

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**

IN THE MATTER OF:

RESOLUTION NO. 20-215

ACCEPTANCE OF AN INTERLOCAL AGREEMENT FOR USE OF JAIL FACILITIES BETWEEN THE LEWIS COUNTY SHERIFF'S OFFICE AND THE CITY OF TUMWATER.

WHEREAS, the Board of County Commissioners (BOCC) has reviewed the agreement between the Lewis County Sheriff's Office and the City of Tumwater for use of jail facilities; and

WHEREAS, it appears to be in the best public interest to authorize the execution of said interlocal agreement; and

WHEREAS, this contract provides a daily bed rate of \$75.00 for 2020; and

WHEREAS, the BOCC authorizes the Sheriff, or his designee, to approve and sign future amendments extending the duration of this agreement.

NOW THEREFORE BE IT RESOLVED the aforesaid interlocal agreement for utilization of jail facilities by the City of Tumwater is hereby approved, and the BOCC is authorized to sign the same.

DONE IN OPEN SESSION this 22nd day of June, 2020.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

Kevin McDowell
By: Kevin McDowell,
Deputy Prosecuting Attorney

Gary Stamper
Gary Stamper, Chair

ATTEST:



Edna J. Fund
Edna J. Fund, Vice Chair

Rieva Lester
Rieva Lester,
Clerk of the Lewis County Board of County Commissioners

Robert C. Jackson
Robert C. Jackson, Commissioner

AGREEMENT FOR USE OF JAIL FACILITIES IN LEWIS COUNTY

THIS AGREEMENT is made and entered into by and between LEWIS COUNTY, a political subdivision of the State of Washington (hereinafter "County"), and the City of Tumwater (hereinafter "Contract Agency") a Washington municipal corporation.

RECITALS

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 inmates lawfully committed to the Contract Agency's custody;

WHEREAS, the County is amenable to accepting and keeping inmates 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 RCW 70.48, 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, RCW 70.48, 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 at the County's jail located at the Lewis County Jail, 28 SW Chehalis Avenue, Chehalis, Washington 98532-1900.

2. MAILING AND CONTACT ADDRESS:

All written notices shall be deemed received three (3) days after being deposited in the US Mail. All written notices, reports and correspondence required or allowed by this Agreement shall be sent to the following:

County: Lewis County Jail
Attention: Corrections Chief
28 SW Chehalis Avenue
Chehalis, WA 98532-1900
Facsimile: (360) 740-1463
Telephone Number: (360) 740-2714

Contract Agency: Tumwater Police Department
Attention: Accounts Payable
555 Israel Road S.W.
Tumwater, WA. 98501

E-mail: policerecords@ci.tumwater.wa.us
Telephone Number: 360-754-4200

3. AVAILABILITY OF JAIL FACILITIES:

Subject to the County's rights with respect to certain inmates set forth in Sections 8 and 9 herein, the County will accept and keep inmates at the request of the Contract Agency, unless the facility is declared at or near capacity by court order, or in the sole discretion of the County, if its inmate population is at capacity or so near capacity there is a risk the reasonable operational capacity limits of the County's jail might be reached or exceeded.

4. COMPENSATION FROM CONTRACT AGENCY:

(a) Daily Rate. In return for the County's housing of an inmate of the Contract Agency, the Contract Agency shall pay the County seventy-five dollars (\$75.00) for every calendar day said inmate is in the custody of the County. Such time period shall be measured from the time said inmate is transferred to the custody of the County and ends when the Contract Agency resumes custody.

(b) 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 5.

(c) Billing. The County will bill the Contracting Agency on the 15th day of each month for amounts due to the County under this Agreement for services rendered in the prior calendar month. Payment shall be due from the Contract Agency by the 15th day of the following month. Account balances overdue 30 days or more will be subject to a service charge of 1% per month (12% per annum). Should collection action become necessary, the Contract Agency will pay collection costs associated with late payments.

(d) Concurrent Sentences. When a contract agency requests the Lewis County Jail to track, monitor, calculate time served for sentences imposed by a court other than Lewis County District or Superior Courts, or to place a hold on or to notify a court of an inmate's incarceration in the Lewis County Jail, the Contract Agency will pay 1/2 of the daily rate for offender serving time concurrently.

(e) Annual Review.

The daily rate for housing prisoners shall be adjusted annually by the County based on the projected costs for the next contract year. The adjusted daily rate anticipated for the next year shall be provided to the Contract Agency for review and comment no later than August of each year. The Contract Agency's written response will be considered and the final daily rate for the following year will be provided to the Contract Agency by September 30. Any increase shall take effect January 1.

5. MEDICAL COSTS AND TREATMENT:

(a) Services Provided. Upon transfer of custody to the County, the County will provide or arrange for the Contract Agency's inmates to receive medical, psychiatric and dental services necessary to safeguard their health while confined, in accordance with the provisions of RCW 74.48.130, as now in effect or hereinafter amended, and the policies and rules of the County jail.

(b) Cost Responsibility. The Contract Agency shall be responsible for the cost of medication prescribed for its inmates. The Contract Agency shall also be responsible for costs associated with the delivery of medical, psychiatric, dental, and emergency medical services provided to an inmate which are not available from the health care program within the County jail. These costs shall be paid directly to the provider or as a reimbursement to the County, as mutually agreed by the County and Contract Agency.

(c) Notice. Except in situations deemed an emergency by the County, the County shall notify the Contract Agency's contact person in writing, by mail or facsimile, prior to transfer of a Contract Agency's inmate to a medical, dental or psychiatric provider outside of the County jail or to a hospital for medical, psychiatric or dental services.

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

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

(f) Records. The County shall keep records of all medical, psychiatric or dental services provided to inmates. Upon request by the Contract Agency, and in accordance with applicable law, the Contract Agency shall receive a copy of the medical, psychiatric or dental records held by the County for an inmate of the

Contract Agency. County and the contract medical provider for County shall comply with all requirements under the Health Insurance Portability and Accountability Act (HIPAA) and other applicable law.

6. TRANSPORTATION OF CONTRACT PRISONERS:

(a) Transportation: The Contract Agency is responsible for the transport of offenders to and from the County Jail at any time that inmate transport is needed, including, but not limited to, for mandatory court appearances. The County shall have no obligation to provide transportation services. However, if transportation is provided by the County, the County shall be reimbursed for any actual expense incurred.

7. TRANSFER OF CUSTODY:

(a) Commencement of Custody by County. The Contract Agency's inmates shall be deemed transferred to the custody of the County when Corrections Officers from the Lewis County Sheriff's Office take physical control of an inmate. The County will not take such control of an inmate until the Contract Agency has delivered copies of all inmate records pertaining to the inmate's incarceration by the Contract Agency or its agent, including a copy or summary of each inmate's medical records held by the Contract Agency or its agent. If the County requests additional information, the parties shall mutually cooperate to obtain such information. In the absence of documentation and information satisfactory to the County, the receiving officer may refuse to accept the Contract Agency's inmate for confinement. Property shall be limited to the amount which can be stored in a grocery size bag. The Contract Agency's officers delivering an inmate to the transportation location shall be responsible for ensuring that all paperwork is in order and all property allowed to be transported with the inmate is properly packaged. Only when all paperwork and property are in order will the County take physical control and assume custody and responsibility for the Contract Agency's inmate for confinement.

(b) Further Transfer of Custody. Except as otherwise allowed by Section 10 of this Agreement, the County will not transfer custody of any inmate confined pursuant to this Agreement to any agency other than to the Contract Agency without 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 inmate; to supervise, discipline and control said inmate; and to administer the inmate'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 necessary medical and hospital services and supplies in accordance with Section 5 of this Agreement.

8. RIGHT TO REFUSE AN INMATE:

The County shall have the right to refuse the Contract Agency's inmates under the following circumstances:

(a) Pending Medical Needs. The County shall have the right to refuse to accept a Contract Agency inmate who, at the time of presentation to the County jail for confinement, appears in need of medical, psychiatric or dental attention, until the Contract Agency has provided medical, psychiatric or dental treatment to the inmate to the satisfaction of the County. At the time of custody transfer it is the Contract Agency's responsibility to provide information relevant to the care and custody of the Contract Agency's inmate.

9. REMOVAL FROM JAIL:

The Contract Agency's inmates may be removed from the County jail for reasons outlined below.

(a) Request by Contract Agency. Upon the County's receipt of written request for inmate return made by the Contract Agency, the inmate will be transported by the Contract Agency or the County pursuant to Section 6 above.

(b) Court Order. Upon the County's receipt of an order issued by a court having jurisdiction over a Contract Agency's inmate, transport will be according to the terms expressed in the court order, or by the Contract Agency or the County pursuant to Section 6 above.

(c) Treatment Outside of Jail. The Contract Agency's inmate may be removed from the County jail for medical, psychiatric or dental treatment or care not available within the County jail.

(d) Catastrophe. In the event of a catastrophic condition presenting, in the sole discretion of the County, an imminent danger to the safety of the inmate(s), inmates held on behalf of the Contract Agency may be removed from the County Jail. The County will inform the Contract Agency, at the earliest practical time, of the whereabouts of the inmate(s) and shall exercise all reasonable care for the safekeeping and custody of such inmate(s).

10. TRANSFER OF INMATES UPON TERMINATION/EXPIRATION OF AGREEMENT:

(a) Termination by County. In the event of a notice of termination by the County in accordance with Section 20 below, it shall be the County's obligation to transport the Contract Agency's inmates 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 20 below, it shall be the Contract Agency's obligation to transport the Contract Agency's inmates at its own expense, on or before the effective date of such termination. Until such

removal, the Contract Agency shall pay the compensation and costs set forth herein related to the housing of such inmate(s) and the County shall retain all rights hereunder, notwithstanding such termination, until the Contract Agency's inmates are removed from the County jail.

11. INMATE RIGHTS, ACCOUNTS AND PROGRAMS:

(a) Early Release Credit and Discipline. The Contract Agency's inmates confined under this Agreement shall earn early release credits under the policies and rules prescribed by the County and state law for inmates at the County jail. With respect to the Contract Agency's inmates, the County shall maintain and manage disciplinary issues and will administer sanctions, including removal of earned early release credit, as per facility rules and defined by RCW. No discipline prohibited by federal or state law will be permitted. The disciplinary policies and rules of the County jail will apply equally to inmates confined pursuant to this Agreement and to those otherwise confined.

(b) Inmate Accounts. The County shall establish and maintain a financial account for each inmate and shall credit to such account money received from each inmate or from the Contract Agency on behalf of each inmate. The County shall make disbursements from such accounts by debiting such accounts in accurate amounts for items purchased by the inmate for personal needs in accordance with the policies of the Lewis County Jail. Disbursements shall be made in limited amounts as are reasonably necessary for personal maintenance. The County shall remit a check to the Contract Agency in the name of each inmate eligible for reimbursement in the following situations: Termination or expiration of this Agreement, an inmate's return to the Contract Agency, inmate death or inmate escape.

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

12. ACCESS TO FACILITY AND PRISONERS:

(a) Access to Facility. Contract Agency shall have the right to inspect, at mutually agreeable times, the County jail in order to confirm such jail maintains standards acceptable to the Contract Agency and ensure its inmates are treated appropriately. The County agrees to manage, maintain and operate its facilities consistent with applicable federal, state and local laws.

(b) Access to Inmates. Contract Agency personnel shall have the right to interview Contract Agency inmates at reasonable times within the jail. Contract Agency officers shall be afforded equal priority for use of jail interview rooms with other departments, including the Lewis County Sheriff's Office.

13. ESCAPES AND DEATHS:

(a) Escapes.

In the event of an escape by a Contract Agency's inmate from the County jail, the Contract Agency will be notified by telephone or e-mail with a follow-up in writing as soon as practical. The County will have the primary authority to direct the investigation and to pursue the inmate 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 inmates from outside of the County.

(b) Deaths.

1) In the event of a death of a Contract Agency inmate in the County jail, the Contract Agency shall be promptly notified by telephone or e-mail with a follow-up notification in writing via US mail. Lewis County Sheriff's Office and the Lewis County Coroner will investigate the circumstances. The Contract Agency may, if it wishes, join in the investigation and receive copies of records and documents in connection with the investigation.

2) Subject to RCW 68.50.160, any other applicable provisions of law, and to the orders of the Lewis County Coroner, the County shall follow the written instructions of the Contract Agency regarding the disposition of the body. Such written instructions shall be provided within three working days of receipt by the Contract Agency of notice of such death. All expenses related to necessary preparation of the body and transport charges shall be the responsibility of the Contract Agency. With written consent from the Contract Agency, the County may arrange burial and all matters related or incidental thereto, and the Contract Agency shall pay all such expenses. This paragraph deals with relations between the parties to this Agreement and is not intended to relieve any relative or other person from responsibility for the disposition of the deceased or any associated expenses.

14. POSTING OF BAIL:

The County shall serve as an agent for the Contract Agency in receipt of bail bonds or money posted for or by a Contract Agency's inmate. Bail posted for Contract Agency inmates shall adhere to the County's bail guidelines.

Posting of bail (cash or bond) shall only be accepted by Lewis County Jail in the correct and full amount. Bail must be accounted for in the inmate's file maintained by Lewis County Jail. Bail and related documents shall be remitted to a designated Tumwater Police Department transport officer who will file it with the appropriate court. The Tumwater Police Department agrees to make such a transport officer available for such remittance within 24 hours of notice from the County that the bail and related documents are ready for pickup. Bail remitted to the TPD transport officer must be accompanied by a fully completed Release From Custody form and a copy of the court's Release Order, if applicable. If a

bond is posted, Lewis County Jail shall confirm the accuracy of the information in both the bond and attached power of attorney documents before acceptance and release of the inmate, including proper bail amount and appropriate court name. For cash bail, Lewis County Jail shall provide the Tumwater PD transport officer with a copy of the receipt and complete payer contact information.

15. 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 inmates consistent with the record keeping by the County for other inmates. The County shall make copies of said records available to the Contract Agency upon its request.

16. INDEMNIFICATIONS AND INSURANCE:

(a) To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its elected and appointed officials, employees, and agents, harmless from and against any and all claims (including, but not limited to, claims relating to false arrest or detention, alleged mistreatment, alleged violation of civil rights, injury), damages, losses and expenses, including but not limited to court costs, and attorney's fees, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, and/or agents.

(b) A party shall not be required to indemnify, defend, or hold the other party harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property is caused by the sole act or omission of the other party. In the event of any concurrent act or omission of the parties, negligent or otherwise, these indemnity provisions shall be valid and enforceable only to the extent of each party's comparative liability.

(c) The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement, both parties must consent to the settlement. If a party does not express consent to a voluntary settlement then the non-consenting party shall not be bound by the settlement.

In the event a dispute should arise between the parties, before filing an action in court, the parties agree to use a alternative dispute resolution ("ADR") process such as mediation, through an agreed upon mediator and process. All costs for mediation services would be divided equally between the parties. Each party would be responsible for the costs of its own legal representation incurred in conjunction with pre-litigation ADR.

(d) The indemnification obligations of the parties shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act. Each party hereby expressly waives any immunity afforded by such acts if required, and to the extent required, by a party's obligations to indemnify, defend and hold harmless the other party.

(e) Nothing contained in this section or this Agreement shall be construed to create a right in any third party to indemnification or defense. The foregoing indemnification obligations of the parties are a material inducement to enter into the Agreement and have been mutually negotiated. The provisions of this section shall survive any termination or expiration of this Agreement.

(f) Insurance Requirement. The County and the Contract Agency shall each maintain throughout the term of this Agreement coverage in minimum liability limits of Five Million Dollars (\$5,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate for it liability exposures, including comprehensive general liability, errors and omissions, auto liability and police professional liability. The insurance policies shall provide coverage on an occurrence bases.

(g) Certificate of Insurance. The County and the Contract Agency shall provide each other with evidence of insurance coverage, in the form of a certificate or other competent evidence from a insurance provider, insurance pool, or of self-insurance sufficient to satisfy the insurance obligations set forth in this Agreement.

17. NON-DISCRIMINATION POLICY:

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

18. CONTRACT ADMINISTRATION/REQUIREMENTS OF CHAPTER 39.34 RCW:

This Agreement is executed in accordance with the authority of Chapter 39.34 RCW, the Interlocal Cooperation Act and other applicable law. Pursuant to the provisions of RCW 39.34.030, the Lewis County Sheriff shall be responsible for administering the confinement of inmates here under. 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. Prior to its entry into force, an agreement made pursuant to this chapter shall be filed with the county auditor or, alternatively, listed by subject on a public agency's web site or other electronically retrievable public source.

19. 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 or acceptance of payment of a billing, or continued performance after notice of a deficiency in performance constitute acquiescence thereto.

20. TERMINATION:

This Agreement may be terminated prior to expiration by written notice from either party delivered by regular mail to the contact person at the address set forth herein. Termination by said notice shall become effective sixty (60) days after receipt of such notice. The notice shall set forth the specific plan for accommodating the affected inmates, if any.

21. WAIVER OF ARBITRATION RIGHTS:

Both parties acknowledge and agree they are familiar with the provisions of RCW 39.34.180(3), as now in effect, and of their own free will they hereby expressly waive any and all rights under RCW 39.34.180(3), as now in effect or as hereinafter amended, to arbitrate the level of compensation for incarceration services charged under this Agreement, or any renewal thereof, that either party may possess. The parties further agree such level of compensation and other issues related to the purpose of this Agreement will only be as agreed to herein or as otherwise agreed to in a writing executed by the parties.

22. DURATION:

This Agreement will remain effective unless terminated by either party under the terms set forth in Section 20 above. Nothing in this Agreement shall be construed to make it necessary for the Contracting Agency to continuously house inmates with the County.

23. GOVERNING LAW AND 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 an inmate's confinement under this Agreement. The venue shall be in the Lewis County Superior Court.

24. MISCELLANEOUS:

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.

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DATE: 6/22/2020

LEWIS COUNTY, WASHINGTON

[Signature], Chairman

[Signature] Member

[Signature] Member

Constituting the Board of County Commissioners of Lewis County, Washington

Attest: [Signature] Clerk of the Board

Approved as to Form and Content:

[Signature]
Robert R. Snaza, Sheriff
Lewis County Sheriff's Office

Reviewed by:
[Signature]
Prosecuting Attorney, Civil Deputy
K.A. McDowell

DATE: 6/4/2020

CITY OF TUMWATER
555 Israel Road S.W.
Tumwater, WA. 98501

DocuSigned by:
[Signature]
Pete Kmet, Mayor

Attest:
DocuSigned by:
[Signature]
Melody Valiant, City Clerk

Approved as to form:
DocuSigned by:
[Signature]
Karen Kirkpatrick, City Attorney