**RESOLUTION NO. 02-2016**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VADER, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR USE OF JAIL FACILITIES IN LEWIS COUNTY.**

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WHEREAS, Lewis County (County) is authorized by law to operate a jail for misdemeanants and felons and the City of Vader (City) is authorized by law to operate a jail for misdemeanants and felons; and

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

WHEREAS, the City desires to contract with the County to provide jail services;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VADER, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

Section 1. The Mayor is hereby authorized to execute the Agreement for use of Jail Facilities in Lewis County between the City of Vader and Lewis County in substantially the form attached to this Resolution as Exhibit "1".

RESOLVED this 14th day of January, 2016.

APPROVED:

Kenneth Smith

Kenneth Smith, Mayor

ATTEST/AUTHENTICATED:

Jill Nielson, City Clerk

# EXHIBIT "1"

**AGREEMENT FOR USE OF JAIL FACILITIES**

**WITH**

**LEWIS COUNTY, WASHINGTON**

Exhibit #1
Vader Resolution 02-2016

# 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 VADER (hereinafter "Contract Agency") in Lewis County in the State of Washington.

## 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, 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:

City of Vader
Attention: Mayor Kenneth Smith
PO BOX 189
Vader, WA 98593
Facsimile: 360-295-3012
Telephone Number: 360-295-3222

## 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 sixty six dollars and forty one cents ($66.41) for every calendar day said inmate is in the custody of the County. Any portion of the day over four (4) hours will be billed as one calendar day. 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) Guaranteed Flat Rate. In return for the County's housing of a guaranteed number of beds, the Contract Agency shall pay the County a reduced flat rate fee of sixty dollars and thirty eight cents ($60.38) per bed day. The initial agreed upon number of flat rate beds will be based upon the average number of beds used during the past three calendar years. Purchased beds will be cumulative month to month but will not extend past December 31st of the current billing year. If the agreed upon number of beds to date is exceeded at any time during the calendar year, the guaranteed flat rate will apply for any additional beds used.

(c) 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.

(d) Billing.

1) Daily Rate: 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.

2) Flat Rate: The County will bill the Contract Agency at the beginning of each quarter for the amount contracted at the flat rate. Additional charges, if any, incurred by Contract Agency during a contract quarter, will be separately noted and included in the following quarter's bill. Additional fourth quarter charges will be billed separately by January 15th of the following year. Payment shall be due from the Contract Agency by the 30th day following the date of invoice. 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.

(e) Booking Fee. The Contract Agency will reimburse the County $30 for each booking conducted by the County where the inmate's stay does not exceed 4 hours. At the Contract Agency's discretion, an available flat rate bed day can be used in lieu of the booking fee.

(f) 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 municipal 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. If the contract agency is contracted for the flat rate, this provision shall not apply.

(g) Annual Review.

1) Daily Rates. The daily rate for housing prisoners shall be adjusted 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 July of each year. The Contract Agency's written response will be considered and the final daily rate will be provided to the Contract Agency by August 25.

2) Flat Rate Number of Beds. The number of beds used to determine the flat rate for the following year will be based upon the agency's initial bed use and each subsequent year's use until a three-year average is obtained. Once a three-year average is reached, it will be based on the preceding three-year July through June period.

(h) Addendum. The choice of either daily rate or flat rate, and the number of beds contracted for, shall be included as an addendum to this contract.

## 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 directed by the County.

(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. Lewis County and the contract medical provider for Lewis 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 the County Jail for admittance and to mandated court appearances.

## 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). With respect to inmate(s) not removed in accordance with this Section 10, the Contract Agency shall pay the applicable rate set forth in Section 4 above plus an additional five dollars ($5) per inmate for every 24 hour period or part thereof said inmate(s) remains in the County jail; 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 inmates from the Contract Agency 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 fax 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 fax 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 with the County at when the Contract Agency is closed for regular business. Bonds or money collected will be promptly forwarded to the Contract Agency. Bail posted for Contract Agency inmates shall adhere to the County's bail guidelines.

## 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) Indemnification of Contract Agency. The County shall indemnify 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 County's performance under this Agreement; provided, 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.

(b) Indemnification of County. The Contract Agency shall indemnify the County, its officers, agents and employees, from and against any claim, damages, losses and expenses, including but not limited to costs and reasonable attorney's fees, arising from the Contract Agency's performance under this Agreement; provided, 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.

(c) Insurance Requirement. Each party shall obtain and maintain liability coverage in minimum liability limits of Two Million Dollars ($2,000,000) per occurrence and Three Million Dollars ($3,000,000) 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 or policies shall provide coverage for those events that occur during the term of the policy, despite when the claim is made.

(d) 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.

## 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DATE: _____

LEWIS COUNTY, WASHINGTON

_____, Chairman

_____, Member

_____, Member

Constituting the Board of County Commissioners of Lewis County, Washington

Attest: _____
Clerk of the Board

Approved as to Form and Content:

_____
Robert R. Snaza, Sheriff
Lewis County Sheriff's Office

Reviewed by:

_____
Prosecuting Attorney

DATE: January 15, 2016

CITY OF VADER, WASHINGTON

By: Kenneth Smith

Title: Mayor, City of Vader

Approved as to Form:

Jennifer Robertson
Vader City Attorney

# ADDENDUM TO AGREEMENT FOR USE OF LEWIS COUNTY JAIL FACILITIES

**Initial for approval**

[ ]

Quarterly (Flat rate) Billing option – Contract Agency elects to be billed quarterly.

**Initial for approval**

[KDS]

Monthly (Per Diem) Billing option – Contract Agency elects to be billed monthly.