

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

726



FROM: Stanley L. Sniff Jr., Sheriff-Coroner-PA

SUBMITTAL DATE:
10/25/11

SUBJECT: Approval of the FY 2011-12 Agreement with Eisenhower
Medical Center for Sexual Assault Forensic Examinations

RECOMMENDED MOTION: Move that the Board of Supervisors approve and authorize the Chair to execute the Agreement with Eisenhower Medical Center (EMC) to compensate it for its provision of sexual assault forensic examinations during the period from July 1, 2011 through June 30, 2012.

BACKGROUND: Penal Code Section 13823.9(b) requires that Counties with more than 100,000 residents shall arrange to have professional personnel, trained in examining sexual assault victims, conduct exams to collect forensic evidence.

BR 12-037 (Continued on Page 2)

Stanley L. Sniff Jr., Sheriff-Coroner-PA
Will Taylor, Director of Administration

FINANCIAL DATA	Current F.Y. Total Cost:	\$31,500	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$31,500	Budget Adjustment:	No
	Annual Net County Cost:	\$0	For Fiscal Year:	FY 2011-12

SOURCE OF FUNDS: Department Budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Robert Tremaine
Robert Tremaine

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: November 8, 2011
xc: Sheriff

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

FORM APPROVED COUNTY COUNSEL
BY:
NEAL R. KIPNIS
DATE: 10/26/11

Departmental Concurrence

Consent ☐ Policy ☒
Consent ☐ Policy ☒

Dep't Recomm.:
Per Exec. Ofc.:

To secure an adequate service level and a consistent exam rate in the eastern area of the County, the Sheriff's Department has negotiated an Agreement with EMC in Rancho Mirage for the hospital to provide these exams for the period from July 1, 2011 through June 30, 2012. EMC has agreed to continue with its FY 2009-10 rate of \$900 per sexual assault exam during this period. As a price comparison, with the Board's approval, Riverside County Regional Medical Center also charges \$900 per exam to all law enforcement agencies. County Counsel has approved the EMC Agreement as to form.

ORIGINAL

**AN AGREEMENT CONCERNING THE PROVISION OF CERTAIN CLINICAL
SERVICES FOR THE PURPOSE OF OBTAINING CRIMINAL EVIDENCE BETWEEN
THE COUNTY OF RIVERSIDE AND EISENHOWER MEDICAL CENTER**

THIS AGREEMENT is made and entered into by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California (hereinafter County), on behalf of its Sheriff's Department (hereinafter Sheriff) and the Eisenhower Medical Center (hereinafter Facility).

WHEREAS, the above-mentioned Facility provides emergency services seven days a week, 24 hours per day, and Facility is fully credentialed by the Department of Health Services of the State of California; and

WHEREAS, the Sheriff will need to transport persons to Facility and may authorize certain procedures for the purpose of obtaining evidence;

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. TERM OF AGREEMENT

1.1 This Agreement shall be effective from July 1, 2011 through June 30, 2012. Either party may terminate, without cause, this Agreement upon thirty (30) days written notice.

2. SCOPE OF SERVICE

2.1 The Sheriff will order a "Sexual Assault Exam" for the documentation and collection of evidence at the Facility. The Facility will provide the professional clinical services to complete and return the "Sexual Assault Exam" to the Sheriff.

2.2 The signature of a Sheriff's Deputy or other designee of the Sheriff ordering the "Sexual Assault Exam" shall be the Sheriff's authorization for such services to commence and to reimburse the Facility at the agreed upon service rate.

2.3 The Facility shall provide a Sexual Assault Nurse Examiner who has completed a 40-hour didactic training course and completed an orientation process, which includes the Facility's required competencies to conduct forensic evidentiary examinations. The Facility also agrees to provide access to the Sexual Assault Response Team, seven days a week, 24 hours per day.

2.4 In extreme cases, when a Forensic Nurse is not available to conduct such exams, the Sheriff's Department may be referred to the Riverside County Regional Medical Center for a forensic evidentiary examination and will pay the standard contract rate charged by that agency. The Facility shall contact the Station Watch Commander in the event of such a circumstance.

2.5 The Facility represents and maintains that its personnel are skilled in the professional field necessary to perform all services, duties and obligations required by this Agreement. The Facility shall perform the services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. The Facility further represents and warrants to the County and Sheriff that it has, and shall maintain throughout the term of this Agreement, all licenses, permits, qualifications and approvals of regulatory and mandatory agencies required to practice medicine in the State of California.

2.6 Any services authorized by the Sheriff or his designee are intended solely for the collection of medical information and evidence, and will not cover the medical treatment of any person.

3. SERVICE RATE

3.1 The Service Rate shall include registered nurses salaries and benefits, nurses stand-by pay, medications, nurses training, nurses education and competency validation, clerical support, quality improvement training and supplies. The Service Rate for this contract has been established at \$900 per exam.

4. BILLING PROCEDURES

4.1 The Facility will bill the Sheriff on a monthly basis. The Sheriff will remit all payments for services within 30 days of receipt of the billing.

5. INDEPENDENT CONTRACTOR

5.1 The Facility is, for purposes arising out of this Agreement, an Independent Contractor, and shall not be deemed an employee of the County. It is expressly understood and agreed that the Facility and its employees shall in no event, as a result of this Agreement, be entitled to any benefits to which County employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. The Facility hereby holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement

5.2 It is further understood and agreed by the parties hereto that the Facility in the performance of its obligation hereunder is subject to the control or direction of County or Sheriff merely as to the result to be accomplished by the services hereunder agreed to be rendered and performed, and not as to the means and methods for accomplishing the results.

6. INDEMNIFICATION/HOLD HARMLESS

6.1 The Facility agrees to and shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Departments and Special Districts, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (hereinafter individually and collectively referred to as Indemnitees) from all liability whatsoever, based or asserted upon any services of Facility, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of Facility, its officers, employees, subcontractors, agents or representatives, save and except claims or litigation based upon any actions of the Indemnitees or which arise through the negligence or misconduct of the Indemnitees, which claims or litigation shall be the sole responsibility of the Indemnitees."

6.2 With respect to any action or claim subject to indemnification herein by Facility, Facility shall at their sole cost, have the right to use counsel of their choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of the Indemnitees; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Facility's indemnification to Indemnitees as set forth herein. Facility's obligation to indemnify hereunder shall survive the term of this agreement and will remain in force for as long as the law allows. Facility's obligation hereunder shall be satisfied when Facility has provided to Indemnitees the appropriate form of dismissal relieving Indemnitees from any liability for the action or claim involved.

6.3 The specified insurance limits required in this Agreement shall in no way limit or circumscribe Facility's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

6.4 In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the Facility from indemnifying the Indemnitees to the fullest extent allowed by law.

7. INSURANCE

7.1 Without limiting or diminishing the Facility's obligation to indemnify or hold the County harmless, Facility shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the County herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds. The insurance requirements may be met with a program of self-insurance acceptable to the County.

A. Workers' Compensation:

A.1 If the Facility has employees as defined by the State of California, the Facility shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than **\$1,000,000** per person per accident.

B. Commercial General Liability:

B.1 Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of Facility's performance of its obligations hereunder. Policy shall name the County as Additional Insured. Policy's limit of liability shall not be less than **\$1,000,000** per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Professional Liability Insurance:

C.1 Facility shall maintain Professional Liability Insurance providing coverage for the Facility's performance of work included within this Agreement, with a limit of liability of not less than **\$1,000,000** per occurrence and **\$3,000,000** annual aggregate. If Facility's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and Facility shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that Facility has maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows. For the term of this agreement, the County Risk Manager has waived the requirement that the Facility's Professional Liability Insurance is written on an occurrence basis.

D. General Insurance Provisions - All lines:

D.1 Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8), unless such requirements are waived by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

D.2 The Facility must declare its insurance self-insured retention, if any, for each coverage required herein. If any such self-insured retention exceeds **\$500,000** per occurrence each such retention shall have the prior written

consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the County, and at the election of the County's Risk Manager, Facility's carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the County, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

D.3 Facility shall cause Facility's insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. *Facility shall not commence operations until the County has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.*

D.4 It is understood and agreed to by the parties hereto that the Facility's insurance shall be construed as primary insurance, and the County's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

D.5 The County of Riverside's Reserved Rights--Insurance. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the Facility has become inadequate.

D.6 Facility shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement. Facility agrees to notify County of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

8. GOVERNING LAW; JURISDICTION; SEVERABILITY

8.1 This Agreement and its construction and interpretation as to validity, performance and breach shall be construed under the laws of the State of California. Any legal action related to this Agreement shall be filed in the appropriate court of the State of California located in Riverside, California. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

9. CONFIDENTIALITY

9.1 The Facility agrees to maintain the confidentiality of all client information in accordance with all applicable federal, state and local laws and regulations. The Facility shall ensure it keeps confidential the names, addresses, phone numbers, and any other individually identifiable information concerning clients and the services they receive. The Facility shall not divulge any client information to any unauthorized person.

9.2 The Facility shall maintain the confidentiality of all client records that it maintains, receives, or sends to County. Records include, but may not be limited to, claims that include individually identifiable client information, individually identifiable health records and information, and/or Management Information System records. The Facility shall use reasonable safeguards to prevent unauthorized access to records. The Facility shall notify the Sheriff **immediately** of any breach or suspected breach of client information via unauthorized access.

9.3 Applicable confidentiality laws include, but are not limited to, California Welfare & Institutions Code Sections 5328 through 5330, inclusive; 45 CFR Section 205.50; 45 CFR Parts 160 and 164, et seq; and 42 CFR-Chapter 1, Part 2. The Facility shall require all its officers, employees, and agents providing services hereunder to acknowledge understanding of, and agreement to fully comply with, such confidentiality provisions.

9.4 The Facility shall indemnify and hold harmless County, its officers, employees, and agents, from and against any and all loss, damage, liability, and expense arising from any disclosure of such records and information by Facility, its officers, employees, or agents.

10. ALTERATION OF TERMS

10.1 No addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid unless made in the form of a written amendment to this Agreement which is executed by both parties.

11. NOTICES

11.1 Any notices required or desired to be served by any party upon the other shall be addressed to the respective parties as set forth below or to such other addresses as from time to time may be designated by the respective parties:

County

Stanley L. Sniff Jr., Sheriff
Riverside County Sheriff's Department
P.O. Box 512
Riverside, California 92502

Medical Facility

Eisenhower Medical Center
39000 Bob Hope Drive
Rancho Mirage, California 92270

For the reasons and purposes explained above, the County and Eisenhower Medical Center have caused their duly authorized representatives to execute this Agreement on the dates indicated below.

COUNTY OF RIVERSIDE

EISENHOWER MEDICAL CENTER

By: Bob Buster
Bob Buster, Chairperson
Riverside County Board of Supervisors

By: Christine Craig, R.N. Ann Mostofi
~~Clinical Director, Emergency Services~~
V.P. Health Care Svcs

Date: NOV 08 2011

Date: 10/13/2011

ATTEST:

Kecia Harper-Ihem, Clerk

By: [Signature]
Deputy

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS 10/13/11
DATE