



Board Agenda Item 54

DATE: June 18, 2024

TO: Board of Supervisors

SUBMITTED BY: Kirk Haynes, Chief Probation Officer, Probation Department
David Luchini, Director, Department of Public Health
Susan L. Holt, Director, Department of Behavioral Health

SUBJECT: Agreement with California Forensic Medical Group, Inc. for Comprehensive Medical and Behavioral Health Care Services at County Juvenile Justice Campus

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute an Agreement with California Forensic Medical Group, Inc., for comprehensive medical and behavioral health care services, including substance use disorder services, to youth detained at the County Probation Department Juvenile Justice Campus, effective July 1, 2024, not to exceed five consecutive years, which includes a three-year base contract and two optional one-year extensions, total not to exceed \$22,158,748.

Approval of the recommended action will allow for the continuation of comprehensive medical and behavioral health, including substance use disorder (SUD), services for detained youth at the Juvenile Justice Campus (JJC). California Forensic Medical Group, Inc., dba Wellpath (CFMG) is the current provider. The recommended agreement will be administered by the Probation Department. It includes an annual \$25,000 pharmacy cap per youth per year and will be funded with a combination of Health Realignment, Mental Health Realignment, Juvenile Justice Crime Prevention Act and Youth Offender Block Grant, American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Funds (SLFRF) and Net County Cost funds. This item is countywide.

ALTERNATIVE ACTION(S):

There is no viable alternative action. The County's current agreement with CFMG for medical services expires on June 30, 2024. Additionally, the County's current agreement with Mental Health Systems, Inc. for substance use disorder services for youth detained at the JJC expires on June 30, 2024. If the recommended action is not approved, the County would be unable to provide health care services to youth detained at the JJC as mandated by Title 15 and 24 of the California Code of Regulations - Minimum Standards for Juvenile Facilities.

FISCAL IMPACT:

The five-year recommended agreement has provisions for a three-year base term and two optional one-year extensions, through June 30, 2029. The maximum compensation for the five-year recommended agreement is \$22,158,748. The annual maximum compensation includes an annual fiscal year rate increase at a minimum three and a half percent (3.5%) or based on National Consumer Price Index (CPI), not to exceed five percent (5%), beginning FY 2025-26 and is as follows (shown is the annual compensation with the 5% increase per year after FY 2024-25):

- FY 2024-25 \$4,010,175
- FY 2025-26 \$4,210,684
- FY 2026-27 \$4,421,218
- FY 2027-28 \$4,642,279
- FY 2028-29 \$4,874,393

The recommended agreement will be offset with a combination of Health Realignment, Mental Health Realignment, Juvenile Justice Crime Prevention Act and Youth Offender Block Grant, ARPA SLFRF, and Net County Cost monies. Sufficient appropriations and estimated revenues will be included in the Probation Department's Org 3440 budget requests for the duration of the term.

DISCUSSION:

Title 15 and Title 24 of the California Code of Regulations - Minimum Standards for Local Detention Facilities requires that the County provide State and Federal mandated medical and behavioral health care to individuals housed in the JJC.

On April 3, 2018, the Board approved County agreement number A-18-170 with CFMG for the provision of medical and behavioral health care services to youth detained in the County Probation Department's JJC through June 30, 2023. On November 8, 2022, under Board of Supervisors Administrative Policy 34, the Board determined that an exception to the competitive bidding requirements was satisfied and a suspension of competition was warranted due to unusual or extraordinary circumstances, as CFMG has been a key component in making progress in the jail's delivery of medical and mental health care including the development of complex medical policies and procedures which account for nearly one half of the County's remedial plan, as part of the County's 2015 consent decree. Changing medical and behavioral health care providers would delay finalization of the remedial plan, and the Board authorized County staff to develop renewal agreements with CFMG.

On June 20, 2023, the Board approved Amendment I No. A-23-265 to Agreement A-18-170 to extend the term of the 2018 agreement for an additional three (3) months, through September 30, 2023, with the option of an additional three-month extension through December 31, 2023, to continue the provision of necessary medical and behavioral health care services to youth at the JJC and increase compensation accordingly, while negotiations were ongoing for the new agreement. On December 12, 2023, the Board approved Amendment II No. A-23-670 to extend the term for an additional six (6) months through June 30, 2024, and increase compensation, to complete negotiations for the new agreement.

The recommended agreement differs from the current comprehensive medical and behavioral health care services agreement as follows:

- The recommended agreement provides that SUD services, including medication assisted treatment (MAT) services, shall now be provided by CFMG. This follows the practice currently in place at the Jail facilities, with CFMG delivering medical, mental health and SUD services, and will ensure better care coordination for detained youth with co-occurring healthcare needs.
- The recommended agreement provides an annual fiscal year maximum compensation increase at a minimum three and a half percent (3.5%) or based on National Consumer Price Index (CPI) not to exceed five percent (5%).
- The liquidated damages amount is lower than in the current agreement, as discussed in more detail below.
- In the current CFMG agreement, CFMG may terminate without cause with 90 days' notice, although CFMG must continue providing services until a new provider is found. The recommended agreement lists limited reasons why CFMG may terminate under this provision, has a required 90-day negotiation period, and a 180-day notice period before termination. CFMG must also continue providing services until a new provider is found. This is discussed in more detail below.

The recommended agreement provides for all medical and behavioral health care services, including substance use disorder and MAT services, provided to youth detained at the JJC and any Probation facility offsite from the JJC, with the exclusion of hospital inpatient healthcare costs and elective medical care costs. The recommended agreement requires CFMG to pay for all Detained Youth pharmacy costs, capped at \$25,000 per year for each individual detained youth. CFMG shall have exclusive use of approximately 5,955 square feet at the JJC to provide these services, as well as use of County-provided medical and dental equipment. CFMG is required to provide janitorial services for all designated work areas at the JJC.

The recommended agreement also provides that the annual compensation may be adjusted if the average daily population (ADP) of detained youth served exceed 150 detained youth in any calendar month or falls below 100 detained youth in any calendar month. If the ADP exceeds 150 detained youth in any month, the compensation payable to CFMG will be increased by \$4.64 per day for the number of days in the month for each detained youth over 150. Conversely, if the ADP falls below 100 detained youth, CFMG shall rebate the County \$4.64 per day for the number of days in the month for each detained youth less than 100. If either of these ADP changes occurs for 90 consecutive days or more, the parties must meet and negotiate to adjust the staffing levels and/or compensation to accommodate those changes. If the parties cannot agree during this negotiation, the agreement may be terminated, although CFMG would have to continue providing services until an alternate provider is located.

The recommended agreement requires that CFMG track, provide sufficient documentation, and use specified billing codes for certain COVID-19 pandemic-related expenditures that may be reimbursable with ARPA SLFRF.

The recommended agreement also specifies that the Probation Department may impose liquidated damages if CFMG fails to meet performance standards, including but not limited to failure or delay in providing or maintaining minimum staffing levels and failure to maintain National Commission on Correctional Health Care accreditation of the JJC. These liquidated damages are \$1,500 per day against CFMG for each separate violation of any requirement or performance standard, excluding staffing level violations. These liquidated damages are lower than in the prior agreement, which specified \$2,500 per day against CFMG for each separate violation. However, during the term of the current agreement, these liquidated damages have never been assessed against CFMG. For violations of staffing level requirements, CFMG must issue reimbursement to County of the daily salary and costs of any unfilled position per day of violation. This section provides CFMG a 60-day cure period before the liquidated damages are assessed.

When the California Advancing and Innovating Medi-Cal (CalAIM) Justice Involved initiative is fully implemented at JJC, the Probation Department will return to your Board with an amendment to incorporate Medi-Cal billing and revenue for eligible pre-release medical and behavioral health services provided by CFMG.

The recommended agreement provides that County may terminate the recommended agreement without cause by giving 90-days' notice to CFMG. CFMG may terminate the recommended agreement without cause in the event of any material change circumstance by giving notification to the County of at least 180 days advance written notice after a 90-day good faith negotiation period. The recommended agreement defines "material change circumstance" as either: (1) new, amended, and/or repealed federal or state laws or regulations that render CFMG's performance completely impossible under the Agreement's existing terms, (2) extreme and unforeseen changes to legal/regulatory requirements, extreme and unforeseen changes to the applicable standard of care or changes to the site's medication formulary, or if the United States Food and Drug Administration that recommend, approve, or issue an emergency use authorization for a new therapy, diagnostic, or treatment modality that render CFMG's treatment of County's patients impossible under the agreement, or (3) CFMG's performance is rendered impossible by a Public Health Emergency declared pursuant to the Federal or State governments.

However, whether the County or CFMG terminates pursuant to these provisions, CFMG must continue to

provide services under the agreement until a successor contractor has commenced performing the services, provided the County is engaging in good faith to secure the successor contractor.

REFERENCE MATERIAL:

BAI #45, December 12, 2023

BAI #30, June 20, 2023

BAI #8, November 8, 2022

BAI #8.1, April 3, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with CFMG

CAO ANALYST:

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