



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Sheriff and Probation
Department No.: 032 and 022
For Agenda Of: August 16, 2022
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Bill Brown, Sheriff/Coroner & Tanja Heitman, Chief Probation Officer
Contact Info: Anthony Espinoza, Lieutenant, (Sheriff) (805) 681-4091
Damon Fletcher, Deputy Administrative Director, (Probation) (805) 882-3654
SUBJECT: **Fourth Amendment to Agreement with California Forensic Medical Group (CFMG/Wellpath) for the Provision of Medical and Mental Healthcare Services**

County Counsel Concurrence

As to form: Yes

Other Concurrence: **Risk Management**

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute a Fourth Amendment to Agreement for Services with California Forensic Medical Group (CFMG/Wellpath) for healthcare services (medical and mental health services) at the Santa Barbara Sheriff's Office jail facilities and for medical services only for Probation's juvenile facilities to extend these services from April 1, 2022 to March 31, 2023, and add additional Wellpath staffing at the Sheriff's Office jail facilities in the amount of \$13,874,635 for a new total not to exceed \$56,950,501;
- b) Direct staff to bring back to the Board for approval prior to March 31, 2023 a budget revision funded by Proposition 172 fund balance, if needed, for the Fourth Amendment contract services, not to exceed \$1.7 million;
- c) Determine that the above actions are government fiscal activities or funding mechanisms which do not involve any commitment to any specific project which may result in a potentially significant impact on the environment and are therefore not a project under the California Environmental Quality Act (CEQA) pursuant to section 15378(b)(4) of the CEQA guidelines.

Summary Text:

CFMG/Wellpath currently provides healthcare services (medical and mental health) to the incarcerated population in the Santa Barbara Sheriff's Office correctional facilities, as well as medical

services for youth held in the Probation Department's juvenile facilities. This fourth amendment will extend the Term of the agreement for one (1) year from April 1, 2022, through March 30, 2023.

The accompanying agreement, attachments, and amendments have been negotiated between the parties, primarily between CFMG/Wellpath and the Sheriff's Office and Probation Department, with representatives from Behavioral Wellness, Public Health, and the CEO's Office also participating. The product of those efforts is before your Board today.

Background:

On February 28, 2017, the Board of Supervisors approved the Sheriff and the Probation Department to contract with the California Forensic Medical Group (CFMG) for healthcare services (medical and mental health services) at the jail and for medical services only for Probation's juvenile facilities.

In October of 2018, CFMG joined with Correct Care Solutions (CCS). CFMG's parent company, Correctional Medical Group Companies (CMGC) became Wellpath. Although the newly formed parent company is known as Wellpath, CFMG and CCS operate as separate entities with shared policies and procedures. In California, only entities owned solely by physicians are permitted to practice medicine. For this reason, complex healthcare organizations in California typically are organized with a physician-owned entity to provide care, and a management company to manage the business aspects. In this case, CFMG is the professional medical corporation, and Wellpath (formerly CMGC) is the management organization. Thus, our agreement with CFMG remains intact and will remain with CFMG for this amended agreement even though CFMG is now referred to as Wellpath.

On May 19, 2020, a first amendment to the agreement was approved by the Board to include staffing and services to be offered at the Northern Branch Jail, which, at the time, was still under construction. The provisions of that amendment were held until sixty (60) days from the occupation of the new jail. On October 13, 2021, CFMG/Wellpath was formally notified of the anticipated opening of the NBJ and they were authorized to begin hiring immediately.

In July 2020, the Board approved recommendations for a structured settlement of the class action litigation case Murray v. County of Santa Barbara. This litigation stems from Disability Rights California's investigation of the Main Jail conditions beginning in April 2015 and subsequent litigation filing in December 2017. Those recommendations were shared with CFMG/Wellpath and on October 6, 2020, they requested that the County consider amending the agreement in order to provide them with additional staffing to fulfill requirements tentatively agreed to in the settlement. Negotiations began shortly after. It was determined that the current staffing and service levels at the Probation juvenile facilities were sufficient, the only additional expense for Probation will be an inflation/cost-of-living increase.

On February 2, 2021, Central US District Court Judge Wu entered a settlement agreement in the class action litigation. The structured settlement included Remedial Plans that required numerous service level enhancements and physical plant modernizations aimed at improving the conditions of confinement in the Santa Barbara County jails.

Negotiations with CFMG/Wellpath continued until December 2021, when the parties reached a tentative agreement to add 6.9 FTE. Considering the original agreement was to expire on April 1, 2022, it was agreed upon by the parties to amend the agreement with the additional staff and exercise a one (1) year extension.

On April 26, 2022, the updated staffing and salary plans were received from CFMG/Wellpath and the contract was processed for approval by the Board.

The following are the additional Wellpath positions identified for the Sheriff's Office jail facilities with a brief outline of the additional duties required in the structured settlement agreement:

Mental Health Professional (LMFT) Additional FTEs: 1.0

- Specialized mental health units with provisions for levels of programming and treatment (3.D.3.a)
- Mental Health staff shall recommend appropriate placement & discharge from the specialized mental health units & programs for inmates with mental illness (3.D.3.c)
- Treatment staff shall provide all inmates on specialty units an enhanced individualized treatment plan (reviewed & updated as needed) documented on a medical record treatment plan form and completed within the first 7 days of placement on unit (3.D.4.c)
- Provision of 6 hrs/wk of structured out of cell time for therapeutic programming and 12 hrs/wk of unstructured out of cell time for people with mental illness. For those inmates that cannot participate in the 6 hrs/wk the treating clinician will present the case and recommended treatment program to the multidisciplinary treatment team for approval (3.D.5.a)*
- Provision of 6 hrs/wk of structured out of cell time for therapeutic programming and 12 hrs/wk of unstructured out of cell time for people with mental illness. For those inmates that cannot participate in the 6 hrs/wk the treating clinician will present the case and recommended treatment program to the multidisciplinary treatment team for approval (3.D.5.a)*

Mental Health Supervisor (LMFT) Additional FTE: 1.0

- Development of policies & procedures for mental health care committees, describing structure, membership & meeting frequencies (3.A.2)
- Reasonable time frames for completion of each type of mental health care-related task or service consistent w/community & professional standards (3.A.3.b)
- Intake & referral triage system to ensure timely & effective resolution of inmate requests & staff referrals for mental health care (3.A.3.c)
- Policy & procedure shall include criteria for the triage system for intake referrals and health service requests (3.A.4)
- Supervision of mental health staff and ensure appropriate in-service training, development of treatment plans and health care record documentation (3.a.5.a) (3.A.5.b)
- Oversee intake screenings to ensure those who refuse screening are followed-up on in a timely manner (3.B.2)
- Implementation of regularly scheduled MDTs on a variety of patients and specialized concerns (3.D.4.b) (3.D.5.b)
- Substantially Increased data tracking (3.H.4.a-b) (3.I.4)
- Multidisciplinary teams will develop an individualized plan for each person with an Intellectual or Developmental Disability (5.O.4).

Registered Nurse (RN) Additional FTE: 2.1

- RN or provider shall conduct a face-to-face visit with patients in a confidential clinical setting (2.F.4.a).
- RN or provider shall obtain a full set of vitals (2.F.4.b).
- RN or provider shall provide over-the-counter medications pursuant to protocols (2.F.4.e)

Medical Director (MD) Additional FTEs: 0.4

- Increased responsibility for oversight of ADA evaluations, approvals/denials
- Increase demand for administrative time in responding to legal (DRC/PLO) inquiries
- Increased need for multiple meeting attendance at two facilities
- Availability of site presence for monitoring visits
- Overview of legal inquiries for patient inquiries
- Supervision of increased provider and nursing hours
- Oversight of OPHU

Psychiatric FNP Additional FTEs: 0.4

- Specialized mental health units with provisions for levels of programming and treatment (3.D.3.a)
- Mental Health staff shall recommend appropriate placement & discharge from the specialized mental health units & programs for inmates with mental illness (3.D.3.c)
- Treatment staff shall provide all inmates on specialty units an enhanced individualized treatment plan (reviewed & updated as needed) documented on a medical record treatment plan form and completed within the first 7 days of placement on unit (3.D.4.c)
- Provision of 6 hrs/wk of structured out of cell time for therapeutic programming and 12 hrs/wk of unstructured out of cell time for people with mental illness. For those inmates that cannot participate in the 6 hrs/wk the treating clinician will present the case and recommended treatment program to the multidisciplinary treatment team for approval (3.D.5.a)*
- Provision of 6 hrs/wk of structured out of cell time for therapeutic programming and 12 hrs/wk of unstructured out of cell time for people with mental illness. For those inmates that cannot participate in the 6 hrs/wk the treating clinician will present the case and recommended treatment program to the multidisciplinary treatment team for approval (3.D.5.a)*
- Access to on site clinical provider for treatment plan and medication plan management.

Compliance Coordinator (RN) Additional FTEs: 1.0

- Reviews contract details
- Reviews performance metrics
- Updates performance metric (DRC) compliance spreadsheet
- Schedules meetings with all contract monitor & re-establish compliance relationship
- Review and maintain experts reports and CAP's
- Implementation of improvement plans, process and/or policy changes
- Responsible for maintaining and educating staff on policies directly pertaining to DRC
- Maintain NCCHC compliance
- Participate in MAC/CQI meetings
- NCCHC and DRC compliance updates
- Maintain action items, progress and responsible parties
- Maintain first month of performance metrics spreadsheet and send to regional leaders, contract monitor and legal monthly
- Monthly meeting with on-site administrative staff
- Weekly meeting with Sheriff's Office QA compliance division leaders/staff
- Annual reports
- 180 day reports
- Assist with DRC compliance/progress/update reports
- Liaison between Wellpath and DRC
- Monthly meetings with counsel, site and executive leadership
- Complete all DRC requests
- Work with EMR for report collection requirements
- Test data/reporting requirements
- Coordinate with home office QA to review expectations and programming

Continuous Quality Improvement (CQI) Coordinator (RN) Additional FTEs: 1.0

- Maintains a multidisciplinary quality improvement committee that meets monthly
- Designs quality improvement studies that meet DRC requirements
- Serves as chairperson of the CQI committee and preside over the CQI meetings.
- Prepares audit reports for submission to the Health Services Administrator, Compliance Coordinator, Sheriff's Office QA unit and DRC
- Prepares internal CQI reports (including access to care, intake screening, health assessment, chronic care, nurse sick call, infirmary care, pharmacy services, diagnostic services, dental

care, mental health care, emergency care, hospitalizations, critiques of disaster drills, sentinel events, environmental inspections, inmate grievances and infection control, etc.)

- Collects and presents data for quality assurance applications
- Develops process and outcome studies annually, in conjunction with Mental Health, meeting NCCHC standards
- Develops in concert with HSA and Compliance Coordinator corrective action plans for individuals and operational areas that are identified for improvement and assess effectiveness of such corrective action.
- Maximizing staff participation and feedback in all quality assurance processes.
- Addresses suicide prevention within the Quality Assurance Program in concert with Mental Health providers, staff (to include morbidity and mortality review and process improvements to prevent similar events from recurring) and suicide risk mitigation committee
- Ensures CQI program includes physician and psychiatrist clinical chart reviews.
- Completes Peer reviews for clinical staff
- Ensures completion of MHP and provider peer reviews
- Maintains the standards documentation used in the NCCHC accreditation process, insuring periodic updates are completed as needed.

Additional CFMG/Wellpath Staffing	
Position	FTE
Mental Health Professional	1.0
Mental Health Supervisor	1.0
Registered Nurse	2.1
Medical Director	0.4
Psychiatric Nurse Practitioner	0.4
Compliance Coordinator	1.0
Continuous Quality Improvement Coordinator	1.0
Total	6.9

As stated earlier, there are no additional FTEs required for Probation juvenile facilities.

The additional positions requested are a direct result of the Remedial Plans and structured settlement entered between the parties in the Murray et. al. v Santa Barbara County class action litigation. Although different numbers have been discussed throughout the negotiations, it was not possible to make a final determination as to the exact number of additional staff needed until the settlement was finalized. In addition, a separate negotiation had been undertaken relative to the expansion of contractual services at the Northern Branch Jail, which would also have an effect on the overall workload and staffing requirements once implemented. Now that those factors have been able to be studied more closely, these positions have been identified as critical needs for future compliance with the settlement.

Moreover, the amended and additional provisions were developed with input from Behavioral Wellness, Public Health, and the CEO's Office. After meeting with representatives of those departments along with the contract monitors, there is consensus that the additional staffing and amendments will greatly enhance both the services that are required by the settlement agreement and the mandatory monitoring under this agreement.

Fiscal Analysis:

Wellpath Fourth Amendment	Year 5	Year 6	Increase
Existing contract services	\$9,969,910	\$10,700,327	\$730,417
4.0 FTE added – positions related to DRC settlement agreement (Mental Health Professional & Supervisor, Compliance & CQI Coordinators)	0	558,415	558,415
2.9 FTE added – to meet current service levels (RNs, MD, Psych NP)	0	789,003	789,003
Pharmacy and Electronic Medical Records (EMR)	505,227	864,717	359,490
State-funded JBCT program	0	962,174	962,174
Total	\$10,475,137	\$13,874,635	\$3,399,498

Narrative:

The cost of year 6 of the agreement is \$13,874,635, of which \$12,402,789 is for services to the Sheriff’s Office and \$1,471,846 is for services to the Probation Department. In addition to the added FTEs to address settlement requirements, an adjustment has been made to the total contract amount to account for actual pharmaceutical costs exceeding contracted amounts in the prior years. Over the course of the current contract, there has been a significant increase in the costs associated with pharmaceuticals that have been passed on to the County by Wellpath. This is due in large part to an overall increase in pharmaceuticals in general, as well as costs for long-term injectable medications for psychiatric patients and those suffering from other chronic illnesses such as psoriatic arthritis, HIV, and Hepatitis B and C. Many of these medications are only available in non-generic form and are accompanied by the requisite premium cost to the County.

Execution of this amendment will increase the total six (6) year contract amount to \$56,950,501. The total increase from year 5 to year 6 is \$3,399,498. The Probation Department has included appropriations in the FY 2022-23 adopted budget to fund the increase without additional General Fund resources. The Sheriff’s Office portion of the amendment increase is \$3,134,779, of which \$962,174 relates to the inclusion of costs associated with the Jail-Based Competency Program, for which funding is received from the State. The Sheriff’s Office FY 2022-23 adopted budget will cover approximately \$1.5 million of the increased costs in FY 2022-23; the department is working with the CEO to review alternative resources for the residual difference of approximately \$1.7 million. The CEO earmarked Proposition 172 fund balance as a potential source and will bring back a budget revision prior to March 31, 2023 if needed. Additionally, the CEO has indicated the future cost increases prospectively will need to be incorporated into the General Fund’s five-year forecast.

Attachments:

- ATTACHMENT A: FOURTH AMENDMENT TO AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR
- ATTACHMENT B: EXHIBIT E-1 STAFFING MATRICES - April 1, 2022, through March 31, 2023
- ATTACHMENT C: EXHIBIT F-1 Salary Plan – April 1, 2022, through March 31, 2023
- ATTACHMENT D: CERTIFICATE OF LIABILITY INSURANCE – (3/17/2022)

Authored by: Chief Vincent Wasilewski, CJM, Chief Custody Deputy, Sheriff’s Office
 Damon Fletcher, CPA, Administrative Deputy Director, Probation

cc: