

RESOLUTION NO. 2020-07-085 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF MCKINNEY AND COLLIN COUNTY FOR JAIL SERVICES

WHEREAS, Collin County operates the Collin County Jail for the confinement of persons accused or convicted of an offense; and

WHEREAS, Collin County has been providing this service to the City of McKinney since 1995; and

WHEREAS, the City of McKinney desires to enter into an Interlocal Agreement to continue to insure the confinement of persons accused or convicted of an offense.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. The City Council of the City of McKinney, Texas hereby authorizes the City Manager to enter into an Interlocal Agreement with Collin County for jail services for a period of one year ending September 30, 2021, and will renew annually as agreed in writing by both parties.

Section 2. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 7th DAY OF JULY, 2020.

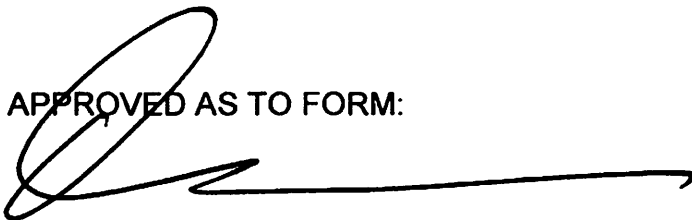
CITY OF MCKINNEY, TEXAS

ATTEST:



EMPRESS DRANE
City Secretary

APPROVED AS TO FORM:



MARK S. HOUSER
City Attorney

Interlocal Jail Services Agreement

This agreement is entered into on the 27 day of July, 2020, by and between the City of McKinney and Collin County. Both are political subdivisions of the State of Texas.

Recitals

1. The County operates the Collin County Detention Facility, including the Minimum Security facility, (the Detention Facility or County Jail) under chapter 351 of the Local Government Code and part 9 of title 37 of the Texas Administrative Code.
2. The County generally operates the County Jail for the confinement of persons accused or convicted of a violation of state law. *See* Code of Crim. Proc., arts. 2.17–2.18. But the Sheriff may also accept custody of persons accused of class C misdemeanors. *See* Tex. Att’y Gen. Op. No. JM-0151 (1984).
3. The City desires to obtain certain jail services from the County to be performed for the City to insure the confinement of persons accused or convicted of a class C misdemeanor or other violation of a municipal ordinance.

Therefore, under the authority of the Interlocal Cooperation Act, Chapter 791, Texas Government Code, the parties agree as follows:

Section 1. Definitions

1.01 Jail Services

The term “jail services” means all services legally necessary to provide for the confinement in the County Jail of persons accused or convicted of an offense.

Section 2. Term

2.01 Term

The term of this agreement shall commence on October 1, 2020, and shall continue in full force and effect through September 30, 2021. This agreement may be renewed for additional one (1) year periods at the rates established and agreed upon by both parties each renewal year.

2.02 Termination

A party may terminate this Agreement for any reason by giving 90 days written notice to the other party.

Section 3. Services

3.01 Services

The County agrees to provide to City jail services necessary for the confinement of persons accused or convicted of an offense, subject to the availability of space at the County jail at the time the City requests jail services. Space will be unavailable when the County Jail is filled to 100% of its capacity and unable to accept additional inmates.

The Jail Administrator may determine when the County Jail is filled to 100% capacity and unable to accept additional inmates. The Jail Administrator will consider the jail's population, expected incoming inmates (*e.g.* under other jail-services agreements), expected releases, the gender and security-classification mix of the inmate population, inmates' health restrictions, space or cells needed to house and care for problematic or vulnerable inmates, and state law, including the rules and regulations of the Texas Commission on Jail Standards. At times, particular pods or cells may be unavailable for some reason, such as maintenance which shall be taken into account in determining whether the County Jail is filled to 100% of its capacity.

3.02 Persons Accepted

- (1) The Detention Facility will accept persons arrested via a Class C warrant, if the detainee is presented by a Peace Officer with the original warrant, a certified or facsimile copy of a valid arrest warrant, or if the jail staff receives a teletype or email confirmation of the warrant.
- (2) The Detention Facility will allow any Peace Officer to execute any Class C warrant on any detainee in the facility's custody, if the warrant is an original, certified, facsimile, or similarly reliable copy, or if the jail staff receives teletype or email confirmation.
- (3) The Detention Facility will accept all on-view or warrantless arrests of Class C violators. An arresting officer must provide the Detention Facility with (i) the time of arrest and (ii) a properly completed and signed probable-cause affidavit for each person arrested, for compliance with art. 17.033(a) of the Code of Criminal Procedure. Alternatively, an arresting officer must provide an original, certified, facsimile, or similarly reliable copy or confirmation of a magistrate's determination that probable cause exists to believe the arrestee committed the offense as required by art. 17.033(a) of the Code of Criminal Procedure.
- (4) When a defendant has been convicted of a Class C misdemeanor, a Judgment & Sentence is entered against the defendant under to art. 45.041 of the Code of Criminal Procedure. If the defendant defaults in the discharge of the judgment, a Judge may order the defendant confined in a jail. The Detention Facility will accept defendants on such jail commitments only if they are accompanied by a certified copy of the Judgment, Sentence and Order that complies with art. 45.046 of the Code of Criminal Procedure, and that states in part:

- a. “the defendant is not indigent and the defendant has failed in good faith to discharge the fines and costs” or
- b. “the defendant is indigent and has failed to make a good faith effort to discharge the fine and costs under Article 45.049; and could have discharged the fine and costs under Article 45.049 without experiencing any undue hardship.”

Section 4. Non-Exclusivity of Service Provision

The County may contract to perform services similar or identical to those specified in this Agreement for other municipalities, utility districts, or governmental entities as the County, in its sole discretion, sees fit.

Section 5. Compensation

5.01 Basic Charge

The City will pay the County a Basic Charge of \$91.41 per day or part of a day per inmate that the City requests be confined on the City’s charges, and who is confined, in the County Jail. This Basic Charge, along with Additional Charges under sections 5.02–5.04, will fairly compensate the County. *See* Gov’t Code, § 791.011(e).

5.02 Additional Charges

In addition to paying the Basic Charge, the City will reimburse the County for expenses associated with providing jail services to inmates held on the City’s charges (the City’s inmates). The City will reimburse the County for providing health-care services, including ambulance, medical, hospital, dental, and psychiatric or psychological services to the City’s inmates. Where reasonable and consistent with the County’s legal obligations to care for inmates, including providing them with first aid and emergency and non-emergency medical care and care and monitoring for an at-risk inmate, the County will take reasonable steps to confer with the City about the reasonably foreseeable costs of maintaining the City’s inmates in the Detention Center before incurring an undue balance of such costs.

For conference purposes, “the City” means an officer with sufficient authority to make binding decisions about an inmate’s care or whether to issue a personal recognizance bond with respect to an inmate.

In provisions of the Sandra Bland Act, the legislature directed the Texas Commission on Jail Standards to adopt rules and procedures with regard to a county jail providing access to a mental-health professional through a telemental health service 24 hours a day, access to a health professional at the jail or through a telehealth service 24 hours a day, or, if a health professional is unavailable at the jail or through a telehealth service, provide for the City’s inmate to be transported to access a health professional. *See* Sandra Bland Act, S.B. 1849 (2017), 85th Reg. Sess., § 3.05 (codified at Gov’t Code, § 511.009(a)(23)); *id.*

§ 3.10 (requiring the Commission to adopt rules and procedures under § 511.009(23) no later than Sept. 1, 2018, and requiring a county jail to comply with such rules and procedures on and after September 1, 2020). It is possible that Collin County—with advice from its health-services provider or other expert—will voluntarily take steps to comply with such rules and procedures or provide these types of access to inmates before September 1, 2020. If so, then Collin County will confer with the City about its plans to comply with the Sandra Bland Act, regulations resulting from the Act, or similar law, and the parties will negotiate terms for the City to reimburse the County for reasonable costs of providing such services to the City’s inmates.

5.03 Billing

The County will bill the City monthly for jail services. The City will pay the bills under Chapter 2251 of the Government Code, including interest on payments that are not timely made as provided therein.

5.04 Cost of Additional Charges

The County will charge the City for services under section 5.02 of this Agreement at the cost to the County of providing those services to the inmates. The County will provide reasonable documentation or other support of such charges upon the City’s request.

5.05 Source of Payment

The City will make all payments required under this Agreement from current revenues available to the City. *See* Gov’t Code, § 791.011(d)(3).

Section 6. Lawful Arrest and Detention

The City will comply with all federal, state and local laws regarding conditions precedent to arrest and detention including, but not limited to, determinations of probable cause and other requirements necessary for lawful arrest and detention. Further, the City is solely responsible for compliance with pre-detention procedures and that the City will hold the County harmless from any liability, including, but not limited to, obligations, costs, claims, judgments, attorneys’ fees and litigation costs, and attachments, caused by or flowing from the City’s alleged or actual failure to comply with conditions precedent to lawful arrest and detention.

Section 7. Procedures

7.01 Delivery and Release of Inmates

The City agrees to comply with all County rules and procedures regarding jail security in delivering inmates to the Collin County Jail and receiving inmates to be released.

7.02 Removal on Termination

The City agrees to remove all persons confined on the City’s behalf in the Collin County Jail pursuant to this Agreement at least one day before the date of this Agreement’s termination.

Section 8. Civil Liability

The City is responsible for any civil liability that arises from the County's provision of services under this Agreement. *See* Gov't Code, § 791.006(b). The City will defend, indemnify, and hold harmless the County from and against all demands, claims, damages, losses and liabilities, including reasonable attorney's fees and litigation expenses, that arise directly or indirectly from the County's performance of this Agreement. This provision falls under subsection (b) of sections 5 and 7 of article XI of the Texas Constitution.

For purposes of this section 8, "County" includes its officials, officers, deputies, employees, insurers, and agents.

With regard to the provision of a defense under this paragraph, the County will reasonably cooperate with the City in defending a claim or suit, including providing reasonable access to, and copies of, documents, electronic or magnetic data, and access to witnesses or other persons with discoverable knowledge such as detention officers, employees, or other persons under the County's supervision or control.

This agreement does not create any form of personal liability on the part of any official, officer, employee, or agent who is an individual of the City of McKinney or Collin County. Each party will not sue or try to hold an official, officer, employee, or individual agent of the other party personally liable for any personal injuries or property damage.

The parties do not waive any form of immunity by signing this agreement other than as provided herein.

The parties do not intend to create a claim or right for, or in favor of, a person who is not a party to this agreement.

Section 9. Amendment

This Agreement will not be amended or modified other than in a written agreement signed by the parties. No party will try to enforce a purported amendment that is not written and properly approved by each party's governing body under section 791.011(d) of the Government Code.

Section 10. Controlling Law

Texas law will govern this Agreement and the parties' claims and defenses arising out of, or related to, their relationship and performances under this Agreement, regardless of a forum's choice-of-law rules.

Section 11. Notices

11.01 Form of Notice

Unless otherwise specified, the parties will communicate under this Agreement in writing or by email. A party will send important communications, including communications under section 12, in writing and by certified mail to the liaisons in section 11.02.

11.02 Addresses

A party will address a communication to the other's address as follows:

- (A) Collin County, to:
Sheriff Jim Skinner
Collin County Sheriff's Office
4300 Community Ave.
McKinney, Texas 75071
- (B) Collin County Administrator, to:
Bill Bilyeu
2300 Bloomdale #4192
McKinney, Texas 75071
- (C) Collin County Purchasing
Collin County Administration Bldg.
2300 Bloomdale Road, Suite 3160
McKinney, Texas 75071
- (D) If the City, to:
Greg Conley, Police Chief
Public Safety Building
2200 Taylor-Burk Drive
McKinney, TX 75070

or to such person at such other address as may from time to time be specified in a notice given as provided in this section 11. The City may also provide a copy of a communication to:

The Honorable Chris Hill
Collin County Judge
Collin County Administration Building
2300 Bloomdale Rd. Suite 4192
McKinney, Texas 75071

Section 12. Resolution of Disputes

Should a dispute arise out of this agreement, the County and the City will first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the Parties' attempts to resolve their disagreements through negotiations fail, the disputes will be mediated by a mutually acceptable third party to be chosen by the County and the City within fifteen days after written notice by one Party to the other demanding mediation under this section. The County and City will share equally in the costs of the

mediation. This section's purpose is to reasonably ensure that the County and the City will in good faith use mediation or another non-binding dispute resolution process before pursuing litigation. A Party's participation in mediation or another non-binding dispute resolution process will not be construed as a waiver by a Party of (1) any rights, privileges, defenses, remedies or immunities available to a Party; (2) a Party's termination rights; or (3) other termination provisions or expiration dates provided herein. In the event of a lawsuit or any form of ADR, each party will bear its own attorney's fees and expenses.

Section 13. Captions

The headings to the various sections of this Agreement have been inserted for convenient reference only and shall not modify, define, limit or expand the express provision of this Agreement.

Section 14. Counterparts

This Agreement may be executed in counterparts and may be photocopied. A party may use a complete counterpart or photocopy as if it were an original.

Section 15. Obligations of Condition

All obligations of each party under this Agreement are conditions to further performance of the other party's continued performance of its obligation under the Agreement.

Section 16. Exclusive Right to Enforce this Agreement

The County and the City have the exclusive right to bring suit to enforce this Agreement, and no other party may bring suit, as a third-party beneficiary or otherwise, to enforce this Agreement.

Section 17. Prior Agreements Superseded

This Agreement constitutes the sole and only agreement of the parties as to the matters set forth here.

In witness whereof, the parties hereto have executed this Agreement as of the day and year first above written.

Section 18. No Partnership or Agency

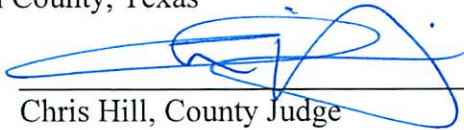
The Parties hereto have not created a partnership and nothing contained in this Agreement shall in any manner whatsoever constitute any Party the partner, agent or legal representative of the other Party, nor create any fiduciary relationship between them for any purpose whatsoever. No Party shall have any authority to act for, or to assume any obligations or responsibility on behalf of, the other party except as may be, from time to time, agreed upon in writing between the Parties or as otherwise expressly provided in this Agreement.

Section 19. Force Majeure

Force Majeure: No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: acts of God; flood, fire or explosion; war, invasion, riot or other civil unrest; actions, embargoes or blockades in effect on or after the date of this Agreement; or national or regional emergency (each of the foregoing, a "Force Majeure Event"). A party whose performance is affected by a Force Majeure Event shall give notice to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

Collin County, Texas

By:


Chris Hill, County Judge

Date:

5 AUG 2020

City of McKinney, Texas

By:

DocuSigned by:

#671F0E42C872437...
Paul G. Grimes, City Manager

Date:

7/10/2020