RESOLUTION APPROVING AND AUTHORIZING CHAIR TO SIGN INTERLOCAL AGREEMENT
WITH RICHARDSON COUNTY NEBRASKA FOR THE SAFEKEEPING OF INMATES

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers;

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 the powers of the County as a body are exercised by the County Board; and

WHEREAS, an Interlocal Agreement has been proposed between Sarpy County and Richardson County for the safekeeping of Sarpy County inmates, a copy of which is attached hereto; and

WHEREAS, said agreement is in the best interests of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS the above-reference Interlocal Agreement with Richardson County, Nebraska are hereby approved and the Chair is authorized to sign each agreement on behalf of the Board, along with any other related documents, the same being approved by the Board.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 10th day of August, 2016.
MEMO

To: Sarpy County Board of Commissioners

From: Beth Garber

Re: Richardson County Safekeeper Agreement

From time to time Sarpy County has a need to house inmates at other facilities. The attached Interlocal Agreement with Richardson County for a rate of $55 per day per inmate for each day the inmate(s) are housed at Richardson County. This rate is comparable to other Interlocal Agreements for housing inmates.

Please feel free to contact me with any questions.

August 10, 2016

Beth Garber

cc: Deb Houghtaling
    Mark Wayne
    Scott Bovick
    Brian Hanson
    Capt. Shukis
    Mike Jones
This Agreement is entered into by and between Richardson County, Nebraska, on behalf of the Sheriff’s Office (hereinafter “Richardson”) and Sarpy County Law Enforcement Center (hereinafter “Sarpy”) for the safekeeping of inmates (hereinafter “Safekeeper” or “Sarpy inmate” or “inmate”).

WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. §§13-801 et seq. provides that two or more public agencies may enter into an agreement to cooperate on a basis of mutual advantage and thereby provide services that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, Sarpy desires to contract with RICHARDSON to receive and house inmate(s) at RICHARDSON who are held under Sarpy’s lawful authority; and

WHEREAS, Sarpy warrants that it has lawful custody of Safekeepers and that each Safekeeper is an adult is either lawfully in the custody of Sarpy either pending resolution of a criminal accusation or following conviction of a criminal charge; or who has a previous conviction for a sex offense listed in Nebraska Revised Statute Sec. 29-4003 and is pending proceedings before a county mental health board.

WHEREAS, Richardson will, from time to time, provide the custody and maintenance for Safekeepers at the request of Sarpy.

WHEREAS, Richardson is willing to perform this service for Sarpy under certain terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Inmate Housing. Richardson shall receive and house Sarpy inmates from time to time at the request of Sarpy. Sarpy shall be responsible for transportation to and from Richardson and Sarpy. Richardson will assume the safekeeping, care, and sustenance of those inmates who are held under Sarpy’s lawful authority. Said safekeeping, care, and sustenance shall include food, clothing, shelter, programs and services, recreation, inmate visitation, and necessary staff support and onsite medical, mental health and dental care as described herein. Any other services performed or operated by Richardson are not covered by this Agreement.
2. **Consideration.** In consideration of the safekeeping, care and sustenance provided by Richardson, Sarpy shall pay Richardson per inmate for each day that the inmate(s) are housed by Richardson. In regard to billing procedures, the parties agree to the following provisions:

   A. Sarpy Agrees to pay Richardson the sum of $55.00 per day per inmate for each day that the inmate(s) are housed by Richardson. Any and all reimbursement received by Richardson from the State of Nebraska to cover the cost of housing Sarpy inmate(s) shall be credited against the amount which Sarpy owes to Richardson per inmate(s) per day.

   B. Billing shall be on a full-day basis and shall start upon the inmate’s arrival at Richardson and end upon the inmate’s release from Richardson. Richardson shall bill Sarpy for the day of arrival but not for the day the inmate was released from Richardson. If the inmate arrives and is released from Richardson on the same calendar day, Richardson shall bill Sarpy for one full day.

   C. On the first day of each month, Richardson shall prepare and send to Sarpy an itemized statement listing housing costs for all inmates detained in Richardson custody during the previous month. Such statements shall include: the name and date of birth of each inmate, the dates and times of admittance and discharge, length of stay, the total amount due for each inmate.

   D. Sarpy shall pay all charges within 45 days from the date of which the statement is received.

   E. Richardson shall maintain a current list of inmates housed for Sarpy.

3. **Services to be Provided by Richardson.** Richardson shall:

   A. Manage the Detention facility in accordance with such rules as may be adopted from time to time by the Nebraska Jail Standards or American Corrections Association Standards for Adult Correctional Facilities.

   B. Maintain inmate records in accordance with such rules as may be adopted from time to time by the Nebraska Jail Standards or American Corrections Association Standards for Adult Correctional Facilities.

   C. Maintain the Detention Center in a clean and sanitary condition. Sarpy inmate(s) housed at Richardson shall not be subject to corporal punishment, cruel or inhumane treatment, or abuse. No inmates shall be discriminated against because of race, color, disability, religion, sex, age, or national origin, in any
manner relating to his or her custody.

D. Permit proper Sarpy law enforcement officials to meet and confer with all Sarpy inmate(s) in Richardson custody.

4. Medical and Dental Services and Expenses. The parties agree as follows:

A. Sarpy agrees to be responsible for the cost of any off-site medical services, unless such expenses directly arise from injuries that are caused by the acts or omissions of Richardson, its agents, employees, representatives, or other inmates housed at Richardson. Off-site medical services shall include but not be limited to any medical, mental health, dental or health care services that are not provided at Richardson. Off-site expenses shall include the cost of all prescriptions prescribed by a contracted physician, physician’s assistant or dentist.

B. The parties further agree that Sarpy will reimburse Richardson for off-site medical services, determined to be Sarpy’s responsibility pursuant to this section, at the same rate Richardson has contracted for with medical providers to pay for off-site medical services which are provided to Richardson inmates. Richardson shall send to Sarpy invoices for off-site medical expenses incurred for Sarpy inmates.

C. Richardson will notify Sarpy in writing prior to providing off-site medical treatment that would require an extended hospital stay more than two days or major surgery, except in the case of an emergency. If an emergency occurs and the inmate needs treatment, Sarpy will be notified of the situation and the costs incurred. The parties agree that Sarpy will reimburse Richardson, for emergency medical services determined to be Sarpy’s responsibility pursuant to this section, at the same rate Richardson has contracted for with medical providers to pay for emergency medical services which are provided to Richardson inmates.

D. With respect to off-site medical services, RICHARDSON does not assume any financial liability for these services. Payment for such services are the sole responsibility of Sarpy, except as provided herein.

1. Should there be any difference in the amounts demanded by a provider and Richardson’s contracted rate, such difference (overage) shall not be the responsibility of Richardson.

2. In addition to any other indemnification provisions herein, Sarpy agrees to hold harmless and indemnify and defend Richardson for any claims,
demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), relating to financial liability due for provision of off-site medical services with the exception of negligent or wrongful acts or omissions of Richardson. This release is to be broadly construed to this end.

E. Richardson agrees to be responsible for all on-site medical services. This includes medical, mental health or dental services provided at Richardson, including but not limited to any services provided by a physician, physician's assistant, nurse, practitioner, licensed practical nurse, psychiatrist, licensed mental health practitioner, registered nurse, and/or dentist who is employed by or contracted with Richardson to provide such services. Richardson also agrees to provide at its cost all prescriptions prescribed by its contracted physician, physician's assistant or dentist. The community standard of health care will be provided to the Safekeeper.

F. In the event Richardson determines that a Sarpy inmate poses a danger to him/herself or others because of a mental illness, or is gravely disabled by reason of mental illness, and cannot be stabilized using all voluntary treatment options including medication under the Correctional Health Care Act, Sarpy agrees that it will seek a court order allowing Richardson to provide psychiatric treatment for the Sarpy inmate over his or her objections, if necessary, to provide the community standard of health care.

5. Miscellaneous Provisions. The parties further agree as follows:

A. Richardson reserves the right to request the removal of any inmate, in its sole discretion that it determines to have a communicable disease, to be mentally ill, to have a serious medical condition, be dangerous to themselves or others, or who violate serious Richardson rules of conduct of the facility. Sarpy agrees to remove any such inmate within 24 hours of the request for removal.

B. Richardson will accept and store the inmate's personal property that the inmate is not allowed to possess within the facility.

C. Sarpy will notify Richardson within 24 hours of a court decision wherein a Sarpy inmate is acquitted of criminal charges, ordered released from custody, or convicted and sentenced on a criminal charge.

6. Term and Termination. This Agreement shall be in full force and effect for the term of one (1) year from the date hereof, unless terminated by a Party as provided herein. After the expiration of the initial term, this Agreement shall automatically renew and continue in full force and effect annually on a year-to-year, twelve (12) month basis
until terminated herein. Either Party may terminate this Agreement at any time for any reason upon sixty (60) days written notice to the other Party of its intention to terminate this Agreement. If either Party defaults in the performance of this Agreement, the other Party will give to the defaulting Party a written and detailed notice of the default. The defaulting Party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the defaulting Party fails to provide or implement the cure plan, then the injured Party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting Party.

7. **Hold Harmless.** Each party agrees to hold harmless and indemnify to the fullest extent allowed by law, the other party and its principals, officers, and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys’ fees), arising out of or resulting from the acts or omissions of their principals, officers, or employees in the performance of this Agreement. Liability includes any claims, damages, losses, and expenses arising out of or resulting from performance of this Agreement that results in any claim for damage whatsoever including any bodily injury, civil rights liability, or damage to or destruction of tangible property. Each party shall cooperate with the other party in its defense or settlement negotiation of any claim, demand or suit. Further, each party shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this Agreement shall require either party to indemnify or hold harmless the other party from liability for the negligent or wrongful acts or omissions of said other party or its principals, officers, or employees.

8. **Independent Contractor.** It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the Parties. Any and all acts that either Party or their personnel, employees, agents, contractors, or servants, perform pursuant to the terms of this Agreement shall be undertaken as independent contractors and not as employees of the other. The Parties shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of the other. An employee or agent of one shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. None of the Parties nor its personnel, employees, agents, contractors, or servants shall be entitled to any benefits of the other. The Parties shall not provide any insurance coverage to the other or their employees including, but not limited to, workers’ compensation insurance. Each Party shall pay all wages, salaries and other amounts due its employees and shall be responsible for all reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers’ compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any
other such similar matters. Any and all claims that may or might arise under the Workers' Compensation Act of the State of Nebraska on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment, including without limitation claims of discrimination against a Party its officers, employees, agents, contractors or servants shall in no way be the responsibility of the other Party. Neither Party shall have any authority to bind the other by or with any contract or agreement, nor to impose any liability upon the other. All acts and contracts of each shall be in its own name and not in the name of the other, unless otherwise provided herein.

9. **Assignment.** Neither Party shall assign its duties and responsibilities under this Agreement without the express written permission of the other party to this Agreement.

10. **Severability.** If any portion of this Agreement is held invalid, that provision shall be severed and the remainder hereof shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

11. **Waiver.** Failure or delay by any party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. In order to be effective, all waivers must be in writing and signed by the waiving party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power. In addition, any act by a party which it is not obligated to do hereunder shall not be deemed to impose any obligation upon that party to do any similar act in the future or in any way change or alter any of the provisions of this Agreement.

12. **Law and Venue.** This Agreement shall be subject to, and construed under, the laws of the State of Nebraska. Parties shall bring any and all legal proceedings arising hereunder in the State of Nebraska in the District Court of Richardson County or for any federal action, in the United States District Court for the State of Nebraska located in Omaha, Nebraska.

13. **Notice.** In further consideration of the mutual covenants herein contained, the parties hereto expressly agree that for purposes of notice, during the term of this Agreement and for the period of any applicable statute of limitations thereafter, the following named individuals shall be the authorized representatives of the Parties:

For Richardson:
Richardson County Clerk
Courthouse, Room 203
1700 Stone Street
Falls City, NE 68355

For Sarpy:
Sarpy County Clerk's Office
1210 Golden Gate Drive
Papillion, NE 68046
Notice shall be in writing and shall be effective upon receipt. Delivery may be by hand, in which case a signed receipt shall be obtained or by the United States Postal Service, registered or certified, return receipt requested.

14. **Dispute Resolution.** Prior to filing any litigation, the parties agree to use informal means to attempt to resolve any disputes. Parties will contact the designees in this Agreement for a face to face meeting to resolve any disputes/conflicts. These conflict resolution provisions are not intended to extend or toll any applicable statute of limitations.

15. **Non-Discrimination.** Both Parties agree that in accordance with the Nebraska Fair Employment Practice Act, Neb.Rev.Stat. §48-1122, they, or any of their subcontractors, will not discriminate against any employee, or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment because of the race, color, religion, sex, disability, or national origin of the employee or applicant. Neither party shall, in the performance of this Agreement, discriminate or permit discrimination in violation of federal or state laws or local ordinances.

16. **Force Majeure.** Except as may be otherwise specifically provided in this Agreement, neither party shall be in default under this Agreement if and to the extent that any failure or delay in such party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; war or civil disorder; or any other cause beyond the reasonable control of such party. The party claiming relief under this section shall promptly notify the other in writing of the existence of the event relied on and the cessation or termination of said event.

17. **Entire Agreement.** This Agreement contains the entire agreement of the Parties. No representations were made or relied upon by either Party other than those that are expressly set forth herein. No agent, employee or other representative of either Party is empowered to alter any of the terms hereof except as provided herein.

18. **Amendments.** This Agreement may be modified only by written amendment, duly executed by authorized officials of the Parties. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Every amendment shall specify the date on which its provisions shall be effective.

19. **New Employee Work Eligibility Status.** (Neb. Rev. Stat. § 4-114). Both Parties are required and hereby agree to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services...
within Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

20. No Additional Entity Created. This Agreement does not create a separate legal entity under the Interlocal Cooperation Act. For purposes of that Act, this Agreement shall be administered jointly by the Parties, in the event of a conflict, the decision of the County providing the service shall govern. This Agreement does not contemplate acquiring, holding or disposing of joint property nor does it contemplate the levying or collecting of any tax.

21. Insurance. At all times when housing inmate(s) pursuant to this Agreement, each Party shall have in full force and effect a policy of insurance to cover any omission, commission, failure to act, negligence, civil rights violation and any and all other damages and loss for any cause of action which may accrue to inmate(s) while housed pursuant to the terms of this Agreement.

22. Conflict of Interest. In the performance of this Agreement, both Parties will avoid all conflicts of interests or appearances of conflict of interest. Parties will report any conflict of interest immediately to the other. Both Parties assure that no employee of the other will have a financial or personal interest in this Agreement. Parties did not and will not provide any money or other benefit of any kind to any employee of the other in the procuring of, facilitation of, execution of or during the duration of this Agreement.

23. PREA. Sarpy shall adopt and comply with Prison Rape Elimination Act (PREA) standards per United States Department of Justice 28 C.F.R. Part 115 § 115.12. Richardson shall provide monitoring to ensure that Sarpy is complying with PREA Standards.
IN WITNESS WHEREOF, the Parties have executed this Agreement, each duly authorized to do so, effective on the date of signature.

Sarpy County Board of Commissioners

Don Kelly, Chair

Date

Richardson County Board of Commissioners

Chairman

Date

Approved as to Form

Deputy Sarpy County Attorney

Approved as to Form

Deputy Richardson County Attorney