

Meeting Date: 5/13/2014

Report Type: Consent

Report ID: 2014-00323

Title: Agreement: Sutter General Hospital Police Security Services

Location: Citywide

Recommendation: Pass a Resolution 1) authorizing the City Manager, or the City Manager's designee, to enter into an agreement with Sutter General Hospital in an amount not to exceed \$732,238 through December 31, 2015; and 2) authorizing the City Manager, or the City Manager's designee, to establish four Full-Time Equivalent (FTE) Police Officer Positions for the purpose of executing the City's obligation under the agreement with the understanding that these positions will be eliminated if the agreement is cancelled, terminated, or not subsequently renewed for future fiscal years.

Contact: Justin Eklund, Police Captain, Contract Services, (916) 808-5650, Police Department

Presenter: None

Department: Police

Division: Contract Services

Dept ID: 11001531

Attachments:

1-Description/Analysis

2-Resolution

3-Agreement

City Attorney Review

Approved as to Form

Michael Fry

5/1/2014 5:18:26 PM

Approvals/Acknowledgements

Department Director or Designee: Sam Somers - 4/21/2014 9:31:51 AM

Description/Analysis

Issue Detail: Sutter General Hospital (Hospital) wishes to enter into an Agreement with the Sacramento Police Department (SPD) to provide security and safety services within the hospital and surrounding area. Under this Agreement, SPD will be responsible for providing four Full-Time Equivalent (FTE) Police Officers to patrol the Hospital area encompassing 27th Street to 30th Street, and J Street to N Street, in an amount not to exceed \$732,238 through December 31, 2015.

Policy Considerations: Adopting a Resolution is consistent with: 1) the Fiscal Year (FY) 2013/14 Budget Resolution 2013-0198, which requires City Council approval of any increase in FTE as previously authorized in the Approved Operating Budget; and 2) Sacramento City Code 3.04.020 which requires City Council approval to enter into an agreement involving income of \$100,000 or more.

Economic Impacts: None

Environmental Considerations: None

California Environmental Quality Act (CEQA): This action is not subject to the California Environmental Quality Act (CEQA) because it does not constitute a “project” as defined in Sections 15378 and 15061(b)(3) of the CEQA guidelines.

Sustainability Considerations: None

Commission/Committee Action: None

Rationale for Recommendation: The recommendations contained in this report are consistent with the SPD’s goal to *Make Sacramento the Safest Big City in California*.

Financial Considerations: The expenses associated with the salary and benefit costs of the four new FTE Police Officer positions will be reimbursed by Sutter General Hospital to the City. Should the agreement be terminated, the positions will be eliminated. There is no adverse impact on the SPD’s operating budget.

Local Business Enterprise (LBE): Not applicable.

RESOLUTION NO.

Adopted by the Sacramento City Council

[DATE]

AGREEMENT: SUTTER GENERAL HOSPITAL POLICE SECURITY SERVICES

BACKGROUND

- A. The Sacramento Police Department and Sutter General Hospital have negotiated an agreement to provide safety and security services within the hospital and surrounding area encompassed by 27th Street to 30th Street, and J Street to N Street. The expenses associated with the salary and benefit costs of the four FTE Police Officers will be fully funded by Sutter General Hospital.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager, or the City Manager's designee, is authorized to enter into an agreement with Sutter General Hospital in an amount not to exceed \$732,238 through December 31, 2015.
- Section 2. The City Manager, or the City Manager's designee, is authorized to establish four Full-Time Equivalent (FTE) Police Officer positions for the purpose of executing the City's obligation under the agreement. These positions will be eliminated if the agreement is cancelled, terminated, or not subsequently renewed for future fiscal years.

NEIGHBORHOOD POLICING GRANT AWARD AGREEMENT

Sutter Health Sacramento Sierra Region, a California nonprofit public benefit corporation d/b/a Sutter Medical Center, Sacramento (“Hospital”) is pleased to announce the grant award of \$732,238 (“Grant”) to the Sacramento Police Department (“SPD”) for the purpose of implementing a neighborhood policing program including police officer presence and patrol as further described herein. Grant funding will be for services during the period from April 19, 2014 to December 31, 2015. Hospital and SPD agree that this Grant will be subject to the following terms and conditions (“Agreement”).

The Goal of the Program:

The goal of the program is to develop a comprehensive neighborhood policing program within the area encompassed by 27th Street to 30th Street and J Street to N Street, including police officer presence and patrol within Hospital’s Sutter General Hospital campus (the “Facility”),¹ primarily in its emergency department, at least twenty (20) hours per day, seven (7) days per week during hours mutually agreed upon by the parties.

Objectives of the Program:

- A. Using a Community Oriented Policing philosophy, SPD will provide law enforcement resources on Hospital’s campus, including police officer presence and patrol within Facility, primarily in its emergency department, at least twenty (20) hours per day, seven (7) days per week during hours mutually agreed upon by the parties.
- B. In addition, the officers will use Problem Oriented Policing tactics combined with community mobilization to address issues in the broader area encompassed by 27th Street to 30th Street and J Street to N Street, including the following:
 - 1. SPD will provide training seminars to enhance personal safety and awareness.
 - 2. SPD will assist security staff in providing police services for the Hospital campus and immediate area.
 - 3. SPD will develop working relationships with the Hospital staff, local merchants, and school to assist in developing a local business watch program in concert with the community policing effort.
 - 4. SPD will develop working relationships with the Hospital staff and local residents to assist in developing a local neighborhood watch program in concert with the community policing effort.

¹ Hospital intends to consolidate its Sutter Memorial Hospital campus with the Sutter General Hospital campus by the end of calendar year 2014, at which time the new combined hospital will be called “Sutter Medical Center, Sacramento,” with an address of 2825 Capitol Avenue, Sacramento, CA 95816. All references herein to the “Facility” shall also apply to the new Sutter Medical Center, Sacramento campus.

Hospital and SPD further agree as follows:

ARTICLE 1
GENERAL OBLIGATIONS OF SPD

1.1 Program. SPD agrees that the neighborhood policing program (“Program”) will be consistent with the services set forth in the Goals and Objectives stated above, which are hereby incorporated into this Agreement by this reference, as requested by Hospital. At all times when performing services under the Program, the SPD uniformed officers (“Officers”) shall be subject to and required to comply with the rules and regulations of the City of Sacramento Police Department. Notwithstanding the foregoing, Officers performing the Program at the Hospital are expected to remain on the Hospital campus except in the event of an extreme emergency (as determined in SPD’s discretion), must comply, with respect to the use of weapons and/or restraints, with all applicable standards and recommendations of The Joint Commission, applicable federal, state and local laws, rules and regulations, including, but not limited to, Title 22 of the California Code of Regulations and federal CMS guidelines.

1.2 Supplies and Equipment; Employees. SPD shall provide, at its own expense, all equipment, supplies and materials necessary to perform the Program, and Hospital shall provide no supplies and equipment. All Officers used to perform the Program shall be employees of SPD. SPD shall determine the wages, working hours, and other working conditions for such Officers, and shall monitor and control the quality of their work performance.

1.3 Health Screening. SPD shall provide documentation to Hospital to show that all Officers performing the Program for Hospital shall have received all screenings specified in this paragraph, which screenings shall be provided at the sole expense of SPD:

- (i) PPD results (to be completed annually). In the event PPD is positive, a check x-ray or evidence of symptom review by a health care professional
- (ii) Hepatitis B vaccines, or titer, or statement of refusal
- (iii) Annual Influenza participation (proof of vaccination or signed declination).

1.4 Background Investigation/Compliance with Immigration Law. SPD represents and warrants that it has performed a background investigation of the Officers to verify the Officers’ suitability to perform the Program and the ability of the Officers to be employed in the United States.

1.5 Acknowledgement of Standards. SPD acknowledges that Hospital is an affiliate of Sutter Health. SPD further acknowledges that, notwithstanding anything contained herein, neither party shall engage in any conduct that may violate any policies, procedures, or directives of the Sutter Health Standards for Business Conduct and Hospital’s Standards of Behavior.

1.6 OIG List of Excluded Providers. SPD shall provide documentation to verify that SPD and the Officers are not listed on the General Services Administration’s List of Parties Excluded from Federal Programs (available through the Internet at <http://epls.arnet.gov>) and the

HHS/OIG List of Excluded Individuals/Entities (available through the Internet at <http://www.hhs.gov/oig>).

1.7 Bloodborne Pathogens. SPD shall provide education, vaccinations and post exposure follow-up to the Officers as outlined in OSHA's Bloodborne Pathogens Standard and Tuberculosis Standard prior to the start of any assignment. Hospital will provide appropriate additional training on both standards specific to Hospital or Facility, if necessary. Hospital will also provide "Fit testing" for protective equipment utilized in care of Tuberculosis patients, as necessary and appropriate in Hospital's discretion.

ARTICLE 2 GENERAL OBLIGATIONS OF HOSPITAL

2.1 Access. Hospital shall provide SPD with access to the Facility as needed for performance of the Program under this Agreement.

2.2 Facilities. Hospital shall retain professional and administrative responsibility for the operation of the Facility, as and to the extent required by Title 22, California Code of Regulations, Section 70713. Hospital's retention of such responsibility is not intended and shall not be construed to diminish, limit, alter or otherwise modify in any way the obligations of SPD under this Agreement.

ARTICLE 3 TERM AND TERMINATION

3.1 Initial Term. This Agreement shall commence on April 19, 2014 and shall remain in force until December 31, 2015, unless earlier terminated as provided herein. This Agreement may be renewed upon mutual written agreement of the parties. Should this Agreement be terminated before the end of its term, payment for any partial quarter shall be prorated to reflect the number of days in the quarter that services were provided prior to termination.

3.2 Termination.

(a) Without Cause. This Agreement may be terminated without cause, with at least thirty (30) days' advance written notice from one party to the other.

(b) Termination for Breach. Either party may terminate this Agreement in the event of the other party's breach of a material provision, covenant or condition of this Agreement and subsequent failure to cure said breach within ten (10) calendar days after written notice by the non-defaulting party of said breach.

(c) Termination on the Advice of Counsel. In the event legal counsel for either party advises that this Agreement or any practices which could be, or are, employed in exercising rights under this Agreement may violate any existing or future law, regulation, or accrediting agency standard, or compromise Hospital's status as a non-profit corporation under Section 501(c)(3) of the Internal Revenue Code, the parties in good faith will undertake to revise

this Agreement to comply with such law, accrediting agency standard, or Internal Revenue Code requirement. In the event the parties are unable to agree upon the revised terms in a timely manner, this Agreement will terminate immediately upon written notice by one party to the other.

(d) Patient Safety. Hospital may, in its sole discretion, immediately terminate or suspend this Agreement at any time if, in its sole discretion, the provision of Program under this Agreement by SPD threatens the health or safety of Hospital's patients.

ARTICLE 4
FEES AND BILLING

4.1 Fees. The total Grant for this Agreement shall be \$732,238.

4.2 Invoice and Payment. Hospital shall pay the Grant on a quarterly basis within five (5) business days of the end of each quarter. Quarterly payments shall be remitted in accordance with the following schedule and dates:

April 19, 2014 – June 30, 2014	\$86,146
July 1, 2014 – September 30, 2014	\$107,682
October 1, 2014 – December 31, 2014	\$107,682
January 1, 2015 – March 31, 2015	\$107,682
April 1, 2015 – June 30, 2015	\$107,682
July 1, 2015 – September 30, 2015	\$107,682
October 1, 2015 – December 31, 2015	\$107,682

4.3 Annual Agreement Fee Review. SPD may, on an annual basis, make recommendations to adjust the Agreement fee to correct discrepancies between the Agreement Fee and any increase in SPD's salary and benefit costs resulting from changes to collective bargaining agreements specific to the positions authorized in this Agreement. Any changes to the Agreement Fee, as listed in Section 4.1, above, shall not be effective unless and until negotiated in good faith by both Parties, and mutually agreed upon in a written amendment to this Agreement signed by both Parties.

ARTICLE 5
MISCELLANEOUS PROVISIONS

5.1 Prohibition Against Discrimination. Neither Hospital nor SPD shall discriminate against any person because of race, color, creed, age, national origin, sex, marital status, veteran's status or any other protected status as provided by law. In addition neither Hospital nor SPD shall discriminate against any person because of handicap to the extent prohibited by Section 504 of the federal Rehabilitation Act of 1973 or disability to the extent prohibited by the Americans with Disabilities Act of 1990.

5.2 Compliance with Laws/HIPAA. SPD and Hospital shall comply with all applicable federal, state, and local laws, ordinances, codes, rules, regulations, and accrediting

agency standards, including but not limited to all applicable laws relating to patient confidentiality. SPD acknowledges that Hospital will only disclose to the Officers patient individually identifiable health information that is the minimum necessary for law enforcement purposes as set forth in 45 C.F.R. §164.512(f) of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), or otherwise permitted by HIPAA and other law. All Officers shall undergo appropriate privacy and security training provided by Hospital prior to performing the Program under this Agreement.

5.3 Relationship of the Parties. Hospital and SPD are independent contractors, and shall not be construed to be the partner, employee, agent or representative of each other. Hospital does not, by this Agreement, reserve control over the methods or procedures to be utilized by SPD or any of SPD’s employees hereunder. SPD acknowledges that neither it nor its employees and agents have any right, entitlement or claim against Hospital for Social Security benefits, workers’ compensation benefits, overtime wages, disability insurance, pension pay, vacation pay, sick pay or any other employee benefit of any kind. SPD warrants and agrees that it will comply fully with all applicable payroll tax, employment, and labor laws with respect to all Officers assigned to Hospital, including but not limited to, all tax withholding, social security, unemployment insurance, wage-hour, employment discrimination, occupational safety and health, immigration, workplace safety, family and medical leave, and employee benefit laws. SPD further agrees to indemnify, defend, and hold harmless Hospital for any and all damages, costs, and/or attorneys’ fees incurred by Hospital, its officers, agents, directors, and employees, or awarded or assessed against Hospital, its officers, agents, directors, employees, in connection with any claim, asserted claim, finding, award or liability resulting any negligent or intentional act or omission attributed to any officer, agent, director or employee of SPD. Hospital agrees to indemnify, defend, and hold harmless SPD for any and all damages, costs, and/or attorneys’ fees incurred by SPD, its officers, agents, directors, and employees, or awarded or assessed against SPD, its officers, agents, directors, employees, in connection with any claim, asserted claim, finding, award or liability resulting from any negligent or intentional act or omission attributed to any officer, agent director, or employee of Hospital. It is 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 damage attributable to the fault of that party, its officers, agents, directors, and employees.

5.4 Insurance. Hospital and SPD both agree to maintain appropriate insurance coverage throughout the term of this Agreement and for a period of five (5) years following expiration of this Agreement. All or a portion of the required insurance may be satisfied through the use of a self-insurance program. With respect to Hospital and SPD, such insurance shall include at a minimum:

- i. General Liability Insurance in an amount not less than \$1,000,000 per occurrence, \$3,000,000 General Aggregate,
- ii. Workers' Compensation Insurance as required by California law. Where permitted by law, such insurance shall contain waivers of the insurer’s right of subrogation against Hospital, its affiliates, officers, directors and employees.
- iii. Automobile Liability Insurance in an amount not less than \$1,000,000 per accident coverage all owned, non-owned and hired automobiles.

5.5 Notice. Any notices required or permitted to be given hereunder, by one party to the other, may be given by personal delivery in writing, or by registered or certified mail, postage prepaid, with return receipt requested. Notices shall be addressed to the parties at the addresses appearing below, but each party may change such party's addresses appearing below in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of three (3) days after mailing.

If to SPD: Sacramento Police Department
Attn: Chief of Police
5770 Freeport Boulevard
Sacramento, CA 95822

If to Hospital: Sutter General Hospital
Attn: Hospital Administration / John Boyd
2800 L Street
Sacramento, CA 95816

With copy to: Sutter Health Office of the General Counsel
Vice President & Regional Counsel/ Penny Westfall
2200 River Plaza Drive
Sacramento, CA 95833

5.6 Governing Law. The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

5.7 Assignment or Delegation. Except as otherwise specifically provided for herein, SPD shall not assign or delegate any or all of SPD's rights or responsibilities under this Agreement without the prior written consent of Hospital.

5.8 Severability. The provisions of the Agreement shall be deemed severable and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties.

5.9 Captions. Any captions to or headings of the sections, subsections, paragraphs or subparagraphs of this Agreement are solely for the convenience of the parties, are not a part of the Agreement, and shall not be used for the determination of the validity or interpretation of this Agreement or any provision hereof.

5.10 Reports. SPD shall provide to Hospital monthly reports to ensure that Grant funding is used appropriately.

5.11 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other terms and conditions hereof.

5.12 No Third-Party Benefit. Unless otherwise set forth in this Agreement, nothing contained herein is intended nor shall be construed to create rights running to the benefit of third parties.

5.13 Entire Agreement/Modification. This Agreement and the recitals and exhibits hereto contain a full and complete expression of the rights and obligations of the parties and it shall supersede all other agreements, representations, and offers, written or oral, heretofore made by the parties regarding any of the subject matter contained herein. This Agreement may be modified only in writing, signed by the parties hereto.

5.14 Access to Records. For the purpose of implementing Section 1861(v)(1)(I) of the Social Security Act, and any written regulations thereto, SPD shall comply with the following statutory requirements governing the maintenance of documentation to verify the cost of services rendered under this Agreement:

(a) Until the expiration of four (4) years after the furnishing of services pursuant to the Agreement, SPD shall make available to the Secretary of Health and Human Services and the Comptroller General of the United States, or their duly authorized representatives, upon written request of any of them, this Agreement, and all books, documents and records that are necessary to certify the nature and extent of the cost of services hereunder, and

(b) If SPD carries out any of the duties of this Agreement through a subcontract with a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary or the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

5.15 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.16 Use of Trademark(s). SPD will not use the name(s), trademark(s), or tradename(s) of Hospital or its affiliates, except with the prior written consent of Hospital. The Hospital or its affiliates shall not use the City seal or SPD logo, except with the proper written consent of the City.

5.17 Confidentiality.

(a) The parties acknowledge this Agreement can be made available to a person upon a properly made California Public Records Act request. Nonetheless, each party agrees to hold the following "Confidential Information" in strict confidence and not disclose the same to any other person or entity: each other's proprietary and confidential records and information, including but not limited to all service and product data, trade secrets, financial

data, business plans and any other information or technology received from the other party in implementing this Agreement; all personally identifiable information of a party's employees, agents, patients and customers; and all information derived from the foregoing.

- (b) Notwithstanding the above:
- (1) A party may disclose Confidential Information to the personnel within its organization and its legal and accounting advisors who require the Confidential Information in connection with the party's internal business processes and its rights and obligations under this Agreement, provided that such disclosing party uses commercially reasonable efforts to require any such recipient to use the information solely for these purposes and to keep it strictly confidential, except as required by law and subject to the requirements of (b)(2) below.
 - (2) A party may disclose Confidential Information as required by law, provided that such disclosing party provides reasonable prior notice to the other party to enable such other party to attempt to prevent or limit the disclosure and the disclosing party assists the other party upon request in seeking relief from or limiting the disclosure.
 - (3) A party may disclose Confidential Information with the prior written consent of the other party.

(c) Neither party shall be obligated to hold the following information in confidence (and such information shall not be deemed to be Confidential Information): information that is or becomes publicly available through no fault of the recipient, information developed by a party without using any Confidential Information, information lawfully possessed by a party before receipt from the disclosing party, and information lawfully disclosed to a party on a non-confidential basis from a person or entity that is not bound by a duty of confidentiality.

5.18 Dispute Resolution. In the event of any dispute arising out of or in connection with this Agreement, including any question regarding its existence, interpretation, validity or termination, either party may by written notice call a meeting regarding such dispute to be attended by an executive officer of each party who has the authority to negotiate and bind that party to a resolution. At the meeting, the parties will attempt in good faith to resolve the dispute. If the dispute cannot be resolved within forty-five (45) days from the date of the initial notice, and if either party wishes to pursue the dispute, the dispute shall be instituted and maintained in state or federal court located in Sacramento County. However, upon a mutual written agreement of the parties any dispute arising out of or in connection with this Agreement may be referred to arbitration, mediation, or another form of an agreed upon alternative dispute resolution.

5.19 Survival. Termination or expiration of this Agreement for any reason shall not relieve either party of any obligation or liability incurred prior to the expiration or termination of this Agreement. The following provisions shall survive termination or expiration of this

Agreement, in addition to those that by their nature are intended to survive termination: Relationship of the Parties; Insurance; Confidentiality; and Dispute Resolution.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement to be effective as of the date first written above.

CITY OF SACRAMENTO

SUTTER HEALTH SACRAMENTO SIERRA REGION d/b/a SUTTER MEDICAL CENTER, SACRAMENTO

By: _____
Samuel D. Somers, Jr.
Chief of Police

By: 
Carrie Owen Plietz
Chief Executive Officer

For: John Shirey, City Manager

APPROVED AS TO FORM

ATTEST

By: _____
Michael Fry
Senior Deputy City Attorney
City of Sacramento

Shirley Concolino
City Clerk