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CITY OF LODI
COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Execute a Contract with Lodi Health for the Fire Department's Annual Physicals

MEETING DATE: October 16, 2013

PREPARED BY: Fire Chief

RECOMMENDED ACTION: Adopt resolution authorizing the City Manager to execute a contract with Lodi Health for the Fire Department's Annual Physicals.

BACKGROUND INFORMATION: The City of Lodi Fire Department contracted with St. Joseph's Regional Health System in 1996 to complete the annual physicals for the Lodi Fire Department's staff. The City of Lodi continued contracting with St. Joseph's until November 2012, when St. Joseph's Regional Health System was acquired by Co Occupational Medical Partners, Inc. On October 2, 2013, the City Council adopted a resolution authorizing the City Manager to cancel its contract and search for a new provider.

Staff recommends entering into a three-year contract with Lodi Health. Lodi Health is located in Lodi, Stockton, and Ione, and provides the City's occupational health services. By contracting with Lodi Health, the annual firefighter physicals expenses are reduced by a minimum of 21 percent.

Staff recommends that the City Manager be authorized to execute a three year contract with Lodi Health for the annual physical requirements and any amendments thereto.

FISCAL IMPACT: Based upon historical usage, it is anticipated that annual costs will be about \$13,400, a 21 percent reduction from the prior contract.

FUNDING AVAILABLE: 102012.7363

Jordan Ayers
Internal Services Director/Deputy City Manager

Larry Rooney
Fire Chief

LR:po
cc: City Attorney

APPROVED:

Konradt Bartlam, City Manager

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1 PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on November 2, 2013, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and LODI MEMORIAL HOSPITAL ASSOCIATION, INC., dba LODI HEALTH (hereinafter "CONTRACTOR").

Section 1.2 Purpose

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for Lodi Fire Department Annual Physicals (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2 SCOPE OF SERVICES

Section 2.1 Scope of Services

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall not submit any protected information to the City in any manner. CONTRACTOR, at its professional medical opinion, shall review the physical findings with the City employee prior to providing that information directly to the City employee, via the postal service in a sealed envelope.

The CITY shall be solely entitled to receive medical clearance for the employee to perform the duties of a firefighter.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames.

The review time by CITY and any other agencies involved in the project shall not be counted against CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONTRACTOR shall attend meetings as may be mutually agreed upon.

Section 2.4 Staffing

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on November 2, 2013 and terminates upon the completion of the Scope of Services or on November 1, 2016, whichever occurs first.

**ARTICLE 3
COMPENSATION**

Section 3.1 Compensation

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal included in Exhibit A.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, specifying city employee and physical services and associated fees. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

Section 3.3 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement, except those records of protected health information. CONTRACTOR agrees to provide CITY or its delegate with any relevant non-protected health information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence of the City of Lodi or its officers or agents.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONTRACTOR

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit B attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight

delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
Attn: Paula O'Keefe
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910

To CONTRACTOR: Lodi Health
Attn: Pam Schneider
975 S. Fairmont Avenue
P. O. Box 3004
Lodi, California 95240

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONTRACTOR is Not an Employee of CITY

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit A to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or

"Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

Excluding protected health information, all documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

RANDI JOHL-OLSON
City Clerk

KONRADT BARTLAM
City Manager

APPROVED AS TO FORM:
D. STEPHEN SCHWABAUER, City Attorney
JANICE D. MAGDICH, Deputy City Attorney

LODI MEMORIAL HOSPITAL ASSOCIATION, INC.,
dba LODI HEALTH

By: _____


By: _____
Name: JOSEPH P. HARRINGTON
Title: CEO

Attachments:
Exhibit A – Scope of Services & Fees
Exhibit B – Insurance Requirements

Funding Source: 102011.7363
(Business Unit & Account No.)

Doc ID:

CA:rev.07.2013

Exhibit A

Proposed Scope of Services & Fees

Lodi Health proposes to provide annual physicals to the Lodi Fire Department. Such physicals shall be completed promptly with physical results provided to the designated City staff in a mutually agreed upon methodology. Lodi Health shall not provide any protected health information to the City in any manner. The City shall be solely entitled to receive medical clearance for the employee to perform the duties of a firefighter.

Annual physical components and associated expenses per City employee:

A) Firefighters

- Pulmonary function \$ 35.00
- Respirator evaluation \$ 15.00
- Fitness assessment \$ 40.00
- DOT physical \$ 50.00
- EKG with report \$ 45.00
- PPD skin test \$ 15.00
- Influenza vaccine \$ 20.00
- Diptheria Tetanus immunization \$ 30.00
- Complete Blood Count (CBC) \$ 12.00
- Urine dip \$ 11.00

B) Hazmaters

- Above physical components
- Chest X-ray 2 view \$ 90.00
- Immunoassay fecal occult blood \$ 22.00
- Comprehensive Metabolic Panel \$ 12.00
- Prostate specific antigen \$ 15.00
- Stress EKG \$200.00

C) Optional Service

- Wellness Program Participation \$ 30.00 per employee/year
 - Yearly Comprehensive Health Risk Assessment (HRA)
 - Biometric Screenings - blood pressure, laboratory lipid & chem. panel, weight & waist measurements
 - Detailed results provided and one time direct personal feedback given for each risk with insight and suggestions for improvement of health
 - Free Lodi Health Fitness membership for High Risk participants

RESOLUTION NO. 2013-180

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE A
CONTRACT WITH LODI HEALTH FOR THE FIRE
DEPARTMENT'S ANNUAL PHYSICALS

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WHEREAS, the City of Lodi Fire Department contracted with St. Joseph's Regional Health System in 1996 to complete the annual physicals for the Lodi Fire Department's staff. The City of Lodi continued contracting with St. Joseph's until November 2012, when St. Joseph's Regional Health System was acquired by Co Occupational Medical Partners, Inc.; and

WHEREAS, in October 2013, the City cancelled its contract in search of a new provider; and

WHEREAS, staff recommends entering into a three-year contract with Lodi Memorial Hospital Association, Inc., dba Lodi Health, which has offices located in Lodi, Stockton, and Lone, and provides the City's occupational health services; and

WHEREAS, by contracting with Lodi Health, cost savings can be found in the annual firefighter physical's reduced expenses and overtime.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a contract with Lodi Memorial Hospital Association, Inc., dba Lodi Health, for the Fire Department's annual physicals.

Date: October 16, 2013

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I hereby certify that Resolution No. 2013-180 was passed and adopted by the Lodi City Council in a regular meeting held October 16, 2013, by the following vote:

- AYES: COUNCIL MEMBERS – Hansen, Johnson, and Mounce
- NOES: COUNCIL MEMBERS – None
- ABSENT: COUNCIL MEMBERS – Katzakian and Mayor Nakanishi
- ABSTAIN: COUNCIL MEMBERS – None


RANDI JOEHL-OLSON
City Clerk