

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

July 26, 2022

FROM

SHANNON D. DICUS, Sheriff/Coroner/Public Administrator

SUBJECT

Revenue Agreement Templates to Provide Continuing Professional Training and Use of the Sheriff/Coroner/Public Administrator's Weapons Firing Range

RECOMMENDATION(S)

1. Approve revenue agreement templates to allow the Sheriff/Coroner/Public Administrator to provide Continuing Professional Training to local and state agencies, and County departments for the period of August 1, 2022 through June 30, 2027.
2. Approve revenue agreement templates to allow the Sheriff/Coroner/Public Administrator to provide use of the Sheriff/Coroner/Public Administrator's weapons firing range facilities to local, state, and federal agencies, and County departments for the period of August 1, 2022 through June 30, 2027.
3. Authorize the Sheriff/Coroner/Public Administrator, Undersheriff or Chief Deputy Director of Sheriff's Administration to approve and execute all individual revenue agreement templates mentioned in Recommendation Nos. 1 and 2, including fee schedule changes, for Continuous Professional Training and/or use of weapons firing range facilities, as required, subject to review by County Counsel.
4. Authorize the Sheriff/Coroner/Public Administrator, Undersheriff or Chief Deputy Director of Sheriff's Administration to approve and execute non-standard revenue agreement terms with federal and state agencies, including, but not limited to fee schedule changes, to provide Continuing Professional Training and/or use of the Sheriff/Coroner/Public Administrator's weapons firing range facilities, as required, subject to review by County Counsel.

(Presenter: John Ades, Deputy Chief, 387-3760)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

The recommended revenue templates will not result in the use of additional Discretionary General Funding (Net County Cost). The annual revenue generated from the agreements in Recommendation Nos. 1 and 2, in the estimated amount of \$100,000 and \$110,000, respectively, provides for recovery of both the direct and indirect costs of providing these services, and is included in the Sheriff/Coroner/Public Administrator's (Department) 2022-23 recommended budget and will be included in future recommended budgets. Fees charged are

Revenue Agreement Templates to Provide Continuing Professional Training and Use of the Sheriff/Coroner/Public Administrator's Weapons Firing Range
July 26, 2022

reviewed annually and costs are adjusted to ensure full recovery of the cost of providing services.

BACKGROUND INFORMATION

The Department, through the Frank Bland Regional Training Center, provides California Peace Officer Standards and Training (P.O.S.T.) certified Continuing Professional Training (CPT) to outside law enforcement agencies on a contractual basis. P.O.S.T has identified various training courses that must be provided to all law enforcement in various intervals. Those include, but are not limited to: Bloodborne Pathogens Awareness, First Aid/CPR, De-escalation Techniques, Officer Safety and Strategic Communication. The courses are provided to the Department's sworn staff, as well as outside agencies who attend the training sessions, on a trimester basis, which include firearms qualifications and inspections. Agreements are used to establish the terms of the training, ensure proper liability coverage, cost recovery, and operating procedures between the parties.

On May 23, 2017 (Item No. 128), the Board of Supervisors (Board) approved the standard agreement templates for Trimester CPT training (formerly known as Use of Force Training), for the continued provision of services through June 30, 2022, at the rate of \$150 per student, per trimester, and an additional fee of \$580 for a four-hour orientation session designed to prepare new participant agencies for ongoing CPT training. These rates were updated for 2021-22 to \$251 per student, per trimester, and \$710 for the orientation session.

The recommended template agreements will continue training services from the period commencing upon its execution, on or after August 1, 2022, and ending on June 30, 2027, to include a rate of \$290 per student, per trimester, and an additional fee of \$725 for a four-hour orientation session for 2022-23. The fees for the courses are based upon the cost of providing training to students, maintaining and operating the firing range and replacing targets, frames and backing, ammunition and other supplies.

The Department's weapons firing range facilities are used on a contractual basis by over 50 local law enforcement and government agencies, as well as certain private companies throughout San Bernardino, Riverside, Orange and Los Angeles counties. The Department's firing range and Live Fire House (LFH) is the most convenient place for employees and students of many contractors to complete necessary periodic firearms qualifications. In addition, the Department's LFH is used on a contractual basis by approximately 20 law enforcement and government agencies in need of a tactical training environment, as it provides realistic hands-on training, using live ammunition, in real life scenarios. A written agreement is necessary to ensure proper liability coverage, cost recovery, and operating procedures between the parties.

On May 23, 2017 (Item No. 128), the Board also approved the standard agreement templates for the use of the Department's range facilities for the continued provision of services through June 30, 2022, at a rate of \$220 for half-day use (up to four hours and up to 20 shooters) and \$440 for whole day use (greater than four hours or greater than 20 shooters) per agency for 2017-18. The fee for full day use of the LFH was set at \$572, with a half day option, or up to four hours, at a rate of \$286. These rates were updated for 2021-22 to \$280 for half day and \$560 for full day for the use of the shooting range; and \$295 for half day and \$590 for full day use of the LFH.

Revenue Agreement Templates to Provide Continuing Professional Training and Use of the Sheriff/Coroner/Public Administrator's Weapons Firing Range
July 26, 2022

The recommended range facilities template agreements will continue training services from the period commencing upon its execution, on or after August 1, 2022, and ending on June 30, 2027, with an updated fee schedule for 2022-23 after conducting a full cost analysis of providing the service to include the following: A proposed rate of \$23 per shooter using the shooting range; a \$460 fee for half day (for up to four hours and up to 20 shooters), and a \$920 fee for full day use of the LFH (greater than four hours or greater than 20 shooters).

The Department has included a Memorandum of Understanding (MOU) template to be used with other County departments for both CPT training and use of the Department's range facilities. The proposed template agreement eliminates the need to return to the Board for single agreements throughout the approved agreement period for the same agreement language. State and federal agencies require slightly different agreement templates because state agency requirements call for modifications to the County's standard indemnification language, and federal agency agreements contain both modified indemnification and insurance language, as follows:

1. Indemnification (Agreements with the State of California agencies):
 - a. Non-standard term: The range facilities use and CPT template agreements with agencies from the State of California, provide for mutual indemnification per Government Code 895.2 and 895.6; except from acts of active or passive negligence by State employees.
 - b. Standard County term: The County standard contract requires the Contractor to indemnify the County in accordance with County Policy 11-07.
 - c. Potential Impact: The agreement will require the County and the State to indemnify each other based on comparative fault. The County could be liable for potential harm or loss incurred by a State agency.
 - d. Justification: The Department believes that allowing State agency employees to train at the range facilities outweighs any risks upon utilizing the facility, and because any injury occurring at the range facilities would be "on-duty", the Department believes its personnel and State agency employees have adequate insurance coverage, limiting a portion of the liability issue.

2. Indemnification (Agreements with federal agencies):
 - a. Non-standard term: The range facilities use template agreement with federal agencies provides for indemnification to the County based on the federal Tort Claims Act, 28 United States Code (U.S.C), §§ 2672-2680; in compliance with the limits of the Anti-Deficiency Act, U.S.C. § 1341; and governed under the provisions of the Equal Access to Justice Act 28 U.S.C. § 2412.
 - b. Standard County term: The County standard contract requires the Contractor to indemnify the County in accordance with County Policy 11-07.
 - c. Potential Impact: The agreement will require federal agencies to indemnify the County based on coverages and limitations established by federal law.
 - d. Justification: The Department believes that allowing employees from federal agencies to train at the range facilities outweighs any risks upon utilizing the facility, and because any injury occurring at the range facilities would be "on-duty", the Department believes its personnel and federal employees have adequate insurance coverage, limiting a portion of the liability issue.

Revenue Agreement Templates to Provide Continuing Professional Training and Use of the Sheriff/Coroner/Public Administrator's Weapons Firing Range
July 26, 2022

3. Insurance (Agreements with federal and state agencies):
 - a. Non-standard term: With the exception of Waiver of Subrogation, the template agreements do not include standard County insurance terms as federal and state agencies are self-insured public entities with adequate coverage or resources to protect against liabilities arising from these agreements.
 - b. Standard County term: The County standard contract requires and sets contractor's insurance terms and limits determined by the County's Risk Management Department.
 - c. Potential Impact: The insurance conditions and coverages will vary from the County's requirements for state and federal agencies.
 - d. Justification: The Department believes that allowing employees from federal and state agencies to train at the range facilities outweighs any risks upon utilizing the facility, and because any injury occurring at the range facilities would be "on-duty", the Department believes its personnel and federal or state employees have adequate insurance coverage, limiting a portion of the liability issue.

While these are notable exceptions to the County's standard contract language, the Department recommends approval of the range facilities use and CPT template agreements to be used with federal and state agencies in order to pursue County goals and objectives to provide for the safety, health and social service needs of County residents; and also working with other agencies. County Counsel and Risk Management have reviewed and provided input on the templates.

Approval of Recommendation No. 1 will allow the Department to utilize three different five-year template agreements to provide Continuing Professional Training to local, state and other County departments.

Approval of Recommendation No. 2 will allow the Department to utilize four different five-year template agreements to allow the use of the Department's weapons firing range facilities for local, state and federal agencies and other County departments.

All templates have the possible effective dates of August 1, 2022 through June 30, 2027; actual agreements will depend upon full execution by signature of both parties but all will terminate on June 30, 2027. All agreements will include termination upon 30 days advanced written notice.

Approval of Recommendation No. 3 will authorize the Sheriff/Coroner/Public Administrator, Undersheriff or Chief Deputy Director of Sheriff's Administration, subject to review by County Counsel, to execute the applicable template agreement with the individual agencies, including fee schedule changes.

State and federal agencies often include additional terms and conditions to the County's agreement template making these agreements non-standard per the County's contracting policies. Approval of Recommendation No. 4 will authorize the Sheriff/Coroner/Public Administrator, Undersheriff or Chief Deputy Director of Sheriff's Administration to execute non-standard revenue agreements upon review by County Counsel, including, but not limited to fee schedule changes.

PROCUREMENT

Not applicable.

**Revenue Agreement Templates to Provide Continuing Professional
Training and Use of the Sheriff/Coroner/Public Administrator's Weapons
Firing Range
July 26, 2022**

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Richard D. Luczak, Deputy County Counsel, 387-5455) on July 1, 2022; Risk Management (Victor Tordesillas, Director, 386-8623) on July 5, 2022; Finance (Carolina Mendoza, Administrative Analyst, 387-0297) on July 6, 2022; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on July 8, 2022.

**Revenue Agreement Templates to Provide Continuing Professional
Training and Use of the Sheriff/Coroner/Public Administrator's Weapons
Firing Range
July 26, 2022**

Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Janice Rutherford
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: July 26, 2022



cc: File- Sheriff/Coroner w/attach
LA 08/9/2022