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Okanogan Co, WA

CITY OF OMAK

INTERLOCAL AGREEMENT BETWEEN  
OKANOGAN COUNTY AND THE CITY OF OMAK FOR PROVISION OF SERVICES  
FOR MISDEMEANOR OFFENSES COMMITTED BY ADULTS

This Agreement is made this day by and between Okanogan County, Washington, a political subdivision of the State of Washington (the "County"), and the City of OMAK, a Washington municipal corporation (the "City").

WHEREAS, the County is a political subdivision and municipal corporation organized and existing under the Washington State Constitution and the laws of the State of Washington, and particularly those set forth at RCW Title 36;

WHEREAS, the City is a municipal corporation duly organized and existing under the laws of the State of Washington, and particularly those set forth at RCW Title 35, and located within the County;

WHEREAS, the City has the power, authority, and responsibility to provide for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in its jurisdiction, and desires to obtain such services from the County in order to fulfill its obligation to its citizens, pursuant to RCW Chapter 39.34;

WHEREAS, the City desires to utilize the services of the County's offices and departments for the purpose of the providing services normally associated with the processing and prosecution of adults charged with misdemeanor and gross misdemeanor offenses occurring within its jurisdiction;

WHEREAS, the County and City enter into this interlocal cooperation agreement ("this Agreement") under the authority of RCW Chapter 39.34 for the cooperative exercise of certain powers, privileges and authorities in order to provide for efficient prosecution, adjudication, sentencing, and incarceration of adults arrested for misdemeanor and gross misdemeanor offenses occurring in the City's jurisdiction;

WHEREAS, the services to be provided by the County include those normally associated with booking, prosecution, probation, incarceration, district court, and indigent defense;

WHEREAS, the County and the City each hereby find that this Agreement is mutually advantageous to the County and the City.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth below, it is hereby agreed as follows:

ARTICLE I  
PURPOSE



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- 1.01 **Purpose:** The purpose of this Agreement is to set forth the terms and conditions under which the County is to provide the City with prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in the City's jurisdiction, and the manner of payment for those services.

## ARTICLE II TERMS AND DEFINITIONS

- 2.01 **District Court / Adjudication Services:** shall mean all court services for processing criminal charges, including services provided by judges, support staff, interpreters, defense expert witnesses, lay witnesses, jurors and probation officers.
- 2.02 **Incarceration Services:** shall mean arrest, booking and incarceration of persons suspected of, charged with, and/or convicted of committing State, County, and/or City crimes. Incarceration Services shall not include medical services (including dental services, prescription medications, or medical equipment) provided to the City's inmates. The City shall be responsible for reimbursing the County for the actual cost of all medical services provided to the City's inmates.
- 2.03 **Prosecution Services:** shall mean all legal services for prosecution of criminal charges, including attorneys, support staff, and prosecution expert witnesses.
- 2.04 **Public Defender Services:** shall mean all legal services for defending indigent defendants against criminal charges, including attorneys and support staff.
- 2.05 **Tax Contribution Percentage:** shall mean the percentage of property tax and sales tax that is generated within the City's jurisdiction but contributed to the County current expense fund revenue for that year.
- 2.05.1 For example, if during a particular year, the City generated property tax and sales tax totaling \$1,000,000 within its jurisdiction that was contributed to the County's current expense fund revenue, and the County current expense fund revenue for that year totaled \$10,000,000, the City's "Tax Contribution Percentage" would be \$1,000,000 divided by \$10,000,000 or 10%.
- 2.06 **Local Inmate Days:** shall mean the total number of days of incarceration of persons suspected of, charged with, and/or convicted of committing State, County, and/or City crimes, where the Okanogan County District



Court or Superior Court has or had jurisdiction over the matter. Local Inmate Days shall not include persons incarcerated under the authority of any other county, state, tribal, or federal law enforcement agency in which the Okanogan County District Court or Superior Court did not, or does not, have jurisdiction over the matter.

### ARTICLE III SCOPE OF SERVICES

**3.01 Adult Misdemeanor and Gross Misdemeanor Services to City:** The County agrees to make available its facilities and personnel to provide prosecution, probation, incarceration, district court / adjudication, and public defender services, necessary to process adults who commit violations of State criminal laws, County criminal ordinances and City criminal ordinances; in the City's jurisdiction and who are arrested, cited, or referred by the City's designated law enforcement agency. The County will provide such services in the same manner and to the same extent as the County provides for the processing of its own cases.

**3.01.1 Adult Misdemeanor and Gross Misdemeanor Services** shall also include juvenile offenders who commit criminal traffic, boating, or fish and wildlife violations where such violations are adjudicated in District Court.

### ARTICLE IV PAYMENT FOR SERVICES

**4.01 Payment for Services:** The City shall pay the following to the County for the services provided pursuant to this Agreement:

**4.01.1 Incarceration Services:** During the term of this agreement the City shall pay the County all actual costs incurred by the County Jail to incarcerate all City inmates in the County's facilities, who are charged with, arrested for, or convicted of, misdemeanor or gross misdemeanor offenses occurring in the City's jurisdiction, less other revenue received by the County Jail to pay for incarceration of adult offenders.

**4.01.1.1 Calculation of Cost for City's Incarceration Services:** The adjusted cost to the City for Incarceration Services will be determined by subtracting other revenue received by the County Jail to pay for incarceration of adult offenders from the actual cost of operating the County Jail. The Adjusted Cost will then be divided by the total number of Local Inmate Days to determine a per day



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cost. The per day cost will be multiplied by the total number of days the City's inmates were incarcerated in the County Jail to arrive at the cost for the City's Incarceration Services.

**4.01.2 District Court / Adjudication Services:** During the term of this agreement the County District Court shall retain all fines, fees, penalties, and/or assessments collected in connection with misdemeanor or gross misdemeanor offenses committed in the City's jurisdiction. The County District Court shall retain the fines, fees, penalties, and/or assessments in lieu of additional direct payments from the City for the costs of District Court / Adjudication Services for adults charged with, arrested for, or convicted of, misdemeanor or gross misdemeanor offenses committed in the City's jurisdiction.

**4.01.3 Prosecution Services:** During the term of this agreement the City shall pay the County all actual costs incurred by the County for processing all adults charged with, arrested for, or convicted of, misdemeanor or gross misdemeanor offenses committed in the City's jurisdiction, who are prosecuted by the Okanogan County Prosecuting Attorney's Office, reduced by the Tax Contribution Percentage.

**4.01.3.1 Calculation of Cost for City's Prosecution Services:**

The County will calculate a per case cost by dividing the County's total cost to provide adult misdemeanor Prosecution Services by the total number of Adult Misdemeanor or Gross Misdemeanor cases referred to, charged, or processed by the County Prosecutor's office. The per case cost will be multiplied by the total number of City cases referred to, charged, or processed by the County Prosecutor's office to determine the City's gross cost. The City's gross cost will then be reduced by the applicable Tax Contribution Percentage for that period to determine the adjusted cost for the City's Prosecution Services.

**4.01.4 Public Defense Services:** During the term of this agreement the City shall pay the County all actual costs incurred by the County for processing all adults charged with, arrested for, or convicted of, misdemeanor or gross misdemeanor offenses committed in the City's jurisdiction, and who are assigned a public defender by a court with jurisdiction, reduced by the Tax Contribution Percentage.



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**4.01.4.1 Calculation of Cost for City's Public Defense Services:** The County will calculate a per case cost by dividing the County's total cost to provide adult misdemeanor Public Defense Services by the total number of Adult Misdemeanor or Gross Misdemeanor cases referred to, assigned, or processed by the County designated Public Defender(s). The per case cost will be multiplied by the total number of City cases referred to, assigned, or processed by the County designated Public Defender(s) to determine the City's gross cost. The City's gross cost will then be reduced by the applicable Tax Contribution Percentage for that period to determine the adjusted cost for the City's Public Defense Services.

**4.02 Semi-Annual Payments and Late Fees:** The City shall pay any amounts due in full at the end of each semi-annual period for the services provided in that semi-annual period.

**4.02.1** The County will present an invoice to the City setting forth the amount due for each semi annual period.

**4.02.1.1** The County and City agree that the County will present an invoice after the end of the 2005 calendar year to the City for the amounts due for services provided in 2005. The County and City agree that payment from the City for these 2005 services will be due not later than July 31, 2006.

**4.02.1.2** For each semi annual period, the County will also provide a breakdown showing the total number of misdemeanor / gross misdemeanor cases filed by all cities in District Court and the total amount due for services provide to all cities. The breakdown will include the percentage of the total amount due that is attributable to each city based on each city's percentage share of misdemeanor / gross misdemeanor cases filed in District Court.

**4.02.1.3** The County will present a separate invoice to the City setting forth the amount of medical service reimbursements due for each month.

**4.02.2** Payment shall be made not later than thirty days after receipt of the invoice.



4.02.3 Payments not made within thirty days of receipt of the invoice shall incur a late fee of .033% for each day that the payment(s), or any part thereof, remains unpaid.

## ARTICLE V DURATION AND TERMINATION OF AGREEMENT

- 5.01 **Duration:** Subject to paragraph 10.05, this Agreement shall have a term of five (5) years commencing on January 1, 2005. This Agreement shall remain in force for the term of the agreement, or until terminated by either party pursuant to subparagraph 5.03.
- 5.02 **Non-Renewal of Contract:** Subject to RCW 39.34.180(3), either party may decide not to renew this Agreement by providing written notice to the other party at least one hundred twenty (120) days before the expiration of the existing agreement. Absent such written notice, this Agreement shall remain in effect until a new agreement is reached, or an arbitration award on the matter of fees is made.
- 5.03 **Termination:** Either party may terminate this Agreement before the expiration of the term set out in subparagraph 5.01, subject to the requirements of RCW 3.50.810.

## ARTICLE VI ADMINISTRATION

- 6.01 **Operational Control:** The City acknowledges the County's operational control of the County's jail facility and agrees that inmates committed to the Okanogan County Jail by the City will be subject to the same rules and regulations required of other inmates incarcerated therein.
- 6.02 **Independent Contractor:** The County and its designated Public Defender(s) are independent contractors. All persons employed by the County providing services pursuant to this Agreement shall remain County employees and shall not have any employee or other agency status or relationship to the City. All Public Defenders providing defense services to the County, or under this agreement, shall not have any employee or other agency status or relationship to the City.
- 6.03 **Reporting to City:** The County's duly designated representative shall, at the City Council's request, be available to attend one City Council meeting per quarter, in order to provide an opportunity for council questions, suggestions and comments concerning the performance of this Agreement. At such meetings the County designated representative



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shall not be called upon to discuss questions of law enforcement policy or to convey information regarding a pending criminal case or investigation.

## ARTICLE VII INDEMNITY

- 7.01 **Tort Claim Indemnity:** To the extent of its comparative liability, each party shall indemnify, defend and hold the other party, its departments, elected and appointed officials, employees, and agents, harmless from and against any and all claims, damages, losses and expenses, including attorney's fees, for any bodily injury, sickness, disease, or death, or any damage to or destruction of property, including the loss of use resulting there from, which are alleged or proven to be caused in whole or in part by a negligent act, intentional act, or omission of its officers, directors, and employees.
- 7.02 **Indemnity for City Ordinances:** The City agrees to indemnify, defend and hold the County harmless from any liability arising out of, or in any way associated with, the legality, validity or constitutionality of City ordinances.
- 7.03 **Indemnity For Wrongful Arrest:** The City agrees to indemnify, defend and hold the County harmless from any liability arising out of, or in any way associated with, the sole negligent acts, sole intentional acts, or omissions of the City in the apprehension or arrest of adult inmates delivered to the Okanogan County Jail for incarceration or detention for misdemeanor or gross misdemeanors pursuant to this agreement.

## ARTICLE VIII PERFORMANCE OF AGREEMENT

8.01 **Compliance with All Laws:** Each party shall comply with all federal, state and local laws, rules, regulations and ordinances applicable to the performance of this Agreement, including without limitation all those pertaining to wages and hours, confidentiality, disabilities and discrimination.

8.02 **Maintenance and Audit of Records:** Each party shall maintain books, records, documents and other materials relevant to its performance under this Agreement which sufficiently and accurately reflect any and all direct and indirect costs and expenses incurred or paid in the course of performing this Agreement.

These records shall be subject to inspection, review and audit by either party or its designee, the Washington State Auditor's Office, and authorized federal



agencies. Each party shall retain all such books, records, documents and other materials for five (5) years following the termination of this Agreement.

**8.03 On-Site Inspections:** Either party or its designee may evaluate the performance of this Agreement through on-site inspection to determine whether performance is in compliance with the standards set forth in this Agreement, and in compliance with federal, state and local laws, rules, regulations and ordinances.

**8.04 Improper Influence:** Each party agrees, warrants and represents that it did not and will not employ, retain or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining or extending this Agreement.

**8.05 Conflict of Interest:** The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

## ARTICLE IX DISPUTES

**9.01 Time:** Time is of the essence of this Agreement.

**9.02 Conflict:** In the event of conflict among the terms and conditions of this Agreement and federal, state or local law, the inconsistency shall be resolved by giving precedence of interpretation in the following order:

1. Applicable federal case law, statutes and regulations; then
2. Applicable Washington case law, statutes and regulations; then
3. The terms and conditions of this Agreement; then
4. Any other terms and conditions of this Agreement incorporated by reference.

**9.03 Waiver Limited:** A waiver of any term or condition of this Agreement must be in writing and signed by the parties. Any express or implied waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence, or omission.

**9.04 Dispute Resolution:** Disputes shall be mediated by a third party selected by the County and the City prior to commencing arbitration or legal action for enforcement or interpretation of this Agreement.





**9.05 Attorney's Fees:** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in that action, arbitration, or proceeding.

**9.06 Governing Law and Venue:** This Agreement shall be governed exclusively by the laws of the State of Washington. The Okanogan County Superior Court shall be the sole proper venue for any and all suits brought to enforce or interpret the provisions of this Agreement.

## ARTICLE X GENERAL PROVISIONS

**10.01 Assignment:** Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, subcontract, or other means, without the written approval of the other party. Any attempted assignment or delegation without approval shall be void and shall constitute a material breach of this Agreement. The City acknowledges and agrees that public defender services are provided through the use of an independent contractor. The City acknowledges and agrees that the County retains sole discretion in the selection and contracting of public defense services and selection and contracting for such services during the term of this Agreement does not void or breach this Agreement.

**10.02 Entire Agreement/Modification:** This Agreement constitutes the entire agreement between the parties. There are no understandings or agreements between parties other than those set forth in this Agreement. No other statement, representation or promise has been made to induce either party to enter into this Agreement.

**10.03 Modification:** This Agreement may not be amended, supplemented or otherwise modified unless expressly set forth in a written agreement signed by the parties and adopted by resolution of each party's legislative authority:

**10.04 Invalid Provisions:** The invalidity or unenforceability of any particular term or provision of this Agreement shall not affect the validity or enforceability of any other term or provision and this Agreement shall be construed in all respects as if such invalid or unenforceable term or provision was omitted.

**10.05 Filing of Agreement:** Pursuant to RCW 39.34.040, this Agreement shall be filed with the Okanogan County Auditor prior to its entry into force. This Agreement shall also be filed with the Clerk of the City.

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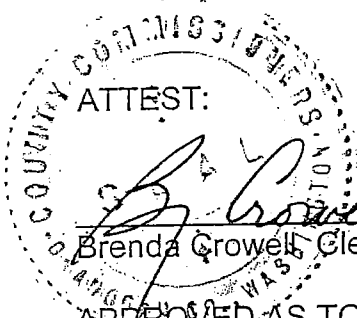
Adopted: \_\_\_\_\_

OKANOGAN COUNTY  
BOARD OF COUNTY COMMISSIONERS

Mary Lou Peterson  
Mary Lou Peterson, Chair

Bud Hover  
Bud Hover, Member

Andrew Lampe  
Andrew Lampe, Member



ATTEST:

Brenda Crowell  
Brenda Crowell, Clerk of the Board

APPROVED AS TO FORM:

[Signature]  
Okanogan County Prosecuting Attorney

Adopted: 12/5/2005

CITY OF OMAK  
[Signature]  
Mayor

ATTEST:

Trish Butler  
City Clerk