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INTERLOCAL AGREEMENT BETWEEN CITY OF ELLENSBURG, WASHINGTON AND KITTITAS COUNTY, WASHINGTON, FOR THE HOUSING OF INMATES 2012-2013

THIS INTERLOCAL AGREEMENT is made and entered into on this 20th **day of** December, **20** 11 **by and between Kittitas County, Washington, a Washington municipal corporation, hereinafter referred to as "County," and the City of Ellensburg, Washington, hereinafter referred to as "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 a jail, located within the City of Ellensburg; and

WHEREAS, the City of Ellensburg operates a police department whose officers arrest or cite persons with misdemeanors or gross misdemeanors which may result in jailing of the person cited or arrested; and

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

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

WHEREAS, the State Interlocal Cooperation Act, Chapter 39.34 RCW, and RCW 70.48.090 authorize cooperative efforts between government entities in the providing of such services.

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. 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 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 City Police Officer or another law enforcement agency on behalf of the City of Ellensburg 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 of Ellensburg.

II. Criteria for Determining Prisoner Status:

For the purposes of this agreement:

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

Individuals who are arrested by City Officers 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 of Ellensburg, that person shall not be deemed a "City Prisoner."

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

III. 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 the 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 therefore.

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 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 (Kittitas, Cle Elum, Roslyn), 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 the 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.

IV. 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.

V. Compensation to be paid by the City

Rates. The County agrees to accept and house the City Prisoners for compensation per prisoner at the rate of $_55.00_ per day (also see Section III). This 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.

VI. Billing and Billing Dispute Resolution Procedures

A. The County shall transmit billings to the Chief of Police 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 billable bed days, 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:

1. 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 Manager and the Chair of the Board of County Commissioners for settlement. If not resolved by them within thirty (30) days of referral, the City Manager and Chair 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.

2. Any amount withheld from a billing, plus interest thereon as set forth in VI (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's 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 VI A.

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

VII. Term

This agreement shall become effective January 1, 2012 and shall terminate on December 31, 2013.

VIII. 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 the breaching party ninety (90) days prior written notice. 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. Except as set forth in subsection A above, this agreement shall remain in full force and effect for its agreed-upon duration unless terminated sooner by written agreement of the parties.

C. Removal of Inmates Following Notice of Termination. Within the ninety (90) day notice period set forth in subsection A 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.

IX. 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.

X. 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.

XI. 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.

XIII. Modification

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

XIV. General Provisions:

Administrator:

The administrator for this contract will be Undersheriff Clayton Myers.

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.

Filing:
Pursuant to RCW 39.34.040, this Agreement shall be posted on the Kittitas County's public website.

Governing Law:
This Agreement shall be governed by and construed in accordance with the Laws of State of Washington.

Venue:
The venue for any action to enforce or interpret this Agreement shall be in the Kittitas County Superior Court.

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.

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.

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.

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.

Access to Records Clause:
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.

Adopted this 17th **day of** January, ~~2011~~ 2012

CITY OF ELLENSBURG

Bruce Tabb, Mayor

Dale Miller, Chief of Ellensburg Police

ATTEST:

Coreen Reno, City Clerk

Approved as to form:

Jim Pidduck, City Attorney

Adopted this 20th **day of** December **, 2011**

KITTITAS COUNTY

Paul Jewell, Chair, Board of Commissioners

Alan Crankovich, Vice-Chairman

Obie O'Brien, Commissioner

Gene Dana, Sheriff

COUNTY COMMISSIONERS SEAL KITTITAS COUNTY, WASHINGTON

ATTEST:

Julie A. Kjorsvik, Clerk of the Board

Approved as to form:

Civil Deputy Prosecuting Attorney