

PS 7500d

2004, renewable

**INTERLOCAL AGREEMENT
FOR CUSTODY OF MISDEMEANOR INMATES**

This interlocal agreement ("AGREEMENT") is between the City of Auburn ("Auburn"), a municipal corporation of the State of Washington and the City of Des Moines, a municipal corporation of the State of Washington.

WHEREAS, Auburn maintains a municipal detention facility pursuant to R.C.W. 70.48; and

WHEREAS, Des Moines does not maintain a municipal detention facility; and

WHEREAS, Des Moines wishes to designate Auburn's Detention Facility as a place of confinement for the incarceration of one or more inmates lawfully committed to the City of Des Moines's custody; and

WHEREAS, the City of Auburn is amenable to accepting and keeping inmates received from the City of Des Moines into Auburn's custody at its detention facility for a rate of compensation mutually agreed to herein;

NOW, THEREFORE, pursuant to the provisions of the Interlocal Cooperation Act, R.C.W. 39.34, Auburn and Des Moines hereby agree as follows:

1. DEFINITIONS:

(a). Booking: The process of registering, screening and examining inmates for confinement in the facility; inventorying and safekeeping inmates' personal property; maintaining all computerized records of arrest; performing warrant checks; and all other activities associated with processing an inmate.

(b). Care: The custody, care, and treatment, including basic, emergency essential and/or major medical and dental care, food, lodging and personal items, as further described in Section 6 of this Agreement.

(c). Contract Agency: The City of Des Moines.

(d). Daily Fee: The fee charged for the daily care of Contract Agency inmates.

2. PURPOSE:

It is the purpose of this Agreement to provide for the use by the Contract Agency of the City of Auburn's detention facility and services located at 25 W. Main Street Auburn, WA 98001.

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3. MAILING AND CONTACT ADDRESS:

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

City of Auburn: Auburn Detention Facility
Attn.: Manager
101 N. Division Street
Auburn, Washington 98001
Facsimile: (253) 288-3161
Tel. No. (253) 931-3088

Contract Agency: City of Des Moines
Attn: City Manager
Anthony Piasecki
21630 11th Ave South
Des Moines, WA 98198
Facsimile: (206) 870 - 6540
Tel. No. (206) 870-6552

4. AVAILABILITY OF JAIL FACILITIES:

Subject to the City of Auburn's rights with respect to certain inmates set forth in Sections 8 and 9 herein, Auburn will accept and keep inmates at the request of the Contract Agency, unless in the sole discretion of the City of Auburn, its inmate population is at capacity or so near capacity that there is a risk that the reasonable operational capacity limits of the Detention Facility might be reached or exceeded if the City of Auburn does not begin to refuse or request removal of inmates. The Contract Agency will only submit pre-sentence or sentenced misdemeanor inmates for confinement under this Agreement that may be legally confined for 24 hours per day. At the time of delivery to the Auburn Detention Facility the contracting Agency shall deliver to the facility the legal basis for the custody. This will include a list of charges against the inmate, warrants, or court orders.

5. COMPENSATION FROM CONTRACT AGENCY:

(a) Daily Fee. In return for the City of Auburn housing of an inmate of the Contract Agency, the Contract Agency shall pay Auburn an amount equal to the amount charged as a bed maintenance fee by Yakima County (Yakima County daily fee less the medical fee) to house King County Suburban City inmates for every 24-hour period, or portion thereof, that said inmate is in the custody of Auburn. Such time period shall be measured from the time said inmate is transferred to the custody of the City of Auburn and ends when the Contract Agency resumes custody, either directly or through transfer to another agency. For 2004 the daily fee shall be \$56.23.

(b) Other Costs. The Contract Agency shall also pay such other costs to the City of Auburn or third parties as set forth herein, including but not limited to any medical costs required by Section 6.

(c) Billing. The City of Auburn will bill the Contracting Agency on the 15th day of each month for all amounts due to Auburn under this Agreement for the 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 it become necessary, the Contract Agency will pay all collection costs associated with late payments.

(d) Booking Fee. The City of Auburn shall not collect a booking fee from the Contract Agency, however, a booking fee of \$40.00 as permitted by RCW 70.48.390 shall be collected by the City of Auburn from Contract Agency inmates. This booking fee will be equal to any booking fee collected from Auburn's inmates.

6. MEDICAL COSTS AND TREATMENT:

(a) Services Provided. Upon transfer of custody to the City of Auburn, Auburn will provide or arrange for the Contract Agency's inmates to receive such medical, psychiatric and dental services as may be necessary to safeguard their health while confined, in accordance with the provisions of Chapter 289-20 WAC, as now in effect or hereinafter amended, and the policies and rules of the Auburn Detention Facility.

(b) Cost Responsibility. The Contract Agency shall be responsible for the cost of all medication prescribed for one of its inmates. The Contract Agency shall also be responsible for all costs associated with the delivery of medical, psychiatric and dental services provided to an inmate that are not available from the health care program within the Auburn Detention Facility and for all emergency medical services, wherever provided. These costs shall be paid directly to the provider or as a reimbursement to the City of Auburn, as directed by the City of Auburn. Contract Agency inmates will be charged a \$5.00 Health Service Fee when they request health care services (i.e. sick call) available within the Auburn Detention Facility.

(c) Notice. Except in case of situations deemed an emergency by the City of Auburn, Auburn shall notify the Contract Agency's contact person in writing, by e-mail, mail or facsimile, prior to transfer of a Contract Agency's inmate to a medical, dental or psychiatric provider outside of the Auburn Detention Facility 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 any medical, psychiatric or dental treatment from the Contract Agency before confinement in the Auburn Detention Facility, the Contract Agency shall provide to the City of Auburn all 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 retaking custody of an ill or injured inmate by picking such inmate up for transfer at the Auburn Detention Facility; provided, in situations Auburn deems that an inmate requires emergency medical care, Auburn 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 inmate.

(f) Records. The City of Auburn shall keep records of all medical, psychiatric or dental services it provides to an inmate. Upon resumption of custody by the Contract Agency and in accordance with WAC 289-20-250, the Contract Agency shall receive a copy or summary of the medical, psychiatric or dental records held by the City of Auburn for an inmate of the Contract Agency.

7. TRANSPORTATION OF CONTRACT PRISONERS:

(a) Contract Agency Transport. It is the Contract Agency's responsibility to transport its inmates to and from the Auburn Detention Facility. In the event either party requests that custody of an inmate be transferred back to the Contract Agency, in accordance with any such right set forth in this Agreement, the Contract Agency shall transport such inmate. The Contract Agency will verify by telephone that space is available in the Auburn Detention Facility prior to transporting an inmate to the facility. The Contract Agency shall cause written notice of any expected transport by the Contract Agency of their inmates from the Auburn Detention Facility to be received by the Auburn Detention Facility at least 24 hours before the time of such transport, except for the inmates' initial court appearances which may be scheduled at the time of booking into the Auburn Detention Facility. It is the Contract Agency's responsibility to transport their inmates for non-emergency medical, psychiatric and dental services provided outside of the Auburn Detention Facility.

(b) Additional Transport Coordination Without Costs. The City of Auburn agrees to coordinate transport of Contract Agency inmates to the Yakima County Department of Corrections, at no additional charge, when the Contracting Agency requests such transport. If the Contracting Agency has an existing contract to house inmates in Yakima County, the City of Auburn will identify these inmates as those of the Contracting Agency to Yakima County and will stop charging the Contracting Agency for housing these inmates at the time they are released to the County of Yakima. If the Contracting Agency does not have an existing contract with Yakima County or does not have available beds within the scope of the Interlocal Agreement between the King County Suburban Cities, the Contracting Agency may request to utilize one of the beds designated to the City of Auburn, if such space is available, as determined solely by the City of Auburn. In this case the Contract Agency will be billed at the same rate that Auburn is billed for these beds. The date of transfer of Contract Agency inmates to Yakima is at the sole discretion of the City of Auburn.

8. TRANSFER OF CUSTODY:

(a) Commencement of Custody by City of Auburn. The Contract Agency' inmates shall be deemed transferred to the custody of the City of Auburn when corrections officers from the Auburn Police Department take physical control of an inmate. The City of Auburn 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 and the booking process is completed. If additional information is requested by the City of Auburn regarding a particular inmate, the parties shall mutually cooperate to obtain such information. In the absence of documentation and information satisfactory to the City of Auburn, the receiving officer may refuse to accept the Contract Agency's inmate for confinement. The City of Auburn shall not be required to take custody of or assume control of or responsibility for any property of the inmate, except

for such property that the City of Auburn allows for its own inmates. The Contract Agency's officers delivering an inmate to the Auburn Detention Facility shall be responsible for ensuring that all paperwork is in order and that all property allowed to be booked with the inmate is properly packaged. At such time, and only at such time, as all paperwork and property are in order will the City of Auburn take physical control of and assume custody of and responsibility for the Contract Agency's inmate to be confined.

(b) Further Transfer of Custody. Except as otherwise allowed by Section 10 of this Agreement, the City of Auburn will not transfer custody of any inmate confined pursuant to this Agreement to any agency other than to the Contract Agency without the written authorization from the Contract Agency and a court of competent jurisdiction.

(c) Responsibilities Upon Assumption of Custody. Upon transfer of custody to the City of Auburn, it shall be Auburn's responsibility to confine the inmate; to supervise, discipline and control said inmate; and, if applicable to administer the inmate's sentence pursuant to the order of the committing court in the State of Washington. During such confinement, the City of Auburn shall provide and furnish or arrange for all necessary medical and hospital services and supplies in accordance with Section 6 of this Agreement.

(d) Resumption of Custody by Contract Agency. The Contract Agency shall be deemed to have resumed custody of an inmate it transferred to the City of Auburn upon either the Contract Agency's officers taking physical control of an inmate at the Auburn Detention Facility or the inmate being released to the custody of Yakima County if such transfer is approved by the Contract Agency.

9. RIGHT TO REFUSE/RETURN AN INMATE: The City of Auburn shall have the right to refuse to accept or to return any of the Contract Agency's inmates under any one of the following circumstances:

(a) Pending Medical Needs. The City of Auburn shall have the right to refuse to accept any Contract Agency inmate who, at the time of presentation for booking at the Auburn Detention Facility 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 City of Auburn.

b) Problematic Physical History or Behavior and New Medical Conditions. The City of Auburn shall have the right to refuse to accept or to return any Contract Agency's inmate that, in the sole judgment of the City of Auburn, has a history of serious medical problems, presents a risk of escape, presents a risk of injury to other persons or property, or develops an illness or injury that may adversely affect or interfere with the operations of the Auburn Detention Facility. Any special transport costs, medical or otherwise, incurred in the return of Contract Agency's inmate under this subsection will be the responsibility of the Contract Agency.

10. REMOVAL FROM JAIL - OTHER GROUNDS: The Contract Agency's inmates may be removed from the Auburn Detention Facility for the following reason(s):

(a) Request by Contract Agency. Upon written request of the Contract Agency for transfer of custody back to the Contract Agency. In such case, the inmate will be transported by the Contract Agency pursuant to Section 7 above.

(b) Court Order. By order of a court having jurisdiction over a Contract Agency's inmate. In such case, transport will be according to the terms expressed in the court order or by the Contract Agency pursuant to Section 7 above.

(c) Treatment Outside of Jail. For medical, psychiatric or dental treatment or care not available within the Auburn Detention Facility.

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

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

(a) Termination by The City of Auburn: In the event of a notice of termination from the City of Auburn in accordance with Section 21 below, it shall be the Contract Agency's obligation to pick up and transport those inmates to the Contract Agency or other location as determined by the Contract Agency at no expense to the City of Auburn. Such transports shall be made as if the Agreement were expiring and in accordance with the terms of Section 9 above.

(b) Termination by Contract Agency. In the event of a notice of termination from the Contract Agency in accordance with Section 21 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). With respect to any inmate(s) not removed in accordance with this Section 11, the Contract Agency shall pay the base rate set forth in Section 5(a) above plus an additional Five Dollars (\$5) per inmate for every 24 hour period or part thereof that said inmate(s) remains in the Auburn Detention Facility; and the City of Auburn shall retain all rights hereunder, notwithstanding such termination, until all of the Contract Agency's inmates are removed from the Auburn Detention Facility.

12. INMATE 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 inmates than is allowed by the City of Auburn under its policies. The Contract Agency's inmates confined under this Agreement shall earn early release credits under the policies and rules prescribed by the City of Auburn and state law for all inmates at the Auburn Detention Facility. With respect to the Contract Agency's inmates, the City of Auburn shall maintain and

manage disciplinary issues and will administer sanctions, including removal of earned early release credit, as per facility rules. No discipline prohibited by federal or state law will be permitted. The disciplinary policies and rules of the Auburn Detention Facility apply equally to inmates confined pursuant to this Agreement and to those otherwise confined.

(b) Inmate Accounts. The City of Auburn shall establish and maintain an account for each inmate received from the Contract Agency and shall credit to such account all money received from an inmate or from the Contract Agency on behalf of an inmate at the time of booking. Any booking fee permitted by Section 5 (d) will be subtracted from the inmate's account at the time of booking. At termination or expiration of this Agreement or an inmate's return to the Contract Agency the City of Auburn shall disburse the amount of each inmate's account to the inmates. In the event of death or escape of an inmate, the City of Auburn shall submit a check to the Contract Agency in the name of each inmate eligible for reimbursement in order to transfer an inmate's money to an inmate account administered by the Contract Agency.

(c) Programs. The City of Auburn shall provide the Contract Agency's inmates with access to all religious, recreational and social service programs offered at the Auburn Detention Facility under the terms and conditions applicable to all other inmates at the facility.

(d) Inability to Serve Time Outside of Facility. In accordance with Section 4 of this Agreement, the Contract Agency's inmates will not be allowed to leave the facility for participation in correctional work crews, work release programs, home monitoring or any other program in which other inmates sometimes are allowed to leave the physical confines of the facility as part of serving their sentence unless approval for participation is provided as part of the sentencing order and approved in writing by the Contract Agency.

13. ACCESS TO FACILITY AND PRISONERS:

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

(b) Access to Inmates. Contract Agency personnel shall have the right to interview inmates from the Contract Agency at any reasonable time within the detention facility. Contract Agency officers shall be afforded equal priority for use of detention facility interview rooms with other departments, including the Auburn Police Department.

14. ESCAPES AND DEATHS:

(a) Escapes. In the event of an escape by a Contract Agency's inmate from the Auburn Detention Facility, the Contract Agency will be notified in writing as soon as practical. The City of Auburn 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 City of Auburn. The City of

Auburn will not be required to pursue and return the Contract Agency's escaped inmates from outside of the City of Auburn.

(b) Deaths.

- (1) In the event of a death of a Contract Agency inmate in the Auburn Detention Facility, the Contract Agency shall be promptly notified in writing. The Auburn Police Department or another agency as designated by the Auburn Police Department will investigate the circumstances. The Contract Agency may, if it wishes, join in the investigation and receive copies of all records and documents in connection with the investigation.
- (2) The City of Auburn shall, subject to the authority of the King County Medical Examiner, 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. This paragraph deals with relations between the parties to this Agreement and shall not affect the liability of any relative or other person for the disposition of the deceased or any expenses connected therewith.

15. POSTING OF BAIL: The City of Auburn 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 inmate with the City of Auburn, and any such bonds or monies will be promptly forwarded to the Contract Agency.

16. RECORD KEEPING: The City of Auburn 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 City of Auburn for all other inmates. The City of Auburn shall make copies of said records available to the Contract Agency upon its request.

17. INDEMNIFICATION AND INSURANCE:

(a) Indemnification of Contract Agency. The City of Auburn shall indemnify and hold harmless the Contract Agency, its officers, agents and employees, from and against any claim, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising from the City of Auburn's performance under this Agreement except for injuries and damages caused by the sole negligence of the Contract Agency.

(b) Indemnification of City of Auburn. The Contract Agency shall indemnify and hold harmless the City of Auburn, its officers, agents and employees, from and against any claim, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising from the Contract Agency's performance under this Agreement except for injuries and damages caused by the sole negligence of the City of Auburn.

(c) To the extent the claim, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of the parties their officers, agents, or

employees, the indemnification obligations hereunder shall be limited to the proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

(d) Insurance Requirement. Each party shall obtain and maintain liability coverage in minimum liability limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for its conduct creating liability exposures related to confinement of inmates, including general liability, errors and omissions, auto liability and police professional liability. The insurance policy(ies) shall provide coverage for those events that occur during the term of the policy, despite when the claim is made.

(e) Certificate of Insurance. Each party to this Agreement agrees to provide the other with evidence of insurance coverage in the form of a certificate from a solvent insurance provider confirming coverage from a solvent insurance pool which is sufficient to address the insurance obligations set forth above.

18. NON-DISCRIMINATION POLICY: The City of Auburn and the Contract Agency agree not to discriminate in the performance of this Agreement because 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.

19. 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 Auburn Police Department shall be responsible for administering the confinement of inmates 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.

20. 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 constitute an acquiescence thereto.

21. 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 ninety (90) 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 inmates, if any.

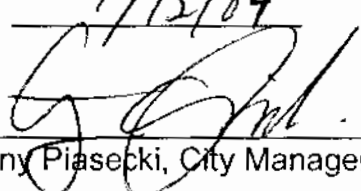
22. WAIVER OF ARBITRATION RIGHTS: Both parties acknowledge and agree that they are familiar with the provisions of RCW 39.34.180(3), as now in effect, and that of their own free will they hereby expressly waive any and all rights under RCW 39.34.180(3), as now in effect or as hereinafter amended, to 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 that such level of

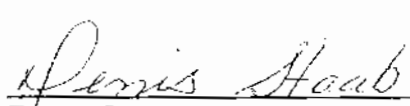
compensation and all other issues related to the purpose of this Agreement will only be as agreed to herein or as otherwise agreed to in a writing executed by the parties.

23. DURATION: This Agreement shall be effective upon execution by both parties and shall continue through December 31, 2004, unless terminated earlier under the terms set forth in Section 21 above. This Agreement may be renewed for successive periods of one year by written addendum executed by all parties hereto under such terms as the parties agree in writing. Nothing in this Agreement shall be construed to make it necessary for the Contracting Agency to continuously house inmates with the City of Auburn.

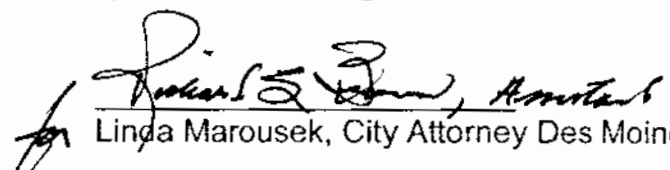
24. GOVERNING LAW: The parties hereto agree that, except where expressly otherwise provided, the laws and administrative rules and regulations of the State of Washington shall govern in any matter relating to this Agreement and an inmate's confinement under this Agreement.


25. MISCELLANEOUS: In providing these services to the Contract Agency, the City of Auburn is an independent contractor and neither its officers, agents, or 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.

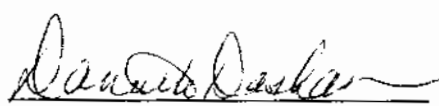
Date: 7/12/04

Anthony Piasecki, City Manager

Attest:

Denis Stabb, City Clerk

Approved as to legal form:


Linda Marousek, City Attorney Des Moines

Date: 7-22-04

Pete Lewis, City of Auburn Mayor

Attest:

Dani Daskam, City Clerk

Approved as to legal form:


Daniel B. Heid, City Attorney Auburn