

DETENTION SERVICES AGREEMENT

between

MUSCOGEE (CREEK) NATION

and

MUSKOGEE COUNTY BOARD COMMISSIONERS

This Agreement is entered into on the 3<sup>rd</sup> day of May, 2021, by and between the Muscogee (Creek) Nation, P.O. Box 580, Okmulgee, Oklahoma 74447, (hereinafter referred to as the "Nation"), and the Board of County Commissioners of Muskogee County, P.O. Box 2307, Muskogee, Oklahoma 74402, Federal Identification Number ~~70-6006395~~ (hereinafter referred to as the "COUNTY").  
73-6006395 K.H.

The NATION is a sovereign nation and enjoys the full privileges of a sovereign's immunity from suit, as recognized by Congress and the United States Supreme Court. Execution of this Agreement shall not be construed to be a waiver of sovereign immunity, and neither shall any clause herein be construed to effectuate the consent to suit, as the NATION expressly declines to waive sovereign immunity.

WITNESSETH:

WHEREAS, the NATION and the COUNTY wish to enter into an agreement to provide comprehensive detention and incarceration facilities for persons who have committed violations of Muscogee (Creek) Nation Tribal Criminal Law; and

NOW, THEREFORE, and in consideration of the mutual covenants, promises, agreements, understandings, and conditions herein contained, the parties hereto mutually promise to the other, agree, and under as follows, to wit:

1. TERM:

The term of this Agreement shall be from April 01, 2021, through Sept 1 2021 ~~April 30, 2022~~, unless canceled or extended in writing by the parties hereto.

2. SERVICES:

- a. The COUNTY hereby agrees to accept persons who have been arrested for committing violations of Muscogee (Creek) Nation Tribal Criminal Law (hereinafter referred to as "Detainees").
- b. The COUNTY shall provide the necessary food, shelter, and supervision for said Detainees and shall subject them to the same rules and regulations as any other inmate housed within the COUNTY.
- c. Any Detainee who has not served his/her full sentence shall not be released except upon written orders of the Muscogee (Creek) Nation District Court. No person under age 18 shall be accepted by the COUNTY under this Agreement.
- d. If convicted, the NATION'S Lighthorse Service will be responsible for making arrangements to transport Detainees to a permanent facility in order to serve his/her sentence term.
- e. Upon agreement of the parties, Detainees may serve sentences at the County facility.
- f. The County will transmit on a daily basis, a list of Detainees who are booked for violation of Muscogee (Creek) Nation law, the NATION will only be responsible for

the daily fee if we are notified at the time of booking that the Detainee is being held on a tribal charge. The NATION will be responsible for transporting detainees for court.

3. MEDICAL/DENTAL SERVICES:

- a. In the event a Detainee under the jurisdiction of the NATION requires medical and/or dental treatment, the COUNTY shall promptly notify the NATION concerning such needs and when feasible, an Indian Health Service (IHS) or a Tribal Health Care Facility should be utilized for treatment of said Detainee. Muscogee (Creek) Nation, at its discretion and pending availability, will transport detainees held on Muscogee (Creek) Nation charges for non-emergency medical services. In cases of extreme emergency where it is not feasible or practicable to contact the NATION in advance, the COUNTY may obtain medical and/or dental care for Detainees at local, state, or federal facilities, as emergency needs dictate. In such cases, the COUNTY shall contact the nearest IHS facility for further instructions and for claims advice within seventy-two (72) hours of first furnishing care of treatment. The COUNTY shall promptly notify the NATION of action taken when such emergency circumstances occur. A listing of IHS and Tribal Health Care Facilities in eastern Oklahoma is hereby incorporated into this Agreement and attached hereto as Attachment "A". All facilities listed in Attachment "A" will provide medical care to American Indians and Alaska Natives who belong to federally recognized tribes, at no cost.
- b. In instances where the IHS rejects claims for care provided by non-IHS facilities, the COUNTY shall immediately notify the NATION, and the NATION shall be responsible for payment of such rejected claims. Such instances shall be handled on a case-by-case basis.
- c. The NATION will provide the COUNTY with a medical care data sheet for each Detainee upon detention and/or incarceration or as soon as possible thereafter. A completed data sheet shall be maintained at the COUNTY during the Detainee's incarceration.
- d. The IHS or Community Health Representative and other Tribal health personnel shall be permitted to visit Detainees as frequently as may be necessary to ensure that medical care, including medication, is being provided to the Detainee, as well as to assure that all available health services for which the Detainee is eligible are being utilized.

4. STATUS OF THE PARTIES:

Nothing in this Agreement shall impair or affect the existing status or sovereignty of the parties hereto, or their respective employees, agents, and/or representatives, as established under the laws of the United States, the State of Oklahoma, and the Muscogee (Creek) Nation.

5. OVERCROWDING:

- a. Notwithstanding any of the above provisions of this Agreement, should a limit be set by statute, judicial, or administrative decision, or otherwise, on the number of prisoners which the COUNTY may lawfully lodge in its facility at any one time, the COUNTY may refuse to lodge any Tribal Detainee if the number of prisoners in the COUNTY at that time has reached eighty percent (80%) of the maximum capacity allowable by law.

- b. The COUNTY reserves the right to leave to the discretion of the County Sheriff the admission of the remaining twenty percent (20%) of the prisoners allowable by law.
- c. Should the COUNTY be required to close or otherwise limit the availability of its facilities, either temporarily or permanently, because of court order, legislation, or any other cause, then the COUNTY may, at its option, during the time of closure, refuse to lodge Tribal Detainees.

6. COMPENSATION FOR DETENTION AND/OR INCARCERATION:

In consideration for detention and incarceration services provided hereunder, the NATION shall pay the COUNTY Forty-Three dollars (\$43.00) per day for each Detainee lodged in the COUNTY'S facilities on tribal charges. The COUNTY shall provide the NATION with an itemized copy of the attached monthly invoice, which shall include the Detainee's name, their status as a Detainee of the NATION, total date(s) of detention and/or incarceration, dates of detention and/or incarceration on tribal charges, and amount(s) due. The NATION shall process payments to the COUNTY in an amount not to exceed the above mentioned daily rate solely for the period of tribal detention and/or incarceration provided.

7. INDIAN PREFERENCE:

The Muscogee (Creek) Nation shall, to the greatest extent feasible, give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises. All contracting is required to comply with procedures for selection of contractors and subcontractors as set forth in Legislative Act 01-14, which provides for preference to Indians in the awarding of contracts, Section 7(b) of the Indian Self-Determination Act, if applicable, as well as, the Muscogee (Creek) Nation Management Policies and Procedures. The successful contractor will insert this clause into every subcontract in connection with the project.

8. GENERAL PROVISIONS:

- a. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the United States and where applicable, the laws of the Muscogee (Creek) Nation. If it should appear that any of the Agreement terms are in conflict with any rule of law or statutory provision of the United States, or where applicable, with any rule of law or statutory provision of the Muscogee (Creek) Nation, such conflicting term(s) shall be deemed inoperative and null and void insofar as it may be in conflict with such rule of law or statutory provision, and shall be deemed modified to conform to such rule of law or statutory provision. However, such conflict shall not operate to nullify or void the entire Agreement.
- b. This Agreement contains the complete expression of the parties' agreement with respect to the subject matter hereof, and shall bind the parties, their successors and assigns. There are no previous or contemporary understandings, representations, or warranties not set forth herein. No subsequent amendment or modification of this Agreement shall be of any force or effect unless in writing and signed by the parties to be bound thereby. The parties further state to the best of their knowledge, no employee of the Muscogee (Creek) Nation who exercises any functions or responsibilities in connection with the performance hereunder has any personal interest, direct or indirect, in this Agreement. This Agreement shall supersede any and all written or oral statements, agreements, and/or representations of the parties made prior to or contemporaneously with the execution hereof. The parties

agree their respective performances hereunder shall be governed by an obligation of good faith.

- c. This Agreement may be terminated, canceled, or modified by either party upon sixty (60) days written notice certified letter. In the event this Agreement is terminated or canceled, the parties shall return all property and/or commissions to their respective owners.
- d. Should any provision of this Agreement be violated by either party, the NATION or the COUNTY may suspend performance of their obligation under this Agreement with five (5) days written notice, such suspension shall last until the parties are satisfied that the violation has been corrected and will not reoccur. Reinstatement of a provision of this Agreement may be made contingent upon satisfaction of such conditions consistent with the Agreement as the parties may specify.
- e. The NATION and the COUNTY hereby agree the services specified in this Agreement may not be delegated or assigned.
- f. The terms and provisions herein shall be for the benefit of and are binding upon the parties hereto, their respective executors, administrators, and successors.
- g. This Agreement shall remain in effect and unchanged regardless of the political status of any elected official acting under the jurisdiction of and/or on behalf of the parties hereto.
- h. The parties hereto acknowledge and understand that any information submitted or provide by either party regarding detainee information or records is considered confidential and the disclosure of any such information or records would "constitute a clearly unwarranted invasion of personal privacy". It is further understood that any detainee medical or similar information provided hereunder is subject to the Health Insurance Portability and Accountability Act of 1996 (HIPPA) concerning the privacy and confidentiality of information and records. The parties hereto agree not to use in any unauthorized manner or communicate to others any such confidential items without the prior written consent of the NATION'S Office of the Attorney General and will undertake such measures as are necessary to require their respective employees, agents, representatives, and/or subcontractors to maintain complete confidentiality.
- i. The NATION'S obligation for payment under this Agreement is contingent upon the availability of appropriated funds from which payment for services can be made. Funds are available for performance under this Agreement when appropriated or authorized by the Tribal Council of the Muscogee (Creek) Nation. No legal liability on the part of the NATION for any payment may arise hereunder until funds are made available by the designated officer of the NATION for performance and until the COUNTY receives notice of availability from the NATION'S designated officer through issuance of a purchase order.

j. All notices required hereunder shall be sent via U.S. Mail, postage paid, as follows:

To the NATION: Muscogee (Creek) Nation  
LightHorse Police Department  
P.O. Box 580  
Okmulgee, OK 74447

With a copy to: Muscogee (Creek) Nation  
Attorney General's Office  
P.O. Box 580  
Okmulgee, OK 74447

To the COUNTY: Board Of County Commissioners of  
Muskogee County  
P.O. Box 2307  
Muskogee, OK 74402

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first set forth above.

BOARD OF COUNTY COMMISSIONERS:  
OF MUSKOGEE COUNTY:

MUSKOGEE (CREEK)  
NATION:

*Richard Phillips* 5-3-21  
Authorized Signature Date

\_\_\_\_\_  
Principal Chief, David Hill Date

\_\_\_\_\_  
Please type or print name and title Date

\_\_\_\_\_  
Lighthorse Chief, Richard Phillips Date

\_\_\_\_\_  
Attorney General, Roger Wiley Date

Attest: \_\_\_\_\_  
Secretary Date

Concur: \_\_\_\_\_  
Authorized Signature Date  
Muskogee County Sheriff's Office

3rd day of May 2021  
Chairman *Richard Phillips*  
Member \_\_\_\_\_  
Member \_\_\_\_\_  
Attest *Debra Murrell*  
County Clerk





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Muskogee, OK 74402

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BOARD OF COUNTY COMMISSIONERS:  
OF MUSKOGEE COUNTY:

MUSKOGEE (CREEK)  
NATION:

[Signature] 5-3-21  
Authorized Signature Date

David Hill 5-18-21  
Principal Chief, David Hill Date

KEITH HUSLOP CC DIST 2 5/3/21  
Please type or print name and title Date

Richard Phillips 5-24-21  
LightHorse Chief, Richard Phillips Date

Ron Wiley 5-18-2021  
Attorney General, Roger Wiley Date

Attest: \_\_\_\_\_  
Secretary Date

Concur: [Signature] 5/24/2021  
Authorized Signature Date  
Muskogee County Sheriff's Office

SHERIFF

3rd day of May 2021  
Chairman [Signature]  
Member \_\_\_\_\_  
Member [Signature]  
Attest [Signature] County Clerk

