

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

July 23, 2024

FROM

ANDREW GOLDFRACH, ARMC Chief Executive Officer, Arrowhead Regional Medical Center

SUBJECT

Agreement with Jubilant DraxImage, Inc. dba Jubilant Radiopharma for Radioactive Pharmaceutical Agents

RECOMMENDATION(S)

Approve **Agreement No. 24-653**, including non-standard terms, with Jubilant DraxImage, Inc. dba Jubilant Radiopharma for the preparation and delivery of radioactive pharmaceutical agents, in the not-to-exceed amount of \$1,212,000, for the contract period of July 23, 2024 through July 22, 2029.

(Presenter: Andrew Goldfrach, ARMC Chief Executive Officer, 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 cost of \$1,212,000 is 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 (ARMC) 2024-25 budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

The agreement with Jubilant DraxImage, Inc. dba Jubilant Radiopharma (Jubilant) will allow the ARMC Medical Imaging Department to receive radioactive pharmaceutical agents, such as isotopes, which are used to perform diagnostic and therapeutic imaging procedures. Jubilant is a licensed nuclear pharmacy provider that prepares and delivers radioactive pharmaceutical agents to medical imaging centers. The agreement also provides access to Jubilant's clinical education professionals for training and educational programs, and use of the company's Nuclear Medicine Information System (NMIS) software application. The NMIS allows ARMC to electronically document the ordering, receipt, testing, and administration of the radioactive pharmaceutical agents.

The agreement was negotiated by the parties with the following non-standard contract terms:

**Agreement with Jubilant DraxImage, Inc. dba Jubilant Radiopharma for
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July 23, 2024**

1. Jubilant limits its general indemnity obligations to claims for any negligent act, failure to act, willful misconduct, or breach of the agreement by Jubilant, its employees, and agents.
 - The County's 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: Jubilant's indemnity obligation is more limited compared to the standard County general indemnity obligation. In the event a claim arises that falls outside the scope of Jubilant's limited indemnity obligation, the County could be financially responsible for the defense of the claim and any resulting judgment/settlement.
2. With the exception of claims based on indemnification, gross negligence, willful misconduct, fraud, or violations of law, Jubilant limits the County's remedy for a breach of a representation or warranty to either a replacement product at no cost or credit or refund of the price for the product in question.
 - The standard County contract does not limit the County's remedies in pursuing a claim for breach of warranty or representation.
 - Potential Impact: Except for the claims carved out of the provision, the County's sole remedy for Jubilant's breach of a representation or warranty is a replacement or refund/credit for the product in question.

ARMC recommends the approval of the agreement with Jubilant, including the non-standard terms, to provide for the safety, health and social service needs of County residents through the provision of diagnostic and therapeutic imaging procedures.

PROCUREMENT

The Purchasing Department supports this non-competitive procurement based on functional specifications as Jubilant is the only vendor located close enough to deliver in time, so the radioactive pharmaceutical agents are still active when they arrive at the hospital.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Supervising Deputy County Counsel, 387-5455) on June 25, 2024; Purchasing (Veronica Pedace, Buyer III, 387-2464) on June 27, 2024; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on June 27, 2024; Finance (Jenny Yang, Administrative Analyst, 387-4884) on June 27, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on June 27, 2024.

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: July 23, 2024



cc: ARMC - Goldfrach w/agree
 Contractor c/o ARMC w/agree
 File w/agree
MBA 07/24/2024