



## City Council Report

915 I Street, 1<sup>st</sup> Floor

Sacramento, CA 95814

[www.cityofsacramento.org](http://www.cityofsacramento.org)

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**File #:** 2016-01003

September 20, 2016

**Consent Item 19**

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**Title: Agreement: Sacramento County Sheriff's Work Project Program**

**Recommendation:** Pass a Motion authorizing the City Manager or the City Manager's designee to 1) execute an Agreement with the Sacramento County Sheriff's Department for the supervision of Alternative Sentencing Program inmate work crews providing flood control and landscaping maintenance services, for a one-year term with up to three successive one-year term renewals, with a maximum annual payment of \$125,000; and 2) approve the one-year renewals provided that sufficient funds have been allocated for this purpose in the City Council's budget appropriation for the applicable fiscal year.

**Location:** Citywide

**Contact:** Ken Swartz, Logistics Manager, (916) 808-6276, Department of Utilities

**Presenter:** None

**Department:** Department of Utilities

**Attachments:**

1-Description/Analysis

2-Agreement

## Description/Analysis

**Issue Detail:** There is an ongoing need for contracting with the Sacramento County Sheriff's Department Alternative Sentencing Work Project Program to provide and supervise inmate crews to perform cleanup, landscape maintenance, and flood control related services at Department of Utilities (DOU) drainage facilities and grounds. The agreement provides a very cost effective means of accomplishing these services because the City pays the County's costs to supervise the work crew, but does not pay anything for work performed by the inmate crews. The proposed Agreement between the City and the Sheriff's Department specifies an initial term that extends through June 30, 2017, with up to three one year renewals.

**Policy Considerations:** City Council approval is required for service agreements of \$100,000 or more.

**Economic Impacts:** Not applicable.

**Environmental Considerations:** The Community Development Department, Environmental Services Manager has determined that the recommended action is not a project pursuant to the California Environmental Quality Act (CEQA). CEQA Guidelines Section 15378(b). The activity is a continuing administrative or maintenance activity and is not subject to CEQA (CEQA Guidelines Section 15060(c)(3)).

**Sustainability:** The partnership with the County of Sacramento Sheriff's Department to provide oversight and supervision of the Work Project inmate crews is consistent with the City's Sustainability Master Plan by meeting the Flood Protection Sustainability goals as outlined in Section 8, Goal 2 - "Work to provide exceptional flood protection".

**Commission/Committee Action:** None

**Rationale for Recommendation:** The use of Work Project inmate crews has proven to be an effective resource in the maintenance of flood control basins and canals by mitigating the vegetation overgrowth, preparing strategic fire breaks, and garbage removal. The crews also fill and store sand bags for winter preparation in case of a flood event. In accordance with City Administrative Policy AP4102, the Director of Utilities has approved contracting with the County on a sole-source basis because the County Sheriff is the only entity that can provide Work Project inmate crews to perform these services.

**Financial Considerations:** The not-to-exceed amount for the initial term, and each one-year renewal, is \$125,000, for a maximum contract amount of \$500,000 for the maximum contract term. The Agreement will only be renewed if there is sufficient funding for these services in the corresponding fiscal year budget. Sufficient funds are available in the

FY2016/17 Department of Utilities Operating Budget for the services through June 30, 2017.

**Local Business Enterprise (LBE):** The Sacramento County Sheriff's Department is a local governmental agency.

**Background:** For approximately 25 years, the City of Sacramento and the Sacramento County Sheriff's Department have worked jointly on clean-ups and maintenance of creeks, drainage canals, and flood control facilities and grounds, utilizing labor from individuals who were convicted of misdemeanor crimes and sentenced to Sacramento County Jail. Upon recommendation from the Court, the Sheriff's Department exercises its discretion to accept these individuals into their "Alternative Sentencing Program."

The Alternative Sentencing inmate crew consists of nonviolent misdemeanor offenders, a Sacramento County Sheriff's Deputy, and a City of Sacramento Utilities Service Worker. The work crew is assigned to various City drainage basins, canals, levees, and creeks throughout the year Monday through Friday, 7:00 a.m. until 3:00 p.m.

The Alternative Sentencing inmate work crew has proven to be a cost-effective resource in the maintenance of flood control basins and canals by mitigating the vegetation overgrowth.

REVENUE AGREEMENT BETWEEN CITY OF SACRAMENTO AND  
SACRAMENTO COUNTY SHERIFF'S DEPARTMENT FOR  
SUPERVISION OF WORK PROJECT PROGRAM INMATE CREW  
FLOOD CONTROL AND LANDSCAPING MAINTENANCE

THIS AGREEMENT is made and entered into as of this 1st day of July, 2016, by and between the CITY OF SACRAMENTO, a municipal corporation and charter city in the State of California, hereinafter referred to as "CITY", and the COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereinafter referred to as "COUNTY".

**RECITALS**

WHEREAS, CITY wishes to contract for supervision of Work Project Program inmate crew(s) from the COUNTY;

WHEREAS, the COUNTY wishes to provide supervision of Work Project Program inmate crew(s); and,

WHEREAS, CITY and COUNTY desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, CITY and COUNTY agree as follows:

**I. SCOPE OF SERVICES**

COUNTY shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

**II. TERM**

This Agreement shall be effective July 1, 2016, and shall remain in effect until June 30, 2017, unless sooner terminated pursuant to the provisions of Paragraph XXI. This agreement may be renewed pursuant to Paragraph XXIV.

**III. NOTICE**

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

**TO CITY**

Ken Swartz  
City of Sacramento  
5730 24<sup>th</sup> Street, Bldg. 22  
Sacramento, CA 95822

**TO COUNTY**

Sacramento County Sheriff's Dept.  
Commander, Work Release Division  
711 G Street  
Sacramento, CA 95814

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

**IV. COMPLIANCE WITH LAWS**

CITY and COUNTY shall observe and comply with all applicable Federal, State, and County laws, regulations and ordinances.

**V. GOVERNING LAWS AND JURISDICTION**

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

**VI. LICENSES AND PERMITS**

CITY and COUNTY shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by COUNTY. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by CITY.

**VII. PERFORMANCE STANDARDS**

COUNTY shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to COUNTY'S services. It is agreed by the parties that COUNTY, in the performance of services hereunder, is subject to the control or direction of CITY as to the designation and scheduling of tasks to be performed, but not as to the means and methods for accomplishing tasks. COUNTY shall retain full responsibility and authority to direct and control the activities of both the Sheriff's Deputies and the inmate workers, and to supervise and discipline said Deputies and inmates.

## **VIII. STATUS OF CONTRACTOR**

- A. It is understood and agreed that COUNTY (including its employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto. COUNTY'S assigned personnel shall be entitled to any benefits payable to employees of COUNTY. COUNTY is required to make any deductions or withholdings from the compensation payable to County under the provisions of this agreement.
- B. If, in the performance of this agreement, if any third persons are employed by COUNTY, such person shall be entirely and exclusively under the direction, supervision, and control of COUNTY. All terms of employment, including hours, working conditions, discipline, or any other terms of employment or requirements of law, shall be determined by COUNTY and shall have authority over such persons or the terms of such employment.
- C. It is further understood and agreed that as an employee of COUNTY, assigned personnel shall be covered by worker's compensation; and shall be entitled to compensation according to applicable COUNTY labor agreement payable by the County to employees of the COUNTY.
- D. Inmate Work Project program participants performing public service under the direction of a supervising Deputy Sheriff in conjunction with this agreement, are entirely under the direction, supervision, and control of the COUNTY. All terms of inmate public service, including hours, working conditions, discipline, or other terms of public service or requirements of law, including coverage by worker's compensation, shall be determined by COUNTY, and will be the responsibility of COUNTY.

## **IX. CONTRACTOR IDENTIFICATION**

COUNTY shall provide the TWIN RIVERS with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Sacramento County Code Chapter 2.160: COUNTY'S name, address, telephone number, employer identification number, and whether dependent health insurance coverage is available to COUNTY.

## **X. CONFLICT OF INTEREST**

CITY and COUNTY officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

## **XI. INDEMNIFICATION**

To the fullest extent permitted by law, each of the Parties shall indemnify, defend and hold harmless each of the other Parties, their respective governing boards, officers, directors, officials, employees, and authorized volunteers and agents from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of their respective governing boards, officers, directors, officials, employees, volunteers, agents, or contractors.

It is the intention of the Parties that the provisions of this indemnity be interpreted to impose on each Party responsibility to the other for the acts and omissions of their governing boards, officers, directors, officials, employees, volunteers, agents or contractors. It is also the intention of the Parties that, where comparative fault is determined to have been contributory, principles of comparative fault will be followed and each Party shall bear the proportionate cost of any Claims attributable to the fault of that Party, its governing board, officers, directors, officials, employees, volunteers, agents, or contractors.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the Parties.

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

## **XII. INSURANCE**

The COUNTY and CITY finance their liability, property and worker's compensation risk through a combination of self-insurance and insurance. The COUNTY and CITY are knowledgeable of each entity's risk financing programs and agree to rely on these programs to pay for any liabilities, losses, costs, suits, claims, judgments, expenses, fines or demands of any kind that may arise under terms of this Agreement.

## **XIII. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS**

- A. Compensation under this Agreement shall be limited to the Payment Amount set forth in Exhibit B. COUNTY agrees that all work provided by inmates is free of charge. Compensation is for supervision.
- B. COUNTY shall submit monthly invoices on the forms and in accordance with the procedures mutually agreed upon by CITY and COUNTY. Invoices shall be submitted to CITY no later than the fifteenth (15th) day of the month following the invoice period, and CITY shall pay COUNTY within thirty (30) days after receipt of an appropriate and correct invoice.
- C. COUNTY operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than July 31, one month after the end of the fiscal year.
- D. COUNTY shall maintain for four years following termination of this agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.

**XIV. SUBCONTRACTS, ASSIGNMENT**

- A. COUNTY shall obtain prior written approval from CITY before subcontracting any of the services delivered under this Agreement. COUNTY remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement.
- B. This Agreement is not assignable by COUNTY in whole or in part, without the prior written consent of CITY.

**XV. AMENDMENT AND WAIVER**

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon COUNTY unless agreed in writing by DIRECTOR and counsel for COUNTY.

**XVI. SUCCESSORS**

This Agreement shall bind the successors of CITY and COUNTY in the same manner as if they were expressly named.

**XVII. TIME**

Time is of the essence of this Agreement.

**XVIII. INTERPRETATION**

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

**XIX. DIRECTOR**

As used in this Agreement, "DIRECTOR" shall mean the Sacramento County Sheriff or his/her designee.

**XX. DISPUTES**

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party's right to pursue remedy or relief by civil litigation, pursuant to the laws of the State of California.

**XXI. TERMINATION**

- A. CITY or COUNTY may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing.
- B. If this Agreement is terminated under paragraph A, CITY shall only pay for any services completed and provided prior to notice of termination. In the event of termination under paragraph A, COUNTY shall be paid an amount which bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of COUNTY covered by this Agreement, less payments of compensation previously made
- E. COUNTY shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that COUNTY can legally cancel.

**XXII. AUDITS AND RECORDS**

Upon CITY'S request, CITY or its designee shall have the right at reasonable times and intervals to audit, at COUNTY'S premises, COUNTY'S financial and program records as CITY deems necessary to determine COUNTY'S compliance with legal and contractual requirements and the correctness of claims submitted by COUNTY. COUNTY shall maintain such records for a period of four years following termination of the Agreement, and shall make them available for copying upon CITY'S request at CITY'S expense.

**XXIII. PRIOR AGREEMENTS**

This Agreement constitutes the entire contract between CITY and COUNTY regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between CITY and COUNTY regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

**XXIV. RENEWAL**

This agreement may be renewed three times, for a total of four years, by mutual agreement of the CITY and the Sacramento County Sheriff, on behalf of COUNTY in writing.

**XXV. DUPLICATE COUNTERPARTS**

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

**XXVI. AUTHORITY TO EXECUTE**

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement for or on behalf of the parties to this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized.

**XXVII. ADDITIONAL PROVISIONS**

The additional provisions contained in Exhibits A and B are attached hereto are part of this agreement and are incorporated herein by reference.

**XXVIII. OPERATIONAL ISSUES**

Day-today operational issues should be directed as follows:

CITY:  
Drainage Superintendent  
808-6276

COUNTY:  
Work Release Facility  
Field Coordinator, 874-1466  
Field Ops Supervisor, 874-2419  
Or Division Commander 874-1414

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

CITY OF SACRAMENTO, a  
municipal corporation and  
charter city in the State of California

COUNTY OF SACRAMENTO, a  
political subdivision of the State  
of California

By \_\_\_\_\_  
JOHN F. SHIREY, City Manager

By \_\_\_\_\_  
SCOTT R. JONES, Sheriff

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Authorized on behalf of County by Board of Resolution \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Senior Deputy City Attorney

By: \_\_\_\_\_  
Deputy County Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A to Agreement Between  
CITY OF SACRAMENTO,  
hereinafter referred to as "CITY"  
and the COUNTY OF SACRAMENTO,  
hereinafter referred to as "COUNTY**

**SCOPE OF SERVICES**

**I. SERVICE LOCATION(S)**

Throughout the City of Sacramento

**II. DESCRIPTION OF SERVICES**

COUNTY agrees to assign one inmate work crew, up to five days a week, unless, otherwise mutually agreed upon.

Each crew shall be supervised by a Deputy Sheriff or an on-call Deputy Sheriff, to perform cleanup, maintenance, landscaping, and other appropriate tasks in and around CITY and other facilities operated by the Drainage Collection Department.

It is understood and agreed that such assignment of a Deputy Sheriff or on-call Deputy Sheriff and/or inmates may be limited by factors beyond the control of the COUNTY. Such factors include, but are not limited to, the availability of a Deputy Sheriff or on-call Deputy Sheriff and/or inmates with the appropriate custody classification.

COUNTY shall supply inmate transportation to work sites and all necessary tools and equipment.

**EXHIBIT B to Agreement Between  
CITY OF SACRAMENTO,  
hereinafter referred to as "CITY"  
and the COUNTY OF SACRAMENTO,  
hereinafter referred to as "COUNTY**

**BUDGET REQUIREMENTS**

**I. COMPENSATION TO CONTRACTOR**

Fiscal Year 2016-17 – Daily rate for supervision, per work crew, per day \$756.00. Total Maximum Payment for fiscal year 2016-17 is \$125,000.

It is understood and agreed that this total is the maximum per year and that CITY will only pay for services actually rendered