

NAVAJO COUNTY AGENDA ITEM REQUEST FORM

Meeting Date: June 9, 2015	Time Needed: 5 minutes										
Requesting Department: Superior Court/Administration	Presenter(s) Name: Judge Michala Ruechel/Arno Hall/James Jayne										
Motion before the Board: Consideration and possible approval of an Intergovernmental Agreement between Navajo and Apache County for the Placement of Apache County Delinquent Juveniles into the Navajo County Juvenile Detention Facility.											
Recommendation: (who, what, where, when, how, etc.) Approval											
Background: (why should it be done, what will happen if not approved, etc. include resolution)											
Fiscal Impact: (what will it cost, where funds will come from, is it budgeted, etc.)											
Reviewed and approved by:	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center; width: 16.6%;">County Manager</td> <td style="text-align: center; width: 16.6%;">County Attorney</td> <td style="text-align: center; width: 16.6%;">Human Resources</td> <td style="text-align: center; width: 16.6%;">Finance</td> <td style="text-align: center; width: 16.6%;">IT</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	County Manager	County Attorney	Human Resources	Finance	IT	<input type="checkbox"/>				
County Manager	County Attorney	Human Resources	Finance	IT							
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
Board Action Taken <table style="width: 100%; border: none;"> <tr> <td style="text-align: center; width: 16.6%;">Approved</td> <td style="text-align: center; width: 16.6%;">Denied</td> <td style="text-align: center; width: 16.6%;">No Action</td> <td style="text-align: center; width: 16.6%;">Continued</td> <td style="text-align: center; width: 33.6%;">Continued to:</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">_____</td> </tr> </table>		Approved	Denied	No Action	Continued	Continued to:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Approved	Denied	No Action	Continued	Continued to:							
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____							
Approved with changes as follows: _____											
Clerk's Notes											
Date:	Initial:										

REMINDER: Email this coversheet and all backup documentation to **BOS.Clerk** by **Noon the Tuesday** before the BOS meeting.

Intergovernmental Agreement Between Navajo and Apache County For the Placement of Apache County Delinquent Juveniles Into the Navajo County Juvenile Detention Facility

This Intergovernmental Agreement (“IGA” or “Agreement”) is between Navajo County Arizona, the Navajo County Superior Court, Apache County, Arizona, and the Apache County Superior Court, hereafter referred to collectively as “the Parties”, each of the foregoing having approved and executed this Agreement as set forth below.

Recitals

- A. **WHEREAS**, the Parties are authorized by law to contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-951, *et seq.*
- B. **WHEREAS**, both Navajo County and Apache County have certain responsibilities to provide housing and placement for delinquent and/or incorrigible juveniles, pursuant to A.R.S. § 8-305 and the presiding juvenile court judge of each county has responsibility for the supervision, operation and management of detention facilities pursuant to A.R.S. § 8-306, and;
- C. **WHEREAS**, both counties seek to combine forces to provide greater efficiencies in meeting their statutory requirements to provide placement for juvenile offenders, and;
- D. **WHEREAS**, Apache County is seeking to utilize the existing Navajo County Juvenile Restoration Center to place delinquent or incorrigible juveniles on an as needed basis

NOW THEREFORE the Parties, pursuant to the above, do mutually agree as follows:

- 1. **Purpose & Scope.** The purpose of this IGA is to allow Apache County to place juvenile offenders into the Navajo County Juvenile Restoration Center who are awaiting a detention hearing or whom have been ordered to be held in detention after an appropriate Order of the Apache County Juvenile Court.
- 2. **Term and Renewal.** This IGA shall be deemed to be effective as of July 1, 2015 and shall continue for a period one year until June 30, 2016 unless, prior to the expiration of this period, this Agreement is extended or terminated as provided herein.
- 3. **Renewal.** This IGA shall renew automatically for successive one year periods up to a maximum of nine (9) additional years unless any of the parties hereto, at least ninety (90) days prior to the expiration of the agreement, gives written notice of intent to withdraw from the Agreement.
- 4. **Duties.** The parties to this Agreement hereby agree as follows with regard to their respective duties under this Agreement.
 - a.) **Navajo County:** Navajo County agrees to accept and house in its detention facility up to four Apache County juvenile offenders in any one day whom

are pending a detention hearing, or whom are being held pursuant to by an appropriate order of the Apache County Juvenile Court, at the "Contract Rate" set forth in this Agreement. Navajo County also agrees to accept additional Apache County juvenile offenders beyond the four juvenile per day cap noted above at the "Daily Rate" set forth below.

Navajo County agrees to meet and comply with all standards and regulations in relation to the operation of its juvenile detention facility that have been promulgated by the Administrative Office of the Courts (AOC), and to comply with all provisions of State and Federal Law with regard to operation of its juvenile detention facility. Apache County juveniles detained in the Navajo County Juvenile Restoration Center will be admitted subject to the same terms and conditions and be subject to internal policies and procedures, including those governing visitation, that have been adopted by the facility and are applicable to other juveniles held in Navajo County.

The parties hereto understand that Apache County juvenile offenders to be admitted to detention in Navajo County will require medical clearance under the same standards applicable to Navajo County juvenile offenders prior to admission to the Navajo County Juvenile Restoration Center, and that Navajo County reserves the right to reject acceptance to those juveniles who do not meet established medical clearance standards. Prior to transport of any juvenile to Navajo County by Apache County, the Navajo County Juvenile Restoration Center shall be called for purposes of screening by the shift supervisor or other authorized individual on duty at the Restoration Center.

Navajo County will be responsible for the preparation and filing of the monthly Governor's report required by the Juvenile Justice and Delinquency Prevention Act of 2002 (JJDP).

b.) **Apache County:** Apache County agrees to pay Navajo County the "Contract Rate" of \$90,000 per year in exchange for housing up to four Apache County juveniles at any given day, said sum divisible into equal monthly installments due on the first day of every month, commencing July 1, 2015.

In addition, as to any juveniles in excess of the four juvenile per day cap set forth herein on any given day, Apache County agrees to pay Navajo County the sum of \$130.00 per day (the "Daily Rate") for each juvenile. The parties to this Agreement understand that the "Daily Rate" will apply to any day that Apache County exceeds the four juvenile per day limit set forth in this Agreement, and that the "Daily Rate" will not be prorated for partial days spent in detention by Apache County juvenile offenders. Navajo County shall bill Apache County at the conclusion of each month for all detainees to whom the "Daily Rate" under this Agreement applies. All invoices from Navajo County shall be payable by Apache County within thirty days from the Statement Date.

The failure of Apache County to pay either the “Contract Rate” or the “Daily Rate” as may be applicable within 30 days of the due date shall constitute a material breach of this Agreement. Written notice by Navajo County of that breach and the failure of Apache County to cure that breach for a period of an additional thirty days shall be grounds for termination of the Agreement.

All juveniles transported and delivered to the Navajo County Juvenile Restoration Center pursuant to an Order from the Apache County Juvenile Court shall be accompanied a copy of the applicable Order.

4. **Invoices.** Invoices sent by Navajo County shall be mailed to the address indicated on the signature page. Navajo County shall keep accurate records of all Apache County juveniles detained in the Navajo County Juvenile Restoration Center each day.
5. **Transportation of Apache County Juveniles.** Apache County agrees to be responsible for transporting all juveniles both to the Navajo County Juvenile Restoration Center from Apache County and from Navajo County to Apache County for all necessary Court proceedings. Navajo County has no responsibility for transporting Apache County juveniles for purposes of this Agreement.
6. **Medical Expenses.** If not otherwise provided by the juvenile’s family, caregiver, or other person, Apache County agrees to assume financial responsibility for all reasonable and necessary medical and medication expenses of Apache County juveniles while housed in the Navajo County Juvenile Restoration Center. If medical care providers will not bill Apache County directly for these medical expenses, Navajo County will forward all bills received to Apache County for payment promptly, but in no case less than thirty (30) days after received by Navajo County. Apache County will promptly pay all bills when due and hold Navajo County harmless from the result of any failure to pay medical expenses billed by providers for the care of Apache County juveniles.

Unless convenient for Navajo County detention staff to handle transportation of Apache County juveniles to or from medical appointments outside of the detention facility, Apache County shall be responsible for transportation of Apache County juveniles to/from outside medical appointments. When necessary and dictated by medical necessity, Navajo County will make arrangements for emergency transport of Apache County juveniles, and Apache County will be responsible for all associated expenses.

Notwithstanding the foregoing, medical bills for any Apache County juveniles that are injured while in the Navajo County jail as a result of incidents such as slip and falls, jail assaults, faulty equipment and or structural maintenance, etc, shall be the responsibility of Navajo County if not covered by the juvenile’s family, caregiver, or other person.

7. **Responsibility.** Each party agrees to be responsible for the conduct of its operations and performance of contract obligations and for any accidents or injuries to persons or property arising out of acts of omissions by its officers, agents or employees acting in the course or scope of their employment while performing duties undertaken pursuant to this IGA. Pursuant to A.R.S. § 11-952(C), no party to this Agreement is relieved of any obligation or responsibility imposed on it by law.

- 8. Termination for Conflict of Interest.** This contract is subject to cancellation for conflict of interest according to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.
- 9. Nonassignability.** No party may assign a duty or responsibility under this IGA without the prior written consent of the other party.
- 10. Compliance with Laws.** The parties shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this IGA. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this IGA and any disputes hereunder. Any action relating to this IGA shall be brought in an Arizona court in either county.
- 11. Non-Discrimination.** The Parties agree to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 which is hereby incorporated into this Agreement as if set forth in full herein. During the performance of this Agreement, the Parties shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
- 12. ADA.** The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
- 13. Rights /Obligations of Parties Only.** The terms of the IGA are intended only to define the respective rights and obligations of the parties. Nothing expressed herein shall create any rights or duties in favor of any potential third party beneficiary or other person, agency or organization. Nothing expressed herein shall affect the legal liability of either party to this IGA by imposing any standard of care different from the standard of care imposed by law.
- 14. Entire IGA.** This IGA contains the entire understanding of the parties hereto. There are no representations or other provisions other than those contained herein, and any amendment or modification of this IGA shall be made in writing and signed by the parties to this IGA.
- 15. Severability.** The parties agree that should any part of this IGA be held invalid or void, the remainder of the IGA shall remain in full force and effect with those offending portions omitted.
- 16. Non-Appropriation.** Every payment obligation of the under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature or the board of supervisors resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the parties at the end of the period for which funds are available. No liability shall accrue to the parties in the event this provision is exercised, and neither the

losing its appropriation nor any other political subdivision or agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

- 17. No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA shall be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between the Signatory Counties' employees. No Signatory County shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.
- 18. Indemnification.** Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
- 19. Notice.** Any notice required or permitted to be given under this IGA shall, unless indicated otherwise in this IGA, be in writing and shall be served by delivery or by certified mail upon the other parties at the addresses listed on the signature page (or at such other address as may be identified by a party in writing to the other Signatory Counties).
- 20. Document Retention and Audit.** Pursuant to A.R.S. §§ 35-214 and 35-215, the Contractor shall retain all records relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the State of Arizona at reasonable times. Upon request, the Contractor shall produce the original of any or all such records at the offices of the Department.
- 21. E-Verify.** Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

 - a. The parties warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads in part: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program.”)
 - b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the offending party may be subject to penalties up to and including termination of the Agreement.

- c. Each party retains the legal right to inspect the papers of any employee who works pursuant to this agreement to ensure that the party or its subcontractor is complying with the warranty under this paragraph.

22. Execution of Agreement. This Agreement shall be executed in counterpart, each Signatory County to complete a “County Signature Page”.

23. Authorization. Pursuant to A.R.S. § 11-952(A), each party to this Agreement warrants to the other parties that the appropriate governing body of the party has authorized this Agreement.

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Intergovernmental Agreement Navajo and Apache County For the Placement of Apache County Delinquent Juveniles Into the Navajo County Juvenile Detention Facility

COUNTY SIGNATURE PAGE

NAVAJO COUNTY

In Witness Whereof, Navajo County has caused this Intergovernmental Agreement to be executed by the Chairman of its Board of Supervisors, upon resolution of the Board and attested to by the Clerk of the Board.

Presiding Judge, Navajo County

Date: _____

Chair, Navajo County Board of Supervisors

Date: _____

ATTEST:

Clerk of the Navajo Board of Supervisors

Date: _____

Intergovernmental Agreement Determination

Pursuant to A.R.S. § 11-952 the attorney for the above-named County has determined that it is in proper form and is within the powers and authority granted to the above-named County under the laws of the State of Arizona.

Navajo County Attorney or Deputy County Attorney

Date: _____

NOTICE ADDRESS FOR NAVAJO COUNTY

Navajo County
Attn: County Manager/Finance Department
P.O. Box 668
Holbrook, AZ 86025

APACHE COUNTY

In Witness Whereof, Apache County has caused this Intergovernmental Agreement to be executed by the Chairman of its Board of Supervisors, upon resolution of the Board and attested to by the Clerk of the Board.

Date: _____
Presiding Judge, Apache County

Date: _____
Chair, Apache County Board of Supervisors

ATTEST:

Date: _____
Clerk of the Apache Board of Supervisors

Intergovernmental Agreement Determination

Pursuant to A.R.S. § 11-952 the attorney for the above-named County has determined that it is in proper form and is within the powers and authority granted to the above-named County under the laws of the State of Arizona.

Date: _____
Apache County Attorney or Deputy County Attorney

NOTICE AND BILLING ADDRESSES FOR APACHE COUNTY

Pursuant to Paragraph 4(A), invoices for services rendered under this Agreement shall be sent to:

Apache County
Attn: County Manager/Finance Department
P.O. Box 337
St. John's, AZ 85936