



STAFF REPORT

DATE: December 13, 2021

TO: Sacramento Regional Transit Board of Directors

FROM: Shelly Valenton, VP, Integrated Services and Strategic Initiatives

SUBJ: APPROVING A SOLE SOURCE CONTRACT FOR PRE-EMPLOYMENT AND DOT-DMV CERTIFICATION MEDICAL EXAMINATIONS, PRESCRIPTION DRUG SAFETY REVIEWS, AND EVALUATION OF JOB DESCRIPTION PHYSICAL REQUIREMENTS WITH DIGNITY HEALTH MEDICAL FOUNDATION DBA MERCY MEDICAL GROUP, A SERVICE OF DIGNITY HEALTH MEDICAL FOUNDATION

RECOMMENDATION

Adopt the Attached Resolution.

RESULT OF RECOMMENDED ACTION

The action would allow Dignity Health to continue providing critical long-term services for medical exams, prescription drug safety reviews, and evaluation of job description physical requirements.

FISCAL IMPACT

There is no fiscal impact, as the cost for these services was approved by Resolution in August 2021 and is included in the annual Operating Budget. The cost for these services in future years will be included in the annual Operating Budget presented to the Board for approval each year.

DISCUSSION

Sacramento Regional Transit District (SacRT) requires pre-employment medical examinations for applicants in designated job classifications. Pre-employment medical examinations are conducted to determine an applicant's ability to perform the physical demands of the job classification. In addition, employees required to have a commercial driver's license as a condition of employment must have a medical exam at least every two years to maintain the license in accordance with DMV requirements.

Furthermore, employees performing safety-sensitive work as defined by the Federal Transit Administration (FTA) (49 C.F.R Part 655) are subject to federally-regulated drug

and alcohol testing (pre-employment, random, and reasonable suspicion). As part of that process, in accordance with Department of Transportation (DOT) Drug Testing Regulation 49 C.F.R. Section 40.327, the Medical Review Officer (MRO) is required to report medical information learned as part of the drug testing result verification process regarding the use by an applicant/employee of medication(s) and/or condition(s) that may pose significant safety risk or make the individual medically unqualified for a safety-sensitive position as defined by the FTA. A Prescription Drug Safety Review Exam is necessary to determine whether an employee properly using medication(s) prescribed for them is likely to pose a significant safety risk in the continued performance of their safety-sensitive function.

At times, there is a need to have the physical/medical requirements for positions reviewed to determine if exam/testing protocols need to be updated and review job-related medical and physical standards for new and revised job descriptions on an ongoing basis to determine whether the exam/testing protocols are validated.

SacRT previously had a Contract in place for a 5-year term (June 2015 to June 2020) with Sutter Medical Foundation; however, the occupational medical exam services are no longer available through Sutter. After release of two Requests for Proposals (RFP) solicitations for the required services, no responsive proposals were received. As the contract with Sutter was expiring and SacRT had a pressing need for the services, SacRT entered into a short-term Contract with Dignity Health to administer its medical examinations, which has already been extended three times, and now expires on December 31, 2021.

The most recent (fourth) RFP was released on July 7, 2021, with responses due July 23, 2021. The RFP provided that SacRT could award multiple contracts for a five-year term to qualified proposers. The RFP provided proposers an opportunity to identify exceptions and proposed modifications to SacRT's standard contract form and terms and conditions and to certify that, if they failed to identify specific exceptions, they were prepared to accept the terms and conditions set out in the RFP. At the August 23, 2021 Board meeting, the Board delegated authority to the General Manager/CEO to award a contract or contracts for these services "upon conclusion of the formal solicitation process and determination of the most-qualified proposer or proposers in accordance with the specified evaluation criteria."

Both Dignity Health and the Sacramento Occupational Medical Center submitted proposals in response to the RFP, were deemed responsive and qualified to perform the services, and were issued a Notice of Intent to Award. Both had affirmatively certified that they accepted the terms and conditions of the solicitation documents without exception.

However, after issuance of the Notice of Intent to Award, when a contract was provided to Dignity Health for execution, Dignity belatedly identified proposed contract exceptions for negotiation with SacRT. As a result, it was deemed non-responsive to the competitive solicitation and could not be awarded a contract pursuant to the Board delegation of authority.

A contract was executed with Sacramento Occupational Medical Center; however, because its proposal identified only one location and one doctor available to perform all services set out in the scope, this firm was ranked lower in the evaluation process.

There is a definite need to award a second contract, as the need and demand for services for an estimated 1,000 medical examinations annually for SacRT cannot be supported in a timely manner by only one facility and one doctor. The current short-term Contract with Dignity Health has been valuable and critical to SacRT's service, and Staff has established and maintained a very good working relationship with the Dignity Health team. It has provided these occupational medical exam services for SacRT in a timely manner with the use of five doctors and multiple support staff in three different office locations. It is imperative to SacRT's service and would be detrimental if SacRT is not able to continue to contract with Dignity Health as an additional source.

SacRT requires these services for operators to maintain their medical clearance, for SacRT to have the ability to continue critical hiring without a lapse in service, and to remain in compliance with Federal regulations. Given the difficulty that SacRT has had in obtaining a long-term contractor for these services over the last year, flexibility to enter into a new contract is critical. Staff has evaluated the risks of accepting the modified terms and conditions and deemed them to be acceptable in order to obtain these needed services. The key risk relates to a request by Dignity for an acknowledgement by SacRT that it operates according to the Dignity Health Common Values for Community Sponsorship (required by and related to its ownership and relationship with the Catholic church) and that it will not perform any services that would be inconsistent with those values. Dignity has accepted that it will be deemed in breach of contract if it refuses to provide services due to its Common Value principles. Unfortunately, even in a breach of contract situation allowing SacRT to recover damages, SacRT would still have to find an alternative provider, which would likely prove difficult. However, at this point there are no other viable alternatives to accepting the language. The language is in the existing Contract with Dignity and there have been no issues with non-performance in the last year.

RESOLUTION NO. 21-12-0133

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

December 13, 2021

**APPROVING A SOLE SOURCE CONTRACT FOR
PRE-EMPLOYMENT AND DOT-DMV CERTIFICATION MEDICAL EXAMINATIONS,
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DESCRIPTION PHYSICAL REQUIREMENTS WITH DIGNITY HEALTH MEDICAL
FOUNDATION DBA MERCY MEDICAL GROUP, A SERVICE OF DIGNITY HEALTH
MEDICAL FOUNDATION**

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, pursuant to Section 1.405.B.2 of the Procurement Ordinance (21-10-01), the Board has determined that it is in the best interest of Sacramento Regional Transit District to approve a sole source and noncompetitive procurement directly with Dignity Health Medical Foundation dba Mercy Medical Group, a Service of Dignity Health Medical Foundation ("Dignity") without compliance with otherwise applicable solicitation requirements due to the critical need for pre-employment and DOT-DMV Certification medical examinations and related services, the past performance of these services by Dignity Health, and the difficulty of finding qualified service providers.

THAT, the Contract for Pre-Employment and DOT/DMV Certification Medical Examinations, Prescription Drug Safety Reviews, and Evaluation of Job Description Physical Requirements by and between the Sacramento Regional Transit District (therein "SacRT") and Dignity Health Medical Foundation dba Mercy Medical Group, a Service of Dignity Health Medical Foundation (therein "Contractor"), whereby Contractor agrees to perform specified services for a 5-year term for an amount not to exceed \$825,000, as further specified in the Contract, is hereby approved.

THAT, the General Manager/CEO is hereby authorized and directed to execute the foregoing Contract.

STEVE MILLER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Tabetha Smith, Assistant Secretary