

File No. 231241

Committee Item No. 1
Board Item No. 17

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight
Board of Supervisors Meeting:

Date: February 1, 2024
Date: February 13, 2024

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Prepared by: Monique Crayton
Prepared by: _____
Prepared by: _____

Date: February 9, 2024
Date: _____
Date: _____

1 [Memorandum of Understanding Agreement - Retroactive - United States Capitol Police -
2 Supplemental Law Enforcement Services]

3 **Resolution retroactively authorizing the San Francisco Police Department to enter**
4 **into a Memorandum of Understanding Agreement with the United States Capitol**
5 **Police to provide supplemental law enforcement services for the period beginning**
6 **on January 1, 2021, through December 31, 2023.**

7
8 WHEREAS, The United States Capitol Police (USCP) is a federal law enforcement
9 agency in the United States with the responsibility for protecting members of the United
10 States Congress within the District of Columbia and throughout the United States and its
11 territories; and

12 WHEREAS, The USCP has approached the San Francisco Police Department
13 (SFPD) to enter into a Memorandum of Understanding Agreement seeking supplemental
14 law enforcement services that falls outside the scope of 10B and California Government
15 Code, Section 53069.8; and

16 WHEREAS, The SFPD anticipates the Memorandum of Understanding Agreement
17 (the Agreement) with USCP to generate revenues of more than \$1,000,000; and

18 WHEREAS, The San Francisco Charter, Section 9.118 requires the Board of
19 Supervisors to approve agreements having anticipated revenue to the City of more than
20 \$1,000,000; and

21 WHEREAS, The contracting for these law enforcement services shall not reduce the
22 normal and regular ongoing service that the San Francisco Police Department otherwise
23 would provide; now, therefore, be it

24 **RESOLVED**, That the Board of Supervisors authorizes the Chief of Police, or his
25 designee, to execute, on behalf of the City and County of San Francisco, the Agreement

1 with USCP to retroactively authorize SFPD to provide supplemental law enforcement
2 services for the period beginning on January 1, 2021, through December 31, 2023, and, be
3 it

4 FURTHER RESOLVED, That the SFPD may enter into any modification of the
5 Agreement that the Chief of Police determines, in consultation with the City Attorney, are in
6 the best interests of the City, are necessary and advisable to effectuate the purpose of the
7 Agreement or this Resolution, do not materially increase the obligations of the City, and are
8 in compliance with all applicable laws, including the City's Charter and applicable laws;
9 and, be it

10 FURTHER RESOLVED, That within thirty (30) days of the Agreement being fully
11 executed by all parties, the San Francisco Police Department shall provide the final
12 agreement to the Clerk of the Board for inclusion in File No. 231241.

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18 Recommended:

19 /s/ _____

20 Police Department Head

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**City and County of San Francisco
Memorandum of Understanding
By and between
the City and County of San Francisco and
United States Capitol Police**

This Memorandum of Understanding (“MOU”) is entered into retroactively by the City and County of San Francisco (“City”), State of California, acting through the San Francisco Police Department (“SFPD”), and the United States Capitol Police (“USCP”).

Declaration

This MOU memorializes the agreement between the USCP and SFPD to provide the law enforcement services defined in this MOU to assist the USCP with persons and property under their responsibility for the purposes of enhancing public safety, preventing crime, and detecting criminal activity.

Article 1 Definitions

The following definitions apply to this Agreement:

1.1 “Baseline Police Services” or “Baseline Services” mean police services provided to the general public at the direction of the Chief of Police. Under the Charter, the San Francisco Police Department shall preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California, and the City and County.

1.2 “City” or “the City” means the City and County of San Francisco, a municipal corporation, acting through the San Francisco Police Department.

1.3 “Chief of Police” means the Chief of Police of the San Francisco Police Department.

1.4 “Chief of the USCP” means the Chief of the United States Capitol Police.

1.5 “Contracting Officer” means the USCP staff person in charge of procurement, or designee.

1.6 “Deliverables” means SFPD’s work product resulting from the Services provided by SFPD to USCP during the course of SFPD’s performance of the MOU, including without limitation, the work product described in the “Services and Resources” in Article 5.

1.7 “Immediate Family” means spouse, children, parents or any other individuals deemed as such by the USCP.

1.8 “MOU” means this Memorandum of Understanding between the United States Capitol Police and the City and County of San Francisco acting through the San Francisco Police Department.

1.9 “Party” and “Parties” means the City and USCP either collectively or individually.

1.10 “SFPD” means the San Francisco Police Department of the City and County of San Francisco.

1.11 “Supplemental Services” or “Supplemental Police Services” mean the police services provided above and beyond the Baseline Services as described in this MOU. All services described in this MOU are considered Supplemental Services or Supplemental Police Services.

1.12 “USCP” means the United States Capitol Police.

1.13 “Services” means the work performed by SFPD under this MOU as specifically described in the “Scope of Services,” including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by SFPD under this MOU.

1.14 “Site Security Detail” is the SFPD force providing the Supplemental Police Services for USCP under this MOU.

Article 2 General Provisions

2.1 **Term of Agreement.** The term of this MOU shall commence on January 1, 2021, and expire on December 31, 2023, unless earlier terminated as otherwise provided herein.

2.2 **Modification of this Agreement.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by the Chief of Police and USCP Chief of Police.

2.3 **Termination.** Either the Chief of Police or the USCP Chief of Police may unilaterally terminate this MOU, in writing, by providing notice to the other party. Termination of this MOU under this section will be effective upon the date set forth in the written notice, which shall be provided with ninety (90) calendar days advance notice.

2.4 **Acceptance of Supporting Documentation and Approvals.** The acceptance of supporting documentation and approvals that are authorized or required under this MOU may not be unreasonably withheld.

2.5 **Relationship of the Parties.** The relationship of SFPD to USCP is that of an independent contractor, and all persons working for or under the direction of SFPD are its agents or employees, and not the agents or employees of USCP. USCP and SFPD shall, at all times, treat all persons working for or under the direction of SFPD as agents and employees of SFPD, and not as agents or employees of USCP.

2.6 **Notices to the Parties.** Unless otherwise indicated in this MOU, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To City: Patrick Leung
 Chief Financial Officer
 San Francisco Police Department
 1245 3rd Street
 San Francisco, CA 94158
 patrick.n.leung@sfgov.org

To USCP: Angela B. Chew
Contracting Officer
Office of Procurement
499 South Capitol Street, SW
Washington, DC 20003
angela.chew@uscp.gov

Any notice of default must be sent by registered mail or other trackable overnight mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

2.7 **Sunshine Ordinance.** The USCP acknowledges that this Agreement and all records originating with SFPD related to this MOU, and SFPD's performance of Services, are subject to the California Public Records Act, (California Government Code §7920.000 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law. The parties to this Agreement understand that the USCP is a federal legislative branch entity, and as such, information originating with the USCP and shared under the terms of this Agreement shall remain in control of this coordinate branch of the federal government subject to any and all applicable release and non-disclosure requirements of the Congress as set forth in 2 USC § 1979. Should any litigation in any court arise over this matter the USCP pledges its full support to assist any of the parties to this agreement with its litigation.

2.8 **Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of City and USCP, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

Article 3 Fiscal Issues.

3.1 **Invoices; Compliance with USCP Requirements.** All invoices submitted by SFPD under this MOU, and supporting documentation, must be in a form acceptable to USCP and must include a unique invoice number.

3.2 **USCP's Payment Obligation.** SFPD will invoice the USCP for Supplemental Police Services provided under this MOU within forty-five (45) days after the end of each quarter, except for the quarter ending June 30th for which services must be submitted within thirty (30) days. The USCP's payment of SFPD's invoices will be consistent with the procedures and fiscal provisions in this MOU.

Article 4 Services and Resources

4.1 **Services Date.** This MOU retroactively took effect as of January 1, 2021, and continue uninterrupted until the expiration of this MOU or termination of the MOU by either party after 30 days written notice.

4.2 **General Statement of Supplemental Police Services.** The Site Security Detail will provide a highly vigilant uniformed presence of sworn police officers to Property and People under the responsibility of USCP for the purposes of enhancing public safety, preventing crime, detecting criminal activity, working with the USCP, as part of the security team. The Site Security Detail will provide services to deter crime, identify crime, perform arrests, investigate and report on crimes that occur in, on, about, or affect the Property under the responsibility of USCP, and coordinate with other law enforcement entities as appropriate. The Site Security Detail shall comply with all SFPD policies, Department Bulletins, General Orders, and applicable laws.

4.3 **Staffing.** SFPD will provide law enforcement services over the Baseline Police Services within its jurisdiction. The law enforcement services shall include support and enhancements to the USCP Dignitary Protection Division (“DPD”) protective mission by assigning an officer(s) in a vehicle, marked or unmarked, on a 24-hour, 7-day-a-week basis to the residence of Congresswoman Nancy Pelosi (Congresswoman) and her immediate family. The Congresswoman’s residence is at the address kept on file with the SFPD. The assigned SFPD officer(s) shall complete any tasks necessary to ensure the safety and security of the Congresswoman and her immediate family. Tasks include, but are not limited to maintaining a visible presence in front of the Congresswoman’s home, monitoring the area for suspicious activity, responding appropriately to situations needing law enforcement attention, and providing all other services, as needed, to provide protection for the Congresswoman and her immediate family. The assigned SFPD officer(s) shall report all suspicious and/or criminal activity to the USCP’s DPD and maintain routine communications with DPD leadership.

4.4 The Parties will develop a staffing plan, reviewed at least annually, acceptable to both parties and USCP's safety and security commitments.

4.5 **Command of Site Security Detail.** Command of the Site Security Detail will be under the supervision of the SFPD Chief of Police. All SFPD members shall operate under the authority and guidance of the SFPD General Orders, policies and procedures, as well as applicable laws. Specific responsibilities of the Site Security Detail are listed below. Any additional duties must be agreed upon by both Parties.

4.5.1 Assigning SFPD officers to positions on the Property under the responsibility of USCP, ensuring that workload is properly distributed.

4.5.2 Recording details regarding SFPD officer assignments.

4.5.3 Ensuring members of the Site Security Detail participate in operations and security briefings and other strategic meetings as requested by the USCP.

4.5.4 Maintaining contact with and coordinating with other law enforcement and City agencies, as appropriate.

4.5.5 All SFPD officers assigned to USCP will follow Department General Orders, policies, and procedures.

4.5.6 Responding to calls that may require supervision.

4.5.7 Communicating with regional and federal agencies, directly or via SFPD channels as appropriate, such as the USCP, Federal Transit Administration, Transportation

Security Administration, Federal Bureau of Investigation, Department of Homeland Security, and Northern California Regional Intelligence Center.

4.5.8 Assisting and coordinating with the USCP as described in Article 6.

Article 5 Administration and Coordination with the USCP

5.1 **Service Priorities.** The USCP, in conjunction with the SFPD, will develop security priorities.

5.2 **Regular Staff Meetings.** Appropriate personnel from the USCP and SFPD may hold regular staff meetings to address the SFPD services and activities under this MOU to further the purposes described in the Declaration.

Article 6 Rights In Deliverables

6.1 **SFPD Employee Salary and Benefits.** Using funds provided under this MOU, SFPD shall be responsible for providing the salary and any and all benefits of the SFPD officers assigned to the Site Security Detail, including such benefits as workers' compensation, disability insurance, vacation pay, sick pay, or retirement benefits; costs to obtain and maintain all licenses necessary for the performing the police services; and any and all taxes incurred as a result of the officers' compensation and benefits, including estimated taxes, FICA, and other employment taxes. For the avoidance of doubt, SFPD officers assigned to the Site Security Detail are employees of the SFPD and not of the USCP.

6.2 **Audit and Inspection of Records.** SFPD agrees to maintain and make available to the USCP accurate books and accounting records relating to its work under this MOU. Subject to Cal. Government Code section ~~-7923.600~~⁶²⁵⁴ et seq., and Penal Code section 832.7, SFPD will permit the USCP or its designee to audit, examine, and make excerpts and transcripts from such records and to make audits of all invoices, materials, payrolls, records, personnel, or other data related to all other matters covered by this MOU. USCP agrees not to release SFPD's records without first consulting with SFPD. SFPD will maintain such data and records in an accessible location and condition for a period of not less than three (3) years after final payment under this MOU or until after final audit has been resolved, whichever is later.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding on the day first mentioned above.

UNITED STATES CAPITOL POLICE

**SAN FRANCISCO POLICE
DEPARTMENT**

By: _____
J. Thomas Manger
Chief of Police

By: _____
William Scott
Chief of Police

Approved as to Form:

Approved as to Form:

David Chiu, City Attorney

By: _____
Alicia Cabrera
Deputy City Attorney



LONDON N. BREED
MAYOR

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158



WILLIAM SCOTT
CHIEF OF POLICE

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: San Francisco Police Department

DATE: November 13, 2023

SUBJECT: MOU between the United States Capitol Police and the San Francisco Police Department

Attached please one (1) copy of each of the following:

- X **01** – Approval Memo
- X **02** – Proposed Resolution
- X **03** – Draft Memorandum of Understanding

Departmental representative to receive a copy of the adopted resolution:

Name: **Patrick Leung / Diana Aroche** Phone: **415-837-7211**

Interoffice Mail Address: **SFPD Fiscal, 1245 3rd Street, 6th Floor**

Certified copy required Yes No

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient).