12-17-13A05:47 RCVD

INTERLOCAL AGREEMENT BETWEEN THE CITY OF KITTITAS, WASHINGTON AND KITTITAS COUNTY, WASHINGTON, FOR THE HOUSING OF INMATES FOR THE YEARS 2014 - 2015

THIS INTERLOCAL AGREEMENT is made and entered into on this 10th **day of** December **, 2013 by and between Kittitas County, Washington, a Washington municipal corporation, hereinafter referred to as "County", and the City of Kittitas, Washington, hereinafter referred to as the "City", each party having been duly organized and now existing under the laws of the State of Washington. Both entities may be referred to in this Agreement collectively as "Parties" or individually as "Party".**

WITNESSETH:

WHEREAS, Kittitas County owns and operates the Kittitas County Corrections Center, located in Ellensburg, Washington; and

WHEREAS, the City, whose law enforcement officers from time to time arrest persons for misdemeanors, gross misdemeanors or Felonies, which may result in jailing of the person arrested; and

WHEREAS, the City does not own or operate its own jail and seeks to contract for jail facilities and services from the County for confinement of City prisoners; and

WHEREAS, the County has expressed a willingness to provide jail services to the City; and

WHEREAS, the Interlocal Cooperation Act (Chapter 39.34 RCW) and the City and County Jails Act (Chapter 70.48 RCW), authorizes contracts for jail services made between a county and a city; and

WHEREAS, the governing bodies of each of the parties hereto have determined to enter into this Interlocal Agreement for the Housing of Inmates by action taken at a regular meeting; and

NOW, THEREFORE, in consideration of the above and foregoing recitals, the payments to be made, the mutual promises and covenants herein contained, and for other good and valuable consideration, the parties hereto agree as follows:

I. Governing Law

The parties hereto agree that, except where expressly otherwise provided, the laws and administrative rules and regulations of the State of Washington shall govern in any matter relating to an inmate(s) confined pursuant to this Agreement.

II. Term

This agreement shall be effective January 1, 2014 and shall extend for a period of two years until midnight, December 31, 2015, subject to earlier termination as provided herein.

III. Notice

All notices, reports, and correspondence to the respective parties of this Agreement shall be sent to the following:

To the City:	City of Kittitas 207 N Main/PO Box 719 Kittitas, Wa 98934
Primary Contact: Secondary Contact:	Jerry Gilmour (Mayor) Brent Nierman (Chief of Police)
To the County of Kittitas:	Kittitas County Corrections Center 205 W 5th Ave, Ste 1 Ellensburg WA 98926
Primary Contact:	Paula Hoctor, Corrections Cmdr.

IV. Definitions

The Parties hereby agree that the following terms shall have the specified meanings unless indicated otherwise herein:

A. Day. A twenty-four hour-long unit of time commencing at 00:00:01 a.m., and ending at 23:59:59 p.m.

B. Inmate Classifications shall be pursuant to the Kittitas County Corrections Center Objective Jail Inmate Classification which is modeled after the National Institute of Corrections Jail Classification.

i) "Minimum" classification shall apply to those inmates who present a low risk to staff and the community.

ii) "Medium" classification shall apply to those inmates who present a moderate risk to staff and the community.

iii) "Maximum" classification shall apply to those inmates who present a substantial risk to staff and the community.

C. City Prisoner means a person arrested by a Police Officer of the City or another law enforcement agency on behalf of the City and booked into the Kittitas County Corrections Center (KCCC) or housed by KCCC for a Misdemeanor or Gross Misdemeanor criminal offense that allegedly occurred within the City. Felony arrests which result in post-convictions or plea agreement for misdemeanor or gross misdemeanor are deemed city prisoners for the purpose of bed days and medical responsibilities.

V. Criteria for Determining Prisoner Status

For the purposes of this agreement:

A. City Prisoners being booked into the Kittitas County Corrections Center shall remain the responsibility of the Police Officer of the City and shall not be deemed an inmate of that facility until the City Prisoner is accepted by Corrections staff at the time of booking.

B. Individuals who are arrested by a Police Officer of the City on behalf of another law enforcement agency (outside warrants or agency assists) and no criminal charges are filed for alleged criminal offences within the City, shall not be deemed a City Prisoner.

C. Individuals who are arrested by an outside agency on behalf of the City and housed in the Kittitas County Corrections Center solely on charges resulting from an alleged criminal offence having occurred within the City shall be deemed a City Prisoner.

VI. Jail and Medical Services

A. Inmates deemed City Prisoners shall receive such medical, psychiatric and dental treatment when emergent and necessary to safeguard their health while housed in the Kittitas County Corrections Center. The County will provide or arrange for providing of such medical, psychiatric and dental services. The County will attempt good faith efforts in seeking reimbursement from the City Prisoner. However, except for routine minor medical services provided by the County, the City shall ultimately be responsible and pay directly or reimburse the County for any and all costs associated with the delivery of any emergency and/or major medical service provided to City Prisoners. The City shall be responsible for any and all emergent medical, dental and psychiatric treatment provided outside of the Kittitas County Corrections Center and shall be billed thereafter.

B. If the County becomes aware that a City Prisoner is in need of medical health care requiring the assistance of a medical health care services provider, then the County shall make reasonable effort to notify the City prior to obtaining said service. If the City is contacted and does not authorize the County to obtain the service, then the City shall, within four (4) hours,

pick up the inmate from the County. Provided, in the case of emergency, the County may notify the City after the service has been provided.

C. An adequate record of all such services shall be kept by the County for the City's review at its request, to the extent consistent with confidentiality regulations. Any medical or dental services of major consequence shall be reported to the City as soon as time permits.

D. Should medical, psychiatric or dental services require hospitalization, the City agrees to compensate the County dollar for dollar any amount expended or cost incurred in providing the same; provided that, except in emergencies, the City will be notified by contacting the duty supervisor at the City prior to the prisoner's transfer to a hospital, if and when circumstances allow, or as soon afterward as practicable.

E. In the event a City Prisoner is being held on additional charges from another contracted jurisdiction (including, but not limited to, the cities of Kittitas, Cle Elum, Roslyn, and Ellensburg), the City's responsibility for medical costs attributable to that prisoner shall be no greater than that of the other jurisdiction(s).

F. Upon payment to the County by the City for a City Prisoner's health care expense, the County will assign to the City, if requested by the City, any and all right to reimbursement for medical expenses authorized under RCW 70.48.130.

VII. Transportation

The City shall be responsible for the transportation of City Prisoners housed in the Kittitas County Corrections Center for all purposes, outside the courthouse, unless agreed ***upon otherwise by the parties in a specific instance.***

VIII. Compensation

The County agrees to accept and house City Prisoners for compensation per prisoner at the rate of $55.00 per day for the year 2014 and $60.00 per day for the year 2015 (also see Section VI herein). This rate includes minimum, medium and maximum classification inmates. The parties agree that the County will not charge the City a separate booking fee in addition to such rate. The date of booking into, and the date of release from, the Kittitas County Corrections Center of the City Prisoners, no matter how little time of a twenty-four hour day it constitutes, shall count as one day and shall be billed to the City as a day of custody in the County.

IX. Billing and Billing Dispute Resolution Procedures

A. The County shall transmit billings to the Chief of Police of the City on the following dates: April 15th, July 15th, October 15th, and January 15th. Within forty-five (45) days after receipt, the City shall pay the full amount billed or withhold any portion thereof related to disputed medical costs and provide the County written notice specifying the amount withheld and the grounds for withholding such amount, together with payment of the remainder of the amount billed.

B. Interest on unpaid balances not paid within 45 days of billing shall be computed at 1% of the unpaid balance per month.

C. Withholding of any amount billed shall constitute a dispute to be resolved as follows:

i) The Sheriff, County Prosecuting Attorney, Police Chief and City Attorney or their designees shall attempt to resolve the dispute by negotiation. Negotiation meetings may be conducted once per quarter meeting in the months of January, April, July, and October if requested. If negotiations are unsuccessful, the dispute shall be referred to the City Mayor and the Chair of the Board of County Commissioners for settlement. If not resolved by them within thirty (30) days of referral, the City Mayor and Chair of the Board of County Commissioners may by mutual written consent apply to the Superior Court Judge for appointment of an arbitrator whose decision shall be final and binding on both parties. If mutual written consent to apply for the appointment of an arbitrator is not reached, either party may seek court action to decide the disputed contract provision.

ii) Any amount withheld from a billing, plus interest thereon as set forth in Sec IX (B) determined owed to the County pursuant to the billing dispute resolution procedure described above shall be paid by the City within thirty (30) days of the negotiated resolution, arbitrator's decision or court finding.

D. Each party may examine the other's books and records to verify charges. If an examination reveals an improper charge, the amount shall be applied to the next quarter and subsequent quarter's payments until the credit has been exhausted. Any unused credit, which exists at the termination of this agreement, shall be refunded within thirty (30) days of the date of termination.

E. Billing Statements. The County shall provide a billing statement each quarter in accordance with section IX (A).

F. Unpaid balances over 60 days in arrears may result in cancellation of access to the Corrections Center for booking of non-felony prisoners.

G. Upon cancellation of this agreement, the City would be responsible for making its own arrangements for the booking of all City misdemeanors, gross misdemeanor, and court committed prisoners. The City would be responsible for all transportation, housing, medical and supervision costs for such prisoners.

X. Termination

A. Termination for Material Breach. In the event either party believes the other party has materially breached any obligations under this agreement, such party shall so notify the breaching party in writing, stating the basis upon which breach is claimed and the specific provisions of this agreement claimed to have been violated. The breaching party shall have

thirty (30) days from the receipt of such notice to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured within the thirty (30) days, the non-breaching party shall have the right to terminate this agreement by providing ninety (90) days prior written notice to the other party and to Washington State Office of Financial Management, as provided in RCW 70.48.090. The ninety-day notice shall state the grounds for termination and the specific plan for accommodating the affected jail population.

B. Termination by Mutual Agreement. This Agreement may be terminated by written notice from either party to the other party and to Washington State Office of Financial Management, as provided in RCW 70.48.090, stating the grounds for said termination and specifying plans for accommodating the affected inmates. The notice must be delivered by regular mail to the contact persons identified in Section IV herein. Termination shall become effective ninety (90) working days after receipt of such notice.

C. Removal of Inmates Following Notice of Termination. Within the ninety (90) day notice period set forth in subsection A or B above, or within such other period of time as may be agreed upon in writing by the parties, the City agrees to remove its inmate(s) from Kittitas County Corrections Center. In the event of termination of this agreement, the City shall compensate the County for prisoners housed by the County after notice of such termination until the City retakes its inmates in the same manner and at the same rates as if this agreement had not been terminated. Upon termination of this agreement, the City would be responsible for making its own arrangements for the booking of all City misdemeanors, gross misdemeanors, and court committed prisoners. The City would be responsible for all transportation, housing, medical and supervision costs for such prisoners.

XI. Responsibility for Offender's Custody

It shall be the responsibility of the County to confine the inmate or inmates; to provide treatment, including the furnishing of subsistence and all necessary medical and hospital services and supplies; to provide for the prisoners' physical needs; to make available to them programs and/or treatment consistent with the individual needs; to retain them in said custody; to supervise them; to maintain proper discipline and control; to make certain that they receive no special privileges and that the sentence and orders of the committing court in the State are faithfully executed; provided that nothing herein contained shall be construed to require the County, or any of its agents, to provide service, treatment, facilities or programs for any inmates confined pursuant to this Agreement, which it does not provide for similar inmates not confined pursuant to this Agreement. Nothing herein shall be construed as to require the County to provide services, treatment, facilities or programs to the City's Prisoners above, beyond or in addition to that which is required by applicable law.

XII. Right of Refusal

The County shall have the right to refuse to accept any prisoner from the City who, in the judgment of the County, has a current medical condition which may adversely affect the safety

of the individual or the safe operations of the Kittitas County Corrections Center or the reasonable operational capacity limits will be reached or exceeded.

XIII. Indemnification

A. The County shall defend, indemnify, and hold harmless the City, its agents, employees and officers from any and all liability arising out of the performance of this agreement, whether by act or omission of the County, its agents, employees or officers. Such liability shall include but not be limited to, intentional acts, negligence, and violations of prisoner's constitutional rights.

B. The City shall defend, indemnify and hold harmless the County, its agents, employees and officers from any and all liability arising out of the performance of this agreement, whether by act or omission of the City, its agents, employees, or officers. Such liability shall include, but is not limited to, false arrest and false imprisonment.

C. The Parties' obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or negligence of the other Party, it agents, officers, employees or sub-consultants.

D. The Parties' obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the Parties or of the Parties and a third party other than an officer, agent or employee of the Parties, shall apply only to the extent of the negligence or willful misconduct of each Party.

XII. Entire Contract

This agreement represents the entire understanding of the parties and supersedes any oral representations that are inconsistent with or modify its terms and conditions.

XIV. Modification

This agreement may be modified and amended only in writing and signed by the parties hereto.

XV. Independent Contractor

In providing services under this Interlocal Agreement, Kittitas County is an independent contractor and neither it nor its officers, agents or employees are employees of the City for any purpose, including but not limited to, responsibility for any federal or state tax, industrial insurance or Social Security liability. Neither shall the provision of services under this Interlocal Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of the City under any applicable law, rule or regulation.

XIV. General Provisions:

A. Purpose. The purpose of this Interlocal Agreement is to permit the joint use of the Kittitas County Corrections Center for confinement of prisoners of the parties to the Interlocal Agreement, thereby promoting maximum use and efficiency of the Kittitas County Corrections Center.

B. Administrator. Pursuant to RCW 39.34.030(4)(a), the administrator for this agreement shall be the Undersheriff of the Kittitas County Sheriff's Office.

C. Property. Unless otherwise specifically agreed by the parties in writing, all property, personal and real, utilized by the parties hereto in the execution of this Agreement shall remain the property of that party initially owning it.

D. Venue. Venue for any lawsuit shall be in the Kittitas County Superior Court.

E. Filing: This Agreement shall be filed with the Kittitas County Auditor's Office or, alternatively, listed by subject on each or either party's web site or other electronically retrievable public source pursuant to RCW 39.34.040.

F. Severability. In the event any provisions of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provisions shall be enforced and valid to the extent permitted by law. All provisions of this Agreement are severable and the unenforceability or invalidity of a single provision herein shall not affect the remaining provisions.

G. Waiver of Breach. The waiver by either party of the breach of any provision of this Agreement by the other party must be in writing and shall not operate nor be construed as a waiver of any subsequent breach by such other party.

H. Savings Clause. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provisions of this Agreement and any statute, law, public regulation or ordinance, the latter shall prevail, but in such event, the provisions of this Agreement affected shall be curtailed and limited only the extent necessary to bring it within legal requirements.

I. Interpretation. This Agreement has been submitted to the scrutiny of all parties and their counsel, if desired, and it shall be given a fair and reasonable interpretation in accordance with its words, without consideration or weight given to its being drafted by any party or its counsel. All words used in the singular shall include the plural; the present tense shall include the future tense; and the masculine gender shall include the feminine and neuter gender.

J. Access to Records. The parties hereby agree that authorized representatives of the parties shall have access to any books, documents, paper and record of the other party which are pertinent to this Agreement for the purposes of making audits, examinations, excerpts and

transcriptions. All such records and all other records pertinent to this Agreement and work undertaken pursuant to this Agreement shall be retained by the parties for a period of six years after the final expiration date of this Agreement or any amendments hereto, unless a longer period is required to resolve audit, findings or litigation. In such cases, the parties may expressly agree by an amendment or separate agreement for such longer period for record retention.

IN WITNESS WHEREOF, the above and foregoing Interlocal Agreement has been executed in duplicate by the parties hereto and made effective on the day and year first above written:

CITY OF KITTITAS

City Manager

COUNTY OF KITTITAS
BOARD OF COUNTY COMMISIONERS

Obie O'Brien, Chairman

Paul Jewell, Vice-Chairman

Gary Berndt, Commissioner

COUNTY OF KITTITAS
SHERIFF'S OFFICE

Gene Dana, Sheriff

ATTEST:

City Clerk

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

City Attorney

APPROVED AS TO FORM:

Deputy Prosecuting Attorney