



City of Grand Island

Tuesday, December 8, 2015

Council Session

Item G-13

#2015-339 - Approving Medical Supplies Contract with Saint Francis Medical Center

Staff Contact: Russ Blackburn

Council Agenda Memo

From: Russ Blackburn, EMS Division Chief

Meeting: December 8, 2015

Subject: Medical Supplies Contract with Saint Francis Medical Center

Presenter(s): Russ Blackburn, EMS Division Chief

Background

The Grand Island Fire Department ambulances have always restocked supplies, in common between the hospital and the ambulance service, from supplies provided to the Fire Department by Saint Francis. Saint Francis then bills the Fire Department monthly for Saint Francis' acquisition cost. The benefit of this has been low cost supplies for the Fire Department because Saint Francis buys in larger quantities than the Fire Department could purchase. Saint Francis benefits because the ambulances start procedures in the field using the same supplies that Saint Francis uses; they do not need to be changed to hospital specific equipment upon the patients' arrival at the Emergency Department.

Discussion

It was recently discovered by Saint Francis Medical Center that this arrangement had not been formalized by a contractual agreement, so they created a contract to formalize this process. Saint Francis' contract has been reviewed by Assistant City Attorney Stacy Nonhof and she approved of the contracts wording. The contract now needs the Council's approval and the Mayor signature so that ambulance resupplying can continue as it has for the history of the ambulance service.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the Ambulance Restocking Agreement between Saint Francis Medical Center and the City of Grand Island for the continued ability to restock ambulance with supplies provided by Saint Francis.

Sample Motion

Move to approve the Ambulance Restocking Agreement between Saint Francis Medical Center and the City of Grand Island.

AMBULANCE RESTOCKING AGREEMENT

This AMBULANCE RESTOCKING AGREEMENT ("Agreement") is made and entered into effective as of the date last signed below by all parties to this Agreement ("Effective Date") and is by and between Saint Francis Medical Center d/b/a CHI Health St. Francis, a Nebraska nonprofit corporation ("CHI Health"), and the City of Grand Island, Nebraska ("Squad").

RECITALS

- A. CHI Health owns and operates an acute care general hospital that has, as a component of its services, an emergency department that receives patients transported by Squad units.
- B. Patients experiencing medical emergencies are brought to CHI Health for trauma care in accordance with applicable laws for the purpose of improving access to and quality of emergency services. CHI Health's restocking of Squad units contributes to the quality of emergency care in the community by enabling Squad units to proceed immediately to the next call without making additional restocking stops and by ensuring that proper medications and adequate supplies are available for the next patient.
- C. Squad wishes to develop a uniform arrangement whereby CHI Health may restock ambulances with drugs and supplies, when such ambulances transport patients to CHI Health, in a manner consistent with Medicare, Medicaid, and other third party payor billing requirements, and applicable Medicare statutes and regulations.

NOW, THEREFORE, the parties agree as follows:

1. **Restocking of Supplies.** CHI Health shall restock Squad's ambulances with Supplies provided to patients who are transported to CHI Health by Squad, as requested from time to time by Squad. As used herein, "Supplies" includes, but is not limited to, non-narcotic drugs, nonreusable linens, needles, syringes, bandages, IV solutions, masks, tape, tubing, ECG pads, tourniquets, and gloves. The parties will develop procedures for ambulance squads to request that Supplies be restocked and for documenting the Supplies furnished by CHI Health pursuant to such request. Squad agrees to use such restocked Supplies only as a part of its emergency medical response at the scene of an emergency or in transport to a hospital and will not resell them to any third party or use them for any other purpose.
2. **Type and Quantity of Restocked Supplies.** CHI Health's obligation to restock Squad's ambulance with Supplies shall be subject to CHI Health having a sufficient quantity of such Supplies on hand and available to provide to Squad. CHI Health reserves the right to provide Supplies of a type and quantity normally maintained by CHI Health, but not necessarily of the same brand provided by Squad to its transported patients.
3. **Billing of Patients for Supplies.** Squad shall have the sole right to bill patients and third party payors for any Supplies furnished by Squad during or incidental to transport and that are restocked by CHI Health pursuant to this Agreement. CHI Health agrees not to bill or collect from any patient or third party payor for any such Supplies. In the event that CHI Health receives any payment for Supplies provided to patients during or incidental to transport to CHI

Health and that have been restocked by CHI Health pursuant to this Agreement, CHI Health shall promptly return such payment to the payor.

4. **Payment for Supplies.** Payment for Supplies shall be based on CHI Health's actual acquisition cost. Within ten (10) days after the end of each month, CHI Health shall bill Squad for all Supplies furnished by CHI Health during the prior month. CHI Health shall prepare and furnish to Squad written documentation which identifies Supplies which CHI Health has provided to Squad. Squad shall pay CHI Health within twenty (20) days of the receipt of such bill.

5. **No Obligation to Refer.** Nothing herein shall in any way be construed to require or induce either party to admit, refer or transfer patients to the other.

6. **Insurance.** Each of the parties shall, at its sole cost and expense, procure, keep, and maintain throughout the term of the Agreement, insurance coverage in sufficient amounts to cover the work being performed by said party and the representations, obligations and warranties of said party pursuant to the Agreement. Said policy(ies) shall cover all of said party's obligations under the Agreement. By requiring insurance, neither party represents that coverage and limits will necessarily be adequate to protect the other party, and such coverage and limits shall not be deemed as a limitation on the other party's liability in connection with the Agreement.

Each party agrees to be self-insured and/or obtain and maintain in force and effect liability insurance to insure themselves and their respective personnel for liability arising out of activities to be performed under, or in any manner related to, this Agreement.

Each party agrees to be self-insured or provide professional liability and general liability insurance for itself, its agents and employees. Each party shall be self-insured or maintain professional liability insurance in the minimum amount of one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate. Each party shall also be self-insured or maintain comprehensive general liability insurance in the minimum amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate. Each party shall also be self-insured or maintain commercial workers' compensation insurance in the state of Nebraska, with statutory limits.

Both parties agree that such insurance may not be revoked, reduced or changed in a material way without at least thirty (30) days' advance written notice to the other party.

On or before the commencement of this Agreement, and upon reasonable request thereafter, the parties agree to furnish the other with appropriate certificates of insurance or financial documentation evidencing sufficient and adequate self-insurance, subject to the other party's review and approval in its sole discretion. Except as may be otherwise agreed to in writing, Squad shall furnish CHI Health with said certificates of insurance or financial documentation regarding self-insurance at the following address: Catholic Health Initiatives, Contract Administrator, 12809 West Dodge Road, Omaha, NE 68154, and CHI Health shall furnish Squad with said certificates of insurance or financial documentation regarding self-insurance at the following address: _____.

7. **Term of the Agreement.** The term of this Agreement shall be for one year commencing on the Effective Date. This Agreement shall be automatically renewed for successive one-year terms unless sooner terminated as provided in this Agreement.

8. **Termination of the Agreement.**

- a. **Termination without Cause.** Either party may terminate this Agreement without cause upon not less than ninety (90) days written notice to the other party. The parties may mutually agree to terminate the Agreement in writing at any time.
- b. **Termination for Cause.** Either party shall have the right to terminate this Agreement upon written notice of such termination to the other party in the event that: (1) either party is in material breach of any provision of this Agreement and the breaching party has not cured the breach within thirty (30) days of receipt of notice from the non-breaching party; (2) the business of either party is terminated or suspended; (3) a petition for bankruptcy is filed by or against either party; (4) a receiver is appointed on account of either party's insolvency; or (5) if any assignment is made of either party's business for the benefit of its creditors. In addition, CHI Health shall have the right to terminate this Agreement without notice in its sole discretion to preserve the quality of patient services and/or to protect the health, safety, or welfare of patients, employees, or other persons because of any act or omission of Squad or any person under the direction of Squad; provided, however, that CHI Health will not terminate this Agreement if Squad terminates the offending employee(s). Additionally, this Agreement will terminate automatically upon the occurrence of the conditions described in the Excluded Provider section set forth in this Agreement. In the event that either party reasonably determines, based on the advice of legal counsel or otherwise, that the continuation of the Agreement will subject a party to liability for violation of federal or state law, then either party may terminate this Agreement immediately upon written notice to the other.

9. **Compliance with CHI Standards of Conduct.** Squad recognizes that it is essential to the core values of CHI Health that all persons and entities employed by or otherwise contracting with CHI Health at all times conduct themselves in compliance with the highest standards of business ethics and integrity and applicable legal requirements, as reflected in the Catholic Health Initiatives ("CHI") Standards of Conduct, as amended from time to time. As of the effective date of this Agreement, the CHI Standards of Conduct are set forth in Our Values & Ethics at Work Reference Guide ("Reference Guide"), which is available at the following website: <http://www.catholichealthinitiatives.org/corporate-responsibility>. Squad acknowledges that it has electronically accessed, obtained, or otherwise received a copy of the Reference Guide and has read and understands same, and hereby agrees that, so long as the Agreement remains in effect, Squad shall act in a manner consistent with, and shall at all times abide by, such Standards of Conduct, to the extent they are applicable to Squad in the performance of the Agreement. In the event that CHI Health determines in good faith that Squad has breached its obligations under this section, CHI Health may, upon notice to Squad, immediately terminate the Agreement.

10. **Ethical and Religious Directives.** CHI Health's conduct and dealings are subject to, and are to be performed in accordance with, the Ethical and Religious Directives for Catholic Health Care Services, Fifth Edition, as promulgated by the United States Conference of Catholic Bishops, as amended from time to time, and as interpreted by the local bishop ("ERDs"). The ERDs are available at the following website: <http://www.usccb.org/about/doctrine/ethical-and-religious-directives/>. To the extent applicable to the duties and obligations set forth in the Agreement, Squad agrees to take no action that will interfere with CHI Health's obligation to conduct its activities in accordance with the ERDs and, in the event that such obligation is placed at risk, CHI Health may, at its option, terminate the Agreement immediately or work with Squad to eliminate the risk.

11. **Compliance with All Laws.** Each of the parties represents that its performance under this Agreement shall fully comply with all applicable federal, state, and local statutes, rules, regulations, and applicable standards of other professional organizations, and that it shall be deemed a material breach of the Agreement by a party if it shall fail to comply with this representation. If such a breach is not cured in accordance with the Agreement, the non-breaching party may immediately terminate the Agreement without penalty and without limiting any other rights or remedies set forth in the Agreement. Specifically, but not by way of limitation, each of the parties represents that its performance under the Agreement shall comply with all applicable statutes, rules, regulations, accreditation standards, and other applicable standards of: Medicare; Medicaid; the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information and Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Parts 160 and 164; the security and privacy provisions of the American Recovery and Reinvestment Act of 2009 and the regulations promulgated thereunder; the Health Information Technology for Economic and Clinical Health Act and the regulations promulgated thereunder, and updates to incorporate any changes to such statutes, rules, regulations, and applicable standards.

12. **Confidentiality.** The parties shall maintain the confidentiality of patient medical records and treatment in accordance with state and federal laws. Squad acknowledges that information regarding CHI Health's business operations, including, but not limited to, procedures, policies, programs, billing codes and systems, reimbursement schedules, contracts, business plans and such other business records is proprietary and confidential, and agrees to hold such information in strict confidence and not to disclose or make available such information to any third party, except as required by law. This provision shall survive termination of this Agreement.

13. **Nondiscrimination.** In the performance of the Agreement, the parties will not discriminate against anyone with respect to race, color, creed, sex, age, national origin, ancestry, religion, marital status, handicap, disability, veteran status or any other legally-protected category of persons. Both parties agree to comply with the Family Educational Rights and Privacy Act of 1974 governing the privacy of student records.

14. **Notice.** All notices and other communications required or permitted to be given hereunder shall be in writing and shall be considered given and received when (a) personally delivered to the party, (b) delivered by courier, (c) delivered by facsimile, or (d) deposited in the United States mail, postage prepaid, return receipt requested, properly addressed to a party at

the address set forth below, or at such other address as such party shall have specified by notice given in accordance with the provisions of this section:

If to CHI Health:

CHI Health St. Francis
Attn: Dan McElligott, FACHE, FHFMA
2620 W Faidley Avenue
Grand Island, NE 68803

With a copy by regular United States mail, postage prepaid, to:

CHI Health
VP, Regional General Counsel
12809 West Dodge Road
Omaha, NE 68154

If to Squad:

Attn: _____

With a copy by regular United States mail, postage prepaid, to:

15. **Excluded Provider.** Squad hereby represents and warrants that it is not now and at no time has been excluded from participation in any federally funded health care program, including Medicare and Medicaid. Squad hereby agrees to immediately notify CHI Health of any threatened, proposed, or actual exclusion from any federally funded health care program, including Medicare and Medicaid. In the event that Squad is excluded from participation in any federally funded health care program during the term of this Agreement, or if at any time after the effective date of this Agreement it is determined that Squad is in breach of this section, the Agreement shall, as of the effective date of such exclusion or breach, automatically terminate. Squad shall indemnify and hold harmless CHI Health against all actions, claims, demands and liabilities, and against all loss, damage, costs and expenses, including reasonable attorneys' fees, arising directly or indirectly, out of any violation of this section by Squad, or due to the exclusion of Squad from a federally funded health care program, including Medicare or Medicaid.

16. **Jeopardy.** Notwithstanding anything to the contrary contained in the Agreement, in the event the performance by either party of any term, covenant, condition, or provision jeopardizes the licensure of CHI Health, its participation in, or payment or reimbursement from, Medicare, Medicaid, or other reimbursement or payment programs, or its full accreditation by The Joint Commission or any other state or nationally recognized accreditation organization, or the tax-exempt status of CHI Health, any of CHI Health's property or financing (or the interest income thereon, as applicable), or will prevent or prohibit any physician, or any other health care professionals or their patients from utilizing CHI Health or any of its services, or if for any other reason said performance should be in violation of any statute, ordinance, or be otherwise deemed illegal, or be deemed unethical by any recognized body, agency, or association in the medical or hospital fields, CHI Health may at its option (i) terminate the Agreement immediately; or (ii) initiate negotiations to resolve the matter through amendments to the Agreement and, if the parties are unable to resolve the matter within thirty (30) days thereafter, CHI Health may, at its option, terminate the Agreement immediately.

17. **Independent Contractor Relationship.** None of the provisions of this Agreement are intended to create any relationship between the parties other than that of independent entities

contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither of the parties, nor any of their respective officers, directors, employees or agents, shall have the authority to bind the other or shall be deemed or construed to be the agent, employee or representative of the other except as may be specifically provided herein. Neither party, nor any of their employees or agents, shall have any claim under this Agreement or otherwise against the other party for Social Security benefits, workers' compensation, disability benefits, unemployment insurance, vacation, sick pay or any other employee benefits of any kind. Squad agrees to comply with and assist CHI Health in observing federal and state accreditation standards, including, if applicable, standards of The Joint Commission, Nebraska Department of Health and Human Services, and/or Iowa Department of Inspection and Appeals.

18. **Recordkeeping.** If and to the extent required by Section 1395x(v)(1)(I) of Title 42 of the United States Code, until the expiration of four (4) years after the termination of the Agreement, Squad shall make available, upon written request by the Secretary of the Department of Health and Human Services ("the Secretary"), or upon request by the Comptroller General of the United States General Accounting Office ("the Comptroller General"), or any of their duly authorized representatives, a copy of the Agreement and such books, documents, and records as are necessary to certify the nature and extent of the costs of the services provided by Squad under the Agreement. Squad further agrees that, in the event it carries out any of its duties under the Agreement through a subcontract with a related organization with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, such subcontract shall contain a provision requiring the related organization to make available until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, a copy of such subcontract and such books, documents, and records of such organization as are necessary to verify the nature and extent of such costs.

19. **Prohibition on Child Labor and Human Trafficking.** Each party warrants and represents that it shall comply with all federal and state labor and employment laws, and executive orders as applicable and specifically those regarding child labor, procuring commercial sex, using forced labor and human trafficking. This includes but is not limited to the Trafficking Protection Act of 2000, Executive Order – Strengthening Protections Against Trafficking in Persons in Federal Contracts, Federal Acquisition Regulations ("FAR"), the provisions of the International Labor Organization's ("ILO") Minimum Age Convention (No. 138), 1973, and any other laws or regulations that prohibit any form of human trafficking, commercial sex, forced labor, child labor or other exploitation of children in the manufacturing, delivery or provision of products/devices, items or services and as each may be amended from time to time. In addition, in connection with any International Organization for Standardization ("ISO") certification, the parties represent and warrant that as applicable each complies with the Social Accountability Guidelines pursuant to which a party disqualifies any site that uses unacceptable manufacturing practices, such as child labor, forced labor, unsafe or unsanitary working conditions, or trafficking of persons as defined by the Trafficking Protocol (United Nations General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, 15 November 2000, available at <http://www.unhcr.org/refworld/docid/4720706c0.html>). Squad acknowledges CHI Health's efforts on human trafficking found at <http://www.catholichealthinit.org/human-trafficking-how-you-can-help> and represents and

warrants to CHI Health that it undertakes periodic inspections of any subcontractor and manufacturer involved in the provision of its products/devices, items or services hereunder to ensure compliance with the foregoing. Squad agrees upon request to provide CHI Health with evidence and/or recordkeeping of its compliance with this provision.

20. **Governing Law.** This Agreement shall be subject to, construed under, and governed by the laws of the State of Nebraska and, to the extent applicable, the Internal Revenue Code and its regulations, and governmental reimbursement statutes and regulations. However, if applicable, Squad does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

21. **Exclusive Jurisdiction.** Any action or proceeding against any of the parties hereto relating in any way to this Agreement or the obligations hereunder shall be brought and enforced exclusively in the competent courts of Hall County, Nebraska, and the parties hereto consent to the exclusive jurisdiction of such courts in respect to such action or proceeding.

22. **Assignment.** Neither this Agreement nor any rights or duties under this Agreement may be assigned by either party, except upon written agreement signed by both parties.

23. **Amendment.** This Agreement may be amended at any time by mutual agreement of both parties, provided that before any amendment shall be operative or valid, it shall be reduced to writing and signed by both parties, and placed in an addendum to this Agreement.

24. **Severability.** In the event any term or provision of this Agreement is rendered invalid or unenforceable by any valid act of Congress or the Nebraska legislature, or by any regulation duly promulgated by officers of the United States or the State of Nebraska acting in accordance with law, or is held by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

25. **Headings.** The headings to the various sections of this Agreement have been inserted for convenience only and shall not modify, define, limit, or expand express provisions of this Agreement.

26. **Waiver.** Waiver of a breach of or default under any term or provision of this Agreement by either party, by course of dealing or otherwise, shall not be deemed a waiver of any other breach of or default under the same or a different provision of this Agreement.

27. **Entire Agreement.** This Agreement and any Addendums hereto constitute the entire written agreement of the parties regarding the subject matter of this Agreement and supersedes any prior agreements of the parties, whether written or oral, regarding the subject matter of this Agreement.

28. **Authority.** By executing this Agreement, the undersigned individuals represent that they are duly authorized to make and enter into this Agreement and that this Agreement constitutes the valid and binding obligations of the parties and is enforceable in accordance with its terms.

29. Successors. This Agreement shall be binding upon and inure to the benefit of the parties named herein and their respective successors and permitted assigns.

**SAINT FRANCIS MEDICAL CENTER d/b/a
CHI HEALTH ST. FRANCIS**

CITY OF GRAND ISLAND, NEBRASKA

By: 

By: _____

Print: Dan McElligott, FACHE, FHFMA

Print: _____

Title: President

Title: _____

Date: 11/19/15

Date: _____

RESOLUTION 2015-339

WHEREAS, the Grand Island Fire Departments ambulances have always restocked some supplies from Saint Francis Medical Center; and

WHEREAS, Saint Francis now wants a contract to formalize the arraignment; and

WHEREAS, the arraignment is mutually beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, Move to approve the Ambulance Restocking Agreement between Saint Francis Medical Center and the City of Grand Island for the continued ability to restock ambulance with supplies provided by Saint Francis.

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Adopted by the City Council of the City of Grand Island, Nebraska, December 8, 2015.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☒ _____
December 4, 2015	☒ City Attorney