



PROVIDING EXCEPTIONAL SERVICES
TO CHILDREN, FAMILIES, AND
COMMUNITIES ACROSS NEW MEXICO

2002 SUDDERTH DRIVE, RUIDOSO, NM 88345
(575) 257-2368 - WWW.REC9NM.ORG

MEMORANDUM OF UNDERSTANDING

BETWEEN REGION 9 EDUCATION COOPERATIVE AND Gadsden Independent School District

Memorandum # 23998000342

THIS FUNDING MEMORANDUM (Memorandum) is entered into by and between the Region 9 Education Cooperative (REC 9) and Gadsden Independent School District, referred to individually as Agency and jointly as Agencies.

1. PURPOSE

Gadsden Independent School District shall use the funding provided under this agreement to support their District with the following:

1. **Information Technology:** Support for devices including laptops, Chromebooks, tablets, and home connectivity.

OR

2. **Educational Technology:** Support for students, parents, families, and teachers in the adoption of technology for remote learning use.

OR

3. **Professional Development:** Support educators in making the most of technology to effectively deliver digital educational content for remote and in-school use.

2. COMPENSATION

A. REC 9 shall pay to the Gadsden Independent School District monthly payments for authorized services satisfactorily performed and expenses incurred pursuant to "ADDENDUM A," such compensation not to exceed **twenty-nine thousand six hundred forty-five dollars and zero cents (\$29,645.00)**, inclusive of gross receipts tax (GRT). Such compensation is a maximum and not a guarantee that the work assigned to be performed by Gadsden Independent School District under this Agreement shall equal the amount stated herein. There is no requirement imposed upon REC 9 pursuant to this Agreement to purchase any quota of services hereunder.

B Nothing contained in this Agreement shall require REC 9 to pay for any unsatisfactory work, as determined by REC 9, or for work that is not in compliance with the terms of this Agreement. In no event will the Gadsden Independent School District be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided. Gadsden Independent School District is responsible for notifying REC 9 no less than 30 days prior to the services provided under this Agreement reaching the total compensation amount.

C. Payment is subject to the availability of funds pursuant to the Appropriations provisions set forth in Paragraph 10 below and to any negotiations between the parties from year to year pursuant to Paragraph 1, PURPOSE. All invoices **MUST BE** received by the Agency **no later than 5:00 pm MST on June 20, 2023**. Invoices received after such date **WILL NOT BE PAID**.

D. Gadsden Independent School District shall submit monthly detailed invoices accounting for all services performed and expenses incurred. If REC 9 finds that the invoiced services or expenses are not acceptable, within thirty days after the date of receipt of written notice from the Gadsden Independent School District that payment is requested, it shall provide the Gadsden Independent School District a letter of exception explaining the defect or objection to the services or expenses, and outlining steps the Gadsden Independent School District may take to provide remedial action. Upon certification by REC 9 that the services or expenses have been received and accepted, payment shall be tendered to the Gadsden Independent School District within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, REC 9 shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. **RESPONSIBILITIES OF THE PARTIES**

The Agencies understand that each should be able to fulfill its responsibilities under this Memorandum and in accordance with the provisions of law and regulation that govern their individual activities. Nothing in this Memorandum is intended to negate or otherwise render ineffective any such legal provisions or operating procedures. If at any time either of the Agencies is unable to perform its functions under this Memorandum in addition to its statutory and regulatory mandates, the affected agency shall immediately provide written notice to the other to establish a date for mutual resolution.

4. **SCOPE OF WORK**

Gadsden Independent School District shall provide the services as set forth in the scope of work in **"ADDENDUM A - STATEMENT OF WORK"** incorporated by reference as though fully set forth herein.

This Memorandum shall become effective when signed by both Agencies and shall terminate on June 20, 2023 unless otherwise terminated pursuant to Article V herein.

5. MAINTENANCE OF RECORDS

Each agency shall maintain its own records as required in compliance with applicable federal, state, or local laws, ordinances, and codes, but in no case for a period of less than four (4) years after the date of termination of this Memorandum. Upon written request of either agency, and during normal business hours, there shall be made available to that agency for examination all of the other agency's records with respect to all matters covered by this Memorandum and any subsequent agreements. The examining agency may audit, examine and/or make excerpts or transcripts from such records of data as may be pertinent to this Memorandum, as well as by federal and state law. Upon the termination of this Memorandum, each party's records will be returned to that party by the other party, where a written request for same is made within ninety (90) days from the date of termination.

6. CONFIDENTIALITY

All material given to, made available, prepared or assembled by one agency by virtue of this Memorandum, including but not limited to student records related to services provided under this Memorandum, shall be kept confidential in accordance with the law. Likewise, any information which an agency identifies as proprietary or confidential information, or otherwise requests to be kept confidential, will be safeguarded by the other agency and shall not be disclosed to any individual or organization without the prior written approval of the agency claiming confidentiality, except where required by law.

7. LIABILITY

Nothing in this Memorandum waives or relinquishes any immunity or defense, including, without limitation, immunity available under the New Mexico Tort Claims Act on behalf of each respective agency or its agents and representatives as a result of the executions of this Memorandum or the performance of the obligations contained herein.

The Agencies are solely and individually liable for their actions of the governing officials, officers, employees, and agents and no party to this Memorandum shall be responsible for liability incurred as a result of the other agency's acts or omissions in connection with this Memorandum.

8. DISPUTES

The Agencies will attempt to resolve disputes informally and at the lowest level at which the issues can be resolved. At each level the Agencies will attempt in good faith to resolve any dispute by discussions between representatives who have authority to settle the dispute.

Where such informal efforts do not resolve the dispute, the agency dissatisfied with the performance of any of the obligations imposed on the other, under the terms of this Memorandum, shall give written notice to the non-performing agency of the duties which the dissatisfied agency believes have not been performed. The non-performing agency shall have 10 days from receipt if such notice to correct any failure to perform the duties so specified.

9. TERMINATION PROVISIONS

REC 9 may terminate this Memorandum for convenience or cause. Gadsden Independent School District may terminate this Memorandum based upon REC 9's uncured, material breach of this Memorandum only after Gadsden Independent School District written (30) day notice to REC 9 of breach and intent to terminate, and an opportunity to cure.

Notification of termination shall be given at least 30 days prior to the intended date of termination. Notification of termination shall not relieve the terminated agency of the obligation to complete duties imposed prior to the date of termination.

10. APPROPRIATIONS

The terms of this Memorandum are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Memorandum. If sufficient appropriations and authorization are not made by the Legislature, this Memorandum shall terminate immediately upon written notice being given by one agency to the other. The REC 9's decision as to whether sufficient appropriations are available shall be accepted by the Gadsden Independent School District and shall be final. If Gadsden Independent School District proposes an amendment to the Memorandum to unilaterally reduce funding, REC 9 shall have the option to terminate the Memorandum or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

11. EXTENSION

The Agencies may jointly agree to extend the Memorandum in writing. Notification of intent to seek extend the Memorandum must be given to the other agency at least 30 days prior to the expiration of the Memorandum.

12. AMENDMENT

This Memorandum shall not be altered, changed or amended except by written agreement of the Agencies hereto.

13. NOTICE

Any notice required to be given to either agency by this Memorandum shall be in writing and shall be delivered by courier service, U.S. mail, or by electronic communication to the receiving agency designee as specified below. Electronic notification shall be deemed received at the time the agency sending electronic notice receives written verification of receipt by the receiving agency, including but not limited to a read receipt.

To REC 9:

Arissa Klumker
2002 Sudderth Dr.
Ruidoso, NM 88345
arissa.klumker@regionix.org

To Gadsden Independent School District:
Mr. Travis Dempsey, Superintendent; tdempsey@gisd.k12.nm.us
4950 McNutt
Sunland Park, NEW MEXICO 88063

14. TOTALITY

This Memorandum incorporates all the terms agreed upon by the Agencies with respect to its subject matter. This Memorandum supersedes all prior agreements, arrangements, and communications between the Agencies, oral or written, concerning this subject matter.

15. MAINTENANCE OF RECORDS

The Agencies shall maintain fiscal and programmatic records relative to those funds and activities that have been made subject to this Memorandum for a minimum of seven (7) years after submission of the final expenditure report for each sub grant made subject to this Memorandum.

The Agencies further agree that each shall maintain appropriate records for strict accountability for all receipts and disbursements of funds transferred or expended pursuant to this Memorandum, pursuant to established federal and New Mexico cost accounting requirements.

16. GOVERNING LAW

This Memorandum shall be governed by the laws of the United States and the State of New Mexico.

17. EQUAL OPPORTUNITY COMPLIANCE

The Agencies agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Agencies agree to 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, or if the employer has fifty or more employees, spousal affiliation, or, if the employer has fifteen or more employees, sexual orientation or gender identity, be discrimination under any program or activity performed under this Memorandum. If either of the Agencies is found not to be in compliance with these requirements during the term of this Memorandum, the non-complaint agency agrees to take appropriate steps to correct these deficiencies.

18. WORKERS' COMPENSATION

The Agencies agree to comply with state laws and rules applicable to workers' compensation benefits for its own employees. If the Gadsden Independent School District fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Memorandum may be terminated by REC 9.