

ORIGINAL

AGREEMENT

Agreement to Provide Fuel for Vehicles Used in Conjunction with Programs Operated or Paid for by the San Mateo County Office of Education

THIS AGREEMENT, made and entered into this ____ day of _____, 2002, by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California, hereinafter called "County", and the SAN MATEO COUNTY OFFICE OF EDUCATION, hereinafter called "Office of Education".

WITNESSETH:

WHEREAS, the Office of Education operates over one hundred and twenty-five special day classes for disabled children; and

WHEREAS, the operation of the special day classes includes transporting hundreds of children to and from their homes and special day classes throughout the County; and

WHEREAS, the Office of Education has entered into contracts for the delivery of transportation services; and

WHEREAS, the cost for that transportation contract is borne by all school districts in San Mateo County; and

WHEREAS, the Office of Education and all school districts have a compelling interest in reducing the cost of transportation without compromising the quality of the transportation program; and

WHEREAS, one way to reduce the cost of transportation which will thereby free up additional money to continue improving the quality of transportation, is to reduce the cost fuel associated with transporting children to and from Office of Education classes throughout the County; and

WHEREAS, school districts and other public agencies are able to buy fuel at prices significantly less than market prices; and

WHEREAS, it is not cost effective for the Office of Education to install fueling facilities for its own use; and

WHEREAS, County has fueling facilities and is willing to allow the use of said facilities by the Office of Education or its contractors.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

A. County agrees to:

1. Provide fuel supply services to the Office of Education and its contractors during normal business hours, Monday through Friday except holidays, at its existing fueling facilities located at:
 - a. Tower Road in San Mateo
 - b. Grant Yard in Redwood City

The fuel to be provided shall be both unleaded gasoline and diesel fuel.

2. Provide fuel cards to access County's fueling facilities which will be used by each vehicle that the Office of Education intends to fuel at County Facilities.
3. Provide information on the operation of the County fueling facilities.
4. Provide a monthly invoice to the Office of Education which summarizes the fuel used for the billing period, itemized by fuel card.
5. Charge the Office of Education for the actual cost of fuel plus a charge of \$0.10 per gallon. The cost of fuel will be determined by the point of delivery cost, averaged for the month.

B. Office of Education agrees to:

1. Provide County with a list of its contractors that will be using County's fueling facilities.
2. Provide its contractors with information about location, hours of operation and use of the County's fueling facilities.
3. Inform the County of the number of fuel cards needed and provide one card to each of the vehicles to be used in conjunction with Office of Education programs.
4. Be responsible for all fuel charged against each card irrespective if said fuel was actually dispensed to a vehicle being used in conjunction with one of the Office of Education's programs.
5. Pay the County, by vendor warrant on a monthly basis and within 30 calendar days of the date of said billing and cost breakdown, for the fuel used as charged against all the cards issued to the Office of Education. Said payment

shall include the per gallon cost of fuel as determined and described in Section A.5. above plus \$0.10 per gallon for all fuel used as charged against said cards.

6. Pay a late fee of two percent (2%) of the unpaid balance for warrants received after 30 calendar days from the date of the billing and cost breakdown provided by County.

C. General Terms

1. This agreement shall remain in effect until terminated by either party. Either party may terminate this Agreement, upon thirty (30) days written notice given by either the Superintendent of Schools or the County Manager. The Office of Education will return all fuel cards to the County upon termination of the agreement and shall be responsible for any outstanding fuel charged on the fuel cards and at the rates provided for in this agreement until the cards are returned to the County.
2. The parties mutually agree that this Agreement does not constitute an unreserved commitment to provide, purchase or supply gasoline or diesel fuel to the Office of Education nor a commitment by the Office of Education to purchase a minimum, or any amount of gasoline or diesel fuel from the County.
3. The parties also mutually agree that due to the historical fluctuations in availability of supplies or delivery of gasoline or diesel fuel, that the County has the discretion to limit the amount of gasoline or diesel fuel available at its fueling facilities or to maintain a reserve amount of gasoline or diesel fuel at its fueling facilities for the benefit of County's vehicles, or for any other emergency response purpose that the County deems, in its sole discretion, appropriate.
4. The purpose of this Agreement is to provide both convenience and an economic benefit to the Office of Education, and the County is not a vendor of gasoline or diesel fuel, nor does the County warrant the properties, quality or fitness for use of the gasoline or diesel fuel provided to the Office of Education pursuant to this Agreement.
5. The Office of Education shall indemnify, defend, and hold harmless the County, its officers, agents, and employees from all claims, damages, suits or actions of every name, kind, and description, arising out of or relating to the matters covered by the agreement to the extent that such claims, suits or actions are due to the negligence or willful misconduct of the Office of Education or the Office of Education's failure to perform obligations required

of the Office of Education under this agreement. The Office of Education's obligation to defend, hold harmless and indemnify the County and its employees and officers from any and all claims or litigation includes actions as a result of the Office of Education's employees, volunteers, subcontractors or others on behalf of the Office of Education or any governmental entity who avail themselves of gasoline or diesel fuel pursuant to this Agreement. Such defense and indemnification includes those claims or injuries resulting from pumping fuel, driving upon the premises to secure fuel, or any associated activity: claims include liability, workers compensation or property damage.

6. The County shall indemnify, defend, and hold harmless the Office of Education, their officers, agents, and employees from all claims, damages, suits or actions of every name, kind, and description, arising out of or relating to the matters covered by this agreement to the extent that such claims, suits or actions are due to the negligence or willful misconduct of the County or the County's failure to perform obligations required of the County under this agreement.
7. The duty to indemnify and hold harmless includes the duties to defend as set forth in Section 2778 of the California Civil Code.
8. This agreement shall be binding upon the respective successors and assigns of the parties hereto.
9. The terms and conditions set forth above are the full and complete agreement and shall not be modified or changed without amendments to the agreement that are approved by both the County and the Office of Education.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year first above written.

"County"

COUNTY OF SAN MATEO

BY

**Jerry Hill, President
Board of Supervisors
County of San Mateo**

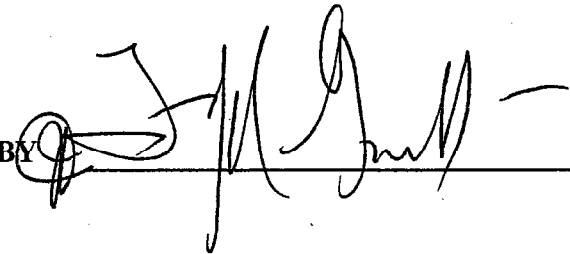
ATTEST:

Clerk, Board of Supervisors

"Office of Education"

San Mateo County Office of Education

BY



ATTEST:
