

**AGREEMENT
FOR INMATE CONFINEMENT
BETWEEN THE COUNTY OF SANTA FE
AND POJOAQUE PUEBLO**

THIS AGREEMENT is entered into by and between **Santa Fe County**, New Mexico, a political subdivision of the State of New Mexico (hereinafter referred to as the "County") and **Pojoaque Pueblo**, a federally recognized Indian pueblo or tribe (hereinafter referred to as the "Contractor").

RECITALS

WHEREAS, the Contractor is in need of a facility for the incarceration, care and maintenance of persons charged or arrested for a crime in the Contractor's Pueblo and who are either: (i) in need of detention while awaiting trial or hearing in Pueblo Tribal Court; or (ii) have been sentenced by Contractor's Pueblo Tribal Court for a period of less than two weeks; and

WHEREAS, the County owns and operates the Santa Fe County Adult Detention Facility (SFCADF) which has, from time to time, vacant bed space; and

WHEREAS, the County is willing to house Contractor's inmates from time-to-time as set forth herein.

NOW, THEREFORE, IT IS MUTUALLY AGREED by both parties as follows:

1. **HOUSING OF INMATES.** The County agrees to house persons awaiting trial in the Contractor's Pueblo from time-to-time as space is available in the County's SFCADF upon the conditions and terms set forth below. The Contractor agrees that any such person so housed in the SFCADF is either a person detained while awaiting indictment or trial in Pueblo Tribal Court, awaiting transport to another facility; or serving a sentence of less than two weeks. The Contractor agrees that any persons housed at the SFCADF meets the minimum criteria described in this Agreement and agrees to compensate the County for the housing as set forth herein.
2. **COMPENSATION.** The Contractor shall pay the County a cost of \$95.00 per day for each full or partial calendar day for a Contractor's inmate who is housed at SFCADF. SFCADF has the option to review and adjust this fee upon the anniversary date of this Agreement.
3. **CONDITIONS OF HOUSING.** The County will house all of Contractor's inmates consistent with SFCADF's prevailing policies, past orders and other routine practices, unless additional housing policies are specified by an appendix to this Agreement.

4. **INVOICES.** The County shall invoice the Contractor for all persons housed at the SFCADF on a monthly basis and shall provide the Contractor with a statement containing the names of persons housed, the dates of housing, the booking number, the total number of days billed, the medical costs incurred, if any, and the total inmate costs for the month. The Contractor shall pay the invoice in full within 30 days of receipt. If an invoice is not paid within 45 days of the billing date, a late payment charge of 1.5% of the original bill shall accrue monthly.
5. **INMATE APPROVAL.** The SFCADF Warden or designee shall have the right to refuse housing for any reason to any person proposed for housing in the SFCADF.
6. **TRANSPORTATION.** Contractor shall be responsible for all transportation costs for its inmates to and from SFCADF. In the event medical treatment is required outside of the SFCADF, the County shall transport persons for such treatment. In such event, Contractor shall pay the costs of the secure transportation as set forth in Paragraph 8, "Medical Care," section C.
7. **INMATE POSSESSIONS.** The County will store and safe keep all inmate personal property which is removed from inmates upon arrival at SFCADF. The County shall not be responsible for items determined to be contraband or not listed during the time of booking. Any contraband found shall subject the inmate to a criminal investigation by the Santa Fe County Sheriff's Office; however, in the event new charges result, the Contractor shall still be required to pay for housing so long as the inmate's sentence from the Contractor has not been completed, or charges remain pending in the Contractor's Tribal County.
8. **MEDICAL CARE.**
 - A. **Routine on-Site Care.** The County shall provide routine medical care, routine dental care, and routine mental health care for Contractor's inmates at the SFCADF.
 - B. **Prescription Pharmaceuticals.** The Contractor shall be responsible for and shall reimburse the County for any pharmaceutical costs incurred by Contractor's inmates housed at SFCADF.
 - C. **Off-Site Care.** The Contractor shall be responsible for all costs of medical, dental and mental health care for Contractor's inmates at any off-site medical facility. The County shall provide secure transportation and security to and from any such off-site facility. The County shall bill the Contractor at the rate of \$20.00 per officer, per hour, and \$.55 per mile, to and from an appointment. The Contractor shall be responsible for the per diem rate plus the hourly rate for

officers providing security during the period of any off-site medical confinement that exceeds 24 hours.

- D. **Prison Rape Elimination Act.** SFCADF will comply with provisions of the Prison Rape Elimination Act of 2003 ("PREA"), codified at 42 U.S.C. Sec. 15601 et seq., and with all applicable PREA standards for preventing, detecting, monitoring and investigating any form of sexual abuse within SFCADF.

9. **TERM.** This Agreement shall become effective when signed by both parties. The initial term of the Agreement is one year. Unless either party provides 60 days written notice to the other party of its intent not to renew this Agreement, this Agreement will automatically renew in one-year increments not to exceed a total of four years.
10. **TERMINATION.** This Agreement may be terminated by either party upon 60 days written notice to the other party. However, a termination shall not be effective until such time as all of the Contractor's inmates have been removed from SFCADF. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. If notice of termination is given by either party, the **Contractor must pick up its inmates within the 60-day written notice period or be subject to a charge of \$255.00 per day beginning on the 61st day.** Upon termination of this Agreement, the County is under no obligation to accept the Contractor's inmates.
11. **NO THIRD PARTY BENEFICIARIES.** This Agreement does not create, nor does either party to this Agreement intend to create any right, title, or interest in or for the benefit of any person other than the County or the Contractor, and no person shall claim any right, title, or interest under this Agreement, or seek to enforce this Agreement as a third party beneficiary of this Agreement or otherwise.
12. **INSURANCE.** The County maintains public liability insurance for its operation of the SFCADF. The Contractor shall maintain at all times a policy of public liability insurance (or approved program of self-insurance) for its activities under this Agreement.
13. **SUBCONTRACTING.** The County may subcontract services to be performed under this Agreement with advance notice to the Contractor. If a person housed at the SFCADF is transferred to another facility pursuant to a subcontract, the Contractor shall be notified within 24 hours of the transfer.
14. **RECORDS AND AUDIT.**
- A. **County Information.** The County shall maintain detailed records and shall endeavor to ensure that billing statements are accurate and

correspond to inmate housing and booking records. Such records shall be subject to inspection by the Contractor, the Department of Finance and Administration and the State Auditor.

- B. **Contractor Information.** The Contractor shall provide its complete file on each person incarcerated at the SFCADF under this Agreement including, but not limited to, the incarceration file, the medical file, all court and/or arrest documents necessary to justify the Contractor's inmate incarceration, and copies of each person's criminal history. Gang affiliations and other associations of relevance shall also be provided, if known.
15. **AMENDMENTS.** This Agreement shall not be altered, changed, or amended except by an instrument, in writing, executed and approved by both parties.
16. **MERGER.** This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior agreement, covenant or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.
17. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of New Mexico.
18. **NO WAIVER OF IMMUNITY.** Nothing in this Agreement shall be construed as a waiver of the Contractor's inherent sovereign immunity as a federally recognized Indian pueblo or tribe.
19. **ACCESS BY CONTRACTOR.** The Contractor, with prior approval and consent of the Director of SFCADF, may inspect the conditions under which Contractor's inmates are housed at SFCADF. Access to SFCADF shall be coordinated through the Director of SFCADF, the Warden or their designee.
20. **SEVERABILITY.** Should any part of this Agreement be determined invalid or unenforceable by a court, the remainder of this Agreement shall not be affected and shall remain valid and enforceable to the fullest extent of the law.

IN WITNESS WHEREOF, the County and the Contractor have caused this Agreement to be executed, said Agreement to become effective when signed by both parties.

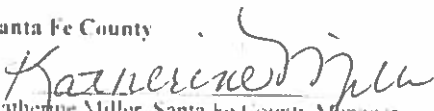
Contractor:


Kim McGinnis

Date: 

Judge, Pueblo of Pojoaque Tribal Court

Santa Fe County


Katherine Miller, Santa Fe County Manager

Date: 9-13-16

Approved as to form:


Gregory S. Shaffer, County Attorney

Date: 9/9/16

Finance Department


Carole H. Jaramillo, Director

Date: 9/12/16