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**Title:** Approve a three -year agreement, with an option to extend for two additional years, with the County of Fresno to reserve five bed spaces in the Fresno County Jail for the purpose of housing Fresno Police Department Arrestees, at a rate of \$650.00 per day for years one through three and \$670.00 per day for years four and five, for a total amount not to exceed \$1,161,200 (Years 1 - 5).

**Sponsors:** Police Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agreement with Exhibit "A", 2. Exhibit "B" - 1994 Fed Court Order Cruz vs Fresno County, 3. Exhibit "C" - Fresno County Sheriff's Office Jail Division Policies and Procedures, No. D-238

Date	Ver.	Action By	Action	Result
12/9/2021	1	City Council	approved	Pass

**REPORT TO THE CITY COUNCIL**

**December 9, 2021**

**FROM:** PACO BALDERRAMA, Chief of Police  
Police Department

**BY:** MICHAEL S. REID, Deputy Police Chief  
Police Department

**SUBJECT**

Approve a three -year agreement, with an option to extend for two additional years, with the County of Fresno to reserve five bed spaces in the Fresno County Jail for the purpose of housing Fresno Police Department Arrestees, at a rate of \$650.00 per day for years one through three and \$670.00 per day for years four and five, for a total amount not to exceed \$1,161,200 (Years 1 - 5).

**RECOMMENDATION**

Staff recommends that Council approve a three-year agreement with the County of Fresno, with an option to extend for two additional years, to reserve five bed spaces in the Fresno County Jail (FCJ) for the purposes of housing Fresno Police Department (FPD) arrestees at a rate of \$650.00 per day for years one through three and \$670.00 per day for years four and five, and authorize the Chief of Police, or his designee, to execute the agreement, for a total amount not to exceed \$1,161,200

(Years 1 - 5) (**Exhibit A**).

## **EXECUTIVE SUMMARY**

Overcrowding releases from the FCJ continue for a multitude of reasons. As a means of finding a solution to keep Fresno Police Department arrestees in custody at FCJ, the Chief of Police and County Sheriff developed a written agreement in 2013 to reserve five beds at FCJ for City of Fresno arrestees at a cost of \$520 per day. This agreement has served our community well as it guarantees five beds are reserved in FCJ for our repeat offenders who commit crimes while they are out of custody. This results in a safer community for our residents. This is the first cost increase since inception of the program and is due to rising cost recovery cost for the County. This item was previously heard by council and adopted at the April 28<sup>th</sup> meeting. The contract was not executed with the Sheriff's Department as they were reassessing costs for their Master Fee Schedule, which was adopted effective September 1, 2021.

## **BACKGROUND**

Since the mid-1990s reductions in jail bed capacity at FCJ have occurred. The factors, as discussed below, operate to significantly limit the number of beds available for arrestees to remain in custody as they move through the criminal justice system in Fresno County. The inability to keep prisoners in custody due to overcrowding at FCJ allows for those individuals to continue committing crimes and puts our community at increased risk of being victimized by these criminals.

The factors that have created this condition at FCJ include a 1994 Federal Consent Decree as a result of the federal lawsuit, Cruz vs. County of Fresno (**Exhibit B**). The Decree mandated that the County release inmates from FCJ whenever it reached 100% of its operating capacity to relieve overcrowding conditions that presented a harm to inmates at the facility. The Decree also provided the County with the discretion to either release inmates or not accept new bookings into the jail whenever it attains 90% of capacity.

FCJ bed space was further reduced in 2008 as a result of County of Fresno budget constraints. Reductions in FCJ operating budgets closed 1,855 beds or 53% of their total jail bed capacity. Although three floors of the jail reopened in 2013, many beds remain closed including over 300 beds in the vacated Satellite Jail.

In 2011, AB 109 Realignment legislation further reduced available bed space at FCJ. Under a Federal Court ruling decided under the *Coleman-Plata* litigation, the California Department of Corrections and Rehabilitation <[http://en.wikipedia.org/wiki/California\\_Department\\_of\\_Corrections\\_and\\_Rehabilitation](http://en.wikipedia.org/wiki/California_Department_of_Corrections_and_Rehabilitation)> (CDCR) which operates the prison system in California was mandated to reduce overcrowding conditions in State prisons. To accomplish this, Governor Jerry Brown signed Assembly Bill 109, the Public Safety Realignment Act, into law on April 4, 2011. This Act will result in nearly 55,000 prisoners being realigned from state custody into county correctional/probation systems throughout the State.

AB 109 also provided funding to the counties to assist in this realignment transition. As a result, the County was able to reopen two floors of FCJ with State AB 109 funding. The County also utilized General Fund money to open a third floor of FCJ in 2013. Despite the reopening of FCJ bed space, prisoners continue to be released from FCJ due to overcrowding. During 2020 the COVID-19 pandemic exacerbated the issue by increasing the number of releases.

Due in part to the FCJ overcrowding releases, the City of Fresno has observed a 5.3% rise in its auto theft crime rate for 2020. These are the very criminals being released from custody at FCJ that continue to commit auto theft and other crimes. This agreement would allow the Fresno Police Department to hold identified repeat offenders in FCJ by reserving bed space for our most prolific criminals. Under this agreement and with Council approval, the City would pay a daily rate of \$130.00 per bed for five beds to ensure that specified prisoners are not released from FCJ due to overcrowding. Additionally, the agreement requires the City to pay for security for inmates in the five beds that require off site medical attention. Under the terms of the agreement, the City would pay the current County's Master Schedule of Fees, Charges, and Recovered Costs, Section 2609, subdivision (c) for each security personnel to accompany the prisoner to the offsite medical facility if medical attention is necessary (**Exhibit C**). This cost cannot be quantified at this time but would be in addition to the bed costs as outlined previously.

These five beds guaranteed by the County would allow the City of Fresno to keep criminals that in past years have been rearrested multiple times, behind bars until they either make bail arrangements or are adjudicated in the criminal justice system.

## **ENVIRONMENTAL FINDINGS**

This is not a "project" for the purposes of CEQA, pursuant to CEQA Guidelines Section 15378.

## **LOCAL PREFERENCE**

Local preference is not applicable as this is an agreement with another governmental agency.

## **FISCAL IMPACT**

The cost per day to the City of Fresno would be \$650.00. As in each of the prior contracts, the City agrees to pay the daily rate under the agreement to the County regardless of the occupancy of those beds. The Police Department, as in past contracts, manages these bed spaces in a manner that ensures they remain occupied with the most serious and habitual criminals to keep Fresno as safe as possible. The Agreement is effective from September 1, 2021 and ends on June 30, 2024. The agreement will automatically be extended for two additional years, July 1, 2024 through June 30, 2026 upon the same terms unless written notice of non-renewal is given by either party no later than May 1, 2024, and May 1, 2025 respectively. If so, renewed the first time, the agreement will automatically renew a for an additional year option with same terms and conditions, ending on June 30, 2026. The cost to the City for FY 2021-22 would be \$196,950, FY 2022-23 through FY 2023-24 would be \$237,250 per year; and FY 2024-25 through FY 2025-26 would be \$244,550 per year **Exhibit A** for a total amount not to exceed \$1,161,200.

The Police Department will utilize appropriations in their existing operating budget designated for the required security with an additional appropriations request at mid-year for additional unanticipated costs.

### Attachments:

1. Agreement with Exhibit "A"
2. Exhibit "B" - 1994 Federal Court Order, Cruz vs Fresno County

3. Exhibit "C" - Fresno County Sheriff's Jail Division Policies and Procedures: Guarding Inmates at Off-Site Medical Facilities, No. D-238