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**Liability
Self-Insurance Fund**

TO: County Commission Chairs and Administrators

FROM: Sonny Brasfield, Executive Director

DATE: July 3, 2012

RE: Contract for Housing Municipal Inmates

Many counties allow municipal inmates to be housed in the county jail. In some instances, these inmates are booked into and incarcerated in the county jail without a contract between the county and the municipality. In other cases, there is a contract but it does not adequately address the issues of liability and compensation.

Attached is a suggested contract for your review. This contract is designed to ensure the municipality is responsible for both the housing and medical costs as well as the costs of any lawsuits that may occur as a result of the inmate's incarceration in the county jail. Of course, the sheriff should be a party to this contract as well and should be involved in all discussions regarding the contracting issue.

The adoption of a contract may seem unnecessary to some county officials and employees. However, in the past several months the ACCA Liability Self-Insurance Fund was responsible for a significantly-negative outcome from a case involving a municipal inmate housed in a county jail. Although there was a contract between the county and municipality spelling out indemnity protection for the county, the municipality involved actually fought the provisions of the contract. In the end, the circuit court ruled the contract was not adequate in requiring the municipality to pay the county's costs. As a result, the ACCA liability fund – not the municipality -- became responsible for this matter.

Although we certainly cannot guarantee the attached model contract will be upheld by every court in the state, it is the work product of several attorneys and has been reviewed against the issues raised in the case outlined above. We also suggest that you have your county attorney review the contract as well.

This issue has been discussed by the ACCA liability fund and it is recommended that all counties review their existing contracts because of the significant liability exposure assumed by housing inmates who would otherwise not be confined to the county jail. Counties housing municipal inmates without any contract at all are encouraged to take action on this issue as soon as possible.

If you have any comments or questions, please feel free to contact us.