



REQUEST FOR COUNCIL ACTION

HOSPITAL RESOURCE OFFICER AGREEMENT - RPD & MAYO

MEETING DATE:

January 22, 2020

ORIGINATING DEPT:

Police

AGENDA SECTION:

Consent Agenda

PREPARED BY:

Sarah Clayton

COUNCIL ACTION REQUESTED:

- 1) Adopt a resolution authorizing the Mayor and City Clerk to enter into a Hospital Resource Officer Agreement with Mayo Clinic (Mayo) for a period of one year, which can be automatically extended for one year terms and;
- 2) Authorize a budget amendment to provide for the addition of three officers to the current authorized number of police officer positions in the Rochester Police Department and;
- 3) Authorize a budget amendment to provide for the addition of one squad car to the vehicle fleet of the Rochester Police Department

COUNCIL PRIORITIES:

Enhance Quality of Life

POLICY CONSIDERATIONS:

Should the City's police department have a Hospital Resource Officer Program with the Mayo Clinic?

REPORT NARRATIVE:

Mayo wishes to enter into an agreement with the City and Rochester Police Department (RPD) to provide law enforcement services within St. Mary's Hospital for a period of one year, with automatically renewable one year terms, starting the summer of 2020. The intention is for this to be a long term program similar to the School Resource officer program with ISD 535.

Over the past year, collaborative discussions between RPD and Mayo have been ongoing and a proposal came forward for the initiation of the Hospital Resource Officer program. These discussions arose out of a desire to develop a comprehensive Hospital Resource Officer community policing program and to maintain a cooperative and coordinated approach to deterring and addressing criminal activity at St. Mary's Hospital with particular emphasis on the emergency department. The Rochester Mayo Clinic Emergency department is growing, becoming busier, and like its counterparts across the county, seen an increase in incidents requiring a police response. Many emergency departments across the country are already staffing their area hospitals with police officers.

The program would necessitate the assignment of three (3) full-time licensed peace officers to perform HRO services. Its the intent of the program to provide coverage of one officer at the hospital 12 hours per day, 365 days per year. An agreement was drafted for the program and is attached for review.

This agreement is similar to the School Resource Officer Program Agreement with ISD 535 but is specific to the unique needs of a medical care facility and in particular the Emergency Department at St. Mary's hospital.

This agreement will enhance RPD's ability to provide effective public safety and law enforcement services by physically assigning officers within the Hospital.

Currently, the department does not have the staffing resources necessary to meet the needs of the program. The expenses associated with the salary and benefit costs of three FTE sworn officer positions will be reimbursed by Mayo. Mayo has also agreed to a one time funding of the cost of a fully marked and equipped squad vehicle and uniform costs.

This Agreement would necessitate the addition of three (3) FTE police officer positions to the department's existing authorized sworn strength. It would also necessitate the addition of one fully marked and equipped squad car to the department's vehicle fleet.

If the agreement is approved, the department hopes to begin the program in the summer of 2020.

Staff recommends that the council approve the agreement and authorize an increase in the Police Department's FTE sworn police officer strength from 105.50 to an authorized number of 108.50 RPD FTE sworn police officer positions.

Staff recommends that the council authorize the addition of one (1) fully equipped squad car to the vehicle fleet of the Rochester Police Department.

COMMUNITY ENGAGEMENT:

Multiple meetings with Mayo Clinic staff members.

ALTERNATIVE ACTION(S):

Deny the request - this is not recommended

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None

FISCAL AND RESOURCE IMPACT:

- 1) This agreement will add three (3) FTE's to the approved number of budgeted police officers.
- 2) This agreement will add one (1) fully equipped squad car to the Rochester Police Department's budgeted fleet
- 3) Mayo Clinic is paying for the cost of three (3) FTE officers per the agreement
- 4) Mayo Clinic is paying a one-time cost for one (1) fully equipped squad care per the agreement
- 5) Mayo is paying a one-time cost for police uniforms and equipment for HRO officers.
- 6) There is no adverse impact on RPD's operating budget.

ATTACHMENTS:

Rochester Mayo Clinic HRO Agreement 2020

Resolution HRO RPD Mayo Clinic Rochester RPD Agreement 2020

HIPAA Business Associate-SysWide-Addendum 20191021

**HOSPITAL RESOURCE OFFICER NON-MEDICAL SERVICES AGREEMENT
BETWEEN MAYO FOUNDATION FOR MEDICAL EDUCATION AND RESEARCH,
AND
THE CITY OF ROCHESTER, MN**

This Hospital Resource Officer Non-Medical Services Agreement (“Agreement”) is entered into by and between Mayo Foundation for Medical Education and Research, a Minnesota nonprofit corporation, on its own behalf and on behalf of its affiliates and subsidiaries (“Mayo”) and the City of Rochester, MN (“City”).

WHEREAS, Mayo and the City, acting through its police department, desire to develop a comprehensive Hospital Resource Officer community policing program and maintain a cooperative and coordinated approach to deterring and addressing criminal activity at Mayo Hospital, Saint Mary’s campus property, with an emphasis on the Emergency Department, located at 1216 Second Street SW, Rochester, MN 55902 and at agreed upon Mayo Clinic Hospital – Rochester, Saint Mary’s Campus sponsored events and activities; and

WHEREAS, the City of Rochester, MN has a police department which is a recognized law enforcement agency of the State of Minnesota and provides law enforcement services; and

WHEREAS, Mayo desires to engage the City and the City is willing to provide law enforcement services as described in this agreement. Mayo intends to provide funding for the deployment of some of the City’s Law Enforcement Officers to provide Hospital Resource Officer Services at Mayo Clinic Hospital – Rochester, Saint Mary’s Campus.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement and other valuable consideration, the sufficiency of which is acknowledged, the parties agree as follows:

1. **Term.** The term of this Agreement shall commence on July 1, 2020 and unless sooner terminated as provided herein, shall remain in full force and effect for a period of one (1) year (the ‘Initial Term’). This Agreement shall be automatically extended and renewed for successive one (1) year terms unless either party provides one hundred twenty (120) days written notice of termination to the other party.
2. **Definitions.** The following definitions apply to this Agreement:
 - a. **“Hospital Resource Officer” or “HRO”** means a licensed peace officer who is employed by the City and is assigned to provide HRO duties pursuant to this Agreement.
 - b. **“HRO duties and services”** include, but are not necessarily limited to, the following:
 - collaborating with Global Security, Emergency Department leadership and hospital administration to enhance the relationship between Rochester Police Department and Mayo;
 - protecting persons who are present at Mayo Clinic Hospital – Rochester, Saint Mary’s Campus (Saint Mary’s Campus);

- protecting real and personal property;
 - develop and maintain working relationships with Mayo staff and patients in furtherance of the interests of public safety;
 - serving as a resource and mentor for Mayo patients, visitors, staff and community members;
 - conferring with Mayo staff, patients and community members for the purpose of deterring or addressing criminal behavior on Mayo property;
 - identifying and advising on security vulnerabilities at Saint Mary's Campus Emergency Department;
 - visiting and inspecting Saint Mary's Campus Emergency Department;
 - being present and visible on Saint Mary's Campus;
 - deterring all forms of criminal activity at Saint Mary's Campus;
 - serving as a resource for Global Security and hospital administration regarding the prevention of criminal activity on Mayo property;
 - giving presentations to Mayo staff that are designed to promote safety or to deter, decrease, or otherwise address the prevention of crime and enhancement of personal safety of Mayo staff and patients;
 - investigating and otherwise addressing criminal activity that has occurred, is alleged to have occurred, may have occurred, or is expected to occur on Mayo property;
 - recovering lost or stolen property;
 - enforcing all criminal laws;
 - apprehending and prosecuting criminals;
 - responding to emergencies including, but not limited to, medical emergencies (if requested by Security) and situations involving a threat of violence or harm to property or to any person who is at Saint Mary's Campus;
 - attending agreed upon training and exercises provided by Mayo; and
 - other tasks as assigned by the Rochester Police Department.
3. **Licensed Officers.** The parties agree that Officers provided by the City shall be duly authorized and licensed police officers in good standing with the City and the State of Minnesota. Officers assigned to perform HRO services for Mayo will be licensed at all times with the Minnesota Peace Officers Standards and Training Board and receive training as may be required by the City.
4. **Services.** During the Term, the City agrees to provide the Hospital Resource Officer Services. The responsibilities of the City shall include devoting such time and effort as may be needed to provide the Services, the performance of which may not be subcontracted without the express written consent of Mayo, maintaining and keeping accurate records of Services. Services shall be performed in a professional manner. Training records of officers assigned to HRO duties may be provided to Mayo as provided by law and requested by Mayo.
4. **Assignment of Mayo Clinic Resource Officers.** The City will assign three (3) full-time licensed peace officers to perform HRO services under this Agreement and Mayo agrees to reimburse the City pursuant to the terms and provisions of this Agreement. The City shall provide one Officer 12 hours per day, 365 days per year, unless otherwise agreed

to in writing by both Parties or if extraordinary circumstances require City officers be assigned elsewhere. The hours of coverage shall be mutually agreed to by the Rochester Police Department and Mayo Clinic Hospital – Rochester Associate Administrator.

- a. **Absences.** If a HRO is absent for more than 10 consecutive work days, the City will undertake reasonable efforts to assign another licensed peace officer to serve as a temporary replacement and perform the regular HRO's duties during any additional absences.
- b. **Vehicles, Equipment, and Training.** Mayo is responsible for reimbursing the City for necessary HRO law enforcement equipment, including any electronic devices. The City is responsible for providing training and education to all peace officers who are assigned to provide services pursuant to this Agreement. Mayo is responsible for providing training and education to all HRO's who are assigned in regards to Patient Health Information, HIPAA, Emergency Action Plans, and any other training Mayo requests and is agreed upon by the City. Mayo will reimburse the police department for the city's purchase of one fully marked and outfitted squad car.
- c. **Personnel Assignments and Objections to Personnel.** The City will undertake reasonable efforts to assign peace officers who are acceptable to Mayo. Mayo will notify the RPD Community Services Captain of any concerns related to the performance of a HRO. Any request for reassignment of a HRO that is based on work-related concerns must be made promptly and in writing to the RPD Community Services Captain. If at any time a HRO is deemed, in Mayo's judgment, to be unacceptable to Mayo for cause, the parties will meet to discuss a mutually agreeable resolution which may include reassignment of the HRO.
- d. **Performance Measures.** The Services provided by the City may be evaluated by Mayo on an annual basis using the following measures: (1) professionalism (2) teamwork (3) communication (4) outcomes. Performance measurements or evaluations will not reference specific officers but will be in reference to the success of the program itself. Individual officer evaluations will be completed by the Rochester Police Department.
- e. **Primary Deployment.** Deployment of the City's police officer shall be primarily in the Mayo Clinic Hospital – Rochester, Saint Mary's Campus Emergency Department; however, the HRO may make rounds through the hospital, Rochester campus or respond to other areas on Mayo Clinic Rochester Campus as requested by Global Security or per agreed upon protocols.
- f. **Deployment.** The Parties recognize that it will take a minimum of six (6) months to hire and deploy the Officers necessary to fully implement this Agreement and that Officers will be deployed by the City as they become available. A Rochester Police Department Command Staff Member will update Mayo if there is anticipation the timeline will exceed six (6) months.

- g. **Critical Incidents.** Mayo understands and agrees that if a critical emergency occurs and need arises for an HRO to assist with a critical incident, a HRO officer deployed at Mayo may be required to leave Mayo Clinic to respond as required and at the direction of the Rochester Police Department. If feasible, the HRO should provide notice to Mayo's Global Security Shift Supervisor/Assistant Supervisor.
 - h. **Custody & Transport.** The Parties agree that the purpose of this Agreement is to provide law enforcement services at Mayo Clinic Hospital – Rochester, Saint Mary's Campus located within the City's jurisdiction. Nothing in this Agreement shall relieve any law enforcement agency, other than the Rochester Police Department, from remaining at all times with an individual that is either in the custody of the law enforcement agency or will be placed into custody after treatment, as relieving the law enforcement agency of the requirement to be present during treatment or care.
5. **Base Payment.** Beginning July 1, 2020, Mayo will pay the City \$497,000 annually for HRO services. This payment is intended to cover a reasonable amount of the cost the City incurs in paying wages, benefits, and backfilling for training and personal leave time for the three peace officers assigned to perform HRO duties under this Agreement. Mayo will pay this sum to the City in twelve equal installments. Each installment will be due on the fifth day of each month covered by this Agreement. A 2.5% Cost of Living Adjustment will be applied to the monthly payment paid by Mayo on each January 1st.
 6. **Uniforms and Equipment.** Beginning July 1, 2020, Mayo will pay the City a lump sum of \$45,700 for uniforms and equipment for the HRO officers. This payment will be due on July 1, 2020.
 7. **Vehicle Payment.** Beginning July 1, 2020, Mayo will pay the City a lump sum of \$90,000. This payment is intended to cover the cost the City incurs to purchase one fully marked and equipped squad car to provide transportation for the officers assigned to perform HRO duties under this Agreement. This payment will be due on July 1, 2020.
 8. **Mayo Responsibilities.** In addition to making the payments described in this Agreement, Mayo, will provide office space for a HRO in close proximity to the Saint Mary's Campus Emergency Department. At a minimum, the office space will be furnished with a desk, chair, landline telephone, and secure connection to the internet. The parties recognize that the placement of such office is critical to the safety and security of the Officers and patients of Mayo and therefore the placement of any office, desk, or work station shall be mutually agreed upon by the Rochester Police Department and Mayo. The HRO may print materials and make photocopies at Mayo where the HRO is assigned if the materials and photocopies relate to HRO duties. Mayo may elect to provide additional resources, such as a two-way radio, to the HRO. Mayo Clinic's Global Security and Saint Mary's Campus administrators and staff will provide guidance and assistance to each HRO as needed.
 9. **Relationship of the Parties.** Nothing in this Agreement may be construed to create a partnership or joint venture between the Mayo and the City. Neither party has any authority or power to take any unilateral action that could legally bind the other party. For purposes

of the Minnesota Government Data Practices Act, each party is considered to be an independent contractor relative to the other party.

10. **HRO Employment Status.** At all times and for all purposes, the City is and will remain the exclusive employer of all peace officers who perform services pursuant to this Agreement. No HRO may be considered to be an official, employee, agent, educational service provider, or representative of Mayo, and no HRO may make any representation to the contrary. The City maintains full control over the peace officers it employs and is solely responsible for all employment and administrative functions related to its employees, including, but not limited to, supervision and evaluation, payroll and deductions, maintenance of all required insurance (e.g. workers' compensation insurance, unemployment insurance, liability insurance), and any labor disputes or grievances.
11. **Liability and Indemnification.** Each party is solely responsible for the act(s) and omission(s) of its own officers, employees, officials, agents, and representatives. To the extent permitted by law, each party agrees to indemnify the other party from any and all damages, liability, judgments, claims, expenses, attorney fees, and costs resulting from any act or omission of any of its officers, employees, officials, agents, or representatives. Each party's liability, if any, is limited under Minnesota Statutes Chapter 466, and nothing this Agreement may be deemed to constitute a waiver of those limits.
12. **Confidential Information.** It is understood that this agreement and other City records are subject to the Minnesota Data Practices Act and may be subject to public disclosure.
13. **Confidentiality of Patient Information.** The Parties agree and acknowledge that Mayo is subject to the Health Insurance Portability and Accountability Act of 1996 as amended from time to time ("HIPAA"). As such, Mayo has an obligation to safeguard protected health information ("PHI") of its patients and may only use or disclose PHI as permitted or required by HIPAA. City, as a law enforcement agency, retains all of its rights under HIPAA to request PHI for law enforcement purposes. City agrees and acknowledges that the Services contemplated here are for law enforcement purpose and the Services do not give the City the authority to request or obtain regular access to PHI or to remove PHI from Mayo's premises except as the City is permitted by HIPAA for law enforcement related purpose or allowed by federal, state, or local laws or court orders. The City agrees and acknowledges that HRO's should complete Mayo's privacy training and comply with privacy laws.
14. **Execution of Arrest Warrants.** When executing an arrest warrant for a person on Mayo property, a peace officer should make reasonable efforts to protect other patients, Mayo staff, and community members who are present. This paragraph is not intended to prevent an officer from taking immediate action to arrest a person who is fleeing or who presents an imminent and substantial risk of harm to self, others or property.
15. **Independent Contractor.** It is mutually understood and agreed that the relationship between the parties is that of independent contractors. Neither party is the agent, employee, or servant of the other. Except as specifically set forth herein, neither party shall have nor exercise any control or direction over the methods by which the other party performs work

or obligations under this Agreement. Further, nothing in this Agreement is intended to create any partnership, joint venture, lease, or equity relationship, expressly or by implication, between the parties. The City shall have no authority to bind Mayo and Mayo shall have no authority to bind the City.

16. **Notices.** Mayo must provide all official notices under this Agreement by electronic mail or U.S. Mail addressed to the Rochester Police Department's Captain of Community Services at 101 4th Street SE, Rochester, MN 55904. The City must provide all official notices under this Agreement by electronic mail or U.S. Mail addressed to Mayo Clinic Attn: Chief Security Officer, 200 First Street S.W., Rochester, MN 55905 with a copy to the Mayo Clinic Legal Department, Attn: General Counsel, 200 First Street S.W., Rochester, MN 55905. Either party may designate a different addressee or address at any time by giving written notice to the other party. Notice that is delivered by mail is effective upon mailing. Notice that is delivered by email is effective upon transmission.
17. **Data Practices.** All City government data that are collected, created, received, or maintained as a result of this Agreement will be handled in accordance with all applicable federal and state laws, including, but not limited to, the Minnesota Government Data Practices Act ("MGDPA").
18. **General Compliance with Laws.** Both parties will comply with all applicable federal, state, and local laws, statutes, regulations, rules orders, and ordinances that are now in effect or enacted, amended, or promulgated now and in the future.
19. **Access to Books and Records.** Mayo is a provider under Federal Medicare programs and is subject to Section 952 of the Omnibus Reconciliation Act of 1980. That law requires Mayo, as a provider, to include the following provision in its agreements with suppliers who receive \$10,000 or more under an agreement with Mayo. If requested by the Secretary of HHS, by the U.S. Comptroller, or by an authorized representative of either of them, City will make available to the requestor this Agreement and the City's books, documents, and records to allow the requestor to certify the nature and extent of the charges for products (or services) provided under this Agreement and charged to Medicare. City will continue to make those items available for four years after the City furnishes the final products (or services) under this Agreement. If the City contracts with another to carry out any of the city's duties under this Agreement and the subcontractor is to receive \$10,000 or more in value under that subcontract, then City will obtain a written contractual commitment from the subcontractor to comply with the obligations of this section of the Agreement. The obligations of this Section survive this Agreement's termination.
20. **Assignment.** Neither party may assign this Agreement, or any of its rights or obligations under this Agreement, (whether in connection with a merger, consolidation, sale, or otherwise) without the other Party's written consent, and a Party's attempt to so assign is null and void and is a default under this Agreement.
21. **Background Checks.** The City must conduct, or have conducted, a criminal background check on all peace officers who provide any service pursuant to this Agreement. The

background check must be completed before the peace officer provides any service pursuant to this Agreement.

22. **No Unlawful Discrimination.** Mayo and the City each agree to provide equal employment opportunities to all employees and applicants for employment in accordance with all applicable federal, state, and local laws. No person may be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program, service, or activity based on race, color, religion, age, sex, disability, marital status, sexual preference, HIV status, public assistance status, creed, or national origin.
23. **Waiver and Enforcement.** The failure to insist on compliance with any term, covenant, or condition contained in this Agreement must not be deemed to be a waiver of that term, covenant, or condition, nor will any waiver or relinquishment of any right or power contained in this Agreement at any time be deemed to be a waiver or relinquishment of any right or power at any other time. Each party is be responsible for its own costs, expenses, and any attorneys' fees associated with this Agreement and any related matters, including enforcement of this Agreement.
24. **Equal Drafting.** In the event that either party asserts that a provision of this Agreement is ambiguous, this Agreement must be construed to have been drafted equally by the Parties.
25. **Choice of Law, Forum and Severability.** This Agreement is governed by the laws of the State of Minnesota. The parties agree that the Minnesota state and federal courts will have exclusive jurisdiction over any dispute arising out of this Agreement. If a court determines that any part of this Agreement is unlawful or unenforceable, the remaining portions of the Agreement will remain in full force and effect. Services provided under this program are subject to the applicable provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, Health Insurance Portability and Accountability Act (HIPAA) requirements and all other applicable state or federal rules, regulations or orders pertaining to privacy or confidentiality. Mayo understands that all of the data created, collected, received, stored, used, maintained or disseminated by the Rochester Police Department in performing under this HRO agreement is subject to the requirements of Chapter 13, the law, and the Rochester Police Department must comply with those requirements. Performance evaluations of HRO officers is the responsibility of the Rochester Police Department. Concerns, complaints, and compliments of the HRO officers will be brought to the attention of the police department HRO program supervisor.
26. **Termination.** Except as otherwise specifically provided herein, this Agreement may only be terminated upon the occurrence of any of the following events:
 - (a) by mutual written agreement of the parties;
 - (b) by either the City or Mayo, upon not less than one hundred twenty (120) days prior written notice of such termination;

Upon termination, neither party shall have any further obligations under this Agreement except for those accruing prior to the date of termination.

27. **Entire Agreement, Changes, and Effect.** This Agreement constitutes the entire agreement between Mayo and the City regarding HRO duties and additional services. This Agreement supersedes any inconsistent statements or promises made by either party. This Agreement also supersedes and terminates any prior or existing agreements or contracts regarding the same or any similar subject matter. Neither party has relied upon any statements, promises, agreements, or representations that are not stated in this Agreement. No changes to this Agreement are valid unless they are in writing and signed by both parties. A copy of this Agreement has the same legal effect as the original.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates recorded by their signature. By signing below, each party specifically acknowledges that it has read this Agreement and that it understands and voluntarily agrees to be legally bound by all terms of the Agreement.

CITY OF ROCHESTER

_____ Mayor	_____ Date
_____ City Clerk	_____ Date
_____ Chief of Police	_____ Date

MAYO FOUNDATION FOR MEDICAL EDUCATION AND RESEARCH

By: _____
Name: _____
Its: _____
Date: _____