

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

THIS Jail Services Agreement (hereinafter referred to as "**Agreement**") is entered into by and among The City of Midwest City, a municipal corporation (hereinafter referred to as "**Midwest City**") and the City of City of Nicoma Park, a municipal corporation, (hereinafter referred to as "**City of Nicoma Park**") (**Midwest City** and **City of Nicoma Park** being collectively referred to herein as "**Parties**") and is effective upon the date of execution by the last party hereto.

WITNESSETH:

WHEREAS, Midwest City grants permission for use of their property which does not conflict with their primary purpose and uses; and

WHEREAS, Midwest City owns and operates a fully licensed and accredited jail facility located at 100 North Midwest Boulevard in Midwest City, Oklahoma (hereinafter referred to as the "**Jail**"); and

WHEREAS, City of Nicoma Park has a need to house individuals either arrested or held within its jurisdiction; and

WHEREAS, City of Nicoma Park does not have the facilities to house the individuals and **Midwest City** does have **Jail** facilities to house the individuals; and

WHEREAS, the Parties wish to enter into this **Agreement** for the housing of such individuals identified by **City of Nicoma Park** at the **Midwest City Jail**; and

WHEREAS, this Agreement is made recognizing the provisions of Title 74 of the Oklahoma Statutes, § 192, as may be amended from time to time, and all rights as provided under the State and Federal Constitutions; and

WHEREAS, the Oklahoma statutes and Midwest City charter authorize and allow **Midwest City** to contract to provide services pursuant to this **Agreement**; and

NOW THEREFORE, MIDWEST CITY, and City of Nicoma Park agree as follows:

1. AGREEMENT

A. The purpose of this **Agreement** is to provide for the incarceration of **City of Nicoma Park** prisoners and hold for municipal/state prisoners, as those terms are defined within this **Agreement** within the **Jail**, under the custody of **Midwest City** Town officials, and to otherwise coordinate booking and detention functions.

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

B. This **Agreement** is expressly limited to provide **City of Nicoma Park** permission only to the extent **City of Nicoma Park's** use does not interfere with the use of the **Jail** by **Midwest City**. This **Agreement** is subject and subordinate to the rights of **Midwest City** to the use of the **Jail** which will be dominant over all rights of **City of Nicoma Park**.

C. This **Agreement** hereby closes and supersedes all previous agreements between the **Parties**.

2. TERM

Subject to the prompt and timely payment of Consideration as set forth in Paragraph 3:

A. The initial term of the **Agreement** shall commence on 12:00 am Central Daylight Time on July 1, 2022 and ending at 11:59 p.m. Central Daylight Time on June 31, 2023.

B. The **Parties** agree that at the end of the initial term, this **Agreement** may be extended for an additional one-year term, by agreement of the **Parties**, in writing, signed by all **Parties**. If such an agreement is not signed by the **Parties**, the term will not be extended, the **Agreement** will expire at the end of the term then in effect, and no additional extensions will be accomplished by way of this provision.

C. This **Agreement** is also subject to termination for breach of this **Agreement** and as set forth herein.

3. CONSIDERATION

A. **City of Nicoma Park's** financial obligations under this **Agreement** shall be limited to the compensation described in this paragraph. As compensation for the services described in this **Agreement**, **City of Nicoma Park** agrees to pay **Midwest City** Sixty-Five Dollars (\$65.00) per day per **City of Nicoma Park** prisoner or hold for municipal /state prisoner is held on behalf of **City of Nicoma Park**.

B. **Midwest City** will operate and maintain a fully licensed and certified jail facility and shall assume responsibility for the incarceration of **City of Nicoma Park** prisoners or hold for municipal/state prisoners therein consistent with applicable statutes of the State of Oklahoma and the laws of the United States of America for detention for violation of **City of Nicoma Park** municipal ordinances or Oklahoma state statutes, or otherwise held for **City of Nicoma Park** police.

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

C. **Midwest City** agrees to prepare and submit to **City of Nicoma Park** monthly statements no later than the 10th day of each month following the month of the detention service on a claim form pursuant to statutory and charter requirements.

D. Payment of the monthly statement shall be made by **City of Nicoma Park** within thirty (30) of receipt to:

City Clerk,
City of Midwest City
100 N. Midwest Boulevard
Midwest City, OK 73110

4. **FACILITIES**

Midwest City agrees to provide a jail facility that shall meet the standards set forth in Title 74 of the Oklahoma Statutes, § 192, as may be amended from time to time, and all constitutional rights as provided by the state and federal Constitutions and provide the following services:

A. **Midwest City** hereby assumes all detention and incarceration functions, consistent with applicable laws, for persons delivered to the **Jail** who are **City of Nicoma Park's** prisoners or hold for municipal/state prisoners.

B. **Midwest City** shall permit **City of Nicoma Park** law enforcement officers and **City of Nicoma Park's** agents, in the pursuance of their official duties, as approved by **City of Nicoma Park** Chief of Police and **Midwest City**, to enter the **Jail** at any and all hours for the purpose of conducting official business in the course of investigative process including, but not limited to, taking custody and/or removing prisoners as necessary for official investigations. During such time, **City of Nicoma Park** assumes responsibility and liability for such prisoners until the return of the prisoners to the **Jail**.

C. **Midwest City** shall allow **City of Nicoma Park** access, at all times, to **City of Nicoma Park** prisoners or hold for municipal /state prisoners. **City of Nicoma Park** assumes responsibility and liability for any and all prisoners or trustees upon their removal from the **Jail** by **City of Nicoma Park** until such time as they are returned to the **Jail** by **City of Nicoma Park**.

5. **DEFINITIONS.**

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

A. A " **City of Nicoma Park** prisoner" shall be defined as any prisoner incarcerated in the **Jail** solely on **City of Nicoma Park** municipal convictions and/or any other person that is otherwise held solely at the request of **City of Nicoma Park** police.

B. A "hold for municipal/state prisoner" shall be defined as a prisoner arrested by a **City of Nicoma Park** police officer with or without a warrant for any alleged violation of state law. Hold for municipal/ state prisoners will become **City of Nicoma Park** prisoners when all state charges have been declined or disposed of and the prisoner is being held only for **City of Nicoma Park** municipal charge(s) or **City of Nicoma Park** municipal conviction(s), or otherwise held at the request of **City of Nicoma Park** police.

6. TERMINATION.

A. This **Agreement** may be terminated by either party for any reason or for no reason upon one hundred eighty (180) days written notice to the other party.

B. This **Agreement** may be terminated by any party for cause upon the passage of sixty (60) days, subsequent to the mailing of notice stating the cause and the requested cure, where cause has failed to be cured.

7. CUSTODY.

A. For purposes of this **Agreement**, custody shall be deemed to pass from **City of Nicoma Park** to **Midwest City** upon **City of Nicoma Park's** presentation and **Midwest City's** acceptance of the documentation required by **Midwest City** for booking of prisoners. For compensation purposes, **City of Nicoma Park's** financial responsibility for **City of Nicoma Park** prisoners and hold for municipal/state prisoners shall begin upon the presentation of the necessary documentation to book a prisoner into the **Jail**.

B. **Midwest City** agrees to accept and provide for the secure custody care and safekeeping of **City of Nicoma Park** prisoners and hold for municipal/state prisoners.

C. **Midwest City** shall coordinate with Municipal Judges of **City of Nicoma Park** for the posting of bonds for those persons charged with violations of **City of Nicoma Park** ordinances. All fines/bonds will be posted with **City of Nicoma Park** municipal court clerk. **City of Nicoma Park** will

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

be responsible for authorization of all own-recognizance bonds on **City of Nicoma Park** prisoners. **City of Nicoma Park** municipal authorities shall coordinate with **Midwest City** for the purposes of conducting arraignments of prisoners on municipal charges.

D. **Midwest City** agrees to release **City of Nicoma Park** prisoners and hold for municipal /state prisoners within two (2) hours of notification or authorization to release unless special circumstances prevent release within that time whereupon the release shall be done as soon as practicable. For compensation purposes, **City of Nicoma Park's** financial responsibility ends at release or two (2) hours after providing **Midwest City** notification or authorization to release a **City of Nicoma Park** prisoner or hold for municipal/state prisoner, whichever is earlier.

8. REMOVAL

Upon termination, revocation, non-renewal, or expiration of this Agreement, **City of Nicoma Park** must remove all its prisoners or hold for municipal/state prisoner, within fifteen (15) calendar days of the termination, revocation, non-renewal, or expiration of this Agreement.

9. MEDICAL CARE.

A. **City of Nicoma Park** will not present to the **Jail** but, rather, will take a prisoner who needs emergency medical care to an approved emergency medical care institution for treatment. Arrested persons who are not conscious, semi-conscious, bleeding, cannot answer questions concerning their health to the satisfaction of the **Jail** staff or who are otherwise in need of any medical care will be taken to an approved medical care institution for treatment prior to being presented for booking at the **Jail**.

B. Once a prisoner is in the custody of **Midwest City**, **Midwest City** agrees to accept and provide for the secure custody, care and safekeeping of **City of Nicoma Park** prisoners and hold for municipal/state prisoners in accordance with the federal and state standards and laws, **City of Nicoma Park** ordinances and court orders applicable to the operations of the **Jail**.

C. **Midwest City** agrees to provide the **City of Nicoma Park** prisoners and hold for municipal/state prisoners with the same level of care and services provided **Midwest City** prisoners. **City of Nicoma Park** agrees to provide transportation to and from medical facilities outside of the **Jail** for

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

any **City of Nicoma Park** prisoner or hold for municipal/state prisoner by a law enforcement vehicle if the situation is not life-threatening and/or by other means including, but not limited to, ambulance transportation as the prisoner's medical condition requires.

10. OKLAHOMA GOVERNMENTAL TORT CLAIMS ACT.

Both **Parties** are governmental subdivisions of the State of Oklahoma and subject to the Oklahoma Governmental Tort Claims Act at Title 51 of the Oklahoma Statutes, § 151 *et seq.* Any action brought by either Party or by any third-party based on the **Parties** entering into this agreement shall comply with the requirements and procedures set forth in the Oklahoma Governmental Tort Claims Act.

11. NOTICES

A. Notices and other communications to the **Midwest City** pursuant to the provisions hereof will be sufficient if sent by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

The City of Midwest City, City Clerk
100 N. Midwest Boulevard
Midwest City, OK 73110

AND

The City of Midwest City, Police Chief
100 N. Midwest Boulevard
Midwest City, OK 73110

B. Notices or other communications to **City of Nicoma Park** pursuant to the provisions hereof will be sufficient if by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

Kelly Danner, City Clerk
2221 Nichols Dr / PO Box 250
Nicoma Park, OK 73066
AND
Edward Smith, Police Chief
2301 Nichols Dr. / PO Box 250
Nicoma Park, OK 73066

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

C. Any party hereto may change the address or addressee for the giving of notice to it by thirty (30) days prior written notice to the other parties hereto as provided herein. Unless otherwise specified in this **Agreement**, notice will be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to this paragraph.

12. ABIDES BY LAW

City of Nicoma Park must abide by the conditions of this **Agreement**, the ordinances of **Midwest City**, and all laws and regulations of the State of Oklahoma and the United States of America ("Laws"), applicable to **City of Nicoma Park's** activities and **City of Nicoma Park's** use of the **Jail**.

13. LIMITATION

The **Agreement** consideration provided herein does not include or limit any remuneration or reimbursement for any loss, expense, or damages, if any, which may be caused by **City of Nicoma Park** or incurred by the **Midwest City** hereunder or under any insurance or indemnification provision herein.

14. ASSIGNMENT

City of Nicoma Park may not assign this **Agreement** to any entity or third party without the written consent of the **Midwest City**.

15. COMPLETE AGREEMENT

This is the complete agreement between the **Parties** and no additions, amendments, alterations, or changes in this **Agreement** shall be effective unless reduced to writing and signed by all **Parties** hereto. Additionally, no statements, discussions, or negotiations shall be deemed or interpreted to be included in this **Agreement**, unless specifically and expressly provided herein.

16. TIME OF ESSENCE

For the purposes of this **Agreement**, time shall be deemed to be of the essence.

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

17. MULTIPLE ORIGINALS

This **Agreement** may be executed in multiple counterparts, each of which shall be deemed an original.

18. NONINTERFERENCE

This **Agreement** authorizes **City of Nicoma Park** to use and occupy a portion of the **Jail** for the purposes as provided herein. **City of Nicoma Park's** activities and use may not in any manner permanently or temporarily interfere with existing or future **Midwest City** uses for the **Jail**.

19. PROPERTY INTERESTS

City of Nicoma Park acknowledges and agrees that the **Jail** are first and foremost the property of the **Midwest City** and that the **City of Nicoma Park** is not granted any property interest therein or by the terms of this **Agreement**.

20. ANTI-COLLUSION

City of Nicoma Park agrees that it has not been and shall not be a party to any collusion with any of their officials, trustees, or employees of the **Midwest City** as to the terms or conditions of this **Agreement**, and has not and will not exchange, give or donate money or other things of value for special consideration to any officials, trustees, or employees of the **Midwest City**, either directly or indirectly, in procuring and execution of this **Agreement**.

21. WARRANTY

Issuance of this **Agreement** does not constitute or contain any express or implied warranties of title, interest, or right to possession of the **Jail** nor the physical condition of any property subject to this **Agreement**.

22. BREACH AND DEFAULT

A. A breach of any provision of this **Agreement** shall act as a breach of the entire **Agreement** unless said breach is expressly waived in writing by all other parties hereto. Failure to enforce or timely

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

pursue any breach shall not be deemed a waiver of that breach or any subsequent breach. No waiver of any breach by any party hereto of any terms, covenants, or conditions herein contained shall be deemed a waiver of any subsequent breach of the same, similar, or different nature.

B. Further, except as otherwise specifically and expressly provided and any other paragraph hereto, should any party hereto fail to perform, keep or observe any of the terms, covenants, or conditions herein contained, this **Agreement** may be terminated by any party not in default thirty (30) days after receipt of written notice and opportunity to cure, less and except as such lesser time is provided in this **Agreement**. Provided however, any breach by **City of Nicoma Park** which interferes with the operation or use of the **Jail** by **Midwest City** must be cured immediately; and **Midwest City** reserves the right to immediately terminate this **Agreement** if **City of Nicoma Park** fails to cure any such breach.

C. Should **Midwest City** breach this **Agreement**, **City of Nicoma Park** may only recover that proportion of the prepaid monthly rental for the unexpired term. **City of Nicoma Park** may not collect or recover any other or additional damages, losses, or expenses.

23. ENVIRONMENTAL

A. **City of Nicoma Park** shall not permit any chemical substance or hazardous material to be brought upon, kept, or used in or about the **Jail** by **City of Nicoma Park**, its officers, representatives, agents, employees, contractors, invitees, prisoners or hold prisoners. **City of Nicoma Park** shall notify the **Midwest City's** Chief of Police of the presence, even if temporary, of any chemical substance or hazardous material brought onto the **Jail** by **City of Nicoma Park**, its officers, representatives, agents, employees, contractors, or invitees, prisoners or hold prisoners.

B. If **City of Nicoma Park** breaches the obligations stated in the preceding paragraph, or if the presence of the chemical substance or hazardous material brought onto the **Jail** by **City of Nicoma Park** or its contractors, employees, agents, prisoners or hold prisoners results in contamination of the **Jail** or contamination of the water supply of **Midwest City**, or if contamination of the **Jail** or by the chemical substance or hazardous material otherwise occurs for which **City of Nicoma Park** is legally liable, **City of Nicoma Park** shall indemnify, defend and hold **Midwest City** and their officers, trustees, representatives, contractors, agents and employees harmless from any and all injuries, deaths, property

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

damage, claims, judgments, damages, penalties, fines, costs, liabilities, losses, diminution in value, damages for the loss or restriction on use, sums paid in settlement of claims, and attorneys', consultants' and expert fees (collectively, "Environmental Claims") which arise during or after any term of this **Agreement** hereof as a result of such contamination.

C. This indemnification of **Midwest City** by **City of Nicoma Park** also includes, without limitation, costs and expenses incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by **Midwest City** or any federal, state or local government agency or political subdivision because of any chemical substance or hazardous material present in the soil or ground water on or under the **Jail** caused by **City of Nicoma Park**.

D. Without limiting the foregoing, if the presence of any chemical substance or hazardous material brought onto the **Jail** by **City of Nicoma Park**, its employees, agents, contractors, prisoners or hold prisoners results in any contamination of the **Jail**, or the water supply of **Midwest City**, **City of Nicoma Park** shall promptly take all actions at its sole expense as are necessary to return the **Jail** and the water supply of **Midwest City** to the condition existing prior to the introduction of any such chemical substance or hazardous material. The foregoing indemnity shall survive the expiration or earlier termination of this **Agreement**.

E. As used herein, the term "chemical substance" shall mean a substance obtained by a chemical process or used for producing a chemical effect, including but not limited to pesticides, herbicides and fertilizers, and the term "hazardous material" means any hazardous or toxic substance, material or waste, including but not limited to those substances, materials and wastes listed by the Environmental Protection Agency as hazardous substances, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.

24. INSPECTION AND SECURITY

A. **City of Nicoma Park** and its employees and agents shall have the right, but not the duty, to inspect the **Jail** to determine whether **Midwest City** is complying with the terms of this **Agreement**. This provision does not intend or create any liability and/or indicate that **City of Nicoma Park** has any

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

control of or over the **Jail** but, rather, is expressly intended solely to allow monitoring of **City of Nicoma Park** prisoners, hold for municipal/state prisoners and **Jail** standards.

B. **City of Nicoma Park** personnel shall at all times comply with all state and **Midwest City** security and confidentiality regulations in effect at the **Jail**. Information belonging to **Midwest City** will be safeguarded by **City of Nicoma Park** to the same extent as **City of Nicoma Park** safeguards its own information of like kind relating to its own operation, subject to disclosures required by law.

25. TRANSPORTATION OF PRISONERS

City of Nicoma Park hereby assumes responsibility for the transportation of **City of Nicoma Park** prisoners to all municipal court appearances and shall hereby coordinate with the **City of Nicoma Park** municipal judges for the posting of bonds for those persons charged with violations of **City of Nicoma Park** ordinances. **City of Nicoma Park** hereby assumes responsibility for the transportation of hold for municipal/state prisoners to the Oklahoma County Jail or other appropriate institution.

26. THIRD PARTY BENEFICIARIES

All parties expressly agree that no third-party beneficiaries, expressly or implicitly, are intended to be or shall be created or acknowledged by this **Agreement**. This **Agreement** is solely for the benefit of the **City of Nicoma Park** and **Midwest City**, and none of the provisions hereof are intended to benefit any third parties.

27. VENUE AND CHOICE OF LAW

All **Parties** hereto expressly agree that the venue of any litigation relating to or involving this **Agreement** and/or the rights, obligations, duties and covenants therein shall be in the appropriate court (state or federal) located in Oklahoma County, Oklahoma. All **Parties** agree that this **Agreement** shall be interpreted and enforced in accordance with Oklahoma law and all rights of the parties shall be determined in accordance with Oklahoma law.

JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

28. CASUALTY

If any part of the **Jail** is damaged by casualty or Act of God, as to render the **Jail** unsuitable, in **Midwest City's** sole determination, then **City of Nicoma Park** may terminate this **Agreement** by providing written notice to the **Midwest City**, as **City of Nicoma Park's** only recourse as to **Midwest City**, which termination will be effective as of the date of such casualty or other harm.

29. AMENDMENTS

Any amendments to this **Agreement** must be in writing, signed and approved by the **Parties**.

30. EFFECTIVE DATE

The Effective Date of this **Agreement** is the date approved by **Midwest City** as the last party hereto.

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JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

APPROVED by the Council and SIGNED by the Mayor of The City of Nicoma Park this
5th day of April, 2022.



THE CITY OF Nicoma Park
[Signature]
MAYOR

[Signature]
CITY CLERK

REVIEWED for form and legality.

[Signature]
CITY ATTORNEY

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JAIL SERVICES AGREEMENT
between
CITY OF NICOMA PARK
And
THE CITY OF MIDWEST CITY

City Manager
APPROVED by the Council and **SIGNED** by the Mayor of The City of Midwest City this 25
day of July, 2022.

THE CITY OF MIDWEST CITY

Tim Lyen

Tim Lyen, City Manager

Sara Hancock

SARA HANCOCK, CITY CLERK

REVIEWED for form and legality.



Donald D. Maisch

DONALD D. MAISCH, CITY ATTORNEY