

SHEBOYGAN COUNTY RESOLUTION NO. 15 (2012/13)

Re: **Approving Secure Juvenile Detention Services Agreement with Manitowoc County**

WHEREAS, the Sheboygan County Sheriff, in collaboration with the other partners in the juvenile justice system, has considered a variety of models to address the secure juvenile detention needs of Sheboygan County and has concluded that the current system of secure detention within Sheboygan County's facilities best serves those needs, and

WHEREAS, the Sheriff has further concluded that the County would be able to board additional juveniles from other counties without significantly increasing fixed costs for personnel and other expenses, and

WHEREAS, Sheboygan County and Manitowoc County governments have been negotiating the potential of boarding Manitowoc juveniles within the Sheboygan County Juvenile Detention Facility, and have come to an agreement which the Sheriff believes to be fair and equitable to both sides, which maintains a high quality of service to juveniles from both communities and which will yield taxpayer savings, and

WHEREAS, it is in the best interests of Sheboygan County to enter into such an agreement,

NOW, THEREFORE, BE IT RESOLVED that the Sheboygan County Sheriff and County Administrator are authorized and directed to execute on behalf of Sheboygan County the Secure Juvenile Detention Services Agreement, a copy of which is on file with the County Clerk, wherein Sheboygan County will agree to temporarily securely house juveniles from Manitowoc County, and they are further authorized to execute any amendments, which from time to time may be necessary, and to renew the Agreement at its expiration upon similar terms.

Respectfully submitted this 18th day of December, 2012.

LAW COMMITTEE

Thomas V. Epping
Thomas V. Epping, Chairperson

Mark S. Winkel
Mark S. Winkel, Secretary

Michael J. Vandersteen
Michael J. Vandersteen, Vice-Chairperson

Vernon Koch
Vernon Koch

Michael S. Ogea
Michael S. Ogea

Opposed to Introduction:

UNAPPROVED

SECURE JUVENILE DETENTION SERVICES AGREEMENT

This Secure Juvenile Detention Services Agreement (AGREEMENT) is made and entered into by and between SHEBOYGAN COUNTY (SHEBOYGAN) and MANITOWOC COUNTY (MANITOWOC) pursuant to Wis. Stat. §§ 66.0301 and 302.44,

WHEREAS, SHEBOYGAN has beds available in its Regional Juvenile Detention Facility for the temporary housing of juveniles; and

WHEREAS, MANITOWOC wishes to enter into an agreement to provide for the secure detention of juveniles from Manitowoc County in SHEBOYGAN's Regional Juvenile Detention Facility (FACILITY);

NOW, THEREFORE, in consideration of the premises set forth above and the mutual agreements and obligations set forth below, the parties agree as follows:

1. TERM AND TERMINATION. (a) The term of this AGREEMENT is for 3 years commencing at midnight at the start of the day on January 1, 2013 and ending at midnight at the end of the day on December 31, 2015, unless sooner terminated as herein provided in paragraph 1(b).

(b) Either party may terminate this AGREEMENT upon 120 days written notice to the other party.

2. JUVENILE DETENTION SERVICES. SHEBOYGAN agrees to make space in its FACILITY available to MANITOWOC on a space available basis and to provide juvenile detention services (SERVICES) at SHEBOYGAN's FACILITY on a space available basis, subject to the terms and conditions of this AGREEMENT.

3. COMPENSATION. (a) MANITOWOC agrees to pay SHEBOYGAN \$85 per day for each juvenile that it or any other Manitowoc County law enforcement agency places in the FACILITY. Except for health services charges under paragraph 6, the per diem rate is all-inclusive and is the total compensation that SHEBOYGAN is entitled to receive for its SERVICES. SHEBOYGAN will not charge MANITOWOC or any juvenile any other fee in connection with its SERVICES under this AGREEMENT. The per diem will start on the day that a juvenile enters the facility, regardless of the time of day that the juvenile enters the facility. No per diem will be charged for the day that the juvenile is released from the facility or discharged back to MANITOWOC.

(b) SHEBOYGAN will provide MANITOWOC with a bill for SERVICES provided for each calendar month within 7 days of the end of the month. The bill will indicate the total amount due and will include the following information for each juvenile:

- (1) name;
- (2) name of agency and person transporting juvenile to the FACILITY;
- (3) identification number assigned by MANITOWOC, if any;

- (4) arrival date;
- (5) discharge date;
- (6) name of agency and person to whom juvenile was released;
- (7) number of days in custody;
- (8) total per diem charges;
- (9) itemized medical and pharmaceutical charges under paragraph 6; and
- (10) total of per diem and itemized medical charges.

(c) MANITOWOC will pay any undisputed charges on the bill within 30 days of its receipt. In the event of a dispute over any bill, MANITOWOC will promptly notify SHEBOYGAN of the reason for the dispute and the parties agree to cooperate in promptly resolving the dispute.

(d) If the total per diem charges for a calendar year are less than \$40,000, SHEBOYGAN may add a surcharge to the last bill of the year. The surcharge will be determined by subtracting the per diem charges by SHEBOYGAN and any per diem charges by any other juvenile detention facility to provide secure detention for a juvenile that SHEBOYGAN did not accept because it lacked available space from \$40,000.

4. SHEBOYGAN RIGHTS AND RESPONSIBILITIES.

(a) SHEBOYGAN is responsible for confining juveniles received under this AGREEMENT in an appropriate secure setting with due regard to juvenile safety and security in compliance with all federal and state laws, regulations, and rules governing the operation of a juvenile detention facility.

(b) SHEBOYGAN agrees that it will provided the following for each juvenile received under this AGREEMENT:

- (1) Appropriate lodging, services, and programs.
- (2) Basic necessities, including not limited to, beds, clean bedding, personal hygiene items, toilet facilities, juvenile clothing (including underwear), recreation, visitation, library access, and such other services and programs as may be available.
- (3) Constant monitoring of facility premises to insure a safe, secure setting.
- (4) Access for all voluntary activities and programs.
- (5) Medical, dental, and psychiatric treatment, including all medications (as detailed in paragraph 6.

(c) SHEBOYGAN will inventory each juvenile's personal property upon receipt. Unauthorized or excess property will be properly stored at the FACILITY or mailed out, consistent with the facility rules, at SHEBOYGAN's expense.

(d) SHEBOYGAN will, subject to the limits of available space, provide space as needed to conduct any supplemental MANITOWOC programs.

(e) SHEBOYGAN agrees to cooperate with MANITOWOC as necessary for MANITOWOC to exercise its statutory reimbursement rights from the juvenile, the juveniles parent or parents, or both.

5. MANITOWOC RIGHTS AND RESPONSIBILITIES.

(a) **Right of Inspection.** MANITOWOC shall have the right to inspect the SHEBOYGAN County Regional Juvenile Detention Facility at all times in order to determine that appropriate standards of care and discipline are being met.

6. HEALTH SERVICES.

(a) Each juvenile will be provided such medical, psychiatric, and dental treatment as necessary to safeguard his or her physical and mental health. MANITOWOC juveniles will receive the same level of treatment as is provided to all other juveniles.

(b) Current National Commission on Correctional Health Standards (NCCHS) will be used as a reference for the treatment of juveniles, and SHEBOYGAN shall comply with all current federal and state constitutions, laws, rules, and rules applicable to the services provided under this agreement including, without limitation, those set forth in and pertaining to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(c) MANITOWOC is responsible for all health care and related costs, both at the FACILITY and off-site, with the exception of any services furnished by SHEBOYGAN's contracted health services provider.

(d) **Crisis Intervention.** Crises intervention services will, at SHEBOYGAN'S expense, be available in the facility 24 hours per day, 7 days per week.

(e) **Non-emergency Care.** Any treatment beyond that provided by SHEBOYGAN's contracted Health Services provider must be authorized in writing and in advance by MANITOWOC unless, in SHEBOYGAN's opinion, a bona fide emergency exists. Non-emergency treatment may, at MANITOWOC's option, be provided by someone other than SHEBOYGAN's contracted health services provider, in which case, MANITOWOC will be responsible for the transportation, custody, and security of the juvenile.

(f) **Emergency Care.** In the event SHEBOYGAN determines that a bona fide emergency exists, it may obtain appropriate emergency care without MANITOWOC's prior authorization. SHEBOYGAN will, as soon as practicable thereafter, advise MANITOWOC of the nature of the injury or illness, the treatment required, and the estimated or actual cost of treatment. If the emergency treatment requires that a juvenile be hospitalized in Sheboygan County, MANITOWOC shall reimburse SHEBOYGAN for the actual cost of all required

security until the juvenile's condition permits his or her transportation to a MANITOWOC County facility, at which time MANITOWOC will become responsible for the transportation, custody, and security of the juvenile.

(g) Medical Records. MANITOWOC will provide SHEBOYGAN's contracted health care provider with the medical records for each juvenile received in the facility under this AGREEMENT. The medical records remain the property of MANITOWOC. When MANITOWOC removes the juvenile from the facility, the juvenile escapes, or is discharged/released by MANITOWOC, any record shall be returned to MANITOWOC. SHEBOYGAN will not make a copy of any record except as needed for the delivery of health care services. SHEBOYGAN will provide MANITOWOC with a copy of any health care records that it or its contracted health care provider has created when the juvenile is returned to MANITOWOC.

(h) Pharmaceuticals. MANITOWOC will attempt to provide a two-week supply of prescribed medications at the time of transport to SHEBOYGAN. Once received at the FACILITY SHEBOYGAN is responsible for providing all medications prescribed to a juvenile, but may bill MANITOWOC for the cost of the medications. Upon discharge or release, SHEBOYGAN will provide any remaining supply of prescription medications to MANITOWOC.

7. OTHER TERMS AND CONDITIONS.

(a) Canteen. SHEBOYGAN will operate a canteen available to MANITOWOC juveniles to purchase items at the juvenile's sole expense. Items and prices of canteen items will be determined by SHEBOYGAN's canteen vendor. SHEBOYGAN shall maintain a canteen account for each juvenile. All MANITOWOC juveniles' monies will be processed in the same manner as monies of SHEBOYGAN juveniles.

(b) Clothing. SHEBOYGAN will provide undergarments and clothing to MANITOWOC juveniles, including, but not limited to, underwear, socks, footwear, and uniforms. SHEBOYGAN shall implement and maintain policies and procedures for the routine exchange of clothing items. The costs for clothing will be included in the per diem charges.

(c) Death of a Juvenile.

(1) In the event of the death of a MANITOWOC juvenile, SHEBOYGAN shall immediately notify the medical examiner, coroner, or other such official; the next-of-kin; MANITOWOC; and any other entity as may be required by law, regulation, or rule.

(2) SHEBOYGAN will provide such additional information as MANITOWOC may request and will comply with MANITOWOC's directions, insofar as possible. The juvenile's body may not be released without MANITOWOC's authorization.

(3) The death will be investigated in accordance with SHEBOYGAN's internal policies and procedures. SHEBOYGAN will provide MANITOWOC with a certified copy of the death certificate and autopsy report, if any. MANITOWOC may review SHEBOYGAN's investigation materials and reports.

(4) Any costs incurred in conjunction with a juvenile's death including, but not limited to, costs for autopsy, mileage, staff time, and transportation, will be borne solely by SHEBOYGAN.

(d) Discharge. SHEBOYGAN may not discharge a juvenile without MANITOWOC's prior consent. Written requests for any discharge may be sent to MANITOWOC for review and approval.

(e) Discipline

(1) While in SHEBOYGAN's custody, a MANITOWOC juvenile is subject to all laws, regulations, and rules applicable to persons placed in the FACILITY. SHEBOYGAN has the power to exercise disciplinary authority over a MANITOWOC juvenile that is placed in its FACILITY. However, SHEBOYGAN may not authorize or permit any type of punishment prohibited by federal or state law, regulations, or rules.

(2) When applicable, MANITOWOC juveniles may be subject to discipline pursuant to Wis. Admin. Code Ch. DOC 346. When a juvenile has engaged in serious misconduct that could result in discipline under DOC 346, SHEBOYGAN shall consult with MANITOWOC to determine a mutually agreeable plan of action.

(3) Under no circumstances will a juvenile be subject to both MANITOWOC and SHEBOYGAN disciplinary process for the same violation.

(4) SHEBOYGAN will provide MANITOWOC with any records or other documentation regarding specific juvenile behaviors that may subject a MANITOWOC juvenile to discipline.

(f) Escape. SHEBOYGAN shall immediately report and provide appropriate documentation to MANITOWOC in a timely manner about any escape by a juvenile. SHEBOYGAN's Sheriff will use all reasonable means to capture a MANITOWOC juvenile escapee from SHEBOYGAN's facility. SHEBOYGAN will have primary responsibility for and authority to direct the pursuit, capture, and prosecution of juveniles within SHEBOYGAN County. Any costs incurred in connection therewith shall be chargeable to and borne by SHEBOYGAN.

(g) Food Service. SHEBOYGAN will provide 3 nutritious meals per day. At least 2 of the meals will be hot meals. The meals will be given at normal meal times in the morning, afternoon, and evening. SHEBOYGAN shall also provide juveniles with meals that meet medical or religious requirements, as necessary. SHEBOYGAN shall have its menus reviewed by a registered dietician on at least an annual basis and will make a written report

available to MANITOWOC upon request.

(h) Grievances. SHEBOYGAN shall operate a juvenile grievance process and maintain accurate records, which will be available to MANITOWOC upon request.

(i) Hearings. SHEBOYGAN will provided adequate space at its FACILITY for any hearings to which a juvenile may be entitled under MANITOWOC's or SHEBOYGAN's rules.

(j) Hygiene Items. SHEBOYGAN will provide personal hygiene items to MANITOWOC juveniles, including, but not be limited to, comb, feminine hygiene products (females only), shampoo, soap, toilet paper, toothbrush, and toothpaste. SHEBOYGAN shall have and implement policies and procedures for the routine replacement of these items. The cost of providing these items will be included in the per diem charge.

(k) Juvenile Programs.

(1) SHEBOYGAN shall not permit or require any MANITOWOC juvenile to participate in any program or work contrary to rules established by MANITOWOC.

(2) Juveniles shall have an opportunity to participate in leisure time activities and work or other programs offered at the FACILITY. At a minimum, these leisure time activities must include, but are not limited to, access to library and reading materials, access to multi-purpose space for physical exercise, or other out-of-cell-block activity for at least 2 hours per week; and visitation.

(l) Juvenile Selection.

(1) MANITOWOC will not knowingly send any juvenile with a serious dental, medical, or psychological condition or any condition that requires frequent off-site medical services.

(2) MANITOWOC may withdraw its placement of a juvenile in the FACILITY at any time.

(3) SHEBOYGAN expressly reserves the right to reject any juvenile placed or to be placed in the FACILITY if the juvenile exhibits behavioral, medical, or other problems of such a nature as to make the juvenile unacceptable.

(m) Legal Proceedings.

(1) MANITOWOC agrees to defend, at its expense, any action or proceeding involving the legality of revocations or sentence computations of any of its juveniles or the placement or removal of juveniles in the SHEBOYGAN facility.

(2) SHEBOYGAN agrees to defend, at its expense, any action or proceeding

arising out of or relating to the conditions of confinement in SHEBOYGAN's FACILITY and the action or inaction of SHEBOYGAN's agents, contractors, or employees.

(n) Legal Status. SHEBOYGAN shall not allow any MANITOWOC juvenile to change his or her legal status. A change in legal status includes, but is not limited to, marriage, name change, or a change in the juvenile's sentence structure.

(o) Outside Movement. Except for off-site health care and court-ordered proceedings, MANITOWOC juveniles will not be permitted movement outside of the FACILITY perimeter without MANITOWOC'S prior written approval.

(p) Photography and Publicity. Requests for interviews and information regarding MANITOWOC juveniles will be referred to MANITOWOC. However, public records, such as sentence data or information concerning the escape of a juvenile, may be given directly to the press by SHEBOYGAN consistent with juvenile confidentiality requirements. SHEBOYGAN's Sheriff may photograph MANITOWOC juveniles as a means of identification for official use only.

(q) Special Reporting Requirement. SHEBOYGAN shall immediately report and provide appropriate documentation to MANITOWOC in a timely manner for any significant event, including, but not limited to the following:

- (1) Disturbance or group misconduct.
- (2) Escape or attempted escape.
- (3) Labor relations activity or other actions by appointed or elected officials that may affect the operation of the FACILITY or this AGREEMENT.
- (4) Legislative inquiry.
- (5) Media contact.
- (6) Serious incident committed by a juvenile, such as a battery to another juvenile, member of the public, or staff; homicide; major property damage; sexual assault; suicide; or use of force, including use of a firearm or other weapon.
- (7) Serious injury or death of a juvenile while in custody or of a staff member while on duty.
- (8) Unusual event, such as a natural disaster, that has the potential of creating uncommon interest in the surrounding community or the press.

(r) Telephone Service. SHEBOYGAN will provide or contract with a telephone services provider for facilities so that juveniles can make outgoing telephone calls. Juveniles

this AGREEMENT, its consent will not be unreasonably withheld.

10. DISPUTE RESOLUTION. (a) If a dispute arises between the counties with respect to any matter arising out of or relating to this AGREEMENT, either county may request that the other county meet, confer, and make a good faith effort to resolve the dispute through negotiations. Either county may give notice of the particular issue to convene negotiations. Negotiations will commence as soon as practicable but no later than 20 days after a county is in receipt of notice to negotiate. Both counties agree to engage in good faith negotiations in an effort to find a solution that serves their respective and mutual interests, including continuation of this AGREEMENT. The counties agree that any negotiated settlement to a dispute will be reduced to writing and incorporated into this AGREEMENT as an amendment, modification, or supplementation pursuant to Paragraph 15.

(b) Any dispute arising out of or relating to this AGREEMENT may be referred to a mediator if both counties mutually agree. If the counties cannot agree upon a mediator, each shall name a third-party who is qualified to serve as a mediator, and the two parties named shall designate a neutral third-party to serve as the mediator. The counties agree that any mediated settlement to a dispute will be reduced to writing and incorporated into this AGREEMENT as an amendment, modification, or supplementation pursuant to Paragraph 15. The cost of mediation will be divided equally between the counties.

11. INDEMNIFICATION. (a) MANITOWOC agrees to defend, hold harmless, and indemnify SHEBOYGAN and its agents, boards, commissions, committees, departments, employees, officials, and officers for any and all liability of every kind and character, including liability arising from or for actions, causes of action, costs, charges, claims, damages, demands, expenses, fees, judgments, liens, losses, obligations, penalties, proceedings, reasonable attorney fees, settlements, and suits, for injury to persons, death, or damage to property (collectively "CLAIMS") arising in connection with or directly or indirectly out of this AGREEMENT. MANITOWOC agrees that its duty to defend, hold harmless, and indemnify SHEBOYGAN applies to all CLAIMS whether it is alleged that SHEBOYGAN was negligent and without regard to whether such claims are groundless, false, or fraudulent. In the event that SHEBOYGAN is determined to be negligent, MANITOWOC will be relieved of its duty to indemnify SHEBOYGAN only to the extent of SHEBOYGAN's negligence as determined by mutual agreement or by judgment entered by a court of competent jurisdiction. MANITOWOC agrees that its duty to defend, hold harmless and indemnify SHEBOYGAN will survive the termination of this AGREEMENT.

(b) SHEBOYGAN agrees to defend, hold harmless, and indemnify MANITOWOC and its agents, boards, commissions, committees, departments, employees, officials, and officers for any and all liability of every kind and character, including liability arising from or for actions, causes of action, costs, charges, claims, damages, demands, expenses, fees, judgments, liens, losses, obligations, penalties, proceedings, reasonable attorney fees, settlements, and suits, for injury to persons, death, or damage to property (collectively "CLAIMS") arising in connection with or directly or indirectly out of this AGREEMENT. SHEBOYGAN agrees that its duty to defend, hold harmless, and indemnify MANITOWOC applies to all CLAIMS whether it is alleged that MANITOWOC was negligent and without regard to whether such

claims are groundless, false, or fraudulent. In the event that MANITOWOC is determined to be negligent, SHEBOYGAN will be relieved of its duty to indemnify MANITOWOC only to the extent of MANITOWOC's negligence as determined by mutual agreement or by judgment entered by a court of competent jurisdiction. SHEBOYGAN agrees that its duty to defend, hold harmless and indemnify MANITOWOC will survive the termination of this AGREEMENT.

(c) The foregoing notwithstanding, neither party waives any immunity or limitation on damages or liability that is available to the party under Wisconsin law, including, but not limited to, Wis. Stat. § 893.80.

12. WAIVER. No provision in this AGREEMENT may be waived unless the waiver is made in writing and is signed by a duly authorized representative of each party. The waiver of a breach of a provision does not constitute a waiver of the provision itself or of any subsequent breach of the same or any other provision contained in this AGREEMENT.

13. RESERVATION OF RIGHTS. The failure of a party to make any election under this AGREEMENT, enforce any provision contained in this AGREEMENT, or exercise any right with respect to the AGREEMENT will not in any way be considered to waive such election, provision, or right or to in any way affect the validity of this AGREEMENT. The failure of a party to exercise any election, provision, or right will not preclude or prejudice the party from later enforcing or exercising the same or any other election, provision, or right that it may have under the AGREEMENT.

14. ENTIRE AGREEMENT. This AGREEMENT constitutes the entire agreement between the parties and supercedes any and all other agreements, oral or written, between the parties with respect to its subject matter. Each party acknowledges that no agreement, inducement, promise, or representation has been made by or on behalf of any party except as specifically set forth herein. Each party agrees that no agreement, promise, or statement that is not contained in this AGREEMENT shall be binding on any party. Each party acknowledges and agrees it has relied on its own judgment in entering into this AGREEMENT.

15. AMENDMENT, MODIFICATION, AND SUPPLEMENTATION. This AGREEMENT may not be amended, modified, or supplemented except by a written agreement that expressly states that it is an amendment to this AGREEMENT and that is signed by a duly authorized representative of each party.

16. ASSIGNMENT. Neither party may assign, convey, license, sell, or transfer this AGREEMENT or any duty, interest, or right under this AGREEMENT to any person without the prior written consent of the other party.

17. CHOICE OF LAW. This AGREEMENT is governed by the laws of the State of Wisconsin.

18. COPIES AND COUNTERPARTS. This AGREEMENT may be executed in

separate counterparts, each of which is deemed an original and all of which together constitute one and the same instrument. Signatures on a copy of this AGREEMENT or on a copy of any other documents provided pursuant to this AGREEMENT that is transmitted by electronic mail or facsimile are binding upon the parties and have the same legal effect as original signatures.

19. SIGNATURE AUTHORITY. The persons signing this AGREEMENT warrant that they have been authorized to enter into this AGREEMENT by and on behalf of their respective parties and that they have full and complete authority to bind their respective parties by executing this AGREEMENT.

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this AGREEMENT on the dates shown below.

MANITOWOC COUNTY

By: _____
Bob Ziegelbauer
County Executive

Date: _____

SHEBOYGAN COUNTY

By: _____
Adam N. Payne
County Administrator

Date: _____

By: _____
Todd W. Priebe
Sheriff

Date: _____