

**American River Flood Control District
Sheriff's Work Program Contract for Services
Staff Report**

Discussion:

District Superintendent Ross Kawamura has researched available options for obtaining contract laborers to assist with debris clean-up along the levees. The most suitable work force for this task is currently provided through the Sacramento County Sheriff's Department with their work program.

Attached to this report is a contract from the Sac County Sheriff to begin providing these labor services. The contract price for supervision of one work crew is \$979 per day. The contract estimate for fiscal year 2019/20 costs are not to exceed \$30,000.

Recommendation:

The General Manager recommends that the Board approve the contract.

SACRAMENTO COUNTY**SHERIFF'S DEPARTMENT**

Scott R. Jones
Sheriff

July 17, 2019

American River Flood Control District
Attn: Ross Kawamura
185 Commerce Circle
Sacramento, CA 95815

RE: Revenue Agreement Between The American River Flood Control District And The Sacramento Sheriff's Office For Supervision Of Work Project Program Inmate Crew Cleaning And Landscape Maintenance

Mr. Kawamura:

Please find enclosed two (2) sets of the original agreement. Please obtain appropriate signatures on both sets and return both to the Sheriff's Office. After you return the signed originals to us, you will receive a fully executed copy once it is signed by the Sheriff and all required parties. If you have any questions please contact Debra Holoubek @ dholoubek@sacsheriff.com or call (916) 875-0108.

Very truly yours,

SCOTT R. JONES, SHERIFF

Return documents to:
Sacramento County Sheriff's Office
711 G Street, RM 405
Sacramento, CA 95814

Matt Compton

Enclosed: Original Agreement (2 sets)

REVENUE AGREEMENT BETWEEN THE AMERICAN RIVER FLOOD CONTROL DISTRICT AND THE SACRAMENTO COUNTY SHERIFF'S OFFICE FOR SUPERVISION OF WORK PROJECT PROGRAM INMATE CREW CLEANING AND LANDSCAPING MAINTENANCE

THIS AGREEMENT is made and entered into as of this 1st day of August, 2019, between the AMERICAN RIVER FLOOD CONTROL DISTRICT, a Municipal District in the State of California, hereinafter referred to as "DISTRICT," and the COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereinafter referred to as "COUNTY".

RECITALS

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

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

WHEREAS, DISTRICT 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, DISTRICT 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 August 1, 2019, and shall remain in effect until July 31, 2020, 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 DISTRICT

TO COUNTY

Ross Kawamura
American River
Flood Control District
185 Commerce Circle
Sacramento, CA 95815

Sacramento County Sheriff's Dept.
Commander, Work Release Division
700 N. 5th Street
Sacramento, CA 95811

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

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

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 DISTRICT.

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 DISTRICT 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, 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 have any and all entitlement as a County employee, the right to act on behalf of COUNTY. COUNTY shall be covered by workers' compensation; and COUNTY shall be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, and entitled to other fringe benefits 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 DISTRICT 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

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 the 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.

This indemnity obligation shall survive the termination or expiration of the Agreement.

XII. INSURANCE

The COUNTY and DISTRICT finance their liability, property, and worker's compensation risk through a combination of self-insurance and insurance. The COUNTY and DISTRICT are knowledgeable of each entity's risk financing program 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 the 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, or Exhibit B as modified by COUNTY in accordance with express provisions in this Agreement. COUNTY agrees that all work provided by inmates is free of charge. Total maximum payment under this contract shall not exceed \$30,000. It is understood and agreed that this total is the maximum and that DISTRICT will only pay for services actually rendered.
- B. COUNTY shall submit monthly invoices on the forms and in accordance with the procedures mutually agreed upon by DISTRICT and COUNTY. Invoices shall be submitted to DISTRICT no later than the fifteenth (15th) day of the month following the invoice period, and DISTRICT 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 DISTRICT 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 DISTRICT.

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 DISTRICT 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. DISTRICT 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, DISTRICT 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 made.

- C. 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 DISTRICT'S request, DISTRICT 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 DISTRICT 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 DISTRICT'S request at DISTRICT'S expense.

XXIII. PRIOR AGREEMENTS

This Agreement constitutes the entire contract between DISTRICT and COUNTY regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between DISTRICT 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 for two one-year periods, for a total of three years, by mutual agreement of the DISTRICT 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-to-day operational issues should be directed as follows:

DISTRICT

COUNTY

Ross Kawamura
Superintendent
916-929-4006

Work Release Facility
Field Ops Supervisor 874-2419/874-1414
Or SWP Coordinator 606-5223

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

AMERICAN RIVER FLOOD
CONTROL DISTRICT, a
Municipal District in the
State of California

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

By: _____
BRIAN F. HOLLOWAY, President

By: _____
SCOTT R. JONES, Sheriff

Date: _____

Date: _____

Authorized on behalf of County by Board Resolution _____

APPROVED AS TO FORM:

By: _____
District Counsel

By: _____
Deputy County Counsel

Date: _____

Date: _____

**EXHIBIT A to Agreement Between
AMERICAN RIVER FLOOD CONTROL DISTRICT,
hereinafter referred to as "DISTRICT"
and the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY"**

SCOPE OF SERVICES

I. SERVICE LOCATION(S)

Throughout the American River Flood Control District

II. DESCRIPTION OF SERVICES

COUNTY agrees to assign one inmate work crew for homeless camp cleanup, landscape/brush cleanup and litter removal two times per month, unless otherwise mutually agreed upon.

Each crew shall be supervised by a regular or On-Call Deputy Sheriff, to perform cleanup, maintenance, landscaping, and other appropriate tasks in and around DISTRICT levees.

It is understood and agreed that such assignment of Deputy Sheriffs 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 Deputy Sheriff/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
AMERICAN RIVER FLOOD CONTROL DISTRICT,
hereinafter referred to as "DISTRICT",
and the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY"**

BUDGET REQUIREMENTS

I. COMPENSATION TO CONTRACTOR

Fiscal Year 2019/20 – Daily rate for supervision, per work crew, per day \$979.

Work Project cleanup services for Fiscal Year 2019/20
in the amount of \$30,000.

Total Maximum Payment under this contract shall not exceed \$30,000. It is understood and agreed that this total is the maximum, and that DISTRICT will only pay for services actually rendered.