



AGENDA MEMO

Needs Legal Review: Yes
Council Meeting Date: December 5, 2018
Agenda Item: Interlocal Agreement with Klickitat County for Incarceration of City Prisoners
Presented By: Mike Hepner, Police Chief and Jan Brending, Clerk Treasurer

ACTION REQUIRED:

Authorization for mayor and police chief to sign interlocal agreement with Klickitat County providing for incarceration of city prisoners for 2019 at \$13,000 per year plus any medical costs related to city inmates.

PROPOSED MOTION:

Motion to authorize the mayor and police chief to sign interlocal agreement with Klickitat county providing for incarceration of city prisoners for 2019 at \$13,000 per year plus any medical costs related to city inmates.

Why is it a legislative issue:

City Council approves all interlocal agreements.

Explanation of issue:

The City of White Salmon currently contracts with Skamania County for incarceration of city prisoners. Because Skamania County and City of White Salmon/Klickitat County have different processes for recording disposition of cases, this has caused a problem with how White Salmon cases are reported to the Washington State Patrol and recorded in the Annual Compliance Report – Disposition Reporting.

We are requesting that a one-year contract with Klickitat County be approved at a flat-rate of \$13,000. This represents an average of the last three years (2015-2017) costs the city has incurred for jail services. In addition, the city would be required to pay for any medical costs associated with city prisoners while under the care of Klickitat County. It should be noted hat the contract also includes the cost of \$50 per hour when an officer is needed for additional transportation of a prisoner. This occurs only when an additional Klickitat County officer has to be called for duty.

Budget:

Prisoner costs vary from year-to-year. Using a flat fee for the basic services helps establish a firm budget. The proposed budget for 2019 includes \$16,000 for incarceration services.

Staff recommendation:

Staff recommends the city council authorize the mayor and police chief to sign the interlocal agreement with Klickitat County providing for incarceration of city prisoners.

Klickitat County/City of White Salmon

Agreement for Incarceration of City Prisoners

THIS AGREEMENT is made and entered into by and between KICKITAT COUNTY, a municipal corporation, having its principal offices at 205 S Columbus Ave, Goldendale, Washington, 98620(The County) and the Bingen-White Salmon Police Department or City of White Salmon (Contract Agency), having its principal offices at 142 E Jewett Blvd, White Salmon, Washington, 98672.

WHEREAS, the County is authorized by law to operate a jail for misdemeanants and felons and the Contract Agency is authorized by law to operate a jail for misdemeanants and felons;

WHEREAS, the Contracting Agency wishes to designate the County jail as a place of confinement for the incarceration of one or more prisoners lawfully committed to the Contract Agency's custody;

WHEREAS, the County is amenable to accepting and keeping prisoners received from the Contract Agency in the County's custody at its jail for a rate of compensation mutually agreed to herein;

WHEREAS, RCW 39.34.080 and other Washington laws authorize any public agency to contract with another public agency to perform services and activities that each such public agency is authorized by law to perform; and

WHEREAS, the County and Contract Agency have considered the anticipated costs of incarceration services and potential revenues to fund such services and determined it is in each of their best interests to enter into this Agreement as authorized and provided for by RCW 39.34.080 and other Washington law.

AGREEMENT

For and in consideration of the conditions, covenants and agreements contained herein the parties agree as follows;

1. PURPOSE:

It is the purpose of this Agreement to provide for the use by the Contract Agency of the County's jail facilities and services located at the Klickitat County Sheriff's Office, Corrections Division, 205 S. Columbus Ave, Goldendale, Washington, 98620.

2. DETENTION/INCARCERATION:

The County shall incarcerate persons received from Contract Agency until the following occur:

- a. Expiration of the term of confinement as indicated in a Warrant or Order of Commitment; or
- b. Upon posting of bail; or
- c. Receipt of a directive from law enforcement officer or prosecuting attorney of the Contract Agency to release such person held under probable cause without judicial process; or
- d. For those held upon probable cause without judicial process upon the passage of forty-eight(48) hours; provided, prior to releasing any person pursuant to this subsection, the County shall attempt to contact the Contract Agency to ascertain the Contract Agency's desire with regard to said person; provided the Contract Agency shall hold the County harmless as set forth in Section

18 for any claim or action resulting from the detention of an individual wrongly detained at the direction of the Contract Agency.

3. CONTRACT REPRESENTATIVES:

All written notices, reports and correspondence required or allowed by this Agreement shall be sent to the following:

County: Klickitat County Sheriff's Office
Robert Bianchi
Chief Civil/Jail Deputy
205 S Columbus, MS-CH-7
Goldendale, WA 98620
Phone: 509-773-4455
Fax: 509-773-6575

Contract Agency: Bingen-White Salmon Police Department
Mike Hepner
Chief of Police
PO Box 2139
142 E Jewett Blvd
White Salmon, WA 98672
Phone: 509-493-1177
Fax: 509-493-1007

4. The County and the Contracting Agency agree that the Chief Deputy Bianchi responsible for the Jail and the Bingen-White Salmon Chief of Police of the Contract Agency, will meet quarterly to discuss this agreement and to address any differences between them as to the application of the agreement. Any discrepancies between the County and the Contract Agency should be addressed as soon as possible to insure the agreement is being implemented according to the intent of the parties.

5. The contract agency has agreed to pay \$13,000 annually by making quarterly payments to KCSO, to house their inmates in Klickitat County Jail, plus pay all medical cost related to contract agency inmates during their incarceration at Klickitat County Jail.

6. AVAILABILITY OF JAIL FACILITIES:

Subject to the County's rights with respect to certain prisoners set forth in Sections 9 and 10 herein, the County will accept and keep prisoners at the request of the Contract Agency, unless the County, in its sole discretion, determines that the jail population is at capacity or so near capacity that there is a risk that the reasonable operational capacity limits of the County's jail might be reached or exceeded if the County does not begin to refuse or request removal of prisoners.

7. Determination of Case Status. The Prosecuting Attorney shall have the sole authority to determine which felony cases submitted by the Contract Agency shall be charged as felonies and which as gross misdemeanors/misdemeanors. Nothing in this contract prevents the County from seeking reimbursement for felony medical costs prior to conviction as provided in RCW 70.48.130.

A. Other Costs. The Contract Agency shall also pay such other costs to the County or third parties as set forth herein, including but not limited to any medical costs required by Section 8.

B. Billing. The County will bill the Contracting Agency on A Quarterly basis for all amounts due to the County under this Agreement for the services rendered in the prior calendar quarterly month. Such fees shall be due and payable by the Contract Agency to the County within 30 days after receipt of the quarterly invoice.

8. MEDICAL COSTS AND TREATMENT:

a. Services Provided. Upon transfer of custody of a prisoner to the County, the County will provide or arrange for such medical, psychiatric and dental services as may be necessary to safeguard the prisoner's health while confined, in accordance with the policies and rules of the County jail. The County contracts with a health care consultant for in-house medical care in the jail. The costs of these services are included in the annual contract rate charged to contract agency.

b. Cost Responsibility. Pursuant to RCW 70.48.130, the County shall provide routine and regular health care checkups on the Contract Agency inmates. The Contract Agency shall be responsible for any extraordinary or emergency medical costs incurred by the City's inmates provided, if at all reasonably practicable, the County shall provide the Contract Agency notice prior to incurring any extraordinary or emergency medical costs. Such extraordinary or emergency medical costs shall include but not be limited to surgeries, treatment of broken bones, major dental care, or any medical or dental services that require the inmate to leave the jail facility. The Contract Agency shall not be responsible for the costs for any medical treatment that is required due to injuries sustained while the inmate is incarcerated in the County jail or while the inmate is working on the Klickitat County Sheriff's Non-Custody Work Crew Program that result from injury caused by other inmates, or injuries that are caused by property or persons under the control and supervision of the Klickitat County Sheriff's Office. Upon a felony conviction of a pre-conviction felony prisoner of the Contract Agency, medical costs and treatment become that of the County, until transferred to the Department of Corrections, when applicable. Prisoners arrested and confined on warrants issued in Klickitat County shall be the responsibility of the originating agency. Outside warrants will be the responsibility of Klickitat County for Medical payments.

c. Emergency, Non-emergent and Non-Hospital Care outside the Jail. For emergency hospital care outside of the jail, the County will notify the Contract Agency within four (4) hours of transport at (509)493-1177. This is the phone number to the Bingen-White Salmon Police Department.

d. Pre-Confinement Consents or refusals. If a Contract Agency prisoner has received or refused any medical, psychiatric or dental treatment from the Contract Agency before confinement in the County jail, the Contract Agency shall provide to the County all written verification of any authorization of or refusal to authorize care or treatment for such prisoner.

e. Return for Medical Services. Nothing herein shall preclude the Contract Agency from retaking custody of an ill or injured prisoner by picking the prisoner up for transfer at the County jail; provided, in situations the County deems that a prisoner requires emergency medical care, the County shall have the right to arrange for emergency medical services (at the Contract Agency's expense) notwithstanding a request from the Contract Agency to retake custody of the prisoner.

f. Records. The County shall keep records of all medical, psychiatric or dental services it provides to a prisoner as required by law.

g. No Waiver of Right to Seek Reimbursement. The above paragraphs relating to medical costs are intended solely to define the obligations between the parties to this agreement. Nothing contained within the provisions of this agreement shall be construed to waive the rights of either party to seek reimbursement for costs from the department of social and health services, or from the prisoner, or any other responsible third party.

9. TRANSPORTATION OF CONTRACT PRISONERS:

a. Transport without Cost. Contract Agency shall provide or arrange for transportation of its prisoners to and from the Klickitat County Jail except when the transportation is determined by County staff to be necessary to secure emergency medical evaluation or treatment or when transportation is required to support the orderly operation of the Jail.

b. Transport with Costs. The Contract Agency shall be responsible for transportation of all its prisoners to the jail facilities for initial booking. The Contract Agency shall be responsible for transportation of all its prisoners from the jail facilities for all appearances in the Municipal Court if outside the Klickitat County Court House located at 205 S. Columbus. For any additional transports by the County required by court order, to secure emergency medical treatment, or made at the Contract Agency's request, the Contract Agency shall reimburse the County at Fifty dollars (\$50) per hour, per officer which fee will not include any time other than that necessary to transport City inmates and await the conclusion of the appearance of said inmates. There shall be no fee for the County providing for the appearance of inmates by video, and the County shall arrange for such appearances upon request of the City or the West District Court of Klickitat County.

c. Contract Agency Transport. The Contract Agency shall provide at least 24 hours written notice to the County prior to transporting a prisoner from the County Jail. Except as limited by Section 8(a), the Contract agency shall be responsible for retaking custody of a prisoner at the County jail and for transporting the prisoner.

10. TRANSFER OF CUSTODY:

a. Commencement of Custody by County. Custody of a Contract Agency's prisoner to the County shall be deemed transferred when officers from the Klickitat County Sheriff's Office take physical control of the prisoner. The County will not take such control of a prisoner until the Contract Agency has delivered copies of all records in its possession pertaining to the prisoner's incarceration by the Contract Agency or its agent, including a copy or summary of the prisoner's medical records if available by the Contracting Agency or its agent. If the County requests additional information regarding a particular prisoner, then the parties shall mutually cooperate to obtain such information. Absent compliance with existing policies, the County shall not be required to take custody of or assume control of or

responsibility for any property of the prisoner. The Contract Agency's officers, when transporting a prisoner to the jail shall be responsible for ensuring that all paperwork is in order and that all property allowed to be transported with the prisoner is properly packaged. The County will not take physical control and assume custody of a prisoner to be confined unless all paperwork and property of the prisoner are in order.

The Contract Agency shall be solely responsible for determining that the individuals presented for detention are detainable and shall certify by the act of presenting an adult person for detention, that said person is legally detainable and County shall bear no responsibility to insure that said individuals are legally detainable. The Contract Agency shall hold the County harmless as set forth in Section 18 for any claim or actions resulting from the detention of an individual wrongly presented by the Contract Agency for detention.

When custody of a Contract Agency prisoner is transferred to the County, the Contract Agency prisoner shall be subject to all applicable rules, regulation and standards governing operation of the County jail, including any emergency security rules imposed by the Chief Civil/Jail Deputy or Sheriff. Any Contract Agency police officer delivering a prisoner to the County jail shall comply with reasonable rules and regulations of the County jail.

b. Further Transfer of Custody. Except as otherwise allowed by Section 11 of this Agreement, the County will not transfer custody of any prisoner confined pursuant to this Agreement to any agency other than to the Contract Agency without the written authorization from a court of competent jurisdiction.

c. Responsibilities upon Assumption of Custody. Upon transfer of custody to the County, it shall be the County's responsibility to confine the prisoner; to supervise, the discipline and control said prisoner; and to administer the prisoner's sentence pursuant to the order of the committing court in the State of Washington. During such confinement, the County shall provide and furnish or arrange for all necessary medical and hospital services and supplies in accordance with Section 7 of this Agreement.

d. Resumption of Custody by Contracting Agency. The Contract Agency shall be deemed to have resumed custody of a prisoner upon either the County's presentation of such prisoner to the Contracting Agency, or upon the Contract Agency's officers taking physical control of the prisoner.

11. RIGHT TO REFUSE/RETURN PRISONER:

a. Pending Medical Needs. The County shall have the right to refuse to accept any Contract Agency prisoner who appears in need of medical, psychiatric or dental attention, until the Contract Agency has provided medical, psychiatric or dental treatment to the prisoner to the satisfaction of the County.

12. REMOVAL FROM JAIL-OTHER GROUNDS: The Contract Agency's prisoners may be removed from the County jail for the following reason(s):

a. Request by Contract Agency. Upon written request by a supervisory member of the Contract Agency for transfer of custody back to the Contract Agency.

b. Court Order. By order of a court having jurisdiction over a Contract Agency's prisoner. In such case, transport, if any, will be pursuant to Section 8 above.

c. Treatment Outside of Jail. For medical, psychiatric or dental treatment or care not available within the County jail.

d. Catastrophe. In the event of any catastrophic condition presenting, in the sole discretion of the County, an eminent danger to the safety of the prisoner(s) or personnel of the County. In such case, the County will inform the Contract Agency, at the earliest practicable time, of the whereabouts of the prisoner(s) so removed and shall exercise all reasonable care for the safekeeping and custody of such prisoner(s).

13. TRANSFER OF PRISONERS UPON TERMINATION/EXPIRATION OF AGREEMENT:

a. Termination by County. In the event of a notice of termination from the County in accordance with Section 22 below, it shall be the County's obligation to transport the Contract Agency's prisoners to the Contract Agency, at no expense to the Contract Agency.

b. Termination by Contract Agency. In the event of a notice of termination from the Contract Agency in accordance with Section 22 below, it shall be the Contract Agency's obligation to transport the Contract Agency's prisoners at its own expense, on or before the effective date of such termination.

14. PRISONER RIGHTS, ACCOUNTS AND PROGRAMS:

a. Early Release Credit and Discipline. The Contract Agency agrees that its policies if any, for early release credits shall allow no more credit for its prisoners than is allowed by the County under its policies. The Contract Agency's prisoners confined under this Agreement shall earn early release credits under the policies and rules prescribed by the County and state law for all prisoners at the County jail. With respect to the Contract Agency's prisoners, the County shall maintain and manage disciplinary issues and will administer sanctions, including removal of earned early release credit, pursuant to facility rules. No discipline prohibited by federal or state law will be permitted. The disciplinary policies and rules of the County jail will apply equally to prisoners confined pursuant to this Agreement as applied to other prisoners confined to the Jail.

b. Prisoner Accounts. The County shall establish and maintain an account for each prisoner received from the Contract Agency and shall credit to such account all money received from a prisoner or from the Contract Agency on behalf of a prisoner. The County shall make disbursements from such accounts by debiting such accounts in accurate amounts for items purchased by the prisoner for person needs.

c. Programs. The County shall provide the Contract Agency's prisoners with access to all educational, recreational and social service programs offered at the County jail under the terms and conditions applicable to all other prisoners at the jail.

d. Serve Time Outside of Facility. The Contract Agency's prisoners, if deemed eligible, will be allowed to leave the jail for participation in correctional work crews, or any other program in which other prisoners sometimes are allowed to leave the physical confines of the jail as part of serving their sentence.

15. ACCESS TO FACILITY AND PRISONERS:

a. Access to Facility. The County agrees to manage, maintain and operate its facilities consistent with all applicable federal, state and local laws.

b. Access to Prisoners. Contract Agency personnel shall have the right to interview prisoners from the Contract Agency at any reasonable time within the jail. Contract Agency officers shall be afforded equal priority for use of jail interview rooms.

16. ESCAPES AND DEATHS:

a. Escapes. In the event of an escape by a Contract Agency's prisoner from the County jail, the Contract Agency will be notified in writing as soon as practical. The County will have the primary authority to direct the investigation and to pursue the prisoner within its jurisdiction. Any costs related to the investigation and pursuit within its jurisdiction will be the responsibility of the County. The county will not be required to pursue and return the Contract Agency's escaped prisoner from outside of the County.

b. Deaths. In the event of a death of a Contract Agency prisoner in the County jail, the Contract Agency shall be promptly notified in writing. Klickitat County Sheriff's Office will investigate the circumstances. The Contract Agency may join in the investigation and receive copies of all records and documents from the investigation. The County shall release jurisdiction of the body to the Klickitat County Coroner.

17. POSTING OF BAIL:

The County shall serve as agent for the Contract Agency in receipt of any bail bonds or any monies posted for or by a Contract Agency's prisoner with the County, and any such bonds or monies will be forwarded to the proper agency the next business day.

18. RECORD KEEPING:

The County agrees to maintain a system of record keeping relative to the booking and confinement of each of the Contract Agency's prisoners consistent with the record keeping by the County for all other prisoners. The County shall make copies of said records available without cost to the Contract Agency upon its request.

19. INDEMNIFICATION, HOLD HARMLESS AND INSURANCE:

a. The Contract Agency agrees to defend, indemnify and hold harmless the County, its appointed and elected officials, employees and agents from and against all liability, loss, cost, damage and expense, including costs and attorney's fees in defense thereof because of actions, claims or lawsuits alleging damages sustained by any person or property including death at any time resulting thereof, arising from or alleged to have arisen from:

1. The Contract Agency's performance under this Agreement or as a consequence of any wrongful or negligent acts or omission of the Contract Agency, its appointed and elected officials, employees and agents;
2. Wrongful detention of a Contract Agency prisoner as a result of the Contract Agency's actions;
3. Failure or refusal to timely release a Contract Agency prisoner as a result of the Contract Agency's actions.

To the extent the claim, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of the County, its officers, agents, or employees, the Contract Agency's

indemnification obligation hereunder shall be limited to the Contract Agency's proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

b. The County agrees to defend, indemnify and hold harmless the Contract Agency, its appointed and elected officials, employees and agents from and against all liability, loss, cost, damage and expense, including costs and attorney's fees in defense thereof because of actions, claims or lawsuits alleging damages sustained by any person or property including death at any time resulting thereof, arising from, or alleged to have arisen from:

1. The County's performance under this Agreement or as a consequence of any wrongful or negligent acts or omission of the County, its appointed and elected officials, employees and agents;
2. Wrongful detention of a Contract Agency prisoner as a result of the County's actions;
3. County's failure or refusal to timely release a Contract Agency prisoner.

To the extent the claim, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of the Contract Agency, its officers, agents, or employees, The County's indemnification obligation hereunder shall be limited to the County's proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

c. Insurance Requirement. The County and the Contract Agency shall maintain and provide evidence of liability coverage.

The terms of Section 18 **INDEMNIFICATION, HOLD HARMLESS AND INSURANCE** shall survive the termination or expiration of this Agreement.

20. NON-DISCRIMINATION POLICY:

The County and the Contract Agency agree not to discriminate in the performance of this Agreement because of race, color, national origin, sex, sexual orientation, age, religion, creed, marital status, disabled or Vietnam era veteran status, or the presence of any physical, mental, or sensory handicap.

21. ADMINISTRATION/DISPOSAL OF PROPERTY:

This Agreement is executed in accordance with the authority of Chapter 39.34 RCW, the Interlocal Cooperation Act. Pursuant to the provisions of RCW 39.34.030, the Klickitat County Sheriff shall be responsible for administering the confinement of prisoners hereunder. No real or personal property will be jointly acquired by the parties under this agreement. All property owned by each of the parties shall remain its sole property to hold and dispose of in its sole discretion.

22. WAIVER OF RIGHTS:

No waiver of any right under this Agreement shall be effective unless made in writing by an authorized representative of the party to be bound thereby. Failure to insist upon full performance on any occasion shall not constitute consent to or waiver of any continuation of nonperformance or any later nonperformance; nor does payment of a billing or continued performance, after notice of a deficiency in performance, constitutes acquiescence thereto.

23. TERMINATION:

This Agreement may be terminated prior to expiration by written notice from either party delivered by regular mail to the contact person at address set forth herein. Termination by said notice shall become effective one hundred twenty (120) days after receipt of such notice. The notice shall set forth the reason the party wishes to terminate the Agreement and the specific plan for accommodating the affected prisoners, if any.

24. DURATION:

The term of this Agreement shall be for a period of two (2) years from January 1, 2019 through December 31, 2020; and shall continue in force thereafter for succeeding periods of one (1) year each unless notice of cancellation in writing is delivered not less than 120 days prior to termination of any current Agreement period, unless another date is substituted pursuant to Section 25 or the agreement is terminated earlier pursuant to Section 22. Nothing in this agreement shall be construed to make it necessary for the Contracting Agency to continuously house prisoners with the County.

25. MODIFICATION: This Agreement may only be modified by written instrument signed by both Parties.

26. GOVERNING LAW/VENUE:

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 this Agreement and to a prisoner's confinement under this Agreement. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and in the event of dispute; the venue for any action brought hereunder shall be in Klickitat County Superior Court.

27. MISCELANEOUS:

In providing these services to the Contract Agency, the County is an independent contractor and neither its officers, agents, nor employees are employees of the Contract Agency for any purpose including responsibility for any federal or state tax, industrial insurance or Social Security liability. No provision of services under this Agreement shall give rise to any claim of career service or civil service right, which may accrue to an employee of the Contract Agency under any applicable law, rule, or regulation.

The Contract Agency agrees to allow the County access and use of the Contract Agency's drug/detection dog as needed by the County whenever acceptable.

28. SEVERABILITY:

If any provision of this contract shall be held invalid, the remainder of this contract shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of both parties.

29. INTERLOCAL AGREEMENT REPRESENTATIONS

This is an interlocal agreement pursuant to RCW Ch 39.34 and the parties make the following representations:

- a. Duration. This AGREEMENT shall terminate on December 31, 2020 or as otherwise provided in Section 24, above.

- b. **Organization.** No new entity will be created to administer this agreement.
- c. **Purpose.** The purpose is to enable the City of White Salmon to contract with Klickitat County for law enforcement services.
- d. **Manner of Financing.** The parties intend to finance this agreement in cash as part of their general fund budgets.
- e. **Termination of Agreement.** The parties shall have the right to terminate this agreement as provided in Section 23, above.
- f. **Other.** All terms are covered by this Agreement. No additional terms are contemplated.
- g. **Selection of Administrator.** The Sheriff of Klickitat County shall be the Administrator for this Interlocal Agreement.
- h. **Filing.** Prior to its entry into force, this agreement shall be filed with the Klickitat County Auditor or, alternatively, listed by subject on a public agency's web site or other electronically retrievable public source.

[Signatures appear on next page]

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

**CITY OF WHITE SALMON,
A MUNICIPAL CORPORATION**

**BOARD OF COMMISSIONERS
KLICKITAT COUNTY, WASHINGTON**

Mayor

Chairman

Commissioner

City Clerk

Commissioner

Bob Songer, Klickitat County Sheriff

APPROVED AS TO FORM ONLY:

ATTEST:

City Attorney

Clerk of the Board

APPROVED AS TO FORM ONLY:

Klickitat County Prosecuting Attorney