



City Council Meeting - Final

August 07, 2023
7:00 PM

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- L. AGR2023-033** Authorization to enter into an Intergovernmental Agreement for a period of 5 years from July 1, 2023 through December 31, 2028 between the City of Sandy Springs, Georgia and the City of Smyrna, Georgia for the Housing of Prison Inmates at a per diem rate of \$70.00 per 24 hour period for each inmate housed in the Smyrna Detention Center and authorize the Mayor to sign and execute all related documents.



City of Smyrna

Issue Sheet

A Max Bacon
City Hall
2800 King Street
Smyrna, GA 30080

File Number: AGR2023-033

Agenda Date: 08/07/2023

In Control: City Council

File Type: Agreement

Agenda Section:
Consent Agenda

Agenda Number: L.

Department: Police Department

Agenda Title:

Authorization to enter into an Intergovernmental Agreement from July 1, 2023 through December 31, 2028 between the City of Sandy Springs, Georgia and the City of Smyrna, Georgia for the Housing of Prison Inmates at a per diem rate of \$70.00 per 24 hour period for each inmate housed in the Smyrna Detention Center and authorize the Mayor to sign and execute all related documents.

Citywide

ISSUE AND BACKGROUND:

The City of Sandy Springs, Georgia has requested the City of Smyrna, Georgia begin housing Sandy Springs prison inmates and bonding Sandy Springs inmates on July 1, 2023 and continuing until December 31, 2028 unless the agreement is terminated by means stated in the Intergovernmental Agreement. The City of Sandy Springs has agreed to pay the City of Smyrna the per diem rate of \$ 70.00 per 24 hour period an Sandy Springs prisoner is housed at the City of Smyrna jail. Said amount includes the bonding of Sandy Springs prisoners by employees of the Smyrna Jail by procedures that are mutually agreeable to both parties.

An Intergovernmental Agreement was drafted which delineated the performance of such functions as well as the per diem rate for housing and bonding.

RECOMMENDATION / REQUESTED ACTION:

Police Department staff recommend Authorization to enter into an Intergovernmental Agreement from July 1, 2023 through December 31, 2028 between the City of Sandy Springs, Georgia and the City of Smyrna, Georgia for the Housing of Prison Inmates at a per diem rate of \$70.00 per 24 hour period for each inmate housed in the Smyrna Detention Center and authorize the Mayor to sign and execute all related documents.

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SANDY SPRINGS,
GEORGIA AND THE CITY OF SMYRNA, GEORGIA FOR THE HOUSING OF INMATES**

This intergovernmental Agreement is entered into this ____ day of _____, 20____, by and between the City of Sandy Springs, Georgia ("Sandy Springs") and the City of Smyrna, Georgia ("Smyrna").

WHEREAS, Smyrna, through its Police Department, provides a jail facility for the housing of inmates; and

WHEREAS, City of Sandy Springs desires to house certain of its inmates in the Smyrna City Jail facility; and

WHEREAS, Smyrna is willing to house Sandy Springs inmates subject to the terms and conditions of this Agreement; and

WHEREAS, pursuant to Article 9, Section 3, Paragraph 1 of the Constitution of the State of Georgia, City of Smyrna and City of Sandy Springs are authorized to enter into this intergovernmental agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the parties agree as follows:

SECTION 1

DEFINITION OF "CITY PRISONER"

"City Prisoner" shall mean a person held in the Smyrna City Jail when the exclusive basis for confinement is the violation of Sandy Springs municipal code, or pursuant to a warrant, commitment, or order of the Sandy Springs Municipal Court or following the arrest by a Sandy Springs police officer for any reason including the violations of state law and municipal violations. Persons arrested by Sandy Springs police officers and housed in the Smyrna City Jail awaiting pick up by a third party will be charged the agreed upon per diem during the stay of the prisoner.

SECTION 2

SUPERVISION OF CITY PRISONERS

Upon the request of Sandy Springs, the Smyrna Police Department agrees to house Sandy Springs prisoners at the Smyrna City Jail.

A. **Smyrna's Responsibilities** shall include the following:

- a. During incarceration at the Smyrna City Jail, Smyrna shall confine Sandy Springs Prisoners in the same manner and to the same extent as similarly situated Smyrna prisoners, including the basic subsistence services and access to medical services.

- b. Book in, processing, clothing, fingerprinting, and mug shots.
- c. Provide access to Smyrna's Intoxilyzer 9000 or such replacement devices as may be provided by Smyrna regarding persons suspected of driving under the influence of intoxicating beverages.
- d. Availability of City Prisoners for Sandy Springs Municipal Court, subject to appropriate notice from the City and/ or Sandy Springs Police Staff for regularly scheduled weekly court during the Term. Provided that Sandy Springs provides an agency transport for pick up and standby, Smyrna shall provide the City of Sandy Springs Municipal Court in person access and/ or virtual access using Smyrna City Jail virtual court technology and/ or physical facilities.
- e. Should any Emergency Medical Services be required, Smyrna shall cause a police officer to accompany the City Prisoner to an appropriate emergency medical facility for up to 2 hours. After the initial 2 hours, Sandy Springs shall be responsible for providing supervision of the City Prisoner.
- f. Smyrna shall provide Sandy Springs notice as soon as reasonably practicable of the transfer of a City Prisoner for Emergency Medical Services.
- g. Smyrna shall provide notice to Sandy Springs when the jail reaches 90% capacity to ensure that Sandy Springs can plan for alternative sources of jail housing or arrange for early release of currently housed inmates.

B. Sandy Springs Responsibilities. In addition to other responsibilities contained in this Agreement, Sandy Springs's obligations relative to Smyrna's supervision of City Prisoners include:

- a. **Individuals Eligible to be a City Prisoner.** Sandy Springs shall only present individuals having been properly arrested by the Sandy Springs Police Department under the authority of law. Such individuals shall not need medical attention or mental health attention/ mental crisis intervention at the time they are presented to be a City Prisoner subject to the terms of this Agreement. Any prisoner requiring medical attention prior to admission to the facility will be accepted once appropriate medical attention has been provided and appropriate documents of medical attention have been submitted. Smyrna City Jail maintains the right to refuse prisoners needing medical care that can not be provided by our facility.
- b. **Transport of Sandy Springs Prisoners.** Sandy Springs shall be responsible for all transport of Sandy Springs Prisoners other than Emergency Medical Services exceeding 2 hours. Sandy Springs' responsibilities include, but are not limited to, transport to court and to outside medical services.
- c. **Supervision of City Prisoners.** Sandy Springs shall be responsible for supervision of Sandy Springs prisoners receiving Outside Medical Services, Emergency Medical Services (2) hours after notification and Municipal Court access to Sandy

Springs Prisoners. In the case of Emergency Medical Services, Sandy Springs is responsible for supervision as soon as practicable after receiving notice, but in no case more than two (2) hour after notice.

- d. **Appropriate notice.** Sandy Springs shall provide the Smyrna City Jail with appropriate advance notice of Sandy Springs Prisoner hearings and release dates.
- e. **Municipal Court Hearings.** The Sandy Springs Municipal Court shall ensure that First Appearance hearings, Bond hearings, Probation Revocation hearings and other essential court related hearings for Sandy Springs Prisoners shall be provided according to state and federal law.
- f. **Bonding.** Sandy Springs would be responsible for conducting their own bonding. Bonds/ Releases will be emailed to Smyrna. Completed/ signed bonds would be picked up by Sandy Springs as needed.
- g. **Medical bills/ payments.** Sandy Springs would be responsible for all bills incurred through emergency medical transport of a Sandy Springs inmate for emergency medical treatment or outside non-emergency medical treatment. Medical bills would not be a "pass through". Sandy Springs would be "directly billed" by the medical provider for any medical services rendered on behalf of their prisoner. Sandy Springs will be responsible for any medical bills originating from the lawful use of force against a Sandy Springs prisoner while incarcerated in the Smyrna City Jail as well as any medical bills originating because of the prisoner's stay in the Smyrna City Jail.

C. **Services Not Included in this Agreement.** Sandy Springs acknowledges and agrees that this Agreement does not include:

- a. **No City Arrestees in Need of Medical Attention.** Smyrna will not accept individuals for purposes of housing or supervision that are initially presented by Sandy Springs who need medical attention.
- b. **Limited Transportation.** Smyrna will not transport Sandy Springs prisoners other than transport for Emergency Medical Services. Sandy Springs is responsible for transporting Sandy Springs Prisoners to in-person court appearance and outside medical services. Additionally, Sandy Springs is responsible for transporting Sandy Springs prisoners from Emergency Medical Services back to the Smyrna City Jail.
- c. **Supervision during outside medical services, emergency medical services and personal matters.** Except as otherwise provided in this agreement Smyrna will not provide supervision of Sandy Springs prisoners at outside medical facilities or while attending any approved personal matters such as funerals.
 - i. **Outside Medical Services.** No supervision will be provided by Smyrna for Sandy Springs prisoners receiving outside medical services.
 - ii. **Emergency Medical Services.** Noted in above Section 2Ae.

- iii. **Personal Matters.** No supervision will be provided by Smyrna for Sandy Springs prisoner personal matters.

SECTION 3

TERM OF AGREEMENT

- A. **Effective Date.** The Effective Date of this Agreement shall be _____.
- B. **Term.** The initial term of this Agreement shall be a period of _____ years, ("Initial Term"), unless sooner terminated under the provisions set forth in Section 10 of this Agreement. If this Agreement is terminated by Smyrna for convenience or not extended by Smyrna at the conclusion of the contract term, Smyrna shall at Sandy Springs' election continue to house Sandy Springs prisoners for an additional 90 days for Sandy Springs to make other provisions for housing its inmates, during which time all terms of this Agreement shall remain in effect.

SECTION 4

STATEMENT OF INTENT

The intent of this Agreement is that Smyrna shall board Sandy Springs prisoners at the Smyrna City Jail facility, but that such operation and boarding shall not result in added cost to Smyrna. All interpretations of this Agreement shall be construed considering this statement of intent.

SECTION 5

COMPENSATION

Smyrna shall be entitled to payment of a per diem per Sandy Springs prisoner supervised by Smyrna to cover the costs to Smyrna for boarding, basic services, and In-House Medical Services.

- A. **Calculation of per diem rate.** Said per diem rate shall be determined and agreed upon by Smyrna and Sandy Springs. The per diem rate for each year shall be established on January 1st. This per diem rate shall be instituted as the next twelve (12) months per diem rate which shall be charged to Sandy Springs.
- B. **Initial per diem.** The per diem rate per Sandy Springs prisoner at the commencement of this contract will be \$70.00.
- C. **Per diem period.** For per diem calculations, Sandy Springs will pay for each part of each day beginning with the day that Sandy Springs' prisoner is accepted by Smyrna and concluding on the date of release of the Sandy Springs prisoner.

SECTION 6

PROVISIONS FOR EMERGENCY MEDICAL SERVICES OUTSIDE PRIMARY APPROVED FACILITY

In the case of an emergency requiring immediate medical care outside the Smyrna City Jail, Smyrna may approve the third-party medical provider's order to transfer a Sandy Springs prisoner under guard to a specialized medical center without obtaining the permission or order of Sandy Springs for Emergency Medical Services

SECTION 7

RESPONSIBILITY FOR TIMELY RELEASE OF PRISONERS

Sandy Springs shall be responsible for coordinating with Smyrna the release time and date of each Sandy Springs prisoner. To avoid misunderstanding or unclear directions, Sandy Springs shall provide a release date, immediately upon sentencing prisoner via email.

If a Sandy Springs prisoner alleges he or she is unlawfully detained at the Smyrna City Jail, Sandy Springs agrees to provide a defense of Smyrna, including retaining counsel acceptable to Smyrna, to such allegations, including but not limited to any petitions for writ of habeas corpus.

SECTION 8

SMYRNA'S PROCEDURES, RULES AND REGULATIONS

Sandy Springs prisoners shall be subject to Smyrna's procedures, rules, and regulations in the same manner and to the same extent as Smyrna prisoners and shall be subject to Smyrna's disciplinary processes and procedures.

- A. Holds for outside agencies.** Sandy Springs shall continue to be responsible for per diem and medical care of prisoners with outside agency holds until said agency takes possession of the prisoner. In lieu of this, Sandy Springs may transport the prisoner to the county jail upon release from Sandy Springs custody.
- B. Fugitive Warrants.** Sandy Springs is responsible for securing extradition warrants for Sandy Springs prisoners and transferring said prisoner to County Jail.

SECTION 9

ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties relating to the subject matter. All prior negotiations and understandings are merged in this Agreement. Modifications or amendments of this Agreement shall be made only in writing and signed by the parties. No modifications or amendments of this Agreement shall be valid until executed in writing by all parties.

SECTION 10

TERMINATION

This Agreement may terminate, in whole or in part, upon any one of the following conditions:

- A. **Mutual Agreement.** The parties may terminate this Agreement at any time by mutual written notice.
- B. **For Cause.** Any party may terminate this Agreement for cause upon thirty (30) days prior written notice to the other party for failure to perform the terms of the Agreement.
- C. **For Convenience.** Any party may terminate this Agreement for its convenience at any time upon sixty (60) days prior notice to the other party.
- D. **For Suspension of Smyrna City Jail Facility Operation.** Should Smyrna cease operation of the Smyrna City Jail for any reason, a (90) day notice shall be given, the Agreement shall, at the option of Smyrna, become void.
- E. **Upon Conclusion of Agreement.** At the conclusion of the Initial Term or any Renewal Terms agreed to by the Parties, this Agreement shall be terminated unless a new contract is entered.

SECTION 11

INDEMNIFICATION

Each party shall defend, indemnify, and hold harmless the other, its officials, officers, employees, and agents from any and all injuries, claims, damages, liabilities, costs and expenses caused by, relating to or based upon the housing of Sandy Springs inmates, for claims arising out of an allegation of negligence or other wrongdoing by the other party. Nothing in this paragraph shall be construed a waiver of Sandy Springs or Smyrna's sovereign immunity of any individual's qualified good faith immunity, and this Agreement shall not be construed to create rights in any third party.

SECTION 12

MISCELLANEOUS

- A. **Governing Law, Jurisdiction.** This Agreement and the rights and obligations of the parties hereto (including third party beneficiaries) shall be governed, construed, and interpreted according to the laws of the State of Georgia. The parties hereby submit to the exclusive jurisdiction of the Superior Court of Cobb County, Georgia for the purposes of all legal proceedings arising out of or relating to this Agreement, and the parties irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any such proceeding which is brought in such a court.
- B. **Severability.** If any provision of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable under any particular circumstances because it conflicts with any provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of

rendering the provision in question inoperative or unenforceable in any other circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement.

- C. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original, and all of which constitute but one and the same instrument.
- D. **Amendments in Writing.** No waiver, amendment, release, or modification of this Agreement shall be established by conduct, custom, or course of dealing, but solely by a document in writing duly executed and delivered by Sandy Springs or Smyrna.
- E. **Notices.** Except as otherwise specifically provided herein, all notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified mail, return receipt requested, postage prepaid or when personally delivered or when sent by registered overnight mail or delivery service charges prepaid, or when so specified herein by Electronic Means, to the Parties hereto at the following addresses or such other address designated by such Party in writing:

Contract City:

City of Sandy Springs

1 Galambos Way

Sandy Springs, GA 30328

Attention: Chief Ken DeSimone

Telephone: 770.551.3293

Email: kdesimone@sandyspringsga.gov

Notification of Emergency Medical Services: 404.242.1192

Chief of Police or Designee:

Captain Andrew Spears

City of Smyrna

2800 King Street SE

Smyrna, GA 30080

Attention: _____

Telephone: _____

Email: _____

F. Headings. All headings herein are intended for convenience and ease of reference purposes only and in no way define, limit, or describe the scope or intent thereof, or of this Agreement, or in any way affect this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by Smyrna and a duly authorized representative of the city of Sandy Springs as of this date set forth above.

BY: CITY OF SMYRNA

Derek Norton
Mayor

Scott Cochran
City Attorney

BY: CITY OF SANDY SPRINGS

Russell K. Paul
Mayor

Daniel W. Lee
City Attorney

