

Meeting Date: 1/13/2015

Report Type: Consent

Report ID: 2015-00040

Title: Agreement: Kaiser Foundation Hospital Police Security Services

Location: Citywide

Recommendation: Pass a Resolution authorizing the City Manager, or the City Manager's designee, to 1) enter into an agreement with Kaiser Permanente South in an amount not to exceed \$443,744 for a two-year period beginning January 1, 2015 through December 31, 2016; and 2) continue authority for two full-time equivalent police officer positions.

Contact: William Champion, Police Captain, Contract Services, (916) 808-0714, Police Department

Presenter: None

Department: Police

Division: Contract Services

Dept ID: 11001531

Attachments:

1-Description/Analysis

2-Kaiser Resolution

3-Kaiser Agreement

City Attorney Review

Approved as to Form

Michael Fry

1/7/2015 1:48:22 PM

Approvals/Acknowledgements

Department Director or Designee: Sam Somers - 1/5/2015 9:33:31 AM

Description/Analysis

Issue Detail: In December 2013, City Council authorized Agreement 2014-0039 between Kaiser Foundation Hospital (KFH), dba Kaiser Permanente South, and the Sacramento Police Department (SPD) to provide safety and security services within the hospital and surrounding area. This agreement expired December 31, 2014. KFH and SPD have negotiated a new agreement to continue with services through December 31, 2016. To continue the services requested by KFH, SPD will maintain the two previously authorized full-time equivalent (FTE) Police Officer positions. The expenses associated with the salary and benefit costs of the two FTEs will be reimbursed by KFH, in an amount not to exceed \$443,744.

Policy Considerations: Pursuant to Sacramento City Code Section 3.04.020, City Council approval is required to enter into an agreement involving income of \$100,000 or more.

Economic Impact: None

Environmental Considerations:

California Environmental Quality Act (CEQA): As defined in the CEQA Guidelines, this proposal does not constitute a “project” and is therefore exempt, per Sections 15061(b)(3) and 15378(a).

Sustainability Considerations: Not applicable.

Commission/Committee Action: Not applicable.

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 cost of the existing two FTE Police Officer positions will continue to be reimbursed by KFH. In the event that the Agreement is cancelled, terminated, or not subsequently renewed in the future, the positions will be deleted. There is no impact on the SPD’s operating budget.

Local Business Enterprise Program (LBE): There are no LBE considerations associated with the requested action.

RESOLUTION NO.

Adopted by the Sacramento City Council

[DATE]

KAISER FOUNDATION POLICE SECURITY SERVICES AGREEMENT

BACKGROUND

- A. Agreement 2014-0039 with Kaiser Foundation Hospital to provide Police Officer security services expires on December 31, 2014. The Sacramento Police Department and Kaiser Foundation Hospital have negotiated a new agreement to continue services through December 31, 2016 in an amount not to exceed \$443,744.

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 Kaiser Foundation Hospital to provide Police Officer security services, in an amount not to exceed \$443,744 through December 31, 2016.
- Section 2. The City Manager, or the City Manager's designee, is authorized to continue authority for two Full Time Equivalent (FTE) Police Officer positions through the agreement period of December 31, 2016.

NEIGHBORHOOD POLICING GRANT AWARD AGREEMENT

Kaiser Foundation Hospital, d/b/a Kaiser Permanente South Sacramento Hospital, ("KFH") is pleased to announce the grant award of \$443,744 ("Grant") to the Sacramento Police Department ("SPD") for the purpose of implementing and continuing the efforts of an existing comprehensive neighborhood policing program within the area encompassed by Bruceville Road, east and west sides of Valley Hi Drive and Wyndham Drive, which includes Kaiser Foundation KFH, retail merchants on Wyndham, and the Crossing at Wyndham Apartments. Grant funding will be used to fund two full time sworn police officers for a two-year period beginning January 1, 2015 and ending December 31, 2016. KFH and SPD agree that this Grant will be subject to the following terms and conditions (the "Agreement").

The Goal of the Program:

The goal of the Program is to implement and continue the efforts of an existing comprehensive neighborhood policing program within the area encompassed by Bruceville Road, east and west sides of Valley Hi Drive and Wyndham Drive, which includes Kaiser Foundation KFH, retail merchants on Wyndham Drive; and the Orangewood East and West Apartments, and patrol with a Grantee vehicle within that defined area within the Officers scheduled shift.

Objectives of the Program:

- A. Using a Community Oriented Policing philosophy, SPD will coordinate and develop a neighborhood police officer program for the area encompassed by Bruceville Road, east and west sides of Valley Hi Drive and Wyndham Drive, which includes Kaiser Foundation KFH, retail merchants on Wyndham Drive, and the Crossing at Wyndham Apartments. The officers will use Problem Oriented Policing tactics combined with community mobilization to address issues in this area.
- B. SPD will provide training seminars to enhance personal safety and awareness.
- C. SPD will assist KFH security staff in providing police services for the KFH campus and immediate area.
- D. SPD will develop and maintain working relationships with the KFH staff, local merchants, and schools to assist in developing a local business watch program in concert with the community policing effort.

KFH 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 KFH. 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 KFH are expected to remain on the KFH 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 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 KFH 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 Drug and Health Screening. SPD shall provide documentation to KFH to show that all Officers performing the Program for KFH shall have received all screenings specified in this paragraph, which screenings shall be provided at the sole expense of SPD:
 - (a) 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;
 - (b) Hepatitis B vaccines, or titer, or statement of refusal;
 - (c) Annual Influenza participation (proof of vaccination or signed declination).
- 1.4 Background Investigation/Compliance with Immigration Law. SPD certifies it has performed all appropriate background investigations 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 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>).
- 1.6 OSHA Compliance. KFH, in cooperation with SPD, shall provide to Officers, in the manner set forth in **Exhibit A** attached hereto, basic information regarding the Occupational Exposure to Bloodborne Pathogens regulations (“**OSHA Regulations**”) issued by the Department of Labor (29 C.F.R. 1910.1030) prior to any Officer beginning service with KFH and shall instruct Officers to refuse to participate in situations where they are placed in unwarranted danger of exposure due to failure of KFH to follow Universal Precautions. KFH shall provide to SPD records evidencing training on the OSHA Regulations, and SPD agrees to maintain such records.

ARTICLE 2
GENERAL OBLIGATIONS OF KFH

- 2.1 Access. KFH shall provide SPD with access to the Facilities as needed for performance of the Program under this Agreement.
- 2.2 Facilities. KFH shall retain professional and administrative responsibility for the operation of the Facilities, as and to the extent required by Title 22, California Code of Regulations, Section 70713. KFH'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.
- 2.3 Orientation. KFH shall orient Officers to the physical plant of KFH and all emergency codes within the KFH.

ARTICLE 3
TERM AND TERMINATION

- 3.1 Initial Term. This Agreement shall commence on January 1, 2015 and shall remain in force until December 31, 2016, 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, any prepaid Grant funds not spent by SPD will be returned to the KFH.
- 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 KFH'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. KFH 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 KFH's patients.

ARTICLE 4
FEES AND BILLING

- 4.1 Fees. The total Grant for this Agreement shall be \$443,744.
- 4.2 Invoice and Payment. KFH 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:
- | | |
|-------------------------------------|----------|
| January 1, 2015 – March 31, 2015 | \$54,919 |
| April 1, 2015 – June 30, 2015 | \$54,919 |
| July 1, 2015 – September 30, 2015 | \$54,919 |
| October 1, 2015 – December 31, 2015 | \$54,919 |
| January 1, 2016 – March 31, 2016 | \$56,017 |
| April 1, 2016 – June 30, 2015 | \$56,017 |
| July 1, 2016 – September 30, 2016 | \$56,017 |
| October 1, 2016 – December 30, 2016 | \$56,017 |
- 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. Changes to the Agreement Fee, as listed in Section 4.1, above, must be negotiated in good faith by both parties, and be mutually agreed upon in writing.
- 4.4 Expenditure of Funds. This Grant must be used for the project identified in the Grant Award Letter, as described in the Grantee's proposal and related correspondence, and may not be expended for any other purposes without KFH's prior written approval. If the Grant is intended to support a specific project or to provide general support for a specific period, any portion of the Grant unexpended at the completion of the project at the end of the period shall be returned immediately to KFH, unless otherwise agreed by KFH in writing. Grantee may not expend any Grant funds for any purpose that is not charitable or educational, for any political or lobbying activity, or for any purpose other than one specified in Section 170(c)(2)(b) of the Code.

ARTICLE 5
MISCELLANEOUS PROVISIONS

- 5.1 Prohibition Against Discrimination. Neither KFH 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 KFH nor SPD shall discriminate against any person because of handicap under Section 504 of the federal Rehabilitation Act of 1973 or disability under the Americans with Disabilities Act of 1990.
- 5.2 Compliance with Laws/HIPAA. SPD and KFH shall comply with all applicable federal, state, and local laws, ordinances, codes, rules, regulations, and accrediting agency

standards, including all applicable laws relating to patient confidentiality. SPD acknowledges that KFH 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”), unless otherwise absolutely necessary. All Officers shall undergo appropriate confidentiality training prior to performing the Program under this Agreement.

5.3 Relationship of the Parties. KFH and SPD are independent contractors, and shall not be construed to be the partner, employee, agent or representative of each other. KFH 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 KFH 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 KFH, 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 KFH fully for any and all damages, costs, and/or attorneys’ fees incurred by KFH, its officers, agents, directors, and employees, or awarded or assessed against KFH, its officers, agents, directors, employees, in connection with any claim, asserted claim, finding, award or liability resulting any negligent act or omission attributed to any officer, agent, director or employee of SPD. KFH agrees to indemnify SPD fully 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 act or omission attributed to any officer, agent director, or employee of KFH. 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. KFH and SPD both agree to maintain appropriate insurance coverage throughout this Agreement.

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 KFH: Yvone Hobbs

6600 Bruceville Road
Sacramento, CA 95823

- 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 KFH.
- 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 KFH monthly reports to ensure that Grant funding is used appropriately. KFH may also require additional interim reports. In addition, Grantee shall provide KFH with quarterly written reports that include a detailed accounting of the uses or expenditures of all Grant funds. Grantee also agrees to provide any other information reasonably requested by KFH. If Grantee obtains any audited financial statements covering any part of the Grant period, Grantee shall provide a copy to KFH as well. Grantee is required to keep the financial records with respect to this Grant, along with copies of any reports submitted to KFH, for at least four years following the year in which all Grant funds are fully expended.
- 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.

* * * * *

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

CITY OF SACRAMENTO

Kaiser Foundation Hospital

By: _____
John F. Shirey

By: _____
Hospital President

APPROVED AS TO FORM

ATTEST

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

Shirley Concolino
City Clerk

EXHIBIT A

OCCUPATIONAL EXPOSURE TO BLOODBORNE PATHOGENS REGULATIONS

The Department of Labor has published its final rule #29 CFR Part 1910.1030, Occupational Exposure to Bloodborne Pathogen (OSHA Regulations). Whereas KFH and SPD wish to insure compliance with this rule for all healthcare personnel; and whereas both SPD and KFH recognize that compliance will require the joint effort of the KFH and SPD, then KFH and SPD agree as follows:

1. KFH shall provide Officers with information and training which includes but is not limited to the following:
 - (a) An explanation of the regulatory text of the standard and a copy of the regulatory text.
 - (b) A general explanation of the epidemiology and symptoms of bloodborne diseases.
 - (c) An explanation of how bloodborne diseases are transmitted.
 - (d) An explanation of its Exposure Control Plan and how the Officer can obtain a copy.
 - (e) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood or other potentially infectious material.
 - (f) An explanation of work practices, engineering controls, safety devices and personal protective equipment (e.g. gloves, gowns, masks, eye protection) that will prevent or reduce contact with bloodborne diseases.
 - (g) Information on the types and proper use of personal protective equipment as well as proper ways to remove, handle, clean and dispose of protective equipment.
 - (h) An explanation of the basis for selecting personal protective equipment.
 - (i) Information on the Hepatitis B vaccine including its effectiveness, safety, method of administration, and benefits of being vaccinated.
 - (j) An explanation that the Hepatitis B vaccine is offered free of charge to the Officer and that a declination must be signed by the Officer if the vaccine is refused.
 - (k) Information on what to do and who to call (both at the KFH and at SPD) in an emergency involving blood or potentially infectious materials will be reviewed.
 - (l) An explanation of the procedure to follow if an exposure incident occurs, how the incident should be reported and the medical care that should be given, and the procedure for recording the incident or the Sharps Injury Log.
 - (m) Information will be provided on the post exposure information and follow up that will be provided at the workplace following an exposure incident.
 - (n) An explanation of the signs, labels and color coding used to identify bio hazardous material will be reviewed.
 - (o) Information on how to contact SPD to submit Worker's Compensation insurance claims.

2. KFH shall provide Officer training records to SPD, and SPD in turn agrees to maintain such records.

KFH AGREES FURTHER TO:

1. Comply with the provisions of the OSHA regulations regarding bloodborne pathogens.
2. Provide orientation that includes informing Officers of any specific information about the facility's Exposure Control Plan, work practices, and procedures to follow should an exposure incident occur while working.
3. Inform professionals as to where personal protective equipment used to protect against bloodborne pathogens is located and provide such equipment free of charge to the Officers.
4. Provide an opportunity for the Officers to ask questions about the facility's bloodborne pathogen Exposure Control Plan, work practices, engineering controls, safety devices, personal protective equipment, and emergency procedures for reporting exposure incidents.
5. Provide each Officer, who consents to receive it, the Hepatitis B vaccination series, with the appropriate dose of the vaccine, according to the written authorization provided by SPD. KFJ agrees to administer the doses at cost and bill SPD for the amount due. KFJ agrees to complete the required documentation, to include: date vaccinated; vaccine lot number; expiration date of vaccine; and name and signature of the individual administering the dose. Documentation will be forwarded to SPD immediately upon completion.
6. Should an exposure incident occur, KFJ will:
 - (a) Evaluate an exposure incident and provide post exposure care for an incident occurring in the workplace and immediately forward an incident report and invoice for treatment to the SPD insurance department.
 - (b) If the Officer consents, take a blood sample from the Officer and test for HIV, HBV and HCV, or preserve sample for ninety (90) days if the professional does not consent to the test.
 - (c) If permitted, test the source individual's blood for HIV, HBV and HCV and communicate test results to the Officer along with written follow-up recommendations.
 - (d) Maintain confidential medical records related to the exposure incident with the Officer performing the post-exposure testing and follow-up.