

Yellowstone County



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April 23, 2024

Billings City Council
Attn: Bill Cole, Mayor/Chair
210 North 27th Street
Billings, MT 59101

Re: Response to City Letter of February 26, 2024

Dear Mayor:

Thank you for your letter of February 26, 2024. We look forward to this partnership and we are excited by the commitments in your letter.

The County and City both believe the facility is necessary to provide an alternative option for the detainment of low-risk, non-violent offenders who are currently not being incarcerated and continue to offend in the community. The next step in solidifying a partnership between the City and County is to enter a memorandum of understanding to memorialize our mutual interests for this project. We look forward to negotiating this interlocal agreement and have attached a proposed draft agreement to expedite execution of this agreement.

The Board has continued to move forward with this project since receipt of your letter in late February and provide the following updates and proposed terms:

DEVELOPMENT

The Board has delegated a negotiation team for development of the short-term detention facility memorandum of understanding with the City.

The County undertook this endeavor as an alternate delivery project. On March 5, 2024, the County issued a request for qualifications (RFQ) for architectural services. Site plans and foundation designs, a geotechnical topographical survey, and a geotechnical drilling and boring survey were completed prior to the Board issuing a RFQ so that project development could proceed on an expedited timeline. The RFQ responses were due on April 1st. The designated team has reviewed responses and will make a recommendation back to the Board. On April 16th, the Board will vote on the recommendation at a public meeting.

During the time the architect is designing the site and foundation plans, the Board will issue an Invitation for Proposals for a General Contractor/Construction Manager. The Board anticipates this part of the project to be completed in May. This will allow the architect and GC/CM to work together to complete the final design and construction drawings. The Board believes these steps will help reduce the amount of time it takes for the project to be completed.

PROPOSED PROCESS

The County wants to ensure there is some flexibility built into this process as there may be unforeseen circumstances that will require adjustments as we begin operations. We recognize this flexibility requires a level of trust and it is our hope that the level of dedication and movement the Board has demonstrated has served to build that trust:

- The STDF will be primarily used for pre-arraignment purposes to temporarily house non-violent offenders charged with misdemeanor and non-violent offenses. YCDF will remain the facility for those whose charges are serious and/or violent.
- YCDF will decide where to place the individual based on their most serious charge. All STDF offenders will be arraigned and released within 72-hours either on bond, or some kind of monitoring device.
- Arraignment Court will be an important piece within this process by ensuring inmates are promptly seen by a Judge to set release conditions and future court dates.

DESIGN COMMITTEE

The County will promptly create a committee to head up the design phase of the project. The committee will consist of three people to be determined by Scott Twito and the Board. The committee will work in partnership with the architect and construction manager. The committee will communicate with stakeholders to ensure the design of the STDF aligns with community need.

CAPACITY

In your recent letter, you state the City is requesting the facility be built for at least 96 beds. The County is unable to specify the number of beds until a design has been finalized. Considerations such as level of security and number of levels will determine the number of beds available. There are many considerations such as access to medical, pre-trial services, video court capability, and defense attorney need that will all play a role in the number of beds available. The County will determine the number of beds that are built based on the operational/functional capacity of the facility, as well as the number of beds needed in a worst-case scenario. We do have an initial design but there is no guarantee that will be the design moving forward; therefore, we cannot guarantee the number of beds in the short-term detention facility at this time, but we can agree there will no unreasonable deviation from the designs presented throughout this process by Schultz Foss. We anticipate there will be at least thirty-five beds available on one floor. The

County and YCSO will ensure that the Billings Police Department has available to it, for short-term detention, for stand-alone City charges, at least 10 beds every 24 hours averaged over time. There will be no limit to the number of non-violent or low-risk offenders that Billings Police Department can bring into the short-term detention facility up to capacity. Offenders will be remanded in the normal course. With the development of arraignment court, most inmates will be seen within 24 hours. We anticipate high inmate turnover.

There will be many inmates with hybrid charges - individuals who are traditionally picked up by local law enforcement that may have a State or other warrant that are not currently being processed into the facility due to lack of space. The purpose in providing ten beds dedicated to stand-alone City charges is that we recognize there will be many low-risk offenders BPD will wish to bring into short term detention, and they will have other charges. We do not wish to exclude those offenders and they should not be counted toward the City's beds even though BPD will be the agency primarily bringing in those offenders. The County wants law enforcement to have the tool of remand, without excessive restriction or caps on the number of inmates that can be brought into short term detention. At this time, the County will not be contracting out any other beds in the STDF, except those discussed herein. This facility is designed for use by local Yellowstone County law enforcement.

TERMS

The County provides the following proposed terms:

- The County will accept your financial contribution, without countering, and will anticipate a transfer to the County of \$500,000 in fiscal year 2024 along with an additional transfer of \$1.5 million, provided to the County in equal amounts in fiscal years 2025 and 2026. The County acknowledges the elimination of past occupancy debt to the City as additional capital contribution. The Board also acknowledges and agrees that no party will have any liability to the other party for pre-arraignment costs or charges related to occupancy, operations or maintenance of the current detention facility that were incurred prior to the short-term detention facility memorandum of understanding execution. The Board acknowledges this will be a one-time, fixed financial contribution.
- 10 dedicated beds for stand-alone City charges with no limitation to the number of offenders BPD can bring into the short-term detention facility until capacity is met.
- The County proposes an initial term of three years with renewal each year thereafter.
- The County will be solely responsible for the following:
 - Construction, operation, maintenance, inspection, staffing and security.
 - In-house medical, dental, mental health, and access to case management.
 - Liability and lawsuits.
- The County and YCSO will work diligently to have the short-term detention facility open no later than 15 months after the County signs a design contract. The County will be responsible for any costs associated with delay. As the County is working diligently, even

before City commitment, the County would request no penalty for any unforeseen construction delays as this will not be in the County's control and the County agrees it will have to pay the cost associated with any delay in construction.

Everyone is involved in the criminal justice system in one way, shape or form. As we develop the short-term detention facility, it is essential to have efficient and reasonable communication between the courts, elected officials, and community. Whether it is the addition of a short-term facility or the anticipated jail expansion of YCDF, all players of the criminal justice system need to be involved. It is our hope that this productive dialogue continues, both within our agencies and in the community.

We agree the short-term detention facility is critical for reducing crime in our community and holding offenders accountable. This is an impressive first step. The purpose of the short-term detention facility is to house a population that we do not incarcerate currently at YCDF. We still desperately need an expansion of the main facility to serve the population that is traditionally incarcerated. We will continue to diligently move forward on jail expansion as well as the short-term detention facility.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

John Ostlund, Chair

Mark Morse, Member

Donald W. Jones, Member