



September 12, 2024

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of an Intergovernmental Agreement with Linn County Juvenile Department for emergency fee-for-service juvenile detention beds. Agreement value is \$255,500 for 2 years. Funding is through budgeted County General Funds.

Previous Board Action/Review	Briefed at Issues September 10, 2024		
Performance Clackamas	1. Provide assessment and detention services to youth so they can receive the appropriate level of monitoring and services that provides for community safety. 2. Ensure safe, healthy and secure communities.		
Counsel Review	Yes	Procurement Review	No
Contact Person	Ed Jones	Contact Phone	503-650-3169

EXECUTIVE SUMMARY: Clackamas County Juvenile Department (CCJD) is requesting approval to contract with Linn County Juvenile Detention Facility (LCJDF) for emergency fee-for-service juvenile detention beds. Due to continuing increasing cost with Multnomah County’s Juvenile Detention Facility and decreasing average daily detention utilization, beginning October 4th, 2024, CCJD’s contract with Multnomah County for juvenile detention beds will end and CCJD will fully utilize Marion County Juvenile Detention Facility (MCJDF) contract for 3 guaranteed beds and fee-for-service beds if the 3 guaranteed bed are full, providing MCJDF has fee-for-service bed capacity. The emergency fee-for-service beds with LCJDF are only to serve as back-up if the need to lodge Clackamas County youth in detention exceeded the currently contracted 3 guaranteed beds with MCJDF **and** MCJDF did not have additional fee-for-service capacity available.

The daily rate for LCJDC emergency fee for service juvenile detention beds is \$175 per bed per day. Fund for the emergency fee-for-service juvenile detention beds will be paid from CCJD’s existing fee-for-service juvenile detention bed budget.

RECOMMENDATION: Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement.

Respectfully submitted,

Christina L. McMahan
Christina McMahan, Juvenile Director
Juvenile Department

For Filing Use Only

**JUVENILE DETENTION FACILITIES
INTERGOVERNMENTAL AGREEMENT
(Pursuant to Resolution & Order No. 2024-160)**

THIS AGREEMENT is made and entered into by and between **LINN COUNTY**, a political subdivision of the State of Oregon, acting by and through its Linn-Benton Juvenile Detention Facility, a department of Linn County Government, (hereinafter referred to as "Linn") and **CLACKAMAS COUNTY**, a political subdivision of the State of Oregon, acting by and through its CLACKAMAS County Juvenile Department, a department of CLACKAMAS County Government, (hereinafter referred to as "CLACKAMAS").

PROGRAM ABSTRACT: Placement of CLACKAMAS Juveniles on an as-needed and space-available basis in the Linn-Benton Juvenile Detention Center.

CONSIDERATION: Daily rate of \$175.00 per bed per day, not to exceed \$255,500

WHEREAS, CLACKAMAS requires the work and services described herein, and LINN agrees to perform all the work and services described herein, now, therefore, IT IS AGREED:

1. **Term of Intergovernmental Agreement.** This Agreement shall be effective and services required hereunder shall commence on July 1, 2024 and shall terminate on June 30, 2026, unless otherwise terminated or extended as provided herein.
2. **Consideration.** Payments under this contract shall be made on a cost reimbursement basis according to the following terms: CLACKAMAS shall pay LINN a daily rate of \$175.00 per bed per day for the performance of the work and the provision of the deliverables as required under this Agreement, not to exceed \$255,500 Payment shall be made after submission by LINN of a satisfactory invoice to CLACKAMAS demonstrating work performed by LINN to the satisfaction of CLACKAMAS during the month prior. Such invoice shall consist of;
 - a. A LINN memo with the billing period, amount billed, and youth detained during the billing period;
 - b. A JJIS 'Custody Billing for Out of County Youth' report, or other substantially similar report for the billing period in question.
3. **Definitions.**
 - a. "Center" means the Linn-Benton Juvenile Detention Center.
 - b. "Center Capacity" means twenty (20) juveniles placed in the Center at any given time.
 - c. "Detention Day" will be calculated using "5 hours in a day;" meaning a day will be counted as a billed day if there remains at least 5 hours in any 24-hour period of time after the CLACKAMAS Juvenile has been admitted to the Center. If there is less than 5 hours in any particular day remaining after admittance, that day will not be counted as a billed day.

- d. "CLACKAMAS Juvenile" means a person who as adjudicated as a juvenile, 18 years of age or young, and, for the purpose of the Agreement, persons placed at the request of authorized personnel from CLACKAMAS.
4. **Linn Obligations.** LINN agrees to perform the services regarding the placement of CLACKAMAS Juvenile in accordance with the following terms and conditions.
- a. **Bed Space; Admissions; Conditions.**
 - i. Any CLACKAMAS Juvenile shall be admitted:
 - (1) Upon placement by an authorized member of CLACKAMAS or designee who meets the criteria as set forth in ORS 419C.145; or
 - (2) Upon order of any court of competent jurisdiction to require detention of such CLACKAMAS Juvenile.
 - ii. Subject to Section 4 (a)(vii), LINN shall allow the use of one (1) bed space as needed and subject to availability, and up to two (2) bed spaces as needed and subject to availability, within the Center, for CLACKAMAS Juveniles based upon the overall population of the Center. In the event there is a demand for bed space by LINN, LINN may require CLACKAMAS to vacate any bed in excess of one (1) bed following a five-hour (5) notice.
 - iii. All CLACKAMAS Juveniles entering into the facility shall have a "Release Plan" in the event that the Center's population reaches Center Capacity.
 - iv. LINN shall have discretion to refuse to accept any CLACKAMAS Juvenile where it reasonably believes such placement does not comply with:
 - (1) Lawful requirements;
 - (2) Center regulations;
 - (3) When a CLACKAMAS Juvenile is under the influence of intoxicants and has not been medically cleared at an area hospital, or the youth has used substances within the last 24 hours and has not been medically cleared to enter into the Center.
 - (4) When it appears that the physical condition of the CLACKAMAS Juvenile requires immediate medical attention.
 - v. In all situations of refusal, LINN shall immediately contact CLACKAMAS by phone regarding its basis for refusal.
 - vi. LINN shall make every effort to serve CLACKAMAS above the two beds, as needed and subject to availability.
 - b. **Supervision Services.**
 - i. CLACKAMAS Juveniles shall receive the quality, level, and manner of care and supervision by LINN as furnished to detained juveniles from within LINN County.
 - ii. LINN shall document youth behavior while at the Center in JJIS format for CLACKAMAS to access.
 - iii. No LINN staff person shall be required to provide those counseling services customarily furnished to CLACKAMAS Juveniles preparatory to any adjudicative or dispositional process.
 - iv. The determination that emergency services need to be called is the sole discretion of LINN. LINN shall provide CLACKAMAS with immediate notice as soon as reasonably practicable after emergency services have been obtained, and CLACKAMAS shall be directly responsible to the services provider for reasonable expenses connected therewith.
 - v. LINN County policy, procedures, and protocol shall be followed for all CLACKAMAS youth placed at the Center.

vi. LINN shall notify CLACKAMAS of incidents involving an admitted CLACKAMAS youth that: (1) involves an injury; (2) involves physical intervention and/or restraint; (3) involves a suicide attempt resulting in injury and/or placement on a constant watch; (4) results in isolation; and/or (5) meets criteria for a PREA incident, within 24 hours in compliance of ORS 169.740. LINN uses Best Practices outlines in the 2020 Juvenile Detention Guidelines regarding Safety and Security and follows all associated ORS codes. Notification shall be by an email to the group email account at ClackcoJuvSupervision@clackamas.us. Incident reports will be placed in JJIS for CLACKAMAS County to access. If at any time a youth requires outside medical attention, LINN shall notify CLACKAMAS Juvenile Intake and Assessment Center by phone at 503-655-8342 ext. 4/ Additionally, LINN shall ensure that it provides immediate verbal or electronic notification to CLACKAMAS of the following types of critical events: Incidents posing a risk to the status or custody of the youth and any other incidents that are of a nature serious enough to raise safety, programmatic, or other serious concerns. Immediate notification shall be followed up by the submission of a written incident report in JJIS, if the level of behavior rises to that level as described above, for CLACKAMAS management staff to access.

c. Release Services.

- i. LINN shall release CLACKAMAS Juveniles only upon notification by persons authorized by CLACKAMAS pursuant to a court order and only to such person, persons, or agency as such notification or order may direct; provided, however, that LINN, upon written notice to CLACKAMAS County Community Justice Department, may act to require release of any CLACKAMAS Juvenile it reasonably believes has been detained in excess of any statutory period prescribed for such temporary custody, providing CLACKAMAS with a five (5) hour time period to arrange transport for the CLACKAMAS Juvenile(s).
- ii. No provision contained in this Agreement is intended to relieve CLACKAMAS from the duty to monitor the period that a CLACKAMAS Juvenile is detained in Center under this Agreement, and it shall be the responsibility of CLACKAMAS to defend and hold LINN harmless from any claim of detention in excess of lawful limits brought by or on behalf of any CLACKAMAS Juvenile.

5. CLACKAMAS Obligations. CLACKAMAS agrees to abide by the following terms and conditions regarding the placement of CLACKAMAS Juveniles as provided herein.

- a. CLACKAMAS shall comply with ORS 419A.059.
- b. CLACKAMAS shall provide transportation for all CLACKAMAS Juveniles to and from the Center at no expense to LINN.
- c. CLACKAMAS shall provide any required written evidence of authorization or other reports necessary to detain or release any CLACKAMAS youth expenses reasonably incurred by LINN providing emergency medical, dental or psychological services, including transportation therefore, on behalf of any CLACKAMAS Juvenile.
- d. Upon prior written notification by LINN, CLACKAMAS shall be directly responsible for any expenses reasonably incurred in the care and supervision of a CLACKAMAS Juvenile which would exceed the level of care and supervision customarily furnished to detained LINN juveniles, including but not limited to, prescription medication, specially tailored clothing or custom footwear, prosthesis, remedial tutoring, eyeglasses, dentures, hearing aids, and similar devices.

- e. CLACKAMAS shall pay LINN monthly within thirty (30) days of receipt, review and approval of invoice for the total number of bed days occupied by CLACKAMAS Juveniles for the preceding month.
 - f. CLACKAMAS shall provide all pre- and post-adjudicative counseling services for CLACKAMAS Juveniles placed with LINN for detention and such notification as may be required to any CLACKAMAS Juveniles' parents or legal guardians prior to placement with LINN.
 - g. CLACKAMAS shall furnish immediately to LINN, in writing, judicial orders of placement, social history, visitation restrictions and specialized programming which would affect detention care and supervision of a CLACKAMAS Juvenile.
 - h. Upon request by LINN, CLACKAMAS shall reduce the population of CLACKAMAS Juveniles if the Center Capacity is exceeded.
6. **Declaration of the Nature of the Contractual Relationship.** CLACKAMAS and LINN are independent contractors and not employees of or agents of each other. Neither party shall be responsible for any claims, demands or causes of action of any kind or character arising in favor of any person, on account of personal injuries, or death, or damage to property occurring, growing out of, incident to, or resulting directly or indirectly from the operations or activities of the other party.
7. **Representations and Warranties.**
- a. **LINN Representations and Warranties.** LINN represents and warrants to CLACKAMAS that:
 - i. LINN is a unit of local government duly organized and validly existing under the laws and jurisdiction of the State of Oregon. LINN has the power and authority to enter into and perform this Agreement pursuant to ORS 190.003 to 190.130;
 - ii. The making and performance by LINN of this Agreement (a) have been duly authorized by all necessary action of LINN, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any LINN ordinance or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which LINN is party or by which LINN may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by LINN of this Agreement, other than those that have already been obtained;
 - iii. This Agreement has been duly executed and delivered by LINN and constitutes a legal, valid and binding obligation of LINN enforceable in accordance with its terms;
 - iv. LINN has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and LINN will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade, or profession; and
 - v. LINN shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

- b. **CLACKAMAS Representations and Warranties.** CLACKAMAS represents and warrants to LINN that:
- i. CLACKAMAS has the power and authority to enter into and perform this Agreement;
 - ii. The making and performance by CLACKAMAS of this Agreement (a) have been duly authorized by all necessary action of CLACKAMAS, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which CLACKAMAS is party or by which CLACKAMAS may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by CLACKAMAS of this Agreement, other than those that have already been obtained; and
 - iii. This Agreement has been duly executed and delivered by CLACKAMAS and constitutes a legal, valid and binding obligation of CLACKAMAS enforceable in accordance with its terms.
 - iv. CLACKAMAS has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and CLACKAMAS will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade, or profession; and
 - v. CLACKAMAS shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

8. **Amendments.** This Agreement may be amended to the extent permitted by applicable statutes, administrative rules, ordinances, and Linn Code. No amendment shall bind either party unless in writing and signed by both parties.

9. **Insurance.**

- a. **Workers Compensation.** To the extent applicable, each party represents and warrants that it maintains and will maintain in full force and effect coverage sufficient to meet the requirements of Oregon workers' compensation law.
- b. **General Liability.** To the extent applicable, each party represents and warrants that it maintains and will maintain in full force and effect liability insurance covering activities and operations described in this Agreement for the duration of the Agreement.
- c. **Professional Liability.** To the extent applicable, each party shall obtain and at all times keep in effect any professional liability insurance as required by law.

10. **Indemnification.** To the fullest extent permitted by law, and in accordance with Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, each party shall indemnify, defend, save, and hold harmless the other party and its officers, employees and agents from and against all claims, suits, actions, liabilities, damages, losses, or expenses, arising out of the acts or omissions of the party, its officers, agents, or employees performing under this Contract.

11. Compliance with Laws. Each party agrees to comply with all federal, state, and local laws, codes, regulations, and ordinances applicable to the provision of services under this Agreement, including, without limitation, the provisions of ORS 279B.220 through 279B.235 and the provisions of: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 (Pub L No 101- 336), ORS 659.425, and all amendments of and regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

12. Confidentiality and Nondisclosure.

- a. Each party acknowledges that it and any of its officers, directors, employees, and agents may, in the course of performing its responsibilities under this Agreement, be exposed to or acquire information that is considered confidential. For purposes of this Agreement, "Confidential Information" is:
 - i. Information in written or other permanent form and clearly and conspicuously marked as proprietary, using an appropriate legend, at the time the disclosing party discloses it to the receiving party; and/or
 - ii. Information originally disclosed by the disclosing party to the receiving party in some other form (e.g., orally or visually), if the disclosing party: (i) identifies the information as proprietary at the time of original disclosure; (ii) summarizes the Confidential Information in writing; (iii) marks the writing clearly and conspicuously with an appropriate proprietary legend; and (iv) delivers the writing to the receiving party within thirty (30) days following the original disclosure.
- b. The receiving party shall hold all Confidential Information of the disclosing party in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, unless otherwise allowed by law; shall not use Confidential Information for any purposes whatsoever other than as contemplated by this Agreement or reasonably related thereto; and shall advise its officers, directors, employees and agents that receive or have access to the Confidential Information of their obligations to keep Confidential Information confidential. Upon request by the disclosing party, the receiving party shall return to the disclosing party all Confidential Information received, except that the receiving party may retain one archival copy of the Confidential Information.

13. Termination.

- a. **For Convenience.** Either party may terminate this Agreement without specifying any reason for termination by giving written notice of intent to terminate, in writing, mailed at least thirty (30) days before the intended termination date to the party at the party's address given above. Such termination shall be without liability or penalty. No such termination shall prejudice any obligations or liabilities of either party already accrued prior to the effective date of termination.
- b. **For Cause.** It is further agreed that either party may immediately terminate this Agreement without liability or penalty for any of the following causes:
 - i. A party breaches any of the provisions of this Agreement;
 - ii. A party lacks lawful funding, appropriations, limitations, or other expenditure authority at levels sufficient to allow either party to perform in accordance with the provisions of this Agreement; or

- iii. Federal, state, or local laws, regulations, or guidelines are modified or interpreted in such a way that either the services under this Agreement are thereafter prohibited.
- c. **Force Majeure.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God, and/or war, which is beyond the party's reasonable control. The affected party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Agreement. Either party may terminate this Agreement upon written notice after determining such delay or default will reasonably prevent successful performance of this Agreement.
14. **Waiver.** The failure of either party to enforce any provision of this agreement shall not constitute a waiver by that party of that or any other provision of this agreement, or the waiver by that party of the ability to enforce that or any other provision in the event of any subsequent breach.
15. **Records Maintenance; Access.** Both parties shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, both parties shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Contractor's performance hereunder. Parties acknowledge and agrees that LINN, the Oregon Secretary of State's Office, the Federal Government and their duly authorized representatives shall have access to such fiscal records and all other documents that are pertinent to this Agreement for the purpose of performing audits and examinations and making copies, transcripts and excerpts. All such fiscal records and documents shall be retained by parties for a minimum of ten (10) years (except as required longer by law) following final payment and termination of this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.
16. **Assignment; Delegation; Successors.** Neither party shall assign, delegate, nor transfer any of its rights or obligations under this Agreement without the other party's prior written consent. A party's written consent does not relieve the other party of any obligations under this Agreement, and any assignee, transferee, or delegate is considered the agent of that party. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and assigns.
17. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court or tribunal of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision, and the obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
18. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. No waiver, consent, modification or change of terms or provisions of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.
19. **Governing Law, Jurisdiction, Venue, & Attorney Fees.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws rules or doctrines. Any claim, action, suit, or proceeding (collectively, "the claim") between LINN (and/or any other agency or department of LINN) and CLACKAMAS that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of LINN for the State of Oregon. Provided, however, if the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Each party hereby consents to the in personam

jurisdiction of said courts. Each party shall at all times be responsible for the party's attorney fees, costs, and disbursements in regards to the claim, including any appeals.

20. **NO ATTORNEYS Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

21. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, addressed to the parties at the addresses first set forth below. Any notice or other communication shall be deemed to be given at the expiration of forty-eight (48) hours after the deposit in the United States mail. The addresses to which notices or other communications shall be mailed may be changed from time to time by giving written notice to the other party as provided in this section.

a. **LINN Contact Information**

Torri Lynn
Linn County Juvenile Department Director
P.O. Box 100
Albany, OR 97321
(541) 967-3853
tlynn@co.linn.or.us

b. **CLACKAMAS Contact Information**

Christina L. McMahan, Director
2121 Kaen Road
Oregon City, OR 97045
(503) 655-8342 Ex: 3171
cmcmahan@co.clackamas.or.us

22. **Survival.** All rights and obligations shall cease upon termination of this agreement, except for those rights and obligations that by their nature or express terms survive termination of this agreement. Termination shall not prejudice any rights or obligations accrued to the parties prior to termination.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the duly authorized persons whose signature appear below. Each party, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Each person signing this agreement represents and warrants to have the authority to execute this Agreement.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chairman

Paul Savas, Commissioner

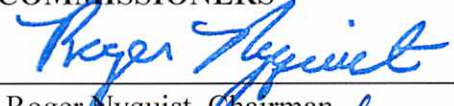
Martha Schrader, Commissioner

Mark Shull, Commissioner

Ben West, Commissioner

Date

LINN COUNTY BOARD OF COMMISSIONERS



Roger Nyquist, Chairman



Sherrie Sprenger, Commissioner

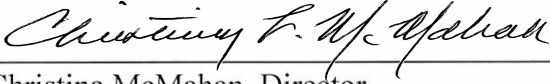


William C. Tucker, Commissioner

7-30-2024

Date

APPROVED AS TO CONTENT:



Christina McMahan, Director
Clackamas County Juvenile Department

APPROVED AS TO CONTENT:



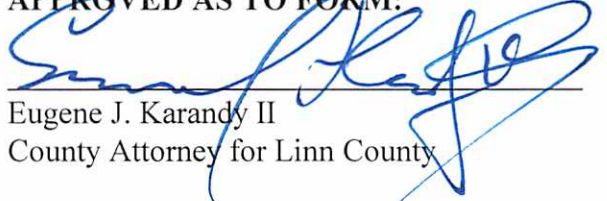
Torri Lynn, Director
Linn County Juvenile Department

APPROVED AS TO FORM:



Clackamas County Counsel

APPROVED AS TO FORM:



Eugene J. Karandy II
County Attorney for Linn County