

CLARK COUNTY STAFF REPORT

DEPARTMENT: General Services –Facilities

DATE: April 19, 2016

REQUESTED ACTION: To sign the Updated Master Agreement between the Washington State Department of Corrections and Clark County Heritage Farm.

___ Consent ___ Hearing X County Manager

BACKGROUND

The Department of Corrections has been providing the Heritage Farm with work crew services for a number of years; recently they have made some change to how they conduct business so a new contract needs to be signed. The most significant change is that the county will now reimburse the Washington State Department of Corrections for workers' compensation insurance at the rate of approximately 40 cents per hour to have the crew's continue to provide services at Heritage Farm. We estimate the cost will total less than \$2500 a year and the cost will be absorbed into the existing facilities budget.

COUNCIL POLICY IMPLICATIONS

None

ADMINISTRATIVE POLICY IMPLICATIONS

None

COMMUNITY OUTREACH

None

BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.
		Action falls within existing budget capacity but requires a change of purpose within existing appropriation
		Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	\$2500
Grant Fund Dollar Amount	
Account	Facilities Maintenance - Fund 5093
Company Name	WA State Department of Corrections

DISTRIBUTION:

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>



Michelle Schuster
Administrative Services Manager II



Robert Stevens
Director of General Services

APPROVED: _____
CLARK COUNTY, WASHINGTON
BOARD OF COUNTY COUNCILORS

DATE: _____

SR# _____

APPROVED: 
Mark McCauley, Acting County Manager

DATE: 4/25/16

BUDGET IMPACT ATTACHMENT

Part I: Narrative Explanation

I. A – Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information

Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Total						

II. A – Describe the type of revenue (grant, fees, etc.)

Part III: Estimated Expenditures

III. A – Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
Total							

III. B – Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual						
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total						

Class V Restitution, Work Release, and Community Supervision or Custody
Master Agreement
Between
THE WASHINGTON STATE DEPARTMENT OF CORRECTIONS
And
HERITAGE FARM

This Master Contract Agreement is entered into by and between the State of Washington, Department of Corrections, hereinafter referred to as DOC, and, Heritage Farm located at 1919 NE 78th Street Vancouver, WA 98665 hereinafter referred to as the 'RECIPIENT OF THE SERVICES' or 'RECIPIENT'. Legal authority for this Master Contract Agreement is pursuant to RCW 72.09.100 and Chapter 137-80 WAC.

Offenders who provide services under this Master Agreement reside in the community. For the provision of services under this Master Agreement, all offenders are under the jurisdiction of DOC.

1. PURPOSE

The purpose of this Agreement is to provide the master terms and conditions between the parties for offenders to provide work crew services to the RECIPIENT. To be eligible to receive offender services, the RECIPIENT must be an agency of Washington State government, a local government or federally recognized Indian tribe within Washington State or a public benefit nonprofit as defined by the IRS; a 501(c)(3) Charitable Organization or a 501(c)(4) Social Welfare Organization. No public employees will be displaced as a result of this Agreement.

On January 1, 2016, the terms and conditions contained in this Master Agreement will replace and terminate any previous Work Crew Agreement and Work Project Descriptions between the Parties. For this Master Agreement to be valid it must be signed by the DOC Contracts Administrator or designee on behalf of DOC.

2. WORK PROJECT DESCRIPTIONS

Offender work crew projects are limited to those that can be properly supervised as determined by the DOC Field Administrator, Work Release and Residential Program Administrator, or designee and the RECIPIENT's Contract Manager. Each project is subject to careful review for security requirements. Each distinct project requires a separate Work Project Description that is signed by both parties to this Agreement. [See Attachment A] The Work Project Description will detail the work to be done by offenders, the cost to the RECIPIENT and other specifics of the particular project.

A Field Administrator or Work Release and Residential Program Administrator is authorized to sign Work Project Descriptions on behalf of DOC. A Work Project Description may be valid for up to one year but must end prior to, or on the same date as, this Master Contract Agreement. All services provided under each signed Work Project Description shall be performed pursuant to the terms of this Master Agreement.

3. TERM

The term of this Master Contract Agreement shall begin January 1, 2016 and continue through December 31, 2019, unless terminated sooner as provided for herein.

4. BILLING and PAYMENT

In consideration of the services provided hereunder, payment to DOC will be as follows:

- A. DOC will invoice the RECIPIENT for payment by the 20th of the month following each month in which offender services were provided. Invoices for payment will include all direct and indirect charges payable to DOC by the RECIPIENT that were negotiated between the Parties, except that payment for offender L&I insurance coverage will be paid directly to L&I by the RECIPIENT and will not appear on DOC invoices.
- B. Payment by the RECIPIENT, will be due to the DOC address indicated below within 30 calendar days of the date of the invoice. This DOC Master Agreement number and the location of the project for which payment is made must be included with each payment.
- C. DOC requires the RECIPIENT of offender services to provide workers' compensation insurance for the offenders who provide services to the RECIPIENT under the terms of this Agreement. Therefore, RECIPIENT will:
 - 1) Prior to contract execution, complete and submit to L&I, the *Application for Elective Coverage of Excluded Employments*, (L&I Form F213-112-000) to authorize the addition of offender L&I Risk Classification 7203 to the RECIPIENT's L&I Account;
 - 2) Provide DOC with a copy of the Rate Notice received from L&I that confirms the addition of Risk Classification 7203 to the RECIPIENT's L&I Account. DOC advises the RECIPIENT to include the L&I Rate Notice when returning this partially executed Agreement to DOC for final signature.
 - 3) Each quarter, for offender services provided to the RECIPIENT during the previous quarter, report to L&I the total number of offender hours worked and pay the total cost due for workers' compensation coverage directly to L&I for those offender hours.
- D. Addresses to use for Billing and Payment.
 - 1) **Billing** - Invoices for payment will be mailed to the address provided by the RECIPIENT:

RECIPIENT
Attn: Mike Wright
Mailing Address: Clark County Facilities Management PO Box 5000
City, State, Zip Code: vancouver, WA 98660
 - 2) **Payment**
 - a. **State Agencies Only** - will pay using the following statewide vendor number: SWV0003872-01 [IAP Payment - DOC General Account]
 - b. **All Other RECIPIENTs** - will send payment to the address provided by the DOC Community Corrections location from which services were provided.

5. TERMINATION

When in its own best interest, either party may terminate this Agreement, in whole or in part, upon 30 days' written notice to the other party, beginning on the second day after mailing such notice. If this Agreement is so terminated each of the parties shall be liable only in accordance with the terms of this Agreement for services rendered prior to the effective date of termination.

6. HAZARD ASSESSMENT AND MITIGATION

- A. In accordance with the DOC Office of Risk Management, work generally considered to be dangerous or hazardous may not be performed by offenders.
- B. Before DOC offenders may provide services at any new and distinct project location, the RECIPIENT will assess the location for hazardous conditions and/or materials. (See Attachment B)
- C. The RECIPIENT's assessment must be performed in accordance with WAC 296-800-160 and provided to DOC using DOC Form 03-247 or other similar hazard assessment and PPE selection worksheet. The RECIPIENT will inform DOC promptly, in writing, if hazardous conditions or materials are found at the new project site.
- D. Once notified, DOC at its own discretion, may a) identify, with the RECIPIENT, the protective equipment or clothing that is needed for offenders and correctional officers to mitigate the effects of the on-site hazard(s); or b) request that the RECIPIENT remove or otherwise mitigate the hazard before offenders perform the contracted work crew services at that site; or c) withdraw from the project.
- E. If hazardous conditions or materials are discovered while offenders are working at RECIPIENT's site, then offender work will be suspended immediately and RECIPIENT will make appropriate regulatory notifications and request further assessment.

7. TOOLS, EQUIPMENT AND SUPPLIES

- A. In General
 - 1) DOC will provide offenders with basic work attire, such as boots, gloves, goggles and rain gear, that may be needed for any project;
 - 2) If the Parties to this Agreement do not negotiate otherwise, the RECIPIENT will provide any additional tools, equipment and supplies that offenders need to accomplish the RECIPIENT's specific work project. This will include any Personal Protective Equipment (PPE) e.g. bump hats, specialized goggles or gloves, hearing and eye protective devices, etc. and any specialized safety equipment (SSE) necessary to protect offenders and correctional officers from hazards at the project site.
 - 3) The specific tools, equipment and supplies necessary for each project, and the party to the Agreement responsible for providing each item, will be designated in the Work Project Description for that project.

8. TRAINING

- A. The RECIPIENT will train offenders regarding the work to perform as well as any safety requirements specific to the project site and the use of any specialized equipment.
- B. The RECIPIENT will ensure that all safety training is in compliance with all applicable laws and regulations including, but not limited to, Division of Occupational Safety and Health (DOSH) regulations and the Washington Industrial Safety and Health Act (WISHA).

9. PRISON RAPE ELIMINATION ACT (PREA) and SEXUAL MISCONDUCT

PREA requirements shall apply to any person having contact with offenders under DOC jurisdiction. This includes, but is not limited to, governmental entities, contractors and their employees; Recipients of offender work crew services, vendors and their employees, student interns and volunteers, hereinafter referred to collectively as 'contractor'. Contractors may obtain electronic access to the documents cited below in Section 1, Authorities, from the DOC website.

A. Authorities

In the performance of services under this Contract, Contractors shall comply with all federal and state laws and DOC policies regarding sexual misconduct including, but not limited to:

Federal Law:

- Prison Rape Elimination Act of 2003 (PREA);

State Law, Washington:

- RCW 72.09.225, Sexual misconduct by state employees, contractors;
- RCW 9A.44.010, Definitions;
- RCW 9A.44.160 Custodial sexual misconduct in the first degree;
- RCW 9A.44.170, Custodial sexual misconduct in the second degree;

DOC Policy:

- DOC 490.800, Prison Rape Elimination Act (PREA) Prevention and Reporting;
- DOC 490.820, Prison Rape Elimination Act (PREA) Risk Assessments and Assignments;
- DOC 490.850, Prison Rape Elimination Act (PREA) Response;
- DOC 490.860, Prison Rape Elimination Act (PREA) Investigation; and
- DOC 610.025, Medical Management of Offenders in Cases of Alleged Sexual Abuse or Assault.

B. Contractor Requirements include, but are not limited to:

1. Zero tolerance toward all forms of sexual abuse and sexual harassment;
2. Familiarization and compliance with PREA law, relevant Washington State laws and DOC policies regarding PREA and sexual misconduct;
3. Ensuring that anyone who may have contact with DOC offenders complete DOC PREA/Sexual Misconduct training and comply with all PREA standards.

4. All personnel under this contract, with access to DOC offenders, must certify that they have not:
 - Engaged in sexual misconduct in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 U.S.C. 1997;
 - Been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 - Been civilly or administratively adjudicated to have engaged in the activity described above.
5. Providing sexual misconduct disclosure forms to DOC (DOC Form #03-502), completed by each person providing services, retaining a copy of the same in each individual personnel record.
6. Submitting to a criminal background check, performed by DOC, at least once every five years.
7. Compliance with the affirmative duty to report personnel with any conviction or adjudication of a violation of any of the offenses listed in #4, above.

C. Investigations. DOC will investigate any allegation of the contractor's failure to comply with DOC PREA policies or the PREA standards.

D. Consequences of a Contractor's failure to conform with DOC PREA policies include, but are not limited to:

1. Contractor removal from proximity to offenders;
2. Contractor removal from contract work at DOC;
3. Contract termination.

10. CONTRACT MANAGEMENT

The contract manager(s) for each of the parties shall be responsible for and shall be the contact person(s) for all communications regarding the performance of this Agreement. Either party may, with written notice to the other, designate different contact persons.

RECIPIENT: Mike Wright, Program Manager I, 360-397-2000 ext. 6071
mike.wright@clark.wa.gov

DOC: Sandy Heurion Community Corrections Supervisor 360-571-4337
sandy.heurion@doc.wa.gov

11. SUPERVISION

- A. The Work: RECIPIENT will supervise the work performed by offenders and maintain daily oversight of the project until completed. RECIPIENT will provide adequate worksite instruction and direction to all offenders, to ensure safe work performance and proper project outcome.

- B. Security: A first aid qualified Correctional Officer will supervise offenders at all times. Such DOC supervision shall only be for the security and custody of the offenders and the safety of the public at large.
- C. Correctional Officers may not supervise the work performed by offenders or be responsible for project outcomes.
- D. On-Site Illness/Accidents: In the event of offender illness or injury, DOC will provide the appropriate first aid. If necessary, emergency medical assistance will be called, or the offender will be transported to the nearest medical facility for treatment.
 - 1) Expenses:
 - a) Illness. DOC will pay all expenses related to treatment of offender illness.
 - b) Injury. The cost of treatment provided to offenders beyond first aid for any and all work related injuries will be paid in accordance with Title 51 RCW.
 - c) The RECIPIENT's L&I Account Number, 700, 257-00, will be the account number used by offenders, DOC and medical providers when reporting offender work related injury.

12. PUBLIC INFORMATION

Neither party shall arrange for news media coverage without the consent of the other party, nor shall either party release information to the news media without the consent of the other party.

13. WORK PRODUCT and PERFORMANCE

- A. Washington State and DOC, including its agents and/or employees:
 - 1) Are not responsible for, and do not guarantee, the quality of the work performed or products produced by offenders on work crews;
 - 2) Shall not be required to pay other workers to re-do or repair the work performed by the offenders; and
 - 3) Are not responsible for damages to third parties resulting from the work performed or products produced by offenders on work crews.

14. INDEMNIFICATION

- A. RECIPIENT, its agents, and/or employees:
 - 1) Are responsible for any damages resulting from the negligence of the RECIPIENT, its agents, and/or employees; and
 - 2) Do indemnify, defend, and hold harmless DOC for claims arising from the negligent acts or omissions of the RECIPIENT, its agents, and/or employees.
- B. DOC, its agents, and/or employees:
 - 1) Are responsible for damages that arise out of DOC, its agents, and/or employees' negligent security supervision of offenders.

- C. In accordance with the laws of the state of Washington and to the extent permitted by law, if both parties to this Agreement are negligent and jointly liable, each party will assume responsibility for its own negligent acts or omissions.

15. TRANSPORTATION

DOC has sole responsibility to transport offenders to and from the work project site.

16. DISPUTES

Should the parties hereto be unable to informally resolve any dispute concerning the terms of this Agreement, the dispute will be settled in binding arbitration by an arbitrator chosen by consent of both parties.

17. INSURANCE

RECIPIENT will provide DOC with proof of current general liability insurance coverage when signing and returning this Agreement for final signature by DOC. RECIPIENT must maintain its policy of general liability insurance throughout the term of this Agreement and provide renewed proof of such coverage to DOC annually with each new Work Project Description.

RECIPIENT'S liability insurance coverage must have a limit of not less than \$1,000,000 per each occurrence with an aggregate limit of at least \$2,000,000.

18. PUBLIC BENEFIT NON-PROFIT

In order to utilize offender work crew services, RECIPIENTS that are non-profits, must be public benefit non-profits, as defined by the federal Internal Revenue Service (IRS). Those that are public benefit non-profits must provide proof to DOC of official IRS designation as a (501(c)(3) Charitable Organization or a (501(c)(4) Social Welfare Organization.

The RECIPIENT must provide DOC with proof of its IRS public benefit non-profit designation, with this partially signed Agreement when returning this partially signed Agreement to DOC Contracts and Legal Affairs for the final signature by DOC.

19. CHANGES AND MODIFICATIONS

Changes or modifications to this Agreement shall not be binding unless agreed to in writing by the parties hereto prior to such change or modification. Only the DOC Secretary or designee has the authority to alter, amend, modify, or waive any clause or condition of this Agreement for DOC.

20. WAIVER

Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement.

21. SEVERABILITY

If any term or condition of this Agreement is held invalid by any court, such invalidity shall not affect the validity of the other terms and conditions of this Agreement.

22. INTEGRATION

This Agreement contains all the terms and conditions agreed upon by the parties. No understandings or otherwise regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. As used herein, reference to the Agreement shall include this Master Agreement, fully executed amendments to this Agreement, and any Work Project Descriptions executed and attached hereto.

THIS Agreement, consisting of eight (8) pages and one (1) attachment, is executed by the persons signing below who warrant that they have the authority to execute the Agreement.

HERITAGE FARM

DEPARTMENT OF CORRECTIONS



(Signature)
MARK MCCAULEY

(Printed Name)
COUNTY MANAGER

(Title)
4/25/16

(Date)

(Signature)
Gary Banning

(Printed Name)
Contracts Administrator

(Title)

(Date)

Approval on file.
This contract format was approved
by the Office of the Attorney General.
Approved as to Form:
By Tim Lang, Sr. Assistant Attorney General
December 8, 2015

WASHINGTON STATE DEPARTMENT OF CORRECTIONS
Community Corrections Division
CLASS V Work Project Description

Contract Number: K

Recipient: Clark County Facilities
Number: 700, 257-00

Recipient L&I Account

Recipient is: Government Entity State Agency Public Benefit Nonprofit

Recipient Contact: Mike Wright
mike.wright@clark.wa.gov

Phone: 360-397-2000 ext. 6071

Email:

Department Contact: Mike Wright
mike.wright@clark.wa.gov

Phone: 360-397-2000 ext 6071

Email:

DOC offenders will: Clean up work at Heritage Farm

Number of offenders on crew: (insert number)

Project Location: Heritage Farm 1919 NE 78th Street Vancouver, WA 98665

Project Period (One year maximum): 4/1/2016 through 4/1/2017

Projected Total Number of Crew Hours: _____

Approximate Work Hours: Arrive at _____ a.m.

Depart at _____ p.m.

Special Payment Terms. Recipient will pay DOC:

1. Transportation Costs:
 - a. \$_____ to transport offenders; includes mileage, vehicle wear and tear, fuel, Tacoma Narrows Bridge toll, etc.
2. Other direct and indirect costs \$_____; to include _____.

PPE, Tools and Equipment Provided by:

Recipient: _____

DOC: _____

Hazard Assessment and PPE Selection Worksheet attached? Y N

Additional Terms:

RECIPIENT

DEPARTMENT OF CORRECTIONS

SAMPLE - DO NOT SIGN

Signature

SAMPLE - DO NOT SIGN

Signature of Field Administrator or Work
Release and Residential Program Coordinator

Printed Name & Title

Section/Facility

Date

Date

