AGREEMENT FOR INMATE CONFINEMENT BETWEEN THE COUNTY OF SANTA FE AND LUNA COUNTY

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 Luna County, a political subdivision of the State of New Mexico (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 with or arrested for a crime in the Contractor's County who are either: (i) in need of housing while being conveyed or awaiting conveyance to the jail of the Contractor's County; (ii) or in imminent danger housed in the Contractor's facility;

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 incarcerate the 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 PRISONERS.** The County agrees to house persons awaiting indictment or trial on behalf of the Contractor 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 temporarily imprisoned while being conveyed or awaiting conveyance to a county jail in the Contractor's County, or a person whose life is in imminent danger in the present place of incarceration, as specified in NMSA 1978, Sections 33-3-13 and 33-3-14 (1889), and the Contractor agrees in any event that any persons housed at the SFCADF meet the minimum criteria established by these statutes and Law and agrees to compensate the County for the housing as set forth in the next paragraph.

2. **COMPENSATION.** The Contractor shall pay the County $85.00 per day for each full or partial calendar day for each Contractor inmate confined at SFCADF. SFCADF has the option to review and increase this Contract upon the anniversary date. .

3. **CONDITIONS OF HOUSING.** The County will house all prisoners consistent with its prevailing policies, post orders and other routine practices,

unless additional housing policies are specified by 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 thirty (30) days of receipt. If an invoice is not paid within forty-five (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 to any person proposed for housing in the SFCADF, for any reason.

6. **TRANSPORTATION.** The 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, the 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 charges remain pending in the Contractor's 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 persons housed at the SFCADF.

   C. **Off-Site Care.** The Contractor shall be responsible for all costs of medical, dental and mental health care 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 the 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.

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 sixty (60) days written notice to the other party of its intent not to renew the Agreement, the Agreement will automatically be renewed for a one-year period, not to exceed a total of four years.

10. **TERMINATION.** This Agreement may be terminated by either party upon sixty (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 twenty-four (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. **ACCESS BY CONTRACTOR.** The Contractor, through permission of the Director of SFCADF, may inspect the conditions under which its inmates are detained at the SFCADF. Access to SFCADF shall be coordinated through the Director of SFCADF, the Warden or their designee.

19. **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:

Kelly Kuenstle

Authorized Signatory

Date: 9-20-12

Luna County Manager

Printed Title of Authorized Signatory

Santa Fe County

Katherine Miller, County Manager — Date: 12 · 3 · 12

Approved as to form:

Stephen Ross, County Attorney — Date: November 20, 2012

Teresa Martinez, County Finance Director — Date: 11/30/12