MINUTES
(unofficial until approved)
Committee on Tribal and State Court Affairs
Ramada Hotel, Bismarck, ND
May 15, 2015

Chair Foughty called the meeting to order at 10:00 a.m. and welcomed those in attendance. See Appendix A for a list of attendees.

Tribal Protection Orders - Accessing State Information System

Chair Foughty reviewed issues and past discussions regarding a method for including tribal protection orders in state databases and, ultimately, in federal databases. He said methods have been considered for somehow allowing tribal protection orders to be filed directly with state clerks of court.

Dallas Carlson, ND Bureau of Criminal Investigation reviewed a letter he submitted to Chair Foughty regarding the role of BCI and the Attorney General's office in implementing a method for addressing tribal protection orders (meeting material attachment). He said the two most viable options for responding to tribal protection orders would seem to be either registering the protection order with the courts, as current law provides, or tribal efforts with State Radio to access the NCIC system so the tribal court could directly enter its own orders.

Judge Foughty asked whether the tribal court could simply email the protection order to the state clerk of court. He said perhaps a cooperative agreement could be considered by which an affidavit identifying a tribal court contact could accompany the order when emailed to the clerk.

Staff observed that current law allows only the protected person to register a foreign protection order with the clerk of court. He said the law also requires that other statements or affirmations by the protected person accompany the order when registered.

Judge Foughty said the basic goal is to devise a method by which tribal protection order information can be transmitted to the state system so that law enforcement can respond.

Cher Thomas, IT Director, Attorney General's office, said the paramount concern of the Federal Bureau of Investigation in transmitting protection order information into the federal system is that there is a method of ensuring the order is in effect and that there is a point of contact at the tribal level. Additionally, she said, there is a need to ensure that information is promptly transmitted when the order expires.

Judge Diane Johnson, Fort Berthold Tribal Court, observed that there have been instances in which tribal court protection orders have not been enforced off the reservation.

Judge B.J. Jones, Sisseton-Wahpeton Tribal Court, observed that there is a related issue in that in some areas of the state custody provisions included in tribal protection orders are not being recognized unless the order has been first registered with the state court system. He noted that federal law requires full faith and credit recognition of tribal custody orders.

Chair Foughty said the issue should be considered further and perhaps a request to the Chief Justice to consider a mechanism for allowing tribal court protection orders to be filed directly with a state clerk of court.

Child Support Enforcement

Jim Fleming, Director, State Child Support Enforcement, then reviewed recent developments in state and tribal enforcement efforts, particularly with respect to federal tax refund offsets to address child support arrearages. He noted that the state had recently signed a addendum with the Standing Rock Sioux Tribe related to refund offsets. He noted that Standing Rock has agreed to take the lead in a consortium of tribes that have child support programs and would like to partner with neighboring states. He said additional efforts are underway to finalize consortium operation and provide a useful means of submitting tax refund intercepts through North Dakota as a participating partner.

Access to State Juvenile Services by Tribal Jurisdictions

Chair Foughty next opened a discussion regarding the availability of state juvenile services for tribal youth adjudicated in tribal court.

Judge Foughty described instances in which a tribal juvenile adjudicated in tribal court is unable to obtain needed services and instead is sent to a jail in South Dakota. He said he had contacted the Division of Juvenile Services to determine whether services are available in-state.

Lisa Bjergaard said state services are available for tribal juveniles who have been adjudicated as delinquent in tribal court. She said an agreement between the state and the tribe is needed if the juvenile is to be placed at the Youth Correctional Center (YCC). She distributed template examples of agreements between the state and the Bureau of Indian Affairs and the state and tribe. The examples are attached as Appendix B.

Judge Jones noted that new federal ICWA regulations would apply to a delinquency proceeding if the child is to be placed out of the home in foster care,

Access to State Jury Lists

Judge Jones explained that recent amendments to the federal Violence Against Women Act (VAWA) provided expanded jurisdiction to tribal court to hear domestic violence cases and sentence offenders provided certain procedural protections are in place. He said one such requirement is that tribes must ensure that an impartial, diverse jury is empaneled, which would require greater efforts to include non-Indians in the jury pool. He said a related question is whether tribes could have access to state lists of prospective jurors to enhance the tribal jury selection process.

Staff observed that state jury lists can be provided to tribal courts to assist in juror selection. He said there may be an implementation issue related to isolating juror names for the particular counties located within reservation boundaries.

Erin Shanley wondered whether the federal requirement is related to actual jury service or just the selection process, that is, whether it is sufficient that the jury selection process identifies a fair cross-section of prospective jurors even though a particular prospective may not actually serve on the jury.

Judge Jones said the is a somewhat related, and interesting, question regarding whether a defendant could waive the right to a jury under the VAWA amendments.

Access to Tribal Codes, Constitutions

Erin Shanley described an ongoing effort by the Indian Affairs Commission to assemble all tribal codes and constitutions for purposes of on-line access. She noted that implementation of new VAWA amendments will require tribal codes to be publicly available. The objective of the Commission effort, she said, is to maintain a hardcopy of each tribal code in the Commission offices as well as on the Commission's website. She said tribes should also consider adopting rules for court procedure, if they have not already done so. She asked that tribal members forward contact information if there is an interest in participating in the project.

Extradition

Chair Foughty reviewed previous discussions about extradition and noted that state law (N.D.C.C. ch. 29-06.1) provides a process by which state and local law enforcement can enforce tribal arrest warrants and by which a person can be extradited back to the tribe. He said tribes should be aware of the law's requirements and of the ability of the tribe to limit how far they will travel to pick up someone on a tribal warrant. He noted that the statutory process has been used periodically in the Devils Lake area and Spirit Lake tribal warrants are entered into the state warrant system.

Cross-deputization, Hot Pursuit, Cooperative Agreements

Chair Foughty welcomed Ladd Erickson, McLean County State's Attorney for comments regarding cross-deputization, hot pursuit, and state, county, and tribal cooperative agreements.

Ladd Erickson said recent discussions with the Attorney General's office about a variety of law enforcement issues affecting state, tribal, and local communities led to a request that he develop some possible policies and guidance about how the various issues might be addressed. He said he collected a substantial amount of information and drafted policies on, for example, hot pursuit and use of force and cooperative agreements on matters such as cross-deputization. He said he submitted the various drafts and information to Central Legal Research at the UND School of Law for additional review and for additional background information about what other jurisdictions may be doing in similar areas. He said in addition to these more immediate issues and concerns for law enforcement, there are a host of issues related to racial and ethnic disparities in prison populations, access to treatment services, and access to drug court resources for tribal juveniles. All of these issues, he said, later surface as contributors to involvement with law enforcement and the criminal justice process.

Mr. Erickson and J.R. Kerzmann, McClean County Sheriff, then recounted several instances involving hot pursuit of a tribal member who flees from non-tribal to tribal land. Sheriff Kerzmann said it is critically important for the safety of law enforcement and the general public that measures are considered to enhance cooperation between tribal and county law enforcement in apprehending suspects. Mr. Erickson said he had drafted a simple hot pursuit provision that would address points of contention between tribal and local law enforcement and avoid conflict.

With respect to extradition, Mr. Erickson suggested the law should be amended to allow the governor to processes that are specific to particular tribes.

In response to a question from Judge Jones, Mr. Erickson said the law, as he understands it, would allow county law enforcement to pursue a tribal member onto the reservation for an offense committed off the reservation, arrest the person, and take the person to county jail. However, he said, tribal police often will resist the person being taken off the reservation.

Judge Fought observed that it would seem possible that the governor and tribes could enter into cooperative agreements on the issue of hot pursuit. Mr. Erickson agreed and said his research did not disclose any court decision concluding otherwise.

Fred Fox, Three Affiliated Tribes Tribal Business Council member, noted that at a recent tribal Judicial Council meeting extradition and hot pursuit were the main topics of discussion. He suggested that Mr. Erickson submit his draft policies to the Council for consideration.

In light of the general discussion, Chair Foughty suggested the possibility of a meeting or conference hosted, perhaps, by the Committee and the Indian Affairs Committee that could assemble tribal, state, and federal law enforcement, leadership, and others to discuss matters related to cross-deputization, hot pursuit, extradition, and cooperative agreements. There was general agreement to consider such an event.

Erin Shanley noted that the Fort Peck Reservation in Montana and adjoining counties have had a generally successful experience with cross-deputization efforts. She suggested inviting tribal and county representatives to the meeting.

Chair Foughty thanked all in attendance for their participation. The next meeting will be at the call of the Chair.

There being no further discussion, the meeting was adjourned at 2:00 p.m.

ATTENDEES

APPENDIX A

Name and Organization
(PLEASE PRINT)

James Fleming	DHS - Child Support
Finn Shanley	ND Indian Affairs Commission
Heather Mitchell	Chief Judge Standing Rock
Teri Evenson	Consultant AG's office
Cher Thomas	IT Director, AG office
Dallas Carlson	BCI - Bismarck
Mark Nolan	REE-ACT - Security - Fort Berthold
Francis Connors	REE ACT Security Services - Ft Berthold
Gerald White Jr	MHA Nation Public Safety Commission
Brad Peterson	Legal Services of North Dakota
James Johns	Chief New Town Police Dept.
B. J. Jones	Chief Judge SWO ~~B.J. Jones~~
Ralph R. Erickson	Chief US Dist. Judge, DND
Donovan Foughty	dfoughty@ndcourts.gov
Caleb Dageagle	cdageagle@mhanation.com
Lisa Bjugaard	Division of Juvenile Services
Susan Paulson	Court Administrator Fort Berthold
Linda Gonzalez	Representing Fred Fox
Duane Johnson	Chief Judge Ft. Berthold Sid C
Fred Fox	TAT Tribal Business Council
Ladd Erickson	McLean Cnty State's Attorney
J R Kerzmann	McLean Cnty Sheriff

APPENDIX B

Contract #53000-11-061-00

AGREEMENT

This Memorandum of Understanding is by and between the State of North Dakota, acting through its **Department of Corrections & Rehabilitation** (hereafter called the DOCR), Division of Juvenile Services (DJS), Youth Correctional Center (YCC) in Mandan, ND, as Detention/Treatment Provider and the **Bureau of Indian Affairs (BIA) Child Welfare** (BIA);

1. SCOPE OF SERVICE

DOCR, in exchange for the compensation paid by BIA under this MOU, agrees to provide the following services:

A. The DOCR agrees to accept and provide for the custody, care and safekeeping of Tribal Court juveniles placed in detention (and juveniles considered for long-term treatment) in accordance with tribal or federal laws.

B. The BIA shall determine eligibility of members for placement and payment. Before the DOCR will accept placement of a juvenile from the BIA, BIA shall provide the DOCR with tribal court orders, medical and psychiatric reports, law enforcement reports, and other reports or information pertinent to the referral.

C. The DOCR, through the YCC, cannot accept for detention children who have been taken into custody for acts of unruliness as defined under N.D.C.C. § 27-20-02(19) or equivalent law or ordinance.

D. The DOCR shall provide routine on-site medical services. Indian Health Services shall pay all in-hospital, same day surgery, clinical, psychiatric or psychological services, prescription medication, eye care and dental services, emergency medical services through prior arrangements between the DOCR and the BIA.

E. The DOCR agrees to provide services based upon individualized need of each juvenile referred to and accepted by the DOCR.

F. The DOCR may decline acceptance of a referral or return a juvenile to the BIA if the DOCR determines the juvenile is a threat to institutional safety or security or to staff or other students, if the juvenile has engaged in self-destructive behavior, or the juvenile is not adhering to institutional policies or programming.

G. The BIA and DOCR shall maintain contact with one another regarding each juvenile from the BIA in placement at YCC. The DOCR shall provide BIA with quarterly progress reports on each placement and more frequent reports if the juvenile's behavior warrants of if a special report is requested.

2. TERM OF MOU

The term of this contract is for a period of **5** months, commencing on the **1st** day of **January, 2014**, and expiring on the **31st** day of **May, 2014**, *which is contingent on the Intergovernmental Agreement (IGA 815-11) between the United States Department of Justice, Federal Bureau of Prisons and the DOCR.*

3. COMPENSATION

In consideration of the DOCR's satisfactory performance of services called for under this agreement, the BIA shall reimburse the DOCR, upon submission of a Request for Payment, the established per diem rate of **$185.85** *(pursuant to IGA 815-11)*, as well as reimbursement for any medical expenses the DOCR has incurred on behalf of the juvenile. The rate covers one person per day. Services will not be billed for the day of arrival, but will be billed for the day of departure.

A. If a juvenile were on an unauthorized absence (AWOL) or an authorized vacation status, billing will not include the time beyond three days.

B. The DOCR shall bill for services provided on a monthly basis. Monthly Requests for Payment shall list each juvenile, the specific dates of confinement for each, and the total days to be reimbursed, the agreed upon rate per day, and the total amount billed (total days multiplied by the rate per day).

C. The per diem rate shall be established on the basis of actual costs associated with the operation of the facility during a recent fiscal year. Notification of any rate increase shall be made at least thirty (30) days prior to the effective date of the rate increase.

D. <u>The BIA shall make payments directly to the YCC within thirty (30) days of billing.</u>

4. PRISON RAPE ELIMINATION ACT (PREA)

The DOCR and BIA acknowledge the requirements of the Prison Rape Elimination Act of 2003 ("PREA"), 42 U.S.C. § 15601 et.seq., and all applicable PREA Standards and Regulations related to PREA for the prevention, detection, monitoring, investigation, and eradication of any form of sexual abuse within DOCR acilities, programs, or offices, whether owned, operated or contracted. This includes the education of staff and juvenile offenders, conducting investigations, reporting incidents to the DOCR, compiling incident data and aggregate data, and providing incident and aggregate data to the DOCR on an annual basis. The DOCR will conduct announced or unannounced compliance monitoring, including on-site monitoring.

5. TERMINATION OF CONTRACT

A. Termination without cause. This contract may be terminated by mutual consent of both parties, or by either party upon 30-days written notice.

i. Termination for lack of funding or authority. DOCR may terminate this contract effective upon delivery of written notice to BIA, or on any later date stated in the notice, under any of the following conditions:

1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.

2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

3) If any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

Termination of this MOU under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

B. Termination for cause. DOCR by written notice of default to BIA may terminate the whole or any part of this contract:

i. If BIA fails to provide services required by this contract within the time specified or any extension agreed to by DOCR; or

ii. If BIA fails to perform any of the other provisions of this contract, or so fail to pursue the work as to endanger performance of this contract in accordance with its terms.

iii. The rights and remedies of DOCR provided in the above clause related to defaults by BIA are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

6. FORCE MAJEURE

BIA will not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond BIA'S reasonable control and BIA gives notice to DOCR immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

7. RENEWAL

This contract will not automatically renew. DOCR will provide written notice to BIA of its intent to renew this contract at least 30 days before the scheduled termination date.

8. SEVERABILITY

If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

9. NOTICE
All notices or other communications required under this contract must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

Youth Correctional Center		BIA Child Welfare
Ron Crouse, Deputy Director		Name, Title
701 16th Avenue SW	OR	Address
Mandan, ND 58554		City, ND Zip Code
Phone: (701) 667-1401		Phone: (xxx)
Email: rcrouse@nd.gov		Email: mark.freier@bia.gov

Notice provided under this provision does not meet the notice requirements for monetary claims against the DOCR found at N.D.C.C. § 32-12.2-04.

10. APPLICABLE LAW AND VENUE
This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Morton County, North Dakota.

11. SPOLIATION – NOTICE OF POTENTIAL CLAIMS
BIA agrees to promptly notify DOCR of all potential claims that arise or result from this contract. BIA shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to DOCR the opportunity to review and inspect the evidence, including the scene of an accident.

12. INDEMNITY
The DOCR and BIA each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

13. INSURANCE
The DOCR is insured under N.D.C.C. Chapter 32-12.2.

14. CONFIDENTIALITY
Records regarding the placement of juveniles under this agreement may only be disclosed in accordance with applicable state and federal law, including N.D.C.C. Chapter 27-20, N.D.C.C. Chapter 27-21, and the HIPAA privacy rule. The records may also be disclosed under N.D.C.C. Chapter 50-25.1. There may not be any re-disclosure except when authorized under applicable law.

15. NONDISCRIMINATION AND COMPLIANCE WITH LAWS
BIA agrees to comply with all applicable laws, rules, regulations and policies, including those relating to nondiscrimination, accessibility and civil rights. BIA agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. BIA shall have and keep current at all times during the term of this contract all licenses and permits required by law.

16. STATE AUDIT
All records, regardless of physical form, and the accounting practices and procedures of BIA relevant to this contract are subject to examination by the North Dakota DOCR Auditor or the Auditor's designee. BIA will maintain all such records for at least three years following completion of this contract.

17. MERGER AND MODIFICATION
This contract constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. This contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

18. EFFECTIVENESS OF AGREEMENT
This agreement is not effective until fully executed by both parties.

Bureau of Indian Affairs –BIA
BIA Child Welfare

Signature: _____
By: _____
Title: Child Welfare Specialist
Date: _____

STATE OF NORTH DAKOTA – DOCR
Department of Corrections & Rehabilitation

Signature: _____
By: Dave Krabbenhoft
Title: DOCR Director of Administration
Date: _____

Contract #53000-11-061-00

AGREEMENT

This Memorandum of Understanding is by and between the State of North Dakota, acting through its **Department of Corrections & Rehabilitation** (hereafter called the DOCR), Division of Juvenile Services (DJS), Youth Correctional Center (YCC) in Mandan, ND, as Detention/Treatment Provider and the **Tribe Name** (TRIBE) in City, ND;

1. SCOPE OF SERVICE

DOCR, in exchange for the compensation paid by TRIBE under this MOU, agrees to provide the following services:

A. The DOCR agrees to accept and provide for the custody, care and safekeeping of Tribal Court juveniles placed in detention (and juveniles considered for long-term treatment) in accordance with tribal or federal laws.

B. The TRIBE shall determine eligibility of members for placement and payment. Before the DOCR will accept placement of a juvenile from the TRIBE, TRIBE shall provide the DOCR with tribal court orders, medical and psychiatric reports, law enforcement reports, and other reports or information pertinent to the referral.

C. The DOCR, through the YCC, cannot accept for detention children who have been taken into custody for acts of unruliness as defined under N.D.C.C. § 27-20-02(19) or equivalent law or ordinance.

D. The DOCR shall provide routine on-site medical services. Indian Health Services shall pay all in-hospital, same day surgery, clinical, psychiatric or psychological services, prescription medication, eye care and dental services, emergency medical services through prior arrangements between the DOCR and the TRIBE.

E. The DOCR agrees to provide services based upon individualized need of each juvenile referred to and accepted by the DOCR.

F. The DOCR may decline acceptance of a referral or return a juvenile to the TRIBE if the DOCR determines the juvenile is a threat to institutional safety or security or to staff or other students, if the juvenile has engaged in self-destructive behavior, or the juvenile is not adhering to institutional policies or programming.

G. The TRIBE and DOCR shall maintain contact with one another regarding each juvenile from the TRIBE in placement at YCC. The DOCR shall provide TRIBE with quarterly progress reports on each placement and more frequent reports if the juvenile's behavior warrants of if a special report is requested.

2. TERM OF MOU

The term of this contract is for a period of **36** months, commencing on the **1st** day of **June**, **2011**, and expiring on the **31st** day of **May**, **2014**, *which is contingent on the Intergovernmental Agreement (IGA 815-11) between the United States Department of Justice, Federal Bureau of Prisons and the DOCR.*

3. COMPENSATION

In consideration of the DOCR's satisfactory performance of services called for under this agreement, the TRIBE shall reimburse the DOCR, upon submission of a Request for Payment, the established per diem rate of **$185.85** *(pursuant to IGA 815-11)*, as well as reimbursement for any medical expenses the DOCR has incurred on behalf of the juvenile. The rate covers one person per day. Services will not be billed for the day of arrival, but will be billed for the day of departure.

A. If a juvenile were on an unauthorized absence (AWOL) or an authorized vacation status, billing will not include the time beyond three days.

B. The DOCR shall bill for services provided on a monthly basis. Monthly Requests for Payment shall list each juvenile, the specific dates of confinement for each, and the total days to be reimbursed, the agreed upon rate per day, and the total amount billed (total days multiplied by the rate per day).

C. The per diem rate shall be established on the basis of actual costs associated with the operation of the facility during a recent fiscal year. Notification of any rate increase shall be made at least thirty (30) days prior to the effective date of the rate increase.

D. The TRIBE shall make payments directly to the YCC within thirty (30) days of billing.

4. TERMINATION OF CONTRACT

A. Termination without cause. This contract may be terminated by mutual consent of both parties, or by either party upon 30-days written notice.

i. Termination for lack of funding or authority. DOCR may terminate this contract effective upon delivery of written notice to TRIBE, or on any later date stated in the notice, under any of the following conditions:
   1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
   2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
   3) If any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

Termination of this MOU under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

B. Termination for cause. DOCR by written notice of default to TRIBE may terminate the whole or any part of this contract:
   i. If TRIBE fails to provide services required by this contract within the time specified or any extension agreed to by DOCR; or
   ii. If TRIBE fails to perform any of the other provisions of this contract, or so fail to pursue the work as to endanger performance of this contract in accordance with its terms.
   iii. The rights and remedies of DOCR provided in the above clause related to defaults by TRIBE are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

5. FORCE MAJEURE

TRIBE will not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond TRIBE'S reasonable control and TRIBE gives notice to DOCR immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

6. RENEWAL

This contract will not automatically renew. DOCR will provide written notice to TRIBE of its intent to renew this contract at least 30 days before the scheduled termination date.

7. SEVERABILITY

If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

8. NOTICE

All notices or other communications required under this contract must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

Youth Correctional Center		TRIBE
Ron Crouse, Deputy Director		Name, Chairman
701 16th Avenue SW	OR	Address
Mandan, ND 58554		City, ND Zip Code
Phone: (701) 667-1401		Phone: (701)
Email: rcrouse@nd.gov		Email: Email Address

Notice provided under this provision does not meet the notice requirements for monetary claims against the DOCR found at N.D.C.C. § 32-12.2-04.

9. APPLICABLE LAW AND VENUE

This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Morton County, North Dakota.

10. SPOLIATION – NOTICE OF POTENTIAL CLAIMS

TRIBE agrees to promptly notify DOCR of all potential claims that arise or result from this contract. TRIBE shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to DOCR the opportunity to review and inspect the evidence, including the scene of an accident.

11. INDEMNITY
The DOCR and TRIBE each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

12. INSURANCE
The DOCR is insured under N.D.C.C. Chapter 32-12-1.

13. CONFIDENTIALITY
Records regarding the placement of juveniles under this agreement may only be disclosed in accordance with applicable state and federal law, including N.D.C.C. Chapter 27-20, N.D.C.C. Chapter 27-21, and the HIPAA privacy rule. The records may also be disclosed under N.D.C.C. Chapter 50-25.1. There may not be any re-disclosure except when authorized under applicable law.

14. NONDISCRIMINATION AND COMPLIANCE WITH LAWS
TRIBE agrees to comply with all applicable laws, rules, regulations and policies, including those relating to nondiscrimination, accessibility and civil rights. TRIBES agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. TRIBE shall have and keep current at all times during the term of this contract all licenses and permits required by law.

15. STATE AUDIT
All records, regardless of physical form, and the accounting practices and procedures of TRIBE relevant to this contract are subject to examination by the North Dakota DOCR Auditor or the Auditor's designee. TRIBE will maintain all such records for at least three years following completion of this contract.

16. MERGER AND MODIFICATION
This contract constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. This contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

17. EFFECTIVENESS OF AGREEMENT
This agreement is not effective until fully executed by both parties.

TRIBE
TRIBE Name

Signature: _____
By: _____
Title: Tribal Chairperson
Date: _____

STATE OF NORTH DAKOTA – DOCR
Department of Corrections & Rehabilitation

Signature: _____
By: Dave Krabbenhoft
Title: DOCR Director of Administration
Date: _____

Governor's Approval

Signature: _____
By: Jack Dalrymple, Governor of North Dakota
Date: _____