

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

John H. Bemis
Cabinet Secretary

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Tony Delfin, Division Director
State Forestry Division



August 13, 2012

Katherine Miller
Santa Fe County Manager
102 Grant Avenue
Santa Fe, New Mexico 87504

RE: Notice to Proceed
Santa Fe County

Dear Ms. Miller:

Enclosed is the fully executed JPA 13-521-0400-0010. This letter serves as your notice to proceed with improvement of natural resources on public lands managed by Santa Fe County by providing technical direction to the Inmate Work Camp (IWC) program.

Mike Gonzales is responsible for the oversight of this project and will inspect and certify invoices submitted under this agreement. Contact information is as follows:

Mike Gonzales, IWC Supervisor
EMNRD, Forestry Division
3201 Hwy 314 SW
Los Lunas, NM 87031
Office: (505) 865-2776
Email: michael.gonzales1@state.nm.us

Sincerely,

Eddie Tudor, Bureau Chief
Resources Management Bureau

Cc: Mike Gonzales, IWC Supervisor

**JOINT POWERS AGREEMENT
BETWEEN THE
NEW MEXICO ENERGY, MINERALS AND
NATURAL RESOURCES DEPARTMENT
AND
SANTA FE COUNTY**

THIS AGREEMENT is made and entered into by the New Mexico Energy, Minerals and Natural Resources Department (EMNRD) and Santa Fe County (County) pursuant to the Joint Powers Agreements Act, NMSA 1978, §§ 11-1-1, *et seq.* The common power to be exercised is as follows:

EMNRD and County are public agencies and are authorized by law to enter into this Joint Powers Agreement; and

Pursuant to NMSA 1978, § 68-2-6, EMNRD is responsible for entering into contracts and Joint Powers Agreement with other governmental agencies to promulgate natural resource conservation and rural fire defense; and

Pursuant to NMSA 1978, Section 33-13-1 to 33-13-8, and Joint Powers Agreement EMNRD No. 98-521-0400-0043, between EMNRD and the New Mexico Corrections Department, EMNRD is authorized to contract with public agencies for inmate work on natural resource conservation projects on public lands;

Pursuant to NMSA 1978, §§ 4-37-1 and 3-18-11, County is granted the same powers that are granted municipalities regarding fire prevention and protection; and

WHEREAS, EMNRD and County desire to enter into this Agreement to provide for the use of inmate crews to perform natural resource improvements to public lands within the County and provide vocational training for inmates classified by the Corrections Department as minimum-security inmates; and

WHEREAS, EMNRD and County desire to enter into this Agreement for administrative efficiency so that the project can be carried out through a single program,

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT THE METHOD BY WHICH THIS PURPOSE SHALL BE ACCOMPLISHED IS AS FOLLOWS:

1. County shall:

A. consult with EMNRD and request the work to be performed based upon the needs of County to improve natural resources on public lands within the County through the performance of natural resource restoration projects;

B. assign a fully qualified and experienced Project Officer to provide technical direction to the Inmate Work Camp (IWC) Program Crew Supervisor on all projects undertaken within the terms of this Agreement;

C. notify the IWC Camp Supervisor in the event that the crew does not produce the needed amount of work, or if the work does not meet County standards;

D. prepare a Project Plan for consideration and approval by EMNRD (Attachment A);

E. notify EMNRD in advance when contingencies may arise causing the assigned Project Officer's absence; County Project Officer or representative shall contact EMNRD at least 24 hours in advance of normal inmate working hours if possible;

F. advise County personnel that they shall not mail or deliver letter or packages for inmates to barter, gamble or furnish money, alcohol, drugs or tangible goods to any inmate or EMNRD employee, or furnish any other item or substance prohibited by the Corrections Department;

G. as requested by EMNRD, provide a written activity report of work completed;

H. not hold the inmates in custody and not directly supervise them;

I. provide notices, provide technical direction to IWC Crew Supervisors on the projects under this Agreement, inspect the work performed, and reimburse EMNRD for the work; and

J. pay EMNRD, based on monthly bills, in accordance with rates established in individual Project Plans:

1. cost of inmate days worked;
2. cost of inmate transportation;
3. cost for tool or equipment use; and
4. cost of materials furnished.

2. EMNRD shall:

A. review and approve projects in accordance with the priority system set forth in the IWC manual;

B. furnish IWC crews to perform the agreed upon work;

C. make arrangements for the necessary medical attention for the crews and outline the procedure that it desires to have followed in case of serious injury or illness of inmates while performing natural resources work;

- D. provide transportation and supervision of the inmates;
- E. provide technical direction and supervision for activities carried out by inmates participating in the program;
- F. instruct Crew Supervisors that they shall receive a Project Plan approved by EMNRD that includes designation of work to be accomplished and the name of the County Project Officer responsible for technical direction of the work;
- G. inform appropriate County personnel of Inmate Work Camp applicable policies and procedures in the Inmate Work Camp manual; and
- H. document all vocational training that each inmate received while working on projects pursuant to this Agreement.

3. County and EMNRD mutually agree that:

- A. work to be performed shall be agreed upon by both parties, as documented by a completed and approved Project Plan, before work begins;
- B. EMNRD shall furnish sufficient inmate crew members to complete the scheduled work; the work week shall normally consist of four 10-hour days (including travel time), except during the fire season and other emergencies beyond the control of the parties;
- C. each party represents that the work performed under this Agreement does not displace the parties' regular employees, impair the parties' contracts for service in existence during the course of the Agreement, exploit inmate labor, or compete with free labor in the production of goods or services;
- D. nothing herein contained shall obligate County or EMNRD beyond the extent of available funds allocated or programmed for this work, or to act in a manner contrary to applicable laws; and
- E. County and EMNRD shall give orientation to the employees of the other agency as to their agency's standard operating procedures to the extent necessary for a successful project.

4. **Term: THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE SECRETARY OF THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION (DFA).** This Agreement shall be ongoing unless earlier terminated pursuant to Section 5, Termination, or Section 6, Appropriations, below.

5. **Termination:**

- A. Either party may terminate this Agreement upon written notice

delivered to the other at least 10 days prior to the intended termination date. By such termination, neither party may nullify or avoid any obligation required to have been performed prior to termination. Except as otherwise allowed or provided under this Agreement, EMNRD's sole liability upon such termination shall be to pay for acceptable work performed prior to the County's receipt of the notice of termination. The County shall submit an invoice for such work within 30 days of receiving the notice of termination. By such termination, neither party may nullify obligations or duties accrued prior to the termination date.

B. Immediately upon receipt by either EMNRD or the County of notice of termination of this Agreement, the County shall:

- 1) not incur any further obligations for salaries, services, or any other expenditure of funds under this Agreement without EMNRD's written approval;
- 2) comply with all directives EMNRD issues in the notice of termination as to the performance of work under this Agreement; and
- 3) take such action as EMNRD directs for the protection, preservation, retention, or transfer of all property titled to EMNRD and records generated under this Agreement.

6. **Appropriations:** The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico and County granting sufficient appropriation and authorizations. If sufficient appropriations and authorization are not granted, either party may terminate this Agreement, or suspend performance pending approval of sufficient appropriation or authorization, upon written notice from one or the other. Either party's decision as to whether sufficient appropriations are available shall be accepted by the other and shall be final.

7. **Payment Amount:** Payment amount for projects from the County is a specified in the agreed-upon Project Plan.

8. **Payment Provisions:** EMNRD may submit request for payment for services provided, through an invoice, no more frequently than monthly. County shall reimburse EMNRD based on monthly billings the amount specified in the agreed-upon Project Plan and submit payment to the following address, within 45 days of receiving the invoice for the use of the crews:

EMNRD - Forestry Division
Inmate Work Camp
3201 Hwy 314 SW
Los Lunas, NM 87031

9. **Administrative Offices:**

Santa Fe County
35 Camino Justicia
Santa Fe, NM 87508
505-986-6200

EMNRD – Forestry Division
P.O. Box 1948
Santa Fe, NM 87504
505-476-3325

10. **Project Officers:**

Santa Fe County
35 Camino Justicia
Santa Fe, NM 87508
505-992-3076

EMNRD – Forestry Division
Inmate Work Camp
Michael Gonzales
3201 Hwy 314 SW
Los Lunas, NM
505-865-2775

11. **Subcontracting:** EMNRD shall not subcontract any portion of the services it performs under this Agreement or obligate itself in any manner to any third party, with respect to any rights or responsibilities under this Agreement, without County's prior written approval.

12. **Strict Accountability for Receipts and Disbursements:** EMNRD shall be strictly accountable for receipts and disbursements relating hereto and shall make all relevant financial records for each Project Plan available to EMNRD, DFA, and the New Mexico State Auditor, upon request, and shall maintain all such records for three years after the project termination date specified in the individual approved Project Plans.

13. **Disposition, Division, or Distribution of Property; Return of Surplus Funds:** Upon expiration or termination of this Agreement, if either party has property or funds in its possession belonging to the other, it shall return the property or funds in proportion to the parties' original contribution.

14. **Equal Opportunity Compliance:** Both parties 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, both parties 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, serious medical condition, spousal affiliation, sexual orientation, or gender identity, be excluded from employment with or participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If either party is found not to be in compliance with these requirements during the life of this Agreement, either party agrees to take appropriate steps to correct these deficiencies.

15. **Compliance with Funding Source Conditions:** EMNRD shall comply with all applicable state and federal statutes and rules or regulations the funding source imposes.

16. **Amendment:** This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto and approved by the DFA Secretary.

17. **Liability:** Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1, *et seq.*, as amended.

IN WITNESS WHEREOF, the parties have herein set their hand.

STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

By: [Signature] Date: 7-29-12
Cabinet Secretary or Designee

SANTA FE COUNTY

By: [Signature] Date: 7.17.12
Authorized Representative Signature

Katherine Miller, Santa Fe County Manager
County's Printed Name and Title
Approved as to form
Santa Fe County Attorney
By: [Signature]
Date: July 11, 2012
[Signature] 7/13/12

STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION

By: Thomas Clifford
PK

Date: 7/31/12

Attachment A

**ENERGY, MINERALS & NATURAL RESOURCES DEPARTMENT
PROJECT PLAN**



**Forestry Division
INMATE WORK CAMP PROGRAM**

"Improving Natural Resources"

Project Name: _____
Location: _____
Cooperator: _____ Unit/District: _____
Cooperator's Agent: _____

Proposed Starting Date: _____ Proposed Completion Date: _____

Project Purpose: _____

Project Description: _____

Public Benefit Derived from Project _____

***** Please Include Map, Radio Frequencies, Technical Plans**

_____ check here if technical plans are attached

Revised on August, 2011

Project Activity: *(please indicate the type of activity for the proposed project. Certain projects may have more than one activity.)*

- Slash Treatment _____ # of acres
- Pruning _____ # of acres
- Understory Species Control _____ # of acres
- Planting, Replanting, Reinforcement _____ # of acres/# of trees planted
- Hiking and Riding Trail Construction _____ # of feet
- Watershed Protection _____ # of acres affected
- Fuel Breaks _____ # of feet
- Prescribed Burning Carried Out _____ # of acres

Wildlife Habitat Improvement _____ # of acres
 Area Protected from Destructive Grazing _____ # of acres affected
 Outdoor Recreation Assistance _____ # of acres
 Technical Training Given _____ # of courses/total hours

MANPOWER, WORK & FINANCIAL ESTIMATE

# of Crew Members	# of Days	Cost Per Crew Day**	Total Cost
8-12			

** Is Project Reimbursable Yes No

EQUIPMENT NEEDED

Type of Equipment	Number	Provided By (Agency)	Special Tools

Chainsaw oil and gas supply by County: Yes No

SANTA FE COUNTY

By: _____ Date: _____
 Authorized Representative Signature

 Printed Name and Title

FORESTRY DIVISION

By: _____ Date: _____
 Authorized Representative Signature

 Printed Name and Title

BILLING INFORMATION:

Name: _____
 Address: _____
 Telephone: _____
 Fax: _____