

INTERGOVERNMENTAL AGREEMENT
Between
COUNTY OF BERNALILLO AND SANTA FE COUNTY

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made by and between the County of Bernalillo, a political subdivision in the State of New Mexico and the County of Santa Fe, New Mexico, a political subdivision in the State of New Mexico. Unless specified otherwise, all references in this Agreement to “the parties” include the County of Bernalillo and County of Santa Fe.

RECITALS

WHEREAS, the purpose of this Agreement is to provide for housing and care of the County of Bernalillo female inmates by County of Santa Fe at the Santa Fe County Adult Detention Facility located at 4312 State Highway 14, Santa Fe, New Mexico 87508 (“SFADF”);

WHEREAS, the SFADF has qualified personnel who are authorized by the laws of the State of New Mexico to provide such services;

WHEREAS, County of Bernalillo desires to contract with Santa Fe County to receive such services and Santa Fe County is willing to provide such services according to the terms and conditions specified in this Agreement.

NOW THEREFORE, in consideration of the promises and obligations stated in this Agreement, the parties mutually agree as follows:

AGREEMENT

Scope of Service:

1. Support and Medical Services. The parties hereby agree:
 - a. SFADF will accept and provide for the secure custody, care, and safekeeping of County of Bernalillo female inmates in accordance with Federal, State and local laws, standards, policies, procedures, or court orders applicable to the operations of the SFADF. All references to “inmates” in this Agreement shall mean female inmates.
 - b. SFADF reserves the right to reject inmates or refuse to accept custody of inmates for any reason.
 - c. SFADF will provide County of Bernalillo inmates who require removal from SFADF for off-site emergency medical services with the appropriate standard of care for medical service as are provided to SFADF inmates. County of Santa Fe will contact County of Bernalillo for prior written authorization for any inmate requiring off-site medical attention in all non-emergency situations using an agreed Off-Sight Healthcare Referral Form. County of Bernalillo agrees to fully reimburse the County of Santa Fe for all out-

of-pocket medical expenses paid by the County of Santa Fe for off-site medical services provided to County of Bernalillo inmates. Notification for emergency medical situations will be made as soon as practicable utilizing the ER/Hospitalization Report Form.

d. SFADF shall provide up to 24 hours of security for any County of Bernalillo inmate who must be transferred to an off-site medical facility. After 24 hours, security provided by SFADF shall cease and jurisdiction and responsibility for transfer of an inmate shall be the responsibility of the Bernalillo County Metropolitan Detention Center. After 24 hours the Bernalillo County Metropolitan Detention Center shall be responsible for custody, security and transport of an inmate.

e. County of Bernalillo will not deliver to SFADF, inmates who are on psychotropic medication, mental patients requiring 24-hour care or are assigned to the medical pod, have current off-site appointments, are diabetic inmates or infirmary patients, are actively receiving wound care, treatment of air pathogen disease, or are HIV positive.

f. County of Bernalillo will furnish to SFADF a Health Status Transfer Form. If an inmate does not meet qualified conditions as stated herein, SFADF may refuse to accept an inmate and such inmate will be transported back to County of Bernalillo by the Bernalillo County Metropolitan Detention Center.

2. Minimum Standards – Transportation of Inmates. The Bernalillo County Metropolitan Detention Center will be fully responsible for the transport of inmates to and from SFADF pursuant to this Agreement.
3. Minimum Standards – Custody of Inmates. SFADF will meet the following minimum standards for the custody of inmates:
 - A. 24-hour supervision.
 - B. Compliance with applicable state fire or life safety codes, including but not limited to adequate smoke/fire detection equipment.
 - C. A minimum of three meals in a 24-hour period with no more than 8 hours between meals for inmates.
 - D. Appropriate 24 hour emergency medical care and emergency evacuation procedures.
 - E. Compliance with all applicable American Correctional Association standards common to jails and prisons.
 - F. Additional standards and procedures as agreed in writing to in writing by the parties.
4. Inspection. County of Santa Fe agrees to allow reasonable periodic inspections of the facility by County of Bernalillo personnel. Findings will be shared with the SFADF administrator to promote improvements to the facility operations or conditions of confinement for County of Bernalillo inmates. County of Santa Fe may postpone such inspections if in its sole discretion County of Santa Fe determines that such access to the facility could pose a health or safety risk to City of Santa Fe, County of Santa Fe,

SFADF personnel, the inmate population, or during a facility inmate count or while a special operation of SFADF is in process.

5. Term. This Agreement shall commence on the date of last signature by the parties hereto and shall continue for a period of three (3) years, unless terminated earlier as provided herein. This Agreement may be amended periodically by mutual written agreement of the parties.

6. Compensation. For performing the services specified in this Agreement, County of Bernalillo agrees to pay County of Santa Fe at the rate of sixty dollars (\$60.00) per inmate per day. A "day" means a calendar day of 24 hours measured from midnight to the next midnight. A partial day will be considered a full day unless stated otherwise in the Agreement. The per diem rate does not include any applicable gross receipts taxes. Any medical services expenses incurred, without limitations, medically related transportation or security may be billed separately in addition to the monthly housing of inmates invoice. County of Bernalillo agrees to pay County of Santa Fe within thirty (30) days of receipt of invoice. Any charges billed to County of Bernalillo which are not due and owing by County of Bernalillo may be deducted from the invoice, or credited toward the next billing period. A refund will be made if there is no subsequent period billing.

7. Insurance. The Bernalillo Metropolitan Detention Center shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
 - A. Public Liability Insurance. The Bernalillo Metropolitan Detention Center shall procure and maintain during the life of this Agreement a comprehensive public liability insurance policy with liability limits in an amount of not less than \$1,000,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence, and an umbrella policy of no less than \$1,000,000.00 Said policy of insurance shall include coverage for all operations performed by the Bernalillo Metropolitan Detention Center under this Agreement and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.

8. Appropriations. Notwithstanding any other provisions in this Agreement, the terms of this Agreement are contingent upon the County of Bernalillo Commissioners making the appropriations necessary for the performance of this Agreement. If sufficient appropriations are not made by the County of Bernalillo Commissioners, this Agreement may be terminated at the end of the County of Bernalillo then current fiscal year upon written notice sixty (60) days prior to the beginning of the next fiscal year. Such event shall not constitute an event of default. All payment obligations of County of Bernalillo and of its interest in this Agreement will cease upon the date of termination, which will become effective when County of Bernalillo removes its last inmate and compensates County of Santa Fe for all amounts due and owing under this Agreement.

9. Independent Entity. Neither County of Santa Fe nor its SFADF employees are employees of County of Bernalillo for any purpose whatsoever. County of Santa Fe is a separate independent contractor at all times in the performance of services under this Agreement.
10. SFADF Personnel.
 - A. County of Santa Fe represents that it has, or will secure at its own expense, all personnel required in performing the scope as described under this Agreement. Such personnel shall be authorized or permitted under federal, state, and local laws to perform such. Such personnel shall not be employees of or have any contractual relationship with County of Bernalillo.
 - B. All work required hereunder will be performed by County of Santa Fe or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under federal, state and local laws to perform such work.
 - C. Services covered by Agreement may be subcontracted and subcontractor shall be subject and adhere to each provision of this Agreement.
11. Equal Opportunity Compliance. County of Santa Fe agrees to abide by all federal and state laws and regulations pertaining to equal employment opportunity.
12. ADA Compliance. County of Santa Fe agrees to meet all the requirements of the Americans with Disability Act and all rules and regulations that apply to all public entities.
13. Reports and Information. SFADF will respond to requests for information made pursuant to the New Mexico Inspection of Public Records Act in accordance with requirements of the Act. A reasonable fee may be charged consistent with the New Mexico Inspection of Public Records Act.
14. Establishment and Maintenance of Records. Records shall be maintained by County of Santa Fe in accordance with applicable law and matters covered by this Agreement in the areas of housing, medical, and payments received. Records shall be maintained for a period required by federal, state and local regulations and laws. County of Bernalillo agrees to be responsible, to the extent of its negligence, for any and all losses, liabilities, judgments, awards and cost (including legal fees and expenses) arising out of or related to any claim in whole or part that County of Bernalillo failed to disclose any inmate information in violation of the Freedom of Information Act or any similar state law.
15. Audits and Inspections. Upon at least five (5) business day's written notice and during normal business hours, but not to exceed once per quarter, there shall be made available to the County of Bernalillo for examination, all of the County of Santa Fe's records with respect to the housing of inmates pursuant to this Agreement. County of Santa Fe shall permit County of Bernalillo to audit, examine, and make excerpts or transcripts from such records relating to Bernalillo County inmates housed at SFADF pursuant to this Agreement only. No other contract or any forms of records of personnel are covered.

Timesheets and payroll stubs may be provided to validate time charges for work performed under this Agreement.

16. Compliance with Laws. County of Santa Fe shall comply with all applicable state, federal, and County laws, rules and ordinances.
17. Changes. Requested changes in the services to be performed, including any increase or decrease in the amount of County of Santa Fe's compensation, which are mutually agreed upon by and between County of Bernalillo and County of Santa Fe, shall be incorporated in written amendment to this Agreement.
18. Assignment. Neither party shall assign any interest in this Agreement nor shall it transfer any interest in this Agreement (whether by assignment or notation) without the prior written consent of the other party thereto.
19. Termination for Cause. If, through any cause, either party shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, the other party shall, if the breaching party has failed to cure such breach within fifteen (15) days of receiving written notice of such breach to the breaching party of such termination and specifying the effective date thereof at least five (5) days before the effective date of such termination. In such event, Santa Fe County shall be entitled to receive just and equitable compensation for any work or services performed up to the date of termination.

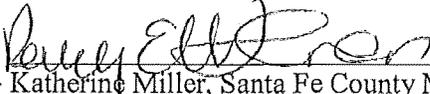
Notwithstanding the above, the breaching party shall not be relieved of liability to the non-breaching party for damages sustained by the non-breaching party by virtue of any breach of this Agreement by either party.
20. Termination for Convenience. This Agreement may be terminated by either party upon written notice delivered to the other party at least fifteen (15) days prior to the date of termination. By such termination, neither party may nullify obligations already incurred prior to the date of termination.
21. Construction and Severability. If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other parts of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
22. No Waiver. The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.
23. Essence. Time is of the essence in the performance of the parties' obligations pursuant to this Agreement.

24. Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico.
25. Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understands, oral or written, whether previous to the execution hereof or contemporaneous herewith. All mutually agreed upon written amendments become part of this Agreement.
26. Liability. As between the parties, each party acknowledges and represents that it will be responsible, to the extent of its negligence, for liability arising from personal injury and damage to persons or property occasioned by its employees or agents. The liability of the County of Santa Fe and County of Bernalillo shall each be subject in all cases to the immunities and limitations of the Tort Claims Act, Section 41-4-1 et seq., NMSA 1978, as amended.
27. Approval Required. This Agreement shall not become effective or binding until approved by the County of Bernalillo Manager and County of Santa Fe Manager.

IN WITNESS WHEREOF, County of Bernalillo and County of Santa Fe have executed this Agreement as of last date of signature below.

APPROVED BY:

COUNTY OF SANTA FE


Katherine Miller, Santa Fe County Manager

8/2/13
Date

Approved as to Form:


Stephen C. Ross, Santa Fe County Attorney

8/2/13
Date

COUNTY OF BERNALILLO


Tom Zdunek, Bernalillo County Manager

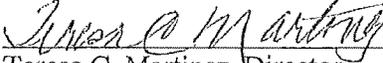
8/5/13
Date

Approved:


County of Bernalillo Attorney

8/2/13
Date

Finance Department


Teresa C. Martinez, Director