

**MEMORANDUM OF UNDERSTANDING
BETWEEN SANTA FE COUNTY AND
THE PUEBLO OF POJOAQUE**

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "Agreement") is entered on this 11 day of February 2016, by and between Santa Fe County (hereinafter referred to as "County"), a New Mexico political subdivision, and the Pueblo of Pojoaque Mexico, (hereinafter referred to as "the Pueblo of Pojoaque"),

RECITALS

WHEREAS, the County submitted an application for Community Drinking While Intoxicated (CDWI) Grant Funds on July 11, 2015 for DWI enforcement activities for Santa Fe County;

WHEREAS, the County's DWI Program received funding from the NMDOT, Public Safety Division in the amount of \$19,714.42 and entered into Grant Agreement No. 16-CD-05-091 on December 16, 2015 for DWI enforcement activities to address the issue of DWI in Santa Fe County and the Pueblo of Pojoaque;

WHEREAS, the County's DWI Program dedicated \$5,000.00 of the CDWI Grant Funds to pay overtime hours for the Pojoaque Tribal Police Department to conduct law enforcement activities to include four (4) DWI check points and four (4) DWI saturation patrols and attend related DWI court hearings for offenders during fiscal year 2016;

WHEREAS, the County's DWI Program would like to enter into a Memorandum of Understanding with the Pueblo of Pojoaque to provide for the duties of the County and the Pueblo of Pojoaque with respect to the Pueblo of Pojoaque's efforts to conduct anti DWI law enforcement activities.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES as follows:

1. DUTIES OF THE PARTIES

a. The County shall:

- 1) Serve as fiscal agent for the funds identified in this MOU and maintain all financial records pertaining to the Program and expenditure of funds.
- 2) Transfer and make available to the Pueblo of Pojoaque \$5,000.00 for expenditure in FY 2016 to increase law enforcement operations to conduct four (4) check points and four (4) saturation patrols and attend related DWI court hearings for offenders, during fiscal year 2016.
- 3) Reimburse the Pueblo of Pojoaque for costs and expenses associated with law enforcement activities upon receipt of invoice or statement from the Pueblo of Pojoaque. Reimbursement by the County shall be made within thirty (30)

days following receipt from the Pueblo of Pojoaque of a statement or invoice requesting reimbursement for costs incurred by the Pueblo of Pojoaque.

- 4) Oversee all DWI activities pertaining to this Agreement to ensure the Pueblo of Pojoaque is conducting such activities in a manner consistent with NMDOT Traffic Safety Division's CDWI Manual.

b. The Pueblo of Pojoaque shall:

- 1) Conduct four (4) DWI check points during fiscal year 2016 within the Pueblo of Pojoaque.
- 2) Conduct four (4) saturation patrols during fiscal year 2016 within the Pueblo of Pojoaque.
- 3) Attend court hearings for DWI offenders and testify as necessary for cases resulting from the anti DWI law enforcement activities described above.

2. COMPENSATION

Reimbursement to the Pueblo of Pojoaque for costs including payment for overtime expenses incurred for DWI enforcement activities shall not exceed Five Thousand (\$5,000.00) dollars, inclusive of NM gross receipt taxes for FY 2016.

3. TERM

This Agreement shall be effective when signed by both authorized signatories of the Pueblo of Pojoaque and County. The Term of this MOU is the date of signatories of the parties to June 30, 2016, unless earlier terminated pursuant to paragraph 4 below.

4. TERMINATION

This Agreement may be terminated by either party upon delivery of a written notice to the other party at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify or avoid any obligations incurred prior to termination. The County may not by such termination avoid its obligation to reimburse the Pueblo of Pojoaque for unavoidable and appropriate costs to which the Pueblo of Pojoaque was obligated prior to termination by the County. The Pueblo of Pojoaque will request reimbursement for such unavoidable and appropriate costs in accordance with Paragraph 1.a.3.

5. LIABILITY

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

activities described in this Agreement. Any liability on the part of the County incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, § 41-4-1, *et seq.*, NMSA 1978, as amended.

Nothing in this Agreement shall be construed as a waiver of sovereign immunity, express or implied, of the Pueblo of Pojoaque. The Pueblo of Pojoaque expressly retains regulatory and adjudicatory jurisdiction over all the anti-DWI activities that are the subject matter of this Agreement.

6. AMENDMENT

This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.

7. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Pueblo. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Pueblo for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Pueblo in any way or forum, including a lawsuit.

8. GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws of New Mexico.

9. ACCOUNTABILITY

During the term of this Agreement and for a period of three years thereafter, each of the parties will maintain accurate and complete records of all disbursements made and monies received by each under this Agreement; and, upon receipt of reasonable written request, each shall make such records available to the other party and to the public, including any federal, state or local authority during regular business hours.

10. NO THIRD PARTY BENEFICIARIES

Nothing in this Agreement, express or implied, is intended to confer any rights, remedies, claims or interests upon a person not a party to this Agreement

11. PROPERTY

Upon the expiration or termination of this Agreement, property acquired through the performance of the anti-DWI enforcement activities including vehicle seizures or property subject to seizure and permanent forfeiture, shall remain property of the Pueblo of Pojoaque.

12. ENTIRE AGREEMENT

This Agreement represents the entire understanding between the Pueblo of Pojoaque and County and supersedes any prior agreements or understandings with respect to the subject of this Agreement. No changes, amendments or alterations to this Agreement will be effective until in writing and signed by the parties.

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the dates written below.

SANTA FE COUNTY:

Katherine Miller
Katherine Miller
Santa Fe County Manager

Date

Approved as to form:

Gregory S. Shaffer
Gregory S. Shaffer
County Attorney

1-13-16
Date

Finance Department

Carole H. Jaramillo
Carole H. Jaramillo
Finance Director

1/20/16
Date

PUEBLO OF POJOAQUE:

Joseph M. Talachy
Joseph M. Talachy
Governor of the Pueblo of Pojoaque

1/20/16
Date

ATTESTATION

(Signature and title)

Date

Finance Department

Albert Apodaca
Albert Apodaca
Finance Director

01/26/2016
Date

Approved as to form:

Carrie Frias
Carrie Frias
Legal Counsel to Pojoaque Pueblo

2/11/16
Date