

RESOLUTION 11-844

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF PROVIDING USE OF JAIL FACILITIES TO THE CITY OF WEST RICHLAND

WHEREAS, Benton County and the City of West Richland have an agreement for the use of the Benton County Jail; and

WHEREAS, the agreement was entered into on December 18, 2006 between Benton County and the City of West Richland, for the use of jail facilities for the duration of January 1, 2007 through December 31, 2011; and

WHEREAS, Benton County and the City of West Richland wish to enter into an agreement for the use of the jail facilities effective January 1, 2012 through December 31, 2016; **NOW, THEREFORE**

BE IT HEREBY RESOLVED, that the Board of Benton County Commissioners, Benton County, Washington, hereby approves and is authorized to sign the agreement between Benton County and the City of West Richland for the use of the Benton County jail facilities from January 1, 2012 through December 31, 2016.

Dated this 20 day of Dec , 2011

Ch M Beusman
Chairman of the Board

SHON SMALL - ABSENT
Member

James P. Bauer
Member

Constituting the Board of County
Commissioners of Benton County,
Washington.

Attest: *Amie Mejia*
Clerk of the Board

AGREEMENT FOR USE OF JAIL FACILITIES

THIS AGREEMENT is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington (hereinafter "County") and the City of WEST RICHLAND, WASHINGTON, a municipal corporation (hereinafter "City").

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

1. PURPOSE. The City, desiring to utilize Benton County Jail (hereinafter "jail") facilities and services, for the incarceration of City prisoners, in accordance with the Interlocal Cooperation Act (Chapter 39.34 RCW) and the City and County Jails Act (Chapter 70.48 RCW), hereby enters into an agreement with the County for use of the County jail facility and services for confinement of City prisoners. It is the purpose of this agreement to provide for the joint use by the parties of the jail facilities and services at the jail located at the Benton County Justice Center.
2. DEFINITIONS. (a) "Benton County Custody Budget" shall mean all expenditure items in such budget except for expenditures directly for the costs of work crews.

(b) "City Prisoner" shall mean a person who is booked into the jail pursuant to an arrest by a police officer for the commission of a misdemeanor or gross misdemeanor, which could be booked as a violation of a West Richland city ordinance. For the term of this agreement, should the City choose to repeal any or all of its ordinance provisions which would give rise to potential City jail time, such action will have no bearing on the computation of City prisoner days as defined below.

(c) "City Prisoner Day" shall mean any portion of a consecutive 24-hour period that a City Prisoner is in the custody at the County jail and shall include when a City Prisoner is only booked and released, as calculated using the current Intergraph Jail Management System (ILEADS) methodology for counting jail days. After booking, the total elapsed time for each visit shall be calculated in minutes. At the time of release, the number of minutes will be divided by 1440 (the number of minutes in a day), and the resulting number will be rounded up. For example, if a city prisoner's stay is from 8:00 AM on January 1, 2007 to 1:00 PM on January 3, 2007, the total elapsed time would be 3,180 minutes. This is two days and five hours, and the number of City Prisoner Days would be three.

"City Prisoner Day" shall also include prisoners who participate in the work release program.

3. AVAILABILITY OF JAIL FACILITIES. The jail facilities and services shall be available for confinement of City Prisoners held upon arrest, awaiting trial, and serving sentences of jail terms on a space available basis; provided, confinement of City prisoners will be given priority over confinement of Prisoners for jurisdictions from outside of Benton County.

4. COMPENSATION FROM CITY. The City shall pay the County as compensation for its provision of jail facilities and services as specified herein.

(a) For the 2012 calendar year, the City shall initially pay to the County sixty four dollars and sixty four cents (\$64.64) per City Prisoner Day. [This figure consists of: \$60.75 to satisfy net operating costs; an administration fee of \$2.96; and a depreciation fee of \$0.93]. The County will bill the City on the 15th of each month, for the number of City Prisoner Days in the preceding month. Payment shall be due by the 15th of the following month.

(b) "Net Operating Costs" of the jail shall be calculated as follows: (i) All expenditures from the Benton County Custody Budget, less (ii) all revenues derived from incarcerating prisoners in the County jail that are paid to the County by a governmental agency or any person; except that payments from the City for work crew or under Section 4(a) above and similar payments from the cities of Richland, Kennewick and Prosser under agreements identical to this Agreement, booking fees collected by the County from persons pursuant to a court order, SCAAP Grant revenues, and reimbursements to the County from the State of Washington regarding costs of incarcerating convicted felons pursuant to Chapter 137-75 of the Washington Administrative Code, shall not be deducted in the calculation of "Net Operating Costs."

(c) The fee for the City Prisoner Day will be subject to adjustment each calendar year, based on the following factors:

- (1) The billing rate to recover Net Operating Costs of the jail will be initially estimated each calendar year based on the Benton County Sheriff's Custody Budget for that year, and the estimated number of City Prisoner Days for the year. The County may adjust the billing rate estimate once during the calendar year based on actual year to date Net Operating Costs and City Prisoner Days, and notify the City in writing of the adjusted billing

rate estimate for the remaining months of the year to be used until the final bill for the final month is prepared using the actual rate as calculated below.

- (2) At the conclusion of each year, including 2012, the actual Net Operating Costs will be calculated and recovered by Benton County by using actual expenditures and revenues and actual number of City Prisoner Days during that year. If actual Net Operating Costs per prisoner day for the year are found to be less than those estimated, the bill for the final month of the calendar year will be adjusted downward so that only actual Net Operating Costs per prisoner day are paid for the year; if the actual Net Operating Costs per prisoner day for the year are found to be higher than those estimated, the bill for the final month of the calendar year will be adjusted upward so that the actual Net Operating Costs per prisoner day are paid for the year. If, during the course of the calendar year, the County supplements the Benton County Custody Budget, the County will provide written notice to the City of the adjustment.
- (3) Depreciation Expense: For the term of this Agreement, the annual amount of depreciation charge to be allocated among the County, the City and the cities of Richland, Kennewick, and Prosser under agreements identical to this Agreement shall be One Hundred Seventy Eight Thousand Dollars (\$178,000), which amount shall be deposited into the County's depreciation fund. The City shall be billed its estimated portion of this amount on a per City Prisoner Day basis during each year based on the estimated number of City Prisoner Days for the year. At the conclusion of each year, the City's bill for the final month of the calendar year will be adjusted upward or downward so that the City incurs its actual pro rata share of this amount based on its actual number City Prisoner Days for that year. The County agrees that it will use its best efforts to advise the City of anticipated expenditures from the depreciation fund. The County shall have final authority to determine how the money accumulated in the depreciation fund will be spent.
- (4) Administration Cost: The annual Administration Fee will remain at 5% of the actual expenditures from the Benton County Custody Budget. This fee will be collected on a per City Prisoner basis during each year based on the budgeted expenses in that year and the estimated number

of City Prisoner Days for the year. At the conclusion of each year, the actual expenses incurred and the City's actual number City Prisoner Days for that year will be determined, and the City's bill for the final month of the calendar year will be adjusted accordingly.

5. PAYMENT. The County shall bill the City by submitting a monthly voucher to the City on or before the 15th day of each month following services. The City shall pay the County the compensation set forth in Section 4 hereof within thirty days from receipt of such voucher. Account balances overdue 30 days or more will be subject to a service charge of 1% per month (12% per annum). Should it become necessary, all collection costs will be paid by the City.

6. MEDICAL COSTS AND TREATMENT.

- (a) The County shall have the right to refuse to accept a City Prisoner who, at the time of delivery to the jail for confinement, is in need of medical attention, until the City has made arrangements satisfactory to the County, for such medical attention.
- (b) The County will provide medical services for all City Prisoners within the jail in accordance with the policies and procedures adopted by the County.
- (c) In the event a prisoner requires medication, medical care or dental treatment that is not available in the health care program within the jail provided by the County, the City shall be responsible as follows:
 - (i) With respect to City Prisoners, the City shall reimburse the County for the cost of all medication, medical care or dental treatment to the extent such costs are not paid by the prisoner, insurance, public assistance or other sources, and for the cost of transportation to and from any health care facility outside the jail.
 - (ii) With respect to those prisoners who are not City Prisoners, as defined in Section 2, but who are confined on the basis of charges initiated by the City police officers, the City shall reimburse the County for the cost of all such medication, medical care, dental treatment and transportation to and from any health care facility outside of the jail that are incurred prior to the disposition of the charges by sentencing or otherwise, to the extent that the cost is not paid by the

prisoner, insurance, public assistance or other sources.

- (d) The County agrees to use reasonable efforts to obtain reimbursement from the prisoner, insurance, public assistance or other sources, for such costs of medication, and medical care or dental treatment. The County shall, except in cases of emergency which prevent the County from obtaining City authorization, obtain advance authorization from the Chief of Police or designee whenever a City Prisoner requires such medication, medical care or dental treatment, the cost of which is the responsibility of the City pursuant to this Agreement. The City agrees to provide to the County, when requested, written verification of any authorization of or refusal to authorize care or treatment for a City Prisoner.
- (e) The County shall, subject to the City's authorization required by subsection (d) hereof, have the authority to make arrangements for medication, medical care or dental treatment not available in the health care program within the jail.
- (f) The County shall be responsible for all medical expenses resulting from accidental injuries incurred during the course of a City Prisoner's incarceration; provided, this subsection shall not relieve the City of its obligations to reimburse the County for medical expenses incurred in connection with any medical condition that does not arise due to an accidental injury to a City Prisoner occurring during incarceration.

7. TRANSPORTATION OF PRISONERS. The City shall be responsible for all transportation of City Prisoners to and from the Benton County Justice Center necessary for any reason, or the cost thereof if transportation is provided by the County at the applicable mileage reimbursement rate for private vehicle use set by the U.S. General Services Administration. The County reserves the right not to provide transportation of City Prisoners.

8. TRANSFER OF CUSTODY. City police officers or any law enforcement on behalf thereof delivering persons to the jail for confinement shall provide the receiving officer of the jail with an arrest warrant, citation, court order, other documentation or a completed detention request form satisfactory to the receiving officer which indicates the legal basis for confinement of the person and, in the absence of such documentation, the receiving officer may refuse to accept the person for confinement.

The County may also refuse to accept any City Prisoner for confinement if, in its sole discretion, it would be inappropriate

to accept such person for security or safety reasons prompting the Sheriff or his designee to conclude that it would be inappropriate for a particular person to be held in custody in the jail, including but not limited to familial, social or employment relationships between the person and one or more members of correctional staff.

- (a) City police officers delivering persons to the jail for confinement shall remain in the immediate presence of such person, shall be responsible for such person and shall be considered to have such person in their sole custody until the jail receiving officer has accepted documentation for such person's confinement and physical custody of that person and has indicated that the delivering officer may leave. At such time, and only at such time, will the County have assumed custody of and responsibility for the person to be confined.
- (b) City Prisoners shall be subject to all applicable rules, regulations and standards governing the operation and security of the jail. All city officers delivering prisoners to the County jail shall comply with those rules, regulations and standards.

9. ACCESS TO PRISONERS. City police officers and investigators shall have the right to interview prisoners at any reasonable time within the jail. City police officers shall be afforded equal priority for use of jail interview rooms with other departments, including the Benton County Sheriff's Department.

10. POSTING OF BAIL. The County shall serve as agent for the City in receipt of bail bonds or monies posted for City Prisoners.

11. SPECIAL PROGRAMS.

- (a) Work Release. If it is desired that a City Prisoner participate in the jail work release program, City Prisoners shall be treated the same as county prisoners and shall be entitled to participate in the work release program solely upon a space available basis and qualification pursuant to Benton County's Bureau of Corrections standards.
- (b) Home Monitoring, and Other Special Programs. Prisoners participating in a home monitoring program, or any other program agreed in writing by the parties to be subject to this paragraph 11(b), shall not be included in the calculation of "City Prisoner Days" under paragraph 2(b) of this Agreement. The cost of providing home monitoring or any other agreed

special program subject to this paragraph 11(b) shall be determined by the actual usage of the special service by City Prisoners. The County shall use all best efforts to collect the cost of such special program from the City Prisoner, provided, in the event that a City Prisoner is determined by the Benton County Department of Corrections to be unable to pay the entire cost of such special program, the City shall be responsible for the actual cost of providing such special program not paid by the City Prisoner. The County shall provide a monthly statement to the City regarding the City's obligation for payment for such special programs under this subsection.

12. RELEASE OR LEAVE OF CITY PRISONERS. City Prisoners shall be permitted to leave the jail only:

- (a) upon the authorized, written request of the City police; or
- (b) by order of the Court having jurisdiction of a City Prisoner and the matter for which such prisoner is being confined; or
- (c) for appearance by the prisoner in the Court in which the prisoner has been charged; or
- (d) in compliance with a valid writ of habeas corpus, or
- (e) for necessary medical or dental treatment or care not available within the jail; or
- (f) when the prisoner has completed service of the sentence, the charge pending against the prisoner has been dismissed or bail or other satisfactory recognizance has been posted as required by the Court.

13. RECORDKEEPING. The County, based on consultation with the City's chief of police, agrees to maintain a system of record keeping to document the booking and confinement of each City Prisoner in such style and manner as is equivalent to the County's records pertaining to its prisoners under the current ILEADS system. The County shall make copies of said records available upon request by the City. The City agrees to be bound by all applicable confidentiality laws regarding jail records.

14. INDEMNIFICATION.

- (a) The City shall indemnify and hold harmless the County and its officers, agents and employees from and against any and all

claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever resulting from, arising out of or incident to any act or omission of the City, its officers, agents, or employees, in the performance of this Agreement or in arresting, detaining, charging, transporting, interrogating or otherwise dealing with persons either before or after presentation to and acceptance by the County for confinement in the jail. With respect to the performance of this Agreement and as to claims against the County, its officers, agents and employees, the City expressly waives its immunities under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of the City. This waiver is mutually negotiated by the parties.

In the event that any suit based upon such a claim, action, loss, cost, expense, or damage is brought against the County, the City shall defend the County at its sole cost and expense; provided, that the County retains the right to participate in any such suit if any principle of governmental or public law is involved. If final judgment is entered against the County, or its officers, agents, or employees, the City shall satisfy the same in full.

- (b) The County shall indemnify and hold harmless the City and its officers, agents and employees, from and against any and all damages of any nature whatsoever resulting from, arising out of or incident to any act or omission of the County, its officers, agents or employees, in the performance of this Agreement or in confining persons who have been presented by the City to and accepted by the County for confinement in the jail while said persons are in the jail or in the custody of the County outside the jail.

In the event any suit based upon such a claim, action, loss, cost, expense or damage is brought against the City, the County shall defend the City at its sole cost and expense; provided that the City retains the right to participate in such suit if any principle of governmental or public law is involved. If final judgment be rendered against the City or its officers, agents, or employees, the County shall satisfy the same in full.

15. NON-DISCRIMINATION POLICY. It is the policy of Benton County that no person shall be subjected to discrimination by the County

or by its contractors because of race, color, national origin, sex, age, religion, creed, marital status, sexual orientation, disabled or Vietnam era veteran status, or the presence of any physical, mental, or sensory handicap.

16. AUTHORITY. This Agreement is executed in accordance with the authority of RCW 70.48.090 and Chapter 39.34 RCW, the Interlocal Cooperation Act. The following information is given pursuant to the provisions of RCW 39.34.030:

- (a) The duration of this Agreement shall be five years;
- (b) The Benton County Sheriff shall be responsible for the administration of this Agreement as provided by Section 17 hereof.
- (c) The purpose of this Agreement is to permit the joint use of the Benton County jail for confinement of prisoners of the parties to the Agreement thereby promoting maximum use and efficiency of the Benton County jail;
- (d) Termination of this Agreement shall be as provided in Section 20 hereof;
- (e) This Agreement shall be administered as provided in Section 17 hereof;
- (f) 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.
- (g) Nothing in this Agreement shall preclude the City from maintaining and utilizing its own holding facilities.

17. ADMINISTRATION. This Agreement shall be administered by the Benton County Sheriff or the Contracting Officer.

18. REMEDIES. No waiver of any right under this Agreement shall be effective unless made in writing by the 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 constitute an acquiescence thereto.

19. DURATION. Upon its effective date, this agreement supersedes the prior Agreement for Use of Jail Facilities between the parties. This agreement shall be effective for five (5) years, from January 1, 2012 through December 31, 2016. It may be renewed for periods of one year by written mutual agreement, provided the parties provide one another with at least sixty (60) days' advance written notice.

20. TERMINATION. This agreement may be terminated prior to the end of its term by either party for cause upon not less than ninety (90) days' advance written notice. Said notice shall set forth the basis for termination.

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Dated: 12/20/2011

BENTON COUNTY, WASHINGTON

Leo M. Bowman
LEO BOWMAN, Chairman.

James Beaver
JAMES BEAVER, Member.

SHON SMALL - ABSENT

SHON SMALL, Member.

Constituting the Board of
County Commissioners of Benton
County, Washington.

DATED: 12/20/2011

Attest: Carrie Meyer
Clerk of the Board

Approved as to Content:
Steven Keane
STEVEN KEANE
Benton County Sheriff

Approved as to Form:
Ryan K. Brown
RYAN K. BROWN, Deputy
Prosecuting Attorney

Dated: 12-7-11

CITY OF WEST RICHLAND,
WASHINGTON

By: Donna L. Noski
DONNA L. NOSKI, Mayor

Approved as to Form:
Bronson J. Brown
BRONSON J. BROWN
City Attorney