

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

June 13, 2023

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Practice Site Accreditation Survey Agreement with American College of Radiology for Accreditation of Medical Imaging Modalities

RECOMMENDATION(S)

1. Approve the Practice Site Accreditation Survey **Agreement No. 23-517**, including non-standard terms, with the American College of Radiology for the quality survey and accreditation of the ultrasound equipment at Arrowhead Regional Medical Center's Arrowhead Family Health Center – Fontana.
2. Authorize the Director of Arrowhead Regional Medical Center to execute the Practice Site Accreditation Survey Agreement, and any future Practice Site Accreditation Survey Agreements, with the American College of Radiology for the quality survey and accreditation of medical imaging equipment at Arrowhead Regional Medical Center and its Family Health Centers, in a total amount not to exceed \$19,000, for the five-year period of June 13, 2023 through June 12, 2028, subject to review by County Counsel.
3. Direct the Director of Arrowhead Regional Medical Center to transmit the Practice Site Accreditation Survey Agreement referenced in Recommendation No. 1 to the Clerk of the Board of Supervisors within 30 days of execution.

(Presenter: William L. Gilbert, Director, 580-6150)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The costs associated with the accreditation process are invoiced separately from the Practice Site Accreditation Survey Agreement (Agreement) and are not expected to exceed \$19,000 for the period of June 13, 2023 through June 12, 2028, for costs associated with each individual site inspection. The costs will be funded by State Medi-Cal, Federal Medicare, private insurances, and other departmental revenue. Funding sources may change in the future pending any legislative activity related to the repeal and/or replacement of the Affordable Care Act. Adequate appropriation and revenue have been included in the Arrowhead Regional Medical Center's (ARMC) 2022-23 budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

The Site Survey Agreement with the American College of Radiology (ACR) will allow ARMC to gain initial accreditation of ultrasound equipment at its Family Health Center (FHC) in Fontana, as this is new equipment to the FHC. The accreditation from ACR helps assure all patients are

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provided with the highest level of image quality and safety by documenting that ARMC meets requirements for medical imaging equipment. Each Agreement is a one-time agreement for accreditation, which is typically in effect for a period of three years. These agreements will be required for any new medical imaging equipment installed at ARMC or the FHCs, and every three years for renewal of accreditation of existing medical imaging equipment.

The Site Survey Agreement is ACR's standard commercial agreement that is non-negotiable and is missing the following County standard contract terms:

1. The Agreement is silent on governing law and venue.
 - The County standard contract requires California governing law and venue in San Bernardino County Superior Court, San Bernardino District.
 - Potential Impact: The Agreement is silent on governing law and venue. This results in uncertainty over which state's laws will govern the interpretation of the Agreement and leads to ambiguity in interpretation of the Agreement terms and the venue of any dispute. ACR is based in the State of Virginia. The Agreement could be interpreted under any state law depending on where the claim is brought, including Virginia or California. Any questions, issues or claims arising under this Agreement could require the County to hire outside counsel competent to advise on the applicable state law, which may result in fees and expenses to the County.
2. The Agreement does not contractually require ACR to defend or indemnify the County under any circumstance.
 - The County standard contract general indemnity provision requires the contractor to indemnify, defend, and hold County harmless from third party claims arising out of the acts, errors or omissions of any person.
 - Potential Impact: ACR is not required to defend, indemnify or hold the County harmless from any claims, including indemnification for claims arising from ACR's negligent or intentional acts. If the County is sued for any claim, the County may be solely liable for the costs of defense and damages. County Counsel cannot advise on whether and to what extent Virginia law may allow the County to require ACR to defend or indemnify it absent an express provision in the Agreement.
3. The Agreement does not address attorneys' fees and costs.
 - The County standard contract requires each party to bear its own costs and attorney fees, regardless of who is the prevailing party.
 - Potential Impact: There is no provision in the Agreement addressing each party's responsibility for paying attorneys' fees. County Counsel cannot advise on, whether and to what extent, state law of another jurisdiction may affect a party's requirement to pay the prevailing party in a legal action where no specific provision is provided in the Agreement.
4. The Agreement does not require ACR to meet the County insurance standards.
 - The County standard contract requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
 - Potential Impact: The Agreement does not include County standard insurance requirements. This means that the County has no assurance that ACR will be financially responsible for claims that may arise from the ACR's improper conduct.

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ARMC recommends approval of the Agreement, including the non-standard terms, to assure all ARMC patients receive the highest quality of medical imaging and ensuring safety by documenting that ARMC meets requirements for all medical imaging equipment.

Approval of Recommendation No. 2 will authorize the ARMC Hospital Director to execute the Agreement and future Agreements to improve efficiency and to reduce any delays in accreditation of other medical imaging equipment at ARMC and its FHCs. ACR has indicated the ARMC Hospital Director as signatory for this Agreement, and will require any future Agreements to be returned within a one-month period after being received by ARMC. Should there be any substantive changes to Agreement terms from the terms of the Agreement in Recommendation No. 1, ARMC will present an item to the Board for approval.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Deputy County Counsel, 387-5455) on May 17, 2023; ARMC Finance (Chen Wu, Finance Budget Officer, 580-3165) on May 22, 2023; Finance (Jenny Yang, Administrative Analyst, 387-4884) on May 23, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on May 24, 2023.

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Curt Hagman

Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: June 13, 2023



cc: ARMC - Gilbert w/agree for sign
Contractor - C/O ARMC w/agree
File - w/agree

CCM 06/23/2023