

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

August 25, 2020

**FROM**

**WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center**

**SUBJECT**

Agreement with MD Review for Risk Management External Expert Review Services

**RECOMMENDATION(S)**

Approve **Agreement No. 20-678** with consultant, MD Review, for risk management external expert review services in the amount not to exceed \$719,040 for the contract period of August 26, 2020 through August 25, 2025.

(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.**

**Operate in a Fiscally-Responsible and Business-Like Manner**

**FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The additional cost not to exceed \$719,040 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) 2020-21 budget and will be included in future recommended budgets.

Services conducted under this agreement will be paid according to the following schedule:

| <b>Year</b> | <b>Service</b>     | <b>Estimated Annual Cost</b> |
|-------------|--------------------|------------------------------|
| Year 1      | RM External Review | \$143,808                    |
| Year 2      | RM External Review | \$143,808                    |
| Year 3      | RM External Review | \$143,808                    |
| Year 4      | RM External Review | \$143,808                    |
| Year 5      | RM External Review | \$143,808                    |
| Total       |                    | \$719,040                    |

**BACKGROUND INFORMATION**

Approval of the recommendation will allow ARMC to utilize a consultant for external, expert reviews of complex healthcare-related risk management claims/cases. MD Review's independent, external review will allow for the mitigation of risk, provide education to healthcare providers, and assist in the determination of operational decisions that impact the potential fiscal output for adverse cases. The consultant will enable ARMC Risk Management and Patient Safety to provide more comprehensive information to legal counsel to reduce liability and provide the framework for education and training to assist clinicians in risk reduction.

**Agreement with MD Review for Risk Management External Expert  
Review Services  
August 25, 2020**

Independent, external reviews are an industry standard for healthcare facilities with a robust and effective Risk Management Program.

The Agreement with MD Review is based on the County's standard contract, negotiated by the parties, with indemnification provisions that differ from the standard County contract provision as follows:

**Indemnification**

Both parties are contractually obligated to defend and indemnify each other in proportion to and to the extent liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying party.

- The County's standard contract requires the vendor to indemnify the County regardless of cause and regardless of whether the County is partially at fault. The County's standard contract also does not require the County to indemnify the vendor under any circumstances.
- **Potential Impact:** By agreeing to indemnify MD Review, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against MD Review without such limitations and the County would be responsible to defend and reimburse MD Review for costs, expenses, and damages, which could exceed the total contract amount. Also, MD Review would only be contractually obligated to defend and indemnify the County for any claims in proportion to MD Review's fault in causing the injury/damages.

ARMC recommends approval of the agreement with MD Review as the consultant has specialty providers in all clinical areas and has knowledge of County policies and processes as well as federal requirements. The consultant will enable the County to operate in a fiscally responsible and business-like manner by allowing ARMC Risk Management and Patient Safety to provide more comprehensive information for claims to legal counsel to reduce liability and use as the framework for education and training to assist clinicians in risk reduction.

**PROCUREMENT**

This non-competitive procurement approved by the Purchasing Department is based on MD Review's specialized Risk Management expertise. The consultant offers experts who are credentialed with specialty-specific training in healthcare. The consultant also has knowledge of County and hospital-specific rules, regulations and policies.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Charles Phan, County Counsel, 387-5455) on August 5, 2020; Purchasing Department (Ariel Gill, Buyer, 777-0722) on August 11, 2020; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on August 3, 2020; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on August 4, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on August 9, 2020.

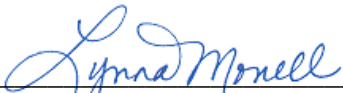
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Review Services  
August 25, 2020**

Record of Action of the Board of Supervisors  
County of San Bernardino

**APPROVED (CONSENT CALENDAR)**

Moved: Josie Gonzales    Seconded: Robert A. Lovingood  
Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: August 25, 2020



cc:    ARMC- Gilbert w/agree  
      Contractor- C/O ARMC w/agree  
      File- w/agree  
la     09/1/2020