

# **Principles for Negotiation of a New Jail Services Agreement**

The parties to this statement of principles are the King County Executive (Executive) and the Mayor of the City of Seattle (Mayor).

WHEREAS, King County (County) and the City of Seattle (City) recognize the benefits of strengthening a long term, durable contract based on our shared interests in effectively and efficiently managing jail populations and capacity, in seeking solutions that safely divert low risk populations or manage them in alternatives, and in ensuring the availability of sufficient jail capacity for those who pose a serious risk to the public safety.

NOW THEREFORE, the parties agree to negotiate in good faith to develop a new Jail Services Agreement (JSA) in accordance with the following principles:

## **1. Term**

The new JSA shall commence on January 1, 2012 and shall supersede all previous contracts and agreements between the parties relating to the Jail and jail services. The new JSA shall be in effect through December 31, 2030.

## **2. City Secure<sup>1</sup> Bed Cap**

The County shall provide secure jail beds for the aggregate number of City inmates, according to the Jail's Official Daily Population Count, not to exceed the number shown in Column 3 "Secure Bed Cap" in Attachment A (Secure Bed Cap and Floor for Seattle, 4/6/2011) in the corresponding calendar year. The County will notify the City if it has exceeded the Secure Bed Cap. After the City has exceeded the Secure Bed Cap for four consecutive days, the County may either decide to continue to house City inmates in excess of the Secure Bed Cap or refuse to accept bookings from the City. However, at any time, if the County determines that housing City inmates above the Secure Bed Cap jeopardizes its ability to operate its jail facilities in a safe and secure manner, the County may refuse bookings until such time as the number of City inmates is reduced below the Secure Bed Cap. The County will make reasonable attempts to handle temporary peaking if capacity is available.

## **3. City Secure Bed Floor**

The City's Secure Bed Floor is shown in Column 4 "Secure Bed Floor" in Attachment A (Secure Bed Cap and Floor for Seattle, 4/6/2011).

- a) If the average number of billable City inmates held in secure County jail facilities for the calendar year is below the Secure Bed Floor and the entirety of the City's pretrial inmates are housed in the County's secure jail facilities, the City shall pay the difference between the cumulative daily maintenance charges when applied to the Secure Bed Floor for the calendar year and the cumulative daily maintenance charges for the City's billable inmates for the calendar year.
- b) If the average number of billable City inmates held in secure County jail facilities for a semi-annual period is below the Secure Bed Floor and the entirety of the City's pretrial inmates are not housed in the County's secure jail facilities, the City shall pay the difference between the

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<sup>1</sup> For the purposes of this agreement, "Secure" pertains only to jail beds in the County facilities excluding WER.

cumulative daily maintenance charges when applied to the Secure Bed Floor for that semi-annual period and the cumulative daily maintenance charges for the City's billable inmates for that semi-annual period.

#### **4. Adjustments to the Secure Bed Cap and Floor**

- a) The City may request a reduction in its Secure Bed Floor if it will not be housing the entirety of its inmate population in the County's secure jail facilities. The County will agree to the City's request, if the following conditions are met:
  - The County has not notified the City that a capital project for expansion of secure jail beds is warranted in accordance with provision 6(b).
  - The Secure Bed Floor cannot be lower than the number for the corresponding year in Column 5 (Minimum Secure Bed Floor) in Attachment A.
  - The City's request for the reduced Secure Bed Floor must be received by the County 18 months before the date by which the reduced Secure Bed Floor would take effect, unless the County at its own discretion specifies a shorter timeframe.
  - If the Secure Bed Floor is reduced in accordance with this provision, the corresponding Secure Bed Cap is reduced to be 30% higher than the reduced Secure Bed Floor.
  - If the City should later desire to increase its Secure Bed Floor and Cap, provision 4(c) in this agreement applies.
  
- b) If the entirety of the City's inmates requiring secure housing will be held in County jail facilities in the following calendar year, the Secure Bed Floor will be reduced for the following calendar year, at the City's request, if the following conditions are met:
  - The City makes its request for a reduction in the Secure Bed Floor by July 1<sup>st</sup>.
  - The entirety of the City's inmates requiring secure housing will be held in County jail facilities during the following calendar year.
  - The reduction in the Secure Bed Floor applies for only one calendar year.
  - If a reduced Secure Bed Floor is established in accordance with this provision, the City's Secure Bed Cap is reduced to be 30% higher than the reduced Secure Bed Floor.
  
- c) The parties may agree to increase the City's Secure Bed Floor and Cap, provided that the increased floor and cap would take effect no sooner than 36 months after the agreement has been reached, unless the County at its own discretion specifies a shorter timeframe.
  
- d) The parties recognize the need to have a Secure Bed Floor and Cap that supports the shared interests and risks in effectively and efficiently managing the parties' jail populations. If the City notifies the County of its intent to house the entirety of its inmates in County secure jail facilities, the parties will negotiate in good faith potential changes that provide flexibility related to the Secure Bed Floor and Cap, subject to the provisions in Section 4. The parties, by mutual agreement, may change the City's Secure Bed Floor and Cap.
  
- e) The parties recognize that local policy or legislative changes could result in shifting a group of inmates who are currently the responsibility of the County to be the responsibility of the City for the purposes of the new JSA. An example of such a change is an annexation of an

unincorporated area by the City of Seattle. The parties agree to include in the new JSA a provision where the parties work together to estimate the impact of such changes and, by mutual agreement, amend the City’s Secure Bed Floor and Cap.

**5. Jail Fees**

a) In 2012, the City will pay to the County the jail fees delineated in Table 1: 2012 Jail Fees.

Table 1: 2012 Jail Fees

Booking Fee	Daily Maintenance Charge	Infirmery Care Surcharge	Acute Psychiatric Housing Surcharge (including Psych Care)	Psychiatric Care Surcharge	WER Charge	1:1 Guarding Surcharge (per hour)
\$95	\$125	\$184.14	\$226.86	\$55.05	\$93.07	\$57.67

Surcharges associated with city inmates shall be paid in addition to the booking fee, WER charge and daily maintenance charge.

b) Annual Inflation Adjustments:

The jail fees shall be increased each year by inflation adjustments except for reset years. The reset jail fees will take effect on January 1<sup>st</sup> in 2017, 2022, and 2027 or as otherwise provided in the JSA.

The non-medical inflation adjustment, which applies to the Booking Fee, Daily Maintenance Charge, Acute Psychiatric Housing Surcharge, WER Charge, and 1:1 Guarding Surcharge, shall be the Seattle-Tacoma-Bremerton CPI-W plus 1.5%, except that the non-medical inflation adjustment cannot be lower than 1.5%. The medical inflation adjustment, which applies to the Infirmery Care Surcharge and Psychiatric Care Surcharge, shall be the Seattle-Tacoma-Bremerton CPI-W plus 3%, except that the medical inflation adjustment cannot be lower than 3%. The Seattle-Tacoma-Bremerton CPI-W shall cover the 12-month period ending in June. If Seattle-Tacoma-Bremerton CPI-W exceeds 8%, the parties will negotiate a reset of the jail fees, in accordance with the following subsection “Resetting Jail Fees,” in lieu of the medical and non-medical inflation adjustments.

c) Resetting Jail Fees:

Unless otherwise provided in the JSA, the parties shall negotiate changes to the jail fees by May 1<sup>st</sup> in the year preceding a reset year<sup>2</sup> based on the revised fees calculated by using a cost model<sup>3</sup> that is constructed substantially similar to the cost model that ties to calculation

<sup>2</sup> For example, for the jail fees to be reset in 2017, the parties would reach agreement by May 1, 2016 using the cost model based on the 2016 adopted budget.

<sup>3</sup> The cost model that ties to the 2012 jail fees contained in this agreement is the same one described in the current JSA with the City except that 1) the expenditures are based on the 2011 Adopted budget, 2) workload assumptions for the Booking Fee and Daily Maintenance Charge are based on the 2011 Adopted Budget, 3) the workload assumptions for the medical and psychiatric surcharges are based on 2010 actuals, 4) the Booking Fee calculation is changed to recover approximately 24% of the full booking costs, and 5) approximately 31% of the full booking costs

of the 2012 Fees including the \$95 Booking Fee and \$125 daily maintenance charge. If the parties cannot agree on the new jail fees, either party can initiate the dispute resolution process delineated in Section 8.

## **6. Jail Planning and Possible Jail Bed Expansion Surcharge**

### **a) Jail Planning:**

The County and the City will share information regarding jail inmate populations and the need for secure beds and alternatives in cooperation with the Regional Jail Group. Specifically, each party will annually share the latest forecasts for its inmate populations and all current or planned contracting arrangements to house these inmates. Taking this information into account, the County will estimate annually when the total forecasted use of the County's secure detention will exceed its capacity. If the number of years until capacity is exceeded is equal to or less than six years, which is the estimated lead time required for planning, environmental review, and construction of additional bed capacity, the County and the City agree to explore ways to manage the population through utilization of alternatives, system improvements, and efficient use of existing jail capacity.

If despite these efforts, it is still necessary to proceed with jail bed expansion, the County will initiate at its own expense the pre-design work for potential jail bed expansion, including the option of adding housing units at the Maleng Regional Justice Center or other locations. Pre-design includes the environmental review process, capital plan preparation, studies and analysis required to meet comprehensive plan requirements for essential public facilities, and a pre-design report for a preferred option if deemed appropriate. If expansion occurs, the cost of pre-design will be included in the total capital cost that is part of the calculation for the City's Bed Expansion Surcharge.

### **b) Possible Jail Bed Expansion Surcharge:**

The County shall notify the City in writing if the process in 6(a) results in a determination that secure jail bed expansion will occur. This notification shall include a summary of the project scope; an estimate of the total capital costs for the additional jail beds and related space for jail operations; financing options; and the estimated timelines for completing construction. This provision meets the notification requirement in 4(a) of this agreement regarding reducing the Secure Bed Floor if the entirety of the City's inmates is not housed in secure County beds.

If, in accordance with provision 6(a), there is a determination that jail bed expansion is warranted, then the City shall be charged a Jail Bed Expansion Surcharge for the debt service equivalent associated with its portion of the capital costs of the jail bed expansion. The City will begin paying the Jail Bed Expansion Surcharge when the debt service payments begin or when the expansion becomes operational whichever comes first. The Jail Bed Expansion Surcharge would extend through the end of the new JSA term or the end of the financing period for the jail bed expansion, whichever comes first.

The City's payment of the surcharge under this agreement does not guarantee jail beds

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are added to the calculation of the Daily Maintenance Charge. The parties will include in the new JSA a full description of the cost model, including any modifications made to arrive at the 2012 Jail Fees.

beyond the term of new JSA nor does it obligate the City to pay the surcharge beyond the term of the new JSA. If the parties negotiate an extension to the new JSA beyond 2030, they agree to negotiate in good faith continuing the City's Jail Bed Expansion Surcharge through the remaining financing period.

The City's Jail Bed Expansion Surcharge is based on the annual debt service equivalent to the City's portion of the total planning and capital cost for the construction of additional jail beds and related space for jail operations, based on a minimum financing term of 20-years. The City's portion is determined by the ratio of the City's Average Daily Population for its inmates in secure detention for three calendar years prior to the opening of the jail bed expansion to the County's Average Daily Population for total secure detention population for the three years prior to the opening of the jail bed expansion. The City's Jail Bed Expansion Surcharge shall remain fixed for the remainder of the new JSA term and shall be billed one-twelfth per month. For the purposes of calculating the 20-year debt service equivalent, the total planning and capital cost cannot exceed \$66 million in 2011 dollars adjusted to the year of construction using the Means or similar historical construction cost index for the Seattle area.

If the County chooses to seek voter-approved financing options to support the costs of the secure jail bed expansion, this agreement and the structure of the surcharge assumes that voter-approved financing will go to support those costs associated with the County's regional and unincorporated area (as defined by felony and unincorporated misdemeanor populations) jail responsibilities. The application of a voter-approved financing mechanism will not be used to offset cities' local costs (as defined by those inmates that are the responsibility of cities) unless the County and the cities agree to an allocation that provides access to this benefit among other cities in King County. The County and the City agree that it would not be appropriate for some cities to have access to benefits, financial or otherwise, from a levy while others pay a surcharge or do not have access to benefits. To ensure that the City receives benefits on a reasonable basis to that of other cities, the City and the County agree to revisit the terms of the surcharge if other cities are provided access to financial and other benefits accruing from a voter approved financing mechanism for secure jail bed expansion.

## **7. Termination**

Termination of the JSA can only occur by mutual agreement of the parties or due to the material default of a party. Any party wishing to terminate the JSA for material default shall issue a written notice of intent to terminate not less than 45-days prior to issuing its termination notice. During this 45-day period the parties will make a good-faith effort to resolve the default through the dispute resolution provisions of the JSA. After the 45-day period has run, the party desiring to terminate the JSA for material default may provide the other party a 90-day termination notice, as provided in RCW 70.48.090.

## **8. Dispute Resolution**

Either party may notify the other in writing of a dispute involving the interpretation or execution of the new JSA. Within 30 days of this notification, the King County Executive and City of Seattle Mayor shall meet to resolve the dispute. If the dispute is not resolved, the parties may refer it to non-binding mediation. The mediator will be selected in the following manner: The

City shall propose a mediator and the County shall propose a mediator; in the event the mediators are not the same person, the two proposed mediators shall select a third mediator who shall mediate the dispute. Alternately, the parties may agree to select a mediator through the mediation service mutually acceptable to both parties. The parties to the mediation shall share equally in the costs charged by the mediator or mediation service.

**9. Alternatives to Secure Detention**

Both parties recognize the value of alternatives to secure detention in effectively managing jail populations and the potential benefit of working together to meet their respective needs.

- a) The parties agree to incorporate provisions in the new JSA that allow for including specific fees for alternatives, in addition to WER, operated by the Community Corrections Division of the King County Department of Adult and Juvenile Detention.
- b) The City can access up to a maximum of 15 WER beds, subject to availability, on a first come, first serve basis; provided that these beds will not be held in reserve for the City. The County will notify the City if it has exceeded the maximum number of WER beds. The County at its own discretion can temporarily increase the maximum number of WER beds that the City can access. The parties will include in the new JSA a description of the process for placing City inmates in WER consistent with this provision.

**10. Replacing the JSA and Other Provisions**

Any provisions in the existing JSA not in conflict with or not addressed by this agreement on terms should carry forward to the new JSA subject to modification by mutual agreement of the parties. The target date for the parties to create the new JSA and transmit to their respective councils is June 15, 2011.

**11. Council Approval**

The parties understand that the new JSA cannot become effective unless approved by the County and City councils.

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Dow Constantine  
King County Executive

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Michael McGinn  
Mayor, City of Seattle

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Attachment A  
**Secure Bed Cap and Floor for Seattle**  
 4/6/2011

1	2	3	4	5
Year	<b>Estim. Total Secure Billable</b>	<b>Secure Bed Cap</b>	<b>Secure Bed Floor</b>	<b>Min. Secure Bed Floor</b>
<i>Basis</i>	<i>Billable</i>	<i>Headcount</i>	<i>Billable</i>	<i>Billable</i>
2012	260	228	175	175
2013	262	230	177	177
2014	264	231	178	178
2015	266	233	179	179
2016	268	235	181	181
2017	270	303	233	182
2018	272	305	235	184
2019	275	307	236	185
2020	277	310	238	187
2021	279	312	240	188
2022	281	315	242	189
2023	283	317	244	191
2024	286	320	246	192
2025	288	322	248	194
2026	290	325	250	195
2027	292	327	252	197
2028	295	330	254	198
2029	297	333	256	200
2030	299	335	258	201

Notes:

- Estim. Total Billable is based on the City forecast less WER (15).
- Secure excludes WER and Electronic Home Detention.
- The Secure Bed Cap (Column 3) is 30% higher than Secure Bed Floor (Column 4).