

STATE OF TEXAS                   §  
   §  
 COUNTY OF FORT BEND         §

### **INTERLOCAL COOPERATION AGREEMENT FOR JAIL SERVICES**

This agreement is entered into by and between Fort Bend County, Texas, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, hereinafter referred to as "Fort Bend," and Wharton County, Texas, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, hereinafter referred to as "Wharton."

#### **WITNESSETH**

**WHEREAS**, TEXAS GOVERNMENT CODE, Chapter 791, authorized local governments of the state to enter into contracts for governmental functions and services to increase their efficiency and effectiveness; and

**WHEREAS**, such a consolidated effort for the housing and care of certain incarcerated inmates are in each party's best interest and that of the public and this agreement will increase the effective and efficient functioning of each party; and

**WHEREAS**, Fort Bend and Wharton are local governments as defined in the TEXAS GOVERNMENT CODE, Section 791.003(4), have the authority to enter into this agreement, and have each entered into this agreement by the action of its governing body in the appropriate manner prescribed by law; and

**WHEREAS**, Fort Bend and Wharton specify that each party paying for the performance of said functions of government shall make those payments from current revenues available to the paying party;

**NOW THEREFORE**, in consideration of the premises, and of the terms, provisions, and mutual promises herein contained which fairly compensate the performing party, it is mutually agreed as follows:

#### **AGREEMENT**

##### ARTICLE I

##### TERM AND EFFECTIVE DATE

- 1.01 **TERM**: This Agreement shall be effective beginning the date approved by Fort Bend and shall be effective through **September 30, 2013**.
- 1.02 **RENEWAL**: This Agreement shall automatically renew each October 1, unless terminated as provided in Section 1.03 of this Agreement. Fort Bend shall provide sixty (60) days notice of any change to the per diem rate for detention services for subsequent terms.
- 1.03 Termination:
  - A. This Agreement may be terminated without cause prior to the expiration of the term herein at the option of either Fort Bend or Wharton upon the giving of sixty (60) days written notice to the other party in the manner and form provided for herein. The termination of the Agreement will be effective upon the last day of the month in which the expiration of the sixty (60) day period occurs.
  - B. This Agreement is also subject to termination upon the occurrence of an event that renders performance hereunder by Fort Bend impracticable or impossible, such as severe damage or destruction of Fort Bend's facility or actions by governmental or

judicial entities which create a legal barrier to the acceptance of any Wharton's inmates.

## ARTICLE II DETENTION SERVICES

For the purposes and consideration herein stated and contemplated, Fort Bend shall provide the following necessary and appropriate services for Wharton to the maximum extent authorized by this Agreement, without regard to race, religion, color, age, sex, and national origin; to-wit:

- 2.01 **PURPOSE:** Fort Bend warrants that the services and the facilities provided for detention of inmates meets the requirement of the Texas Commission on Jail Standards and other applicable Texas State and federal law as applicable to prison facilities.
- 2.02 **HOUSING AND CARE OF INMATES:** Fort Bend will confine inmates and give them reasonable and humane care and treatment, consistent with the Texas Commission on Jail Standards and other express provisions in this Agreement. Fort Bend will provide, as set out herein, for inmates physical needs, make available programs, treatment and training consistent with their individual needs and requirements herein, retain them in safe custody, supervise them, maintain proper discipline and control, make certain inmates receive no privileges except those generally afforded other inmates and that the judgments and orders of the committing court and Board of Parole and Post Prison Supervision are faithfully executed.
- 2.03 **MEDICAL SERVICES:** The per-day rate under this Agreement covers only routine medical services such as on-site sick call (when provided by Fort Bend or contracted on-site staff) and non-prescription, over-the-counter/non-legend and routine drugs and medical supplies. The per-day rate does not cover medical/health care services provided outside of Fort Bend's facility or by other than Fort Bend facility staff, prescription drugs and treatment, or surgical, optic and dental care, and does not include the costs associated with the hospitalization of any inmate. Wharton shall reimburse Fort Bend the amount spent for medical services of all Wharton inmates, other than routine medical services included in the per-day rate.
- 2.04 **OFF-SITE SERVICES:** Wharton Sheriff or designee shall be informed of any Wharton inmates receiving emergency medical care, including but not limited to hospitalizations, that results in off-site services as soon as practicable after the service occurs (not more than 1 working day). Fort Bend will assist Wharton to monitor utilization of off-site services by providing information about the course of an inmate's care and treatment. Wharton may elect to retake and return to Wharton's physical custody of an inmate to manage costs and utilization of services.
- 2.05 This Agreement provides Fort Bend with the authority to arrange for the off-site provider to bill Wharton for the costs of hospitalization and/or medical care for any Wharton inmate. In the event direct billing is unavailable, Wharton shall reimburse Fort Bend in accordance with the terms of this Agreement.
- 2.06 **MEDICAL RECORDS:** Wharton agrees to provide Fort Bend with a copy of each inmate's medical, dental and mental health record(s) for the purposes of continuity of care. Fort Bend agrees to maintain a confidential record of the health care of each inmate. A copy of each inmate's record shall be returned to Wharton at the time each Wharton inmate is returned.
- 2.07 **MEDICAL INVOICES:** Wharton shall reimburse Fort Bend monthly for health care services and associated expenses for which Wharton is responsible under this section.

- Fort Bend shall provide Wharton with invoices for such costs and agrees not to add additional administrative charges for reimbursed costs.
- 2.08 **INMATE MEDICAL REPORT:** Upon request from Wharton, Fort Bend will provide an inmate report of health care provided.
- 2.09 **FACILITY INSPECTION:** Fort Bend agrees to allow periodic inspections of the facilities by Wharton law enforcement personnel. The reports of state or federal inspections of the facilities will be provided to Wharton upon request.
- 2.10 **TRANSPORTATION AND OFF-SITE SECURITY:** Wharton is solely responsible for the transportation of inmates between the Fort Bend County Jail and the Wharton Facility. Fort Bend agrees to provide ambulance and other transportation for Wharton inmates to and from local off-site medical facilities and will invoice Wharton in accordance with Section 2.07 above.
- 2.11 **COURT APPEARANCES:** Wharton shall be responsible for the transportation of Wharton inmates to/from Fort Bend Jail. Wharton will be responsible for the transportation of inmates for all court proceedings and hearings and during court appearances in Wharton's county.
- 2.12 **TRANSPORTATION TO TDCJ:** Wharton is responsible for the transport of Wharton's inmates to the Texas Department of Criminal Justice, Institutional Division.
- 2.13 **GUARD SERVICE:** Fort Bend will provide guard services as requested or required by the circumstances or the law for inmates admitted or committed to an off-site medical facility at the rate of \$15 per hour/per guard. Fort Bend shall provide Wharton with invoices for such costs and agrees not to add additional administrative charges for reimbursed costs.
- 2.14 **SPECIAL PROGRAMS:** The per day rate set out in this Agreement covers basic custodial care and supervision and does not include special educational, vocational or other programs provided to inmates in Fort Bend's facilities. The parties may contract by written agreement to the provision of special programs.
- 2.15 **LOCATION AND OPERATION OF FACILITY:** Fort Bend shall provide the detention services described herein at the Fort Bend County Jail located in Richmond, Texas.
- 2.16 **ADMITTING AND RELEASING:** Fort Bend shall be responsible for the admitting and releasing of inmates placed in Fort Bend's facility. Fort Bend will maintain records of all such transactions in a manner agreed upon by Fort Bend and Wharton and provide such records to Wharton upon request.
- 2.17 **RETURN OF INMATES TO WHARTON:** Upon demand by Wharton, Fort Bend will relinquish to Wharton physical custody of any inmate. Upon request by Fort Bend, Wharton will resume custody of any inmate so requested within 10 calendar days, or unless a different time is agreed upon by both parties.

### ARTICLE III FINANCIAL PROVISIONS

- 3.01 **PER DIEM RATE:** The per diem rate for detention services under this Agreement is fifty five dollars (**\$55.00**) per man-day, subject to Section 1.02 of this Agreement. This rate covers one inmate per day. A portion of any day will count as a man-day under this agreement, except that Wharton may not be billed for two calendar days when an inmate is admitted one evening and removed the following morning. In that situation, Fort Bend will bill Wharton for the day of arrival, but not for the day of departure.
- 3.02 **BILLING PROCEDURE:** Fort Bend shall submit an itemized invoice for the services provided each month to Wharton, in arrears. Such invoice will include a list of each of the inmates housed and the number of calendar days per inmate. Invoices will be

submitted to the officer designated to receive the same on behalf of Wharton. Wharton will make payment to Fort Bend within thirty (30) calendar days after receipt of the invoice. Payment will be in the name of Fort Bend County, Texas and will be remitted to:

Fort Bend County Treasurer  
301 Jackson, Suite 514  
Richmond, Texas 77469

Amounts which are not timely paid in accordance with the above procedure may bear interest at the lesser of the annual percentage rate of ten percent (10%) per annum, or the maximum legal rate applicable thereto, which will be a contractual obligation of Wharton under this Agreement. Wharton further agrees that Fort Bend will be entitled to recover its reasonable and necessary attorneys fees and costs incurred in collection of amounts due under this Agreement.

#### ARTICLE IV ACCEPTANCE OF IMATES

- 4.01 **COMPLIANCE WITH LAW:** Nothing herein will create any obligation upon Fort Bend to house Wharton inmates where the housing of said Wharton inmates will, in the opinion of Fort Bend Sheriff, raise the population of the facility above the permissible number of inmates allowed by law, or will, in the Fort Bend County Sheriff's opinion, create a condition of overcrowding or create conditions which endanger the life and/or welfare of personnel and inmates at the facility, or result in possible violation of the constitutional rights of inmates housed at the facility. At any time that Fort Bend Sheriff determines that a condition exists at Fort Bend's facility necessitating the removal of Wharton inmates, or any specified number thereof, Wharton shall, upon notice by Fort Bend Sheriff to Wharton Sheriff, immediately remove said inmates from the facility. Wharton will make every effort to remove any inmate within eight (8) hours of notice from Fort Bend.
- 4.02 **ELIGIBILITY FOR INCARCERATION AT THE FACILITY:** The only inmates of Wharton eligible for incarceration at the facility under this Agreement are inmates eligible for incarceration in the facility in accordance with the state standards under both the Jail Commission approved custody assessment system in place at the Wharton jail and pursuant to the custody assessment system in place at Fort Bend's facility.
- 4.03 All inmates proposed by Wharton to be transferred to Fort Bend's facility under this Agreement must meet the eligibility requirement set forth above. Fort Bend reserves the right to review the inmates' classification/eligibility, and the right to refuse to accept any inmate that it does not believe to be properly classified as a non-high risk inmate. Furthermore, if an inmate's classification changes while incarcerated at Fort Bend's facility, Fort Bend reserves the right to demand that Wharton remove that inmate and replace said inmate with an appropriate inmate of Wharton.
- 4.04 **RESERVATION WITH REGARD TO ACCEPTANCE OR CONTINUED INCARCERATION OF INDIVIDUAL INMATES:** Fort Bend reserves the right for its Sheriff or his designated representative to review the background of all inmates sought to be transferred to Fort Bend facility, and Wharton shall cooperate with and provide information requested regarding any inmate by Fort Bend Sheriff. Fort Bend reserves the right to refuse acceptance of any inmate of Wharton. Likewise, if any Wharton inmate's behavior, medical or psychological condition, or other circumstance of reasonable concern to Fort Bend Sheriff makes the inmate unacceptable for continued incarceration in Fort Bend's

facility in the opinion of Fort Bend Sheriff, Wharton will be requested to remove said inmate from Fort Bend's facility, and will do so within eight (8) hours upon the request of Fort Bend Sheriff. Inmates may also be required to be removed from Fort Bend's facility when their classification changes for any purpose, including long-term medical segregation.

- 4.05 **INMATE SENTENCES:** Fort Bend will not be in charge or responsible for the computation or processing of inmates' time of confinement, including, but not limited to, computation of good time awards/credits and discharge dates. Fort Bend will provide information that may be required regarding the inmates' behavior and performance; however, all such computations and record keeping will continue to be the responsibility of Wharton. It will be the responsibility of Wharton to notify Fort Bend of any discharge date for an inmate at least ten (10) calendar days before such date. Fort Bend will release inmates of Wharton only when such release is specifically requested in writing by Wharton's Sheriff. However, it is agreed that the preferred and usual course of dealing between the parties shall be for Fort Bend to return inmates to the Wharton Jail shortly before the discharge date and for Contactor to discharge the inmate from the Wharton Jail. Contactor accepts all responsibility for the calculations and determinations set forth above and for providing Fort Bend notice of the same, and to the extent allowed by law, shall indemnify and hold harmless Fort Bend from all liability or expenses of any kind arising there from. Wharton is responsible for all paperwork and arrangements for inmates to be transferred to the Texas Department of Criminal Justice, Institutional Division.

#### ARTICLE V MISCELLANEOUS

- 5.01 **BINDING NATURE OF AGREEMENT:** This Agreement is contractual and is binding upon the parties hereto and their successors, assigns and representatives.
- 5.02 **NOTICE:** All notices, demands, or other writings may be delivered by either party hereto to the other by United States Mail or other reliable courier at the following address:

**To Fort Bend:** Fort Bend County  
Robert E. Hebert, County Judge  
301 Jackson, Suite 719  
Richmond, Texas 77469

**Copy to:** Fort Bend County  
Attn: Troy Nehls, Sheriff  
1410 Williams Way  
Richmond, Texas 77469

To **Wharton:** Wharton County  
Phillip Spenrath, County Judge  
309 E. Milam  
Wharton, TX 77488

Copy to: Wharton County  
Jess Howell, Sheriff  
P.O. Box 726  
Wharton, TX 77488

The address to which any notice, demand, or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

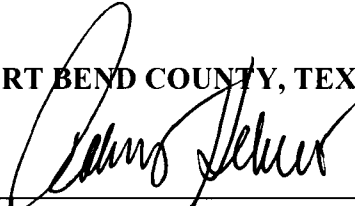
- 5.03 **AMENDMENTS:** This Agreement will not be modified or amended except by a written instrument executed by the duly authorized representatives of both parties and approved by the commissioners courts of the respective parties hereto.
- 5.04 **PRIOR AGREEMENTS:** This Agreement contains all of the agreements and undertakings, either oral or written, of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective.
- 5.05 **REPRESENTATION:** Wharton understands and agrees that Wharton, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, and/or representative of Fort Bend County.
- 5.06 **INDEPENDENT WHARTON RELATIONSHIP:** Nothing herein contained shall be construed as creating the relationship of employer and employee between the parties.
- 5.07 **SEVERABILITY:** If any provision of this agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
- 5.08 **LIABILITY:** This Agreement is made for the express purpose of providing detention services, which both parties recognize to be a governmental function. Except as hereinafter provided neither party assumes any liability beyond that provided by law. This Agreement is not intended to create any cause of action for the benefit of third parties.
- 5.09 **APPROVALS:** This Agreement must be approved by the governing bodies of all parties in accordance with the Texas Interlocal Cooperation Act.
- 5.10 **FUNDING SOURCE:** Wharton must pay all amounts due under this Agreement from current revenues available to it in accordance with the Interlocal Cooperation Act. The signature of the Wharton County Auditor below certifies that there are sufficient funds from current revenues available to Wharton to meet its obligations under this Agreement.

*The remainder of this page was intentionally left blank.*

ARTICLE VI.  
EXECUTION

IN TESTIMONY AND WITNESS OF WHICH this Agreement has been executed in duplicate originals as follows:

FORT BEND COUNTY, TEXAS:

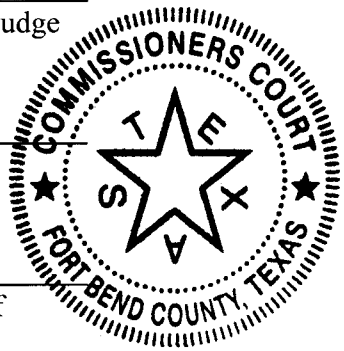
  
Robert E. Hebert, Fort Bend County Judge

ATTEST:

  
Dianne Wilson, County Clerk

Date: 7-23-13

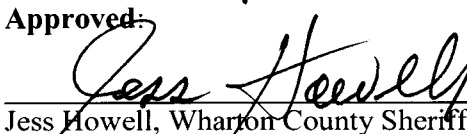
Approved:   
Troy Nehls, Fort Bend County Sheriff



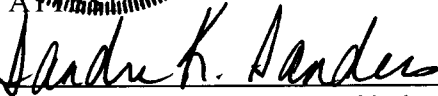
WHARTON:  
WHARTON COUNTY, TEXAS:

  
Phillip Spenrath, Wharton County Judge

Date: July 8, 2013

Approved:   
Jess Howell, Wharton County Sheriff



  
Sandra K. Sanders, County Clerk

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available to pay the obligation of Wharton County within the foregoing Agreement.

  
Wharton County Auditor