public School Capital Outlay Council, hereinafter referred to as the “PSCOC”.

The purpose of this MOU is to define the scope of specific projects and delivery methodology for completing a public school capital outlay project as defined in the School District Master Joint Powers Agreement entered into between the PSCOC, PSFA and the District.

The project and all work associated with this project are defined within EXHIBIT A – PSFA PROJECT AGREEMENT prepared **September 17, 2008**, by the PSFA’s assigned Regional Manager (RM), **William Rolf**, and agreed upon by the District’s Representative, **Richard Chavez**, and is an inseparable part of this MOU. This is a PSFA Indirect Oversight project, and therefore the **District will provide** all direct project management and oversight for the Work contained in this MOU.

PROJECT:

The PSFA and the District hereby agree to complete the following capital outlay project that was approved by the PSCOC at its July 30, 2008 meeting and accepted by the District no later than September 10, 2008. **(Acceptance Letter attached hereto as Exhibit A):**

Project Title:	New Anthony-Berino Elementary		
Project Label:	Addition to new Anthony-Berino Elementary		
PSCOC Approved Project Cost to Adequacy:	\$		2,300,000
State Match:	88%	\$	2,024,000
District Match:	12%	\$	276,000
Allowed Waiver*:		\$	-
Direct Appropriation Offset:		\$	-
Charter school Capital Outlay Fund:		\$	-
Direct Appropriation Offset Carry Forward:		\$	-
Total State Net Award:	\$		2,024,000

* Waiver may be a reduction in the local share through an additional grant or an advance that must be repaid within a specified time.

All work to be completed within the scope of this Agreement to bring the facility up to the **NM Statewide Adequacy Standards [6.27.30 NMAC-N, 9/1/2002], as amended by the PSCOC on July 25, 2007.** All Work – inclusive of materials, labor or other, specifically related to work described in this section – to that described in this Section, all such additional Work will be the responsibility of the District without any increase in the PSFA participation stipulated in Section 1 of this Project Agreement. <<<<<<

ATTACHMENTS:

EXHIBIT A – DISTRICT ACCEPTANCE LETTER signed, September 10, 2008

EXHIBIT B – PROJECT COST SUMMARY prepared, September 17, 2008

IN WITNESS THEREOF, the Parties have set their signatures hereto:

Robert Gorrell, Director, PSFA

Date

Paula Tackett, Chair, PSCOC

Date

PSFA PROJECT AGREEMENT with INDIRECT OVERSIGHT

DATE: September 17, 2008	DISTRICT INFORMATION:
DISTRICT: Gadsden Independent Schools Anthony, NM	District Representative Richard Chavez, Assoc. Superintendent
SCHOOL: New Anthony-Berino ES	District Oversight Richard Chavez, Assoc. Superintendent
	Phone: 575-882-6215
	Fax: 575-882-6239
	E-Mail: rgchavez@gisd.k12.nm.us

SECTION 1: PROJECT INFORMATION

PROJECT LABEL:

Addition to new Anthony-Berino ES

SCHOOL INFORMATION:

Grade Levels Utilizing School:	K-6
Numbers of Students:	550
Year School was Built:	2008 2009
Approximate SF in School:	Approx 63,000

DETAILED PROJECT SCOPE DESCRIPTION:

This award modifies the previous 2007-2008 award for the New Anthony-Berino ES to construct additional classrooms to accommodate students relocated from the existing Anthony ES, for a total school design capacity of 550, serving grades K-6. State/Local match percentages will be at the 2007-2008 rates. The district is required to update their PM plan prior to Oct 1, 2008; execute the updated PM plan; and make continued effective use of FIMS.

PROJECT SPECIFIC QUALIFICATIONS:

SECTION 2: UNDERSTANDING

This Project Agreement represents the full and complete understanding between the Public School Capital Outlay Council hereinafter referred to as the PSCOC its agency the Public School Facilities Authority hereinafter referred to as the PSFA and the school District for the work described within this agreement. This agreement is contingent on approval and funding by the PSCOC and shall therefore not become valid without a properly executed Memorandum of Understanding signed by both the Chair of the PSCOC and the Director of the PSFA that shall be attached to and become a part of this Agreement. The undersigned acknowledge their concurrence with this, and that:

1. the PSCOC-PSFA funding participation towards the project described herein shall not exceed **Two Million Twenty-Four Thousand Dollars (\$2,024,000.00), except as approved by the PSCOC pursuant to Section 4;**
2. funding shall be utilized as described herein;
3. allocations are intended to fully complete the project, phase, or other specified purpose, but may require future allocations in accordance with the PSCOC process to fully complete to the NM Statewide Adequacy Standards;
4. Each design award must achieve PSFA Design Development phase approval of 60% complete construction documents as defined by the PSFA Request for Approval of School Construction (RASC), or written approval of lesser design completion prior to application for construction funding.
5. All PSCOC funds remaining at the completion of the project, or no later than the deadline set forth in this MOU, shall revert to the Public School Capital Outlay Fund for reallocation by the Council;
6. Any DCP funds previously allocated to correct deficiencies to a facility that no longer require corrections to meet adequacy due to the replacement of those facilities per this PSCOC award, shall not be expended for the purpose as outlined in the original DCP MOU and remaining funds shall revert to the Public School Capital Outlay Fund.
7. All awards are exclusive of land acquisition costs and offsite utilities and infrastructure expenses which are the total responsibility of the District and community, and will not apply to the District's matching fund requirement;
8. The District and PSFA shall jointly be responsible for the DP fees required for the Work defined in this Agreement;
9. Insurance claims **are not** presently contemplated for Work contained within this Agreement;
10. All payments to vendors for completion of the Work from PSCOC funded amounts shall be made directly by the PSFA;
11. The district will provide and deliver to the PSFA, **within 60 days of the acceptance of the award**, a project schedule outlined in the Memorandum of Understanding (MOU) that includes, if applicable, the

dates for completion of educational specifications, advertisement of RFP for design services, completion of the four design phases, advertisement for bid date, construction start date, construction completion date, and date of occupancy or intended use. Failure to complete projects by the scheduled deadline does not necessarily obligate the PSCOC for any increased costs due to inflation or other time related consequences.

12. The District will agree to make all reasonable efforts to complete the scope of work, and agree to have the scope of work completed as set forth under “**Section 5: Project Schedule;**”
13. Local Match requirements may be produced at each phase of the project, but **no later than start of construction;**
14. The district shall execute an effective preventative maintenance program, as prescribed in their PSCOC approved PM plan (updated minimum of every 12 months), and effectively use all Facility Information Management System (FIMS) modules, Maintenance Direct (MD), Preventative Maintenance Direct (PMD), and Utility Direct (UD), or be working towards effective use of all the FIMS modules;
15. Prior to occupancy, the PSFA staff and district will work together to provide an amendment to their approved maintenance plan defining how they will provide appropriate maintenance for any added facility space;
16. The MOU shall identify, under “**Section 1: Project Specific Qualifications,**” those specific portions of the project that the district intends to build above adequacy, the cost of those portions, and the District funding source that will fund these costs in their entirety by the District;
17. Projects must comply with the design capacity outlined in the awarded project;
18. Prior to the project’s final PSFA-RASC approval and release to bid, all site infrastructure including roadways, utilities and water must be in place, under contract with specified completion time, or defined by other acceptable written agreements that include cost and completion time;
19. All associated site costs for projects must be identified prior to, or within the District’s PSFA Request for School Construction (RASC) schematic phase submittal, and must receive PSFA approval prior to projects continuing to subsequent phases;
20. If existing facility disposal is required, an approved commitment from the district to PSCOC will be required prior to release of construction funding. Disposal may include demolition of the facilities or by written agreement transferring ownership of property and/or facilities.
21. Portable classrooms purchased from proceeds of this or previous PSCOC awards, freed by construction of permanent facilities shall, at the option of the PSFA, become the property of the PSCOC. If freed portables were purchased with district proceeds, then at PSFA’s option, portables may be purchased at a fair market price and relocated by PSFA as directed by and at the expense of the PSCOC;
22. District certifies it **has in current funds** amounts sufficient to meet the above-specified District share as of or on [REDACTED]. **All district match requirements must be in place prior to initiation of any construction phase;**

IN WITNESS THEREOF, the Parties have set their signatures her to:

William Rolf	Date	Richard Chavez	Date
PSFA Regional Manager		District Representative	

SECTION 3: BUDGET INFORMATION

The budget will be utilized from available funds as defined herein. Any funds recovered from insurance claims on work covered by this MOU will be reimbursed to the PSFA. At the completion of the project, surplus funds, including contingencies will revert to the Public School Capital Outlay Fund (PSCOF) for reallocation by the PSCOC. The District shall unconditionally be responsible for costs in excess of the respective amounts set forth in the attached PSFA PROJECT ESTIMATED COST SUMMARY, though the PSCOC may grant additional funding to a specific PSFA project if allocated funds, based on this estimate, are found to be insufficient to bring the facility up to NM Statewide Adequacy Standards. Any such new allocation or any re-allocation of a PSCOC–PSFA approved funding must be approved by the PSCOC.

Professional Design Services are anticipated to complete Section 5, Scope of Work. In accordance with the previous paragraph and other parts of this Agreement, the PSCOC-PSFA funding participation towards required Professional Design Services shall be limited to the amounts set forth in the attached PSCOC–PSFA PROJECT ESTIMATED COST SUMMARY.

SECTION 4: SOURCES OF FUNDING

The PSCOC’s funding participation will be matched by the District to complete the Work as defined within this Agreement. Additionally, costs not required by the NM Statewide Adequacy Standards are solely the responsibility of the District and will not be funded or otherwise paid for by the PSFA.

plus project funding above adequacy, plus Direct appropriation offset, minus any allowed waiver.
 ** Total PSCOC Approved Project Amount includes previous and current PSCOC funding phases for this project.

¹ Funds from the Charter School Capital Outlay pursuant to Laws 2007, Chapter 214, and appropriations made to the Fund, is pursuant to Laws 2007, Chapter 42, Section 25, Subsection 1 to assist charter schools in meeting the requirements of Subsection 22-8B-4.2 NMSA 1978 to be in public buildings or acquiring facilities which will meet adequacy requirements. These funds are in addition to any state share funds awarded to the project.

SECTION 5: PROJECT SCHEDULE

The following schedule is anticipated for the Work defined in this Agreement

>>>>

Design Phase Completion	Completed	completed
Issue Invitation to Bid	Completed	Completed
Bid Project / Award	Completed	Completed
Construction Contract Execution	October 1, 2008	October 21, 2008
Contractor Notice to Proceed	November 1, 2008	November 15, 2008
Construction Start	November 1, 2008	December 1, 2008
Preventative Maintenance Plan Update	January 1, 2010	January 1, 2010
Construction Completion	January 1, 2010	January 1, 2010

SECTION 6: COST ESTIMATE

The attached PSFA PROJECT ESTIMATED COST SUMMARY is for general informational and planning purposes only. Actual expenditures to complete the scope of Work covered by this Agreement shall be mutually agreed to by the parties in advance. If actual costs to meet the Adequacy Standards will exceed the funding identified, the district shall notify the PSCOC and request the pro-rata state share be adjusted. Upon approval of the PSCOC, this MOU shall be amended accordingly. Reflected budget estimates have been derived from architectural estimates, contractors who have performed similar work for the District or within the area of this Project, or, have been interpolated from recent historical costs data derived from nationally recognized cost averages.

SECTION 7: INSURANCE RECOVERY

The District Representative will prepare and submit a claim to the Insurance Carrier for any Deficiencies that may be covered by insurance in order to start the insurance carrier’s review without delay. Funds recovered from an insurance claim that pertain to Work funded and corrected as part of this PSCOC – PSFA Project will be transferred to the PSCOF in an amount(s) equal to the amounts of State funds encumbered or expended for said item(s) of Work as defined in this Agreement.

SECTION 8: VENDOR SELECTION AND CONTRACT REQUIREMENTS

All vendor selection shall be governed by applicable provisions of the State Procurement Code or as legally modified by the District who shall act as the purchasing agent for the Work. District shall comply with all vendor notification provisions as may be required by the PSFA. Contracts shall be executed on PSFA standard forms and be approved by the PSFA prior to starting any work. The District and PSFA will jointly participate in the selection of all necessary design professionals. The District will prepare and manage all procurement and contract documents excluding any purchase documents required to be executed by PSFA for the purpose of direct (PSFA) vendor payment.

SECTION 9: VENDOR PAYMENTS AND REIMBURSEMENT OPTIONS

All invoices prepared by vendors and submitted to the District shall break out any PSFA-covered items and be itemized separately from any other district-funded amounts. Upon presentation and verification of undisputed invoices to the PSFA bearing the approval of the District that the PSCOC-approved work, or a portion thereof

is complete, the vendor will be paid directly by the responsible entity. Only, if mutually agreed upon by the District and the PSFA in Section 2 of this Agreement, will the District make direct payments for prior approved PSCOC portions of the work. If approved, the District will be reimbursed by the PSFA upon completion of all work, or a portion thereof, after submission and verification of approved invoices, and documentation of payment to vendor for PSCOC approved work.

SECTION 10: GENERAL PROJECT REQUIREMENTS

Within the Project Manual, as prepared by the District’s Design Professional, there shall be a section named General Requirements that shall define the Contractor and School interface requirements and procedures including, but not limited to, hours of operation and noise control requirements and, if appropriate, a detailed project site plan delineating boundaries of project, staging areas and designated project access points.

SECTION 11: MANAGEMENT AND OVERSIGHT



The PSFA will provide indirect project management and oversight as a part of this Agreement. The district will employ competent project management personnel that meet the approval of the PSFA and are capable of providing adequate and knowledgeable control and oversight to the project. The District will designate a qualified person to perform the direct project oversight for the Work. The PSFA-CM will consult with the District Representative (DR) in planning the Project and oversee that the district provided procurement is consistent with *State Procurement Code AND the NM Statewide Adequacy Standards*. This will include, but not be limited to: (a) Design Professional (DP) selection via RFP or other means; (b) coordination and facilitation of developmental and planning decisions; (c) approval of design solutions; (d) review and approval of all Contract Documents including bid documents, ITB, MCR’s and change orders; (e) manage constructive and cost effective interface with the District’s other Work and Master Plan when appropriate; (f) participation in pre-bid meeting(s), bid openings, review and approval of Vendor selections; (g) periodic site oversight and inspection visits (h) administration of all contracts including DP; (i) PO setups and creation of; (j) payment application setup; (k) review and approval of payments for DP, builder(s), materials and other vendors; and (l) coordination of and participation in all aspects of the Project closeout process; (m) coordination of and participation in the one year warranty inspection. In the event that the District cannot provide adequate project management, the PSFA-CM shall provide job description for and will assist the District in contracting for or developing a suitable project manager and will aid in the interview and selection process.

The District shall complete and submit Request for Approval of School Construction (RASC) documentation to the PSFA at (1) program statement; (2) schematic design; (3) design development; and (4) bid documents phases of the project (or as otherwise required and agreed to in writing). The PSFA and District, in conjunction with the Design Professional, further agree to be responsible for the Tasks associated with this Project Agreement as follows:

PHASE	TASK	PSFA	DISTRICT
Pre-Design Phase:			
	Develop initial scope of project and budget	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Develop Request for Proposals for design professionals	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Advertise Request for Proposals	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Request for Proposal review, interview and selection process	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Design Phase:			
	Develop contracts for design professionals, consultants and other services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Final review and approval of schematic design documents for completeness	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Periodic review and validation of Scope of Work, budget, schedule, value engineering, plans and specifications	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Final review and approval of Construction Documents for completeness	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Issue Invitation to Bid	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Conduct pre-bid conference	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Coordinate bid opening	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Review and evaluate bids	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Issue Notice of Award	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Construction Phase:			
	Prepare contracts for construction	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Conduct pre-construction conference	<input type="checkbox"/>	<input checked="" type="checkbox"/>

PHASE	TASK	PSFA	DISTRICT
	Issue Notice to Proceed	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Provide interface for understanding of issues, disputes, and mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Review, approve and oversee changes to the work	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Periodic review and validation of work to insure conformance with contract and industry standards of quality	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Project Close-out:			
	Verify all work complete	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Coordinate with General Contractor of record, operations and maintenance training for District staff.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Review as-built drawings	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Approve final close-out documents	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Review warranties	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Ensure final acceptance by District	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Ensure all required documents related to the projects are properly held and archived	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Ensure that one-year warranty inspections are conducted and oversee any required repairs or remedies	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SECTION 12: QUALITY CONTROL CONSIDERATIONS

Quality control requirements shall be defined in the Project Documents that may include plans and specifications, as well as other bid documents. The Design Professional, the District Representative and the PSFA-RM, will work jointly to provide overview of construction quality, QC testing, schedule, project progress and QC standards as applicable to this effort. All contracts entered into to complete the Work shall include provisions to utilize the PSFA’s Construction Information Management System (CIMS) unless otherwise mutually agreed to in writing.

It is agreed that where either re-roofing or a new roof installation is involved, the District shall budget and provide for inspections by an individual or individuals qualified to ensure their proper installation and, on the same day, distribute a detailed written report of the observations to the; District, PSFA-RM, Design Professional, roofing contractor, general contractor, and roofing manufacturer’s representative.

It is agreed that where the addition, renovation, or new construction of a school is involved, the District shall budget and provide for a performance assurance contractor (PAC) to participate in both the design and construction phases of the project to ensure that the HVAC systems and associated controls are properly specified, installed, tested and balanced, and distribute a detailed written report of observations and test results to the; District, PSFA-RM, Design Professional, and general contractor. Further, a 3-year extended maintenance contract on all HVAC systems and controls will be included, with the district maintenance staff participating in contractor-provided HVAC and control system training.