

**LEASE AGREEMENT BETWEEN THE PUEBLO OF POJOAQUE
AND THE COUNTY OF SANTA FE FOR A
SOLID WASTE TRANSFER STATION**

This lease is effective as of the date last executed below, by and between the Pueblo of Pojoaque ("Lessor"), a federally recognized Indian tribe, whose address is c/o Pueblo Realty Department, 96 Cities of Gold Road, Suite 3, Santa Fe, New Mexico, 87506; and the County of Santa Fe ("Lessee"), located at 102 Grant Avenue, Santa Fe, New Mexico, 87504. The Pueblo and the County are sometimes referred to herein as the "Parties."

The parties agree as follows:

**SECTION ONE
DEMISE, DESCRIPTION, AND USE OF PREMISES**

A. Lessor leases to Lessee and Lessee hires from Lessor, for the purpose of setting up a solid waste transfer station to protect the health, safety and welfare of Santa Fe County residents, including residents of the Pueblo of Pojoaque, the premises which is legally described and identified in that certain survey identified as "9.28 Acre Jacona Transfer Station Site for Santa Fe County within the Pojoaque Pueblo Grant, Sec. 18, T.19N., R.9E., N.M.P.M., Vicinity of Jacona, Santa Fe County," and prepared by XYZ Surveying & Drafting, 331 Villeros St., Santa Fe, NM; Project No. SFCO046; File: SFCO046; Bk: A; Name: Jacona; Subdivision: Poj. Pueblo, certified August 8, 2005, attached hereto as Exhibit A and made a part hereof.

B. As used in this Lease Agreement, the term "premises" refers to the real property above described and to any improvements located on the property from time to time during the term of this Lease Agreement.

**SECTION TWO
TERM**

This Lease shall commence on the effective date and shall be for an initial term not to exceed twenty-five (25) years, so long as an operating solid waste transfer station is located on the premises. This Lease may be renewed by mutual consent of Lessor and Lessee for two successive renewal terms of ten (10) years each, upon mutually acceptable terms negotiated before the expiration of each term. If Lessee wishes to exercise such options to renew, Lessee must notify Lessor in writing at least twelve (12) months prior to the expiration of the then-current term. If Lessor and Lessee cannot mutually agree upon the terms and conditions for renewal of this Lease at least ninety (90) days prior to the expiration of the then-current term, Lessor, in its sole discretion, shall have the option not to renew this Lease and shall notify Lessee in writing of its decision. If Lessor fails to exercise its option to terminate this Lease, this Lease will automatically convert to a month to month Lease.

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**SECTION THREE
RENT**

The full rent due and payable for the full term of this Lease Agreement shall be one dollar (\$1.00) per year, first due upon signing of the Lease, payable to the Pueblo of Pojoaque and delivered to the Pueblo of Pojoaque Realty Department. In addition, in-kind services to be provided by the Lessee include accepting, free of charge, all solid waste delivered to the Pojoaque facility by the Lessor, the Lessor's affiliated businesses and Pueblo of Pojoaque tribal members, provided these entities, businesses or individuals possess a valid permit issued by the Pueblo of Pojoaque Tribal Works Department which permits the Pueblo entity, business or individual to dispose of waste at this facility.

**SECTION FOUR
WARRANTIES OF TITLE AND QUIET POSSESSION**

A. Lessor covenants that Lessor is the fee title owner of the demised premises, which is federally restricted fee land and that Lessor has full right to make and enter into this lease upon the approval of the Department of the Interior and that Lessee shall have quiet and peaceable possession of the demised premises during the term of this Lease Agreement.

B. While the leased premises are in restricted fee lands status, all of the Lessees obligations under this Lease, and the obligations of his sureties, are to the United States as well as to the Lessor. Nothing contained in this Lease shall operate to delay or prevent a termination of Federal trust responsibility with respect to the land by the issuance of a fee patent or otherwise during the term of the Lease; however such termination shall not serve to abrogate the Lease. The owner of the land and the Lessee and his surety or sureties shall be notified of any such change in the status of the land.

**SECTION FIVE
USES PROHIBITED**

A. Lessee shall not use, or permit the demised premises, or any part of the demised premises, to be used, for any purpose or purposes other than the operation of a solid waste transfer station and all activities that encompass a solid waste transfer station. Lessee shall not use, or permit the demised premises, or any part of the demised premises, to be used for any unlawful conduct or purpose.

B. Lessee shall, at its sole cost, comply with all requirements, pertaining to the demised premises of any insurance organization or company necessary for the maintenance of insurance, as provided in this Lease Agreement, covering any building and appurtenances at any time located on the demised premises or any use or activity that takes place on the demised premises.

**SECTION SIX
NUISANCE PROHIBITED**

A. During the term of this Lease, Lessee shall comply with all applicable laws affecting the demised premises, including the laws and regulations of the Pueblo of Pojoaque, as amended, and any laws the breach of which may result in any claim or penalty against Lessor or forfeiture of Lessor's title to the demised premises.

B. The Pueblo of Pojoaque does not have at the time of the execution of this Lease and agrees not to promulgate environmental laws or regulations that are inconsistent with federal law that would impose an extraordinary expense on the County of Santa Fe without providing a substantial benefit to the environment.

C. The Pueblo of Pojoaque will not enact any law or regulation that would require the County of Santa Fe to correct, abate, or prevent any nuisance, unhealthy or unsafe condition that is not caused by the operation of the demised premises during the term of this lease.

**SECTION SEVEN
ABANDONMENT OF PREMISES**

Lessee shall not vacate or abandon the premises at any time during the term of this Lease Agreement. If Lessee abandons, vacates, or surrenders the demised premises, or is dispossessed by process of law, or otherwise, any personal property belonging to Lessee and left on the premises shall be deemed to be abandoned, at the option of Lessor, except such property as may be encumbered to Lessor.

**SECTION EIGHT
LESSOR'S RIGHT OF ENTRY**

Lessee shall permit Lessor and the agents and employees of Lessor to enter into and upon the demised premises after giving Lessee at least twenty-four (24) hours notice for the purpose of inspecting the premises.

The Lessor, Lessor's affiliated business and Pueblo of Pojoaque tribal members holding valid permits may enter the premises as customers at any time during normal operating hours and in full compliance with County solid waste requirements. In order to enter the premises as customers, the entity or individual must possess a valid permit issued by the Pueblo of Pojoaque Tribal Works Department which permits the entity, business or individual to dispose of waste at this facility.

**SECTION NINE
NO ENCUMBRANCE OF LESSEE'S LEASEHOLD INTEREST**

A. Lessee may not encumber by mortgage or deed of trust, or other instrument, its leasehold interest and estate in the demised premises or in the buildings and improvements placed by Lessee on the premises, as security for any indebtedness of Lessee. The execution of any mortgage, or deed of trust, or other instrument, or the foreclosure of any mortgage, or deed of trust, or other instrument, or any sale, either by judicial proceedings or by virtue of any power reserved in a mortgage or deed of trust, or conveyance by Lessee to the holder of the indebtedness, or the exercising of any right, power, or privilege reserved in any mortgage or deed of trust, shall, at the option of Lessor, terminate this Lease Agreement, or be deemed an assumption by the holder of the indebtedness personally of the obligations of this Lease Agreement. No encumbrance, foreclosure, conveyance, or exercise of right shall relieve Lessee from its liability under this Lease Agreement.

B. If Lessee shall attempt to encumber its leasehold interest and estate in the demised premises or if Lessee or the holder of the indebtedness secured by the encumbrance shall give notice to Lessor of the existence of the encumbrance and the address of the holder, Lessor may terminate this Lease by giving Lessee thirty days written notice of its intent to terminate.

**SECTION TEN
NO SUBLETTING OR ASSIGNMENT**

A. Lessee may not sublet the premises in whole or in part without Lessor's consent, at Lessor's sole discretion, the withholding of which shall not be deemed unreasonable. The making of any sublease without Lessor's consent shall make this Lease null and void.

B. Lessee shall not assign or transfer this Lease Agreement, or any interest in this Lease Agreement, without the prior, express, and written consent of Lessor, and a consent to an assignment shall not be deemed to be a consent to any subsequent assignment. Any assignment without consent shall be void, and shall, at the option of Lessor, terminate this Lease Agreement.

C. Neither this Lease Agreement nor the leasehold estate of Lessee nor any interest of Lessee under this Lease Agreement in the demised premises or any buildings or improvements on the demised premises shall be subject to involuntary assignment, transfer, or sale, or to assignment, transfer, or sale by operation of law in any manner whatsoever. Any such attempted involuntary assignment, transfer, or sale shall be void and of no effect and shall, at the option of Lessor, terminate this Lease Agreement.

**SECTION ELEVEN
CONSTRUCTION OF NEW BUILDING**

A. Plans and specifications. No later than thirty-six (36) months from execution of this Agreement unless otherwise agreed to in writing by Lessor and Lessee, Lessee shall, at

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Lessee's sole expense, prepare plans and specifications for a new building to be erected on the premises to house transfer operations which shall provide for a steel fabricated building. Such plans and specifications shall be submitted to Lessor for Lessor's written approval or any revisions required by Lessor. Lessor shall not unreasonably withhold such approval, and in the event of disapproval, Lessor shall give to Lessee an itemized statement of reasons for disapproval within twenty (20) days after the plans and specifications are submitted to Lessor. If Lessor does not disapprove the plans and specifications provided for in this section within twenty (20) days after they have been submitted to Lessor, the plans and specifications shall be deemed to have been approved by Lessor. Under no circumstances shall the Lessee be required to expend more than \$500,000 in costs for the design and construction of the building and site and access improvements.

B. Arbitration. If plans and specifications are not approved by Lessor and Lessee in writing within twenty (20) days after they are first submitted to Lessor, then Lessor and Lessee shall each select an arbitrator, and the two arbitrators so selected shall select a third arbitrator. The three arbitrators so selected shall hear and determine the controversy and their decision as to the final plans and specifications shall be final and binding on both Lessor and Lessee, with each party to bear its own cost of arbitration. The arbitrators shall determine the controversy and notify Lessor and Lessee in writing of their determination within thirty (30) days after the controversy has first been submitted to the arbitrators.

C. Permitted alterations, improvements and changes. Lessee shall have the right to make such alterations, improvements, and changes to any building that may from time to time be on the premises as Lessee may deem necessary, or to replace any building with a new one of at least equal value, provided that prior to making any structural alterations, improvements, or changes, or to replacing any building, Lessee shall obtain Lessor's written approval of plans and specifications therefore, which approval Lessor shall not unreasonably withhold, provided that the value of the building shall not be diminished and the structural integrity of the building shall not be adversely affected by any such alterations, improvements, or changes, or that any proposed new building is at least equal value to the one that it is to replace, as the case may be. In the event of disapproval, Lessor shall give to Lessee an itemized statement of reasons for the disapproval. If Lessor does not disapprove the plans and specifications provided for in this section within twenty (20) days after they have been submitted to Lessor, the plans and specification shall be deemed to have been approved by the Lessor. Lessee will in no event make any alterations, improvements, or other changes of any kind to any building on the premises that will decrease the value of the building, or that will adversely affect the structural integrity of the building.

D. Disposition of new improvements. Any new building constructed by Lessee on the premises, and all alterations, improvements, changes, or additions made in or to the premises shall be the property of Lessee. If the Lessor initiates early termination of this Lease, Lessor shall pay to the Lessee the fair market value of the improvements paid for by Lessee; at the expiration of this lease, all improvements shall become the property of the Lessor.

**SECTION TWELVE
REPAIRS AND DESTRUCTION OF IMPROVEMENTS**

A. Maintenance of improvements. Lessee shall, throughout the term of this Lease Agreement, at its own cost, and without any expense to Lessor, keep and maintain the premises and access road to the premises, including all buildings and improvements of every kind that may be a part of the premises, and all appurtenances to the premises, in good, sanitary, and neat order, condition and repair.

B. No obligation by Lessor to make improvements. Lessor shall not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description, whatsoever to the demised premises or any buildings or improvements on the demised premises or to the access road from NM 502 to the premises.

C. Lessee's compliance with laws. Lessee shall comply with and abide by all federal, tribal, state, county, and municipal ordinances, laws, and regulations affecting the demised premises, the improvements on the demised premises, and any activity or condition on or in the premises.

Lessee shall comply with the U.S. Department of Interior leasing regulations at 25 C.F.R. Part 162, and Lessee shall be responsible for any costs and expenses associated with compliance with these regulations.

D. Lessor will not create laws adverse to Lease. Lessor agrees that it will not exercise its authority as a sovereign to create any statutory, administrative, common law, or other obligation that may not reasonably be anticipated in the normal course of the use and occupancy of the premises by the Lessee that would result in the imposition on the County of an unreasonable or extraordinary expense, or that materially and unreasonably interfere with the use and enjoyment of the leased premises by the Lessee.

E. Damage to and destruction of improvements. The damage, destruction, or partial destruction of any building or other improvement that is a part of the demised premises shall not release Lessee from any obligation under this Lease Agreement, except as expressly provided below. In case of damage to or destruction of any such building or improvement, Lessee shall at its own expense promptly repair and restore it to a condition as good or better than that which existed prior to the damage or destruction. Without limiting the obligations of Lessee, it is agreed that the proceeds of any insurance covering damage or destruction shall first be applied by Lessee for repair or replacement of any damaged or destroyed building(s). However, it is expressly understood that the County is not committed to expenditure of any funds for the repair, restoration, rehabilitation or replacement of any building destroyed or made uninhabitable by fire or other cause until such time as funds are budgeted and approved by the Board of County Commissioners for the expenditure. The County's decision as to whether its funds are sufficient shall be final. In the event the County fails to fund and approve the actual expenditure of funds for such repair, restoration, rehabilitation or replacement within fourteen (14) months of the

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damage or destruction, then Lessor may, at its sole discretion, terminate this Lease by giving Lessee thirty day written notice of its intent to terminate.

F. Damage or destruction occurring toward end of term. In spite of anything to the contrary in the immediately preceding paragraphs of this section, in case of destruction of the building on the premises or damage to the building from any cause so as to make it untenable after the first fifteen (15) years of the initial term or the first five (5) years of any subsequent renewal term of this Lease Agreement, Lessee, if not then in default under this Lease Agreement, may elect to terminate this Lease Agreement by written notice served on Lessor. In the event of such termination, there shall be no obligation on the part of Lessee to repair or restore the building or improvements nor any right on the part of Lessee to receive any proceeds collected under any insurance policies covering the building or any part of the building. On such termination, rent, taxes, assessments, and any other sums payable by Lessee to Lessor under this Lease Agreement shall be prorated as of the termination date. In the event any rent, taxes, or assessments shall have been paid in advance; Lessor shall rebate any such payment for the unexpired period for which payment shall have been made.

G. Election not to terminate. If, in the event of destruction or damage after the first fifteen (15) years of the initial term or after the first five (5) years of any subsequent renewal term of this Lease Agreement, Lessee may elect not to terminate this Lease.

SECTION THIRTEEN UTILITIES

Lessee shall fully and promptly pay for all water, gas, heat, light, power, telephone service, and other public utilities of every kind furnished to the premises throughout the term of this Lease Agreement, and all other costs and expenses of every kind whatsoever of or in connection with the use, operation, and maintenance of the premises and all activities conducted on the premises, and Lessor shall have no responsibility of any kind for any such utilities.

SECTION FOURTEEN HAZARDOUS SUBSTANCES

A. Reportable uses require consent. The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use"

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shall mean (i) the installation or use of any above or below ground storage tank, and/or (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the agreed use, so long as such use is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefore. In addition, Lessor may condition its consent to any reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or imposing a Security Deposit.

B. Duty to inform Lessor. If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

C. Lessee remediation and insurance. Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party. Lessee shall carry insurance coverage for losses due to hazardous substances, as provided in Section 17, below.

D. Investigations and remediations. Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the County's use of the premises, unless such remediation measure is required as a result of Lessee's use (including alterations) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

SECTION FIFTEEN LIABILITY OF LESSEE

Lessee will be liable for its own negligent acts, subject in all cases to the defenses and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, et seq., as

amended. However, by entering into this Lease Agreement, Lessee and its public employees as defined by the New Mexico Tort Claims Act do not waive sovereign immunity, do not waive any defense(s) and /or any limitations of liability pursuant to law. This paragraph is intended only to define the liabilities between Lessee and Lessor and is not intended to modify in any way the parties' liabilities as governed by the common law or the New Mexico Tort Claims Act.

SECTION SIXTEEN REMEDIES CUMULATIVE

All remedies conferred in this Lease Agreement shall be deemed cumulative and no one exclusive of the other, or of any other remedy conferred by law.

SECTION SEVENTEEN INSURANCE

A. Insurance coverage of premises. Lessee shall, at all times during the term of this Lease Agreement and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements, with loss payable to Lessor and Lessee as their interests may appear. Any loss adjustment shall require the written consent of both Lessor and Lessee.

B. Personal injury liability insurance. Lessee shall maintain in effect throughout the term of this lease personal injury liability insurance covering the premises and its appurtenances in an amount to cover its liability pursuant to the Tort Claims Act, NMSA 1978, Sections 41-4-1, et seq., as amended.

C. Insurance coverage for pollution and hazardous substances. Lessee shall maintain in effect throughout the term of this lease, pollution liability insurance in an amount not less than five million dollars (\$5,000,000) covering the premises.

D. Lessor's right to pay premiums on behalf of Lessee. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor upon request. In the event of the failure of Lessee, either to effect insurance in the names of the Lessee and the Lessor or to pay the premiums for the insurance or to deliver the policies, or certificates of the policies, to Lessor, Lessor shall be entitled, but shall have no obligation, to effect such insurance and pay the premiums for the insurance, which premiums shall be repayable to Lessor within thirty (30) days of invoice. Failure to repay the same shall constitute a breach of this Lease Agreement. Each insurer mentioned in this section shall agree, by endorsement on the policy or policies issued by it, or by independent instrument furnished to Lessor, that it will give to Lessor thirty (30) days' written notice before the policy or policies in question shall be altered or cancelled.

E. Blanket insurance policies. In spite of anything to the contrary contained in this

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section, Lessee's obligations to carry the insurance provided for in this section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee. However, the coverage afforded Lessor shall not be reduced or diminished or otherwise be different from that which would have existed under a separate policy meeting all other requirements of this Lease.

SECTION EIGHTEEN DEFAULT

In the event of any breach of this Lease Agreement, the non-breaching party shall provide written notice by certified mail, of the breach to the breaching party. The party in breach shall have thirty (30) days in which to cure any breach of this Agreement. In the event of a breach which cannot be cured within thirty (30) days, if the breaching party has not begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately, and in addition to the other rights or remedies the non-breaching party may have, proceed as provided in Section Twenty-five, herein. Should either party at any time terminate this Lease Agreement for any breach, in addition to any other remedy it may have, the non-breaching party may recover from the breaching party all damages incurred by reason of the breach, including costs and attorney's fees.

SECTION NINETEEN LESSOR'S RIGHT TO PERFORM

In the event Lessee fails or neglects to do or perform any act or thing provided for it to do or perform in this Lease Agreement then Lessor may, but shall not be required, to seek resolution of the dispute pursuant to Section Twenty-five, Dispute Resolution, herein.

SECTION TWENTY PARTIES' OPTION TO TERMINATE AND LESSOR'S RIGHT TO RELOCATE

A. Each party shall have the right, upon twelve (12) month's prior written notice to the other party, to terminate this Lease. On such effective date each party shall be relieved from all further liability under this Lease Agreement, and Lessee shall deliver possession of the demised premises to the Lessor.

B. Lessor shall have the right to relocate the solid waste transfer station to a mutually agreeable, similarly situated parcel of land, of the same or similar size at the option of the Lessor. If the Lessor desires to relocate the improvements, the Lessor shall, at Lessor's option, pay the cost of relocation or pay to the Lessee the replacement value of all improvements paid for by Lessee, and any and all other costs associated with the relocation of the solid waste transfer station.

**SECTION TWENTY-ONE
DISPOSITION OF IMPROVEMENTS ON TERMINATION OF LEASE**

A. If the Lessor initiates early termination of this Lease, Lessor shall pay to the Lessee the fair market value of all improvements paid for by Lessee and improvements shall be the property of Lessor. If the Lessee initiates early termination with or without cause and provided there has been no duress to terminate this Lease by the Lessor, then the improvements shall become the property of the Lessor.

B. To determine the fair market value of the improvements to be paid by Lessor to Lessee, each party to this Lease Agreement shall select a licensed appraiser and complete an appraisal for the replacement value within sixty (60) days of notice of termination by Lessor. The appraisals shall be in writing and signed by the appraisers. The appraisers shall deliver copies to each party personally or by registered mail or certified mail, return receipt requested. The fees and expenses of each appraiser shall be paid by the party appointing the appraiser. Once the Lessor has received a copy of both appraisals, Lessor shall submit an offer to Lessee for the replacement value of the improvements. The amount offered shall not be less than the value calculated by the Lessor's appraiser. If the parties cannot agree upon the value to be paid, the parties shall follow the procedures for resolution of the dispute as set out in Section Twenty-six, Dispute Resolution, herein.

C. The Parties to this Lease Agreement acknowledge that the Lessor may obtain grant money to contribute to the cost of the improvements. If the Lessee initiates an early termination of this Lease, and the Lessor has contributed to the costs of improvements, the amount representing fair market value to be paid to the Lessee by the Lessor shall be reduced by the amount that Lessor has contributed to the improvement.

**SECTION TWENTY-TWO
PARTIES BOUND**

The covenants and conditions contained in this Lease Agreement shall, subject to the provisions as to assignment, transfer, and subletting, apply to and bind the heirs, successors, executors, administrators, and assigns of all of the parties to the Lease Agreement.

**SECTION TWENTY-THREE
TIME OF THE ESSENCE**

Time is of the essence of this Lease Agreement, and of each and every covenant, term, condition, and provision of this Lease Agreement.

**SECTION TWENTY-FOUR
NOTICE**

Any and all Notices to be sent under the terms of this Agreement shall be considered to

have been given upon deposit to the United States Mail with proper postage affixed and mailed to the recipient, or by personal delivery to the address specified herein.

Notices to Lessor: George Rivera, Governor
Pueblo of Pojoaque
78 Cities of Gold Road
Santa Fe, NM 87506;

and copy to:
Pueblo of Pojoaque Legal Department
Attn: Jana C. Werner
17746 U.S. Highway 84/285
Santa Fe, New Mexico 87506.

Notices to Lessee: Santa Fe County Attorney
102 Grant Street
P. O. Box 276
Santa Fe, NM 87504;

Notices to BIA: Superintendent
Bureau of Indian Affairs
Northern Pueblos Agency
U.S. Department of the Interior
P. O. Box 4269
Fairview Station
Española, NM 87533.

SECTION TWENTY-FIVE DISPUTE RESOLUTION

Except as provided in Section Eleven.B., *supra*, any disputes involving this Agreement shall be resolved as:

A. A written notice of dispute shall be mailed to the other party by certified, first-class mail. If the dispute is not resolved between the parties within thirty (30) days after the written notice is received, mediation shall commence. A mediation team composed of one representative from each party shall attempt to reach consensus on resolution of the dispute. Such consensus resolution shall be binding on the parties.

B. If the mediation team cannot reach consensus, the dispute shall be resolved by fast-track, binding arbitration. An arbitrator shall be selected by the mediation team within thirty (30) days of the date the mediation team decides that mediation is unsuccessful. The arbitrator so selected shall hear the controversy within sixty (60) days after the arbitrator is selected. The

arbitrator shall determine the controversy and notify Lessor and Lessee in writing of his determination within thirty (30) days after the controversy is submitted to the arbitrator. The arbitrator's decision shall be final and binding on both Lessor and Lessee. Each party shall bear its own cost of arbitration, and the costs and expenses of the selected arbitrator shall be split equally between the parties.

C. The arbitrator's decision shall be final and shall be enforceable in its entirety in the state court of the State of New Mexico sitting in Santa Fe, New Mexico

D. For purposes of any dispute resolution, the Pueblo grants an explicit limited waiver of sovereign immunity from suit, in favor only of the County, limited solely to the extent necessary for the County to recover up to the full replacement value of design and construction costs of the building and for the express purpose of allowing the Lessee to enforce its rights and remedies under this Lease Agreement, provided however that the Pueblo's consent to a waiver of sovereign immunity as to any award or judgment under this Lease is expressly limited to any monetary amount expressly due and owing under the terms of this Lease. The Pueblo expressly does not waive its immunity for any special, incidental, consequential, exemplary or punitive damages. In no circumstances shall any funds or assets of any party other than the Pueblo's be available to satisfy any monetary award or judgment. Nothing in this Agreement shall be construed as a waiver of sovereign immunity of any of the Pueblo's other corporations, instrumentalities, agencies or departments. Except as expressly provided in this section, Lessor otherwise retains and does not waive its sovereign immunity.

E. The Lessor retains sole and exclusive civil, legislative, regulatory and adjudicatory jurisdiction over the premises for the purposes of deciding disputes that may arise under the terms of this Agreement.

SECTION TWENTY-SIX ENTIRE AGREEMENT

This Lease Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease Agreement shall not be binding upon either party except to the extent incorporated in this agreement.

SECTION TWENTY-SEVEN MODIFICATION OF AGREEMENT

Any modification of this Lease Agreement or additional obligation assumed by either party in connection with this Lease Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

**SECTION TWENTY-EIGHT
ADDITIONAL DOCUMENTS**

The parties agree to execute whatever papers and documents may be necessary to effectuate the terms of this Lease Agreement.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed on the date indicated below.

Date: 9-8-09

BOARD OF COUNTY COMMISSIONERS
By: *Michael Chang*
Chairperson

Attest:
Valerie Espinoza
Valerie Espinoza, County Clerk

Approved as to legal form:

Stephen C. Ross
Stephen C. Ross, County Attorney
Simon Marley 8/25/09



Date: August 12, 2009

PUEBLO OF POJOAQUE
By: *George Rivera*
George Rivera, Governor

List of Exhibits:

- Exhibit A: Survey identified as "9.28 Acre Jacona Transfer Station Site for Santa Fe County within the Pojoaque Pueblo Grant, Sec. 18, T.19N., R.9E., N.M.P.M., Vicinity of Jacona, Santa Fe County," and prepared by XYZ Surveying & Drafting, 331 Villeros St., Santa Fe, NM; Project No. SFCO046; File: SFCO046; Bk: A; Name: Jacona; Subdivision: Poj. Pueblo, certified August 8, 2005.

GOVERNOR
George Rivera

LIEUTENANT GOVERNOR
Linda S. Diaz



TRIBAL SECRETARY
Stephanie J. Crosby

TRIBAL TREASURER
Mary Ann K. Fierro

PUEBLO OF POJOAQUE

OFFICE OF THE GOVERNOR
78 CITIES OF GOLD ROAD
SANTA FE, NEW MEXICO 87506
Tel: (505) 455-3334 Fax (505) 455-0174

PUEBLO OF POJOAQUE TRIBAL COUNCIL RESOLUTION 2009 - DA

Authorizing Execution, Delivery and Performance of Lease Agreement with County of Santa Fe for the Jacona Solid Waste Transfer Station

WHEREAS, the Pueblo of Pojoaque ("Pueblo") is a sovereign, federally recognized Indian Tribe; and

WHEREAS, the Pueblo of Pojoaque Tribal Council ("Council") is vested with all the power, authority, and responsibility for the governmental authority of the Pueblo and the overall direction and policy for the economic development and the health, safety and welfare of the Pueblo, its members and visitors; and

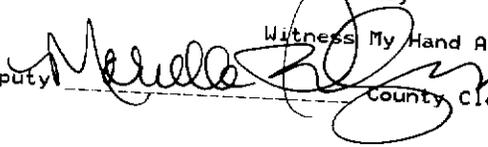
WHEREAS, as an exercise of its inherent authority to provide for the economic development and the health, safety and welfare of the Pueblo, its members and its visitors, the Council enacted Pueblo of Pojoaque Tribal Council Resolution 2004-065 on August 27, 2004, Authorizing the Execution a Lease Agreement for a Solid Waste Transfer Station (the "Lease") with the County of Santa Fe ("County"); and

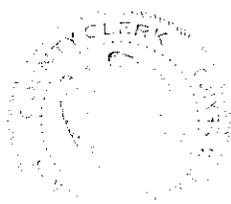
WHEREAS, the Pueblo desires to finalize, execute, deliver and perform the Lease; and

WHEREAS, the Pueblo desires to accept and acknowledge as adequate consideration for the Lease, the County's payment of a nominal fee; the County's delivery to the Pueblo of in-kind services in the form of the County's acceptance free of charge of all solid waste delivered to the facility by the Pueblo, its affiliated businesses and tribal members; and the promotion of the health, safety and welfare of members of the Pueblo and Santa Fe County due to the availability of the solid waste facility on the Pueblo.

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss AGREEMENT (NC)
PAGES: 16

I Hereby Certify That This Instrument Was Filed for
Record On The 7TH Day Of December, 2009 at 10:38:24 AM
And Was Duly Recorded as Instrument # 1585125
Of The Records Of Santa Fe County

Deputy  Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM



SEC CLERK RECORDED 12/07/2009

NOW, THEREFORE, BE IT RESOLVED, by the Council, that the Pueblo is authorized to enter into, execute, deliver and perform that certain Lease Agreement Between the Pueblo of Pojoaque and the County of Santa Fe For A Solid Waste Transfer Station for a period of twenty-five (25) years, with two renewal terms of ten (10) years each.

BE IT FURTHER RESOLVED, by the Council, that the Council has determined that adequate consideration from the County consists of the County's payment of a nominal fee; the County's delivery to the Pueblo of in-kind services in the form of the County's acceptance free of charge of all solid waste delivered to the facility by the Pueblo, its affiliated businesses and tribal members; and the promotion of the health, safety and welfare of members of the Pueblo and Santa Fe County due to the availability of the solid waste facility on the Pueblo.

BE IT FURTHER RESOLVED, by the Council, that Governor George Rivera or Lieutenant Governor Linda Diaz, on behalf of the Pueblo, and not individually, is authorized to execute, enter into, deliver and perform the Lease.

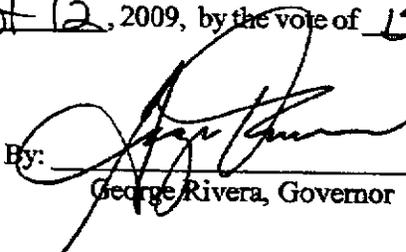
BE IT FURTHER RESOLVED, by the Council, that Governor George Rivera or Lieutenant Governor Linda Diaz on behalf of the Pueblo, and not individually, is authorized to execute, enter into, deliver and perform any and all other warranties, representations, covenants, resolutions, amendments, agreements and written documents reasonable and necessary to effectuate the purposes of this Resolution and the Lease.

BE IT FURTHER RESOLVED, by the Council, that Governor George Rivera or Lieutenant Governor Linda Diaz on behalf of the Pueblo, and not individually, is authorized to take any and all other action reasonable and necessary to effectuate the purposes of this Resolution and the Lease.

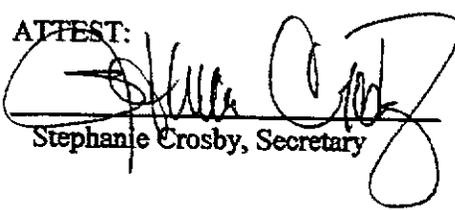
CERTIFICATION

The foregoing Resolution was adopted by a duly called vote of the Pueblo of Pojoaque Tribal Council, at a duly-called meeting on August 12, 2009, by the vote of 15 in favor, 0 opposed, and 0 abstaining.

By: _____


George Rivera, Governor

ATTEST:


Stephanie Crosby, Secretary

SFC CLERK RECORDED 12/07/2009