

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

January 14, 2025

FROM

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

SUBJECT

Agreement with Spectra Laboratories, Inc. for Water Sample Testing

RECOMMENDATION(S)

Approve Water Testing Services **Agreement No. 25-19** with Spectra Laboratories, Inc., including non-standard terms, for dialysis machine water sample testing services, in a total amount not-to-exceed \$180,000, for the period of March 2, 2025, through March 1, 2027. (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 \$180,000 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 Water Testing Services Agreement (Agreement) with Spectra Laboratories, Inc. (Spectra) will provide ARMC the ability to conduct water sample testing for both the inpatient and outpatient dialysis units. It will facilitate timely results needed to ensure patient safety. During dialysis, patients are exposed to high amounts of water, and it is important to ensure that the water used for dialysis is safe and clean. As mandated by the Centers for Medicare and Medicaid Services, routine water sample testing is required to ensure patient safety. These tests are designed to monitor the effectiveness of the facility's water treatment system, identify contaminants that may compromise patient care and comply with federal regulations for dialysis water quality. Spectra is the leader in the laboratory services industry and is certified and accredited by the College of American Pathologists, Clinical Laboratory Improvement Amendments and California Clinical Laboratory License.

The Association for the Advancement of Medical Instrumentation and International Standards Organization have established a standard for the quality of water used during dialysis. The dialysis machines and water system at ARMC are disinfected on a set schedule that is sufficient to prevent bacterial proliferation. Water samples are taken on a routine basis to confirm that

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results are within the standard. Spectra reports any results that are out of the normal range to the Biomed Department via phone call. Any equipment reading that is above the allowable limit will not be used on patients.

The Agreement is Spectra's standard commercial contract, which includes terms that differ from the standard County contract and omits certain County standard contract terms. While the parties negotiated certain contract terms to County standards, Spectra would not agree to all County standard terms. The non-standard and missing terms include the following:

1. The Agreement does not require Spectra to indemnify the County, as required by County Policies 11-05 and 11-07, including for intellectual property infringement claims.
 - The County standard contract 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: Spectra is not required to defend, indemnify or hold the County harmless from any claims, including indemnification for claims arising from Spectra's negligent or intentional acts. If the County is sued for any claim based on its use of Spectra's services, the County may be solely liable for the costs of defense and damages, which could exceed the total Agreement amount.
2. The Agreement does not require Spectra to meet the County's insurance standards as required pursuant to County Policies, 11-05, 11-07 and 11-07SP.
 - County policy requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department and as set forth in County policy and in the County standard contract.
 - Potential Impact: The County has no assurance that Spectra will be financially responsible for claims that may arise under the Agreement, which could result in expenses to the County that exceed the total Agreement amount.
3. Spectra's maximum liability to the County is limited to the fees paid or payable in the 12 months prior to the event that gave rise to the claim.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: Claims could exceed the liability cap and the Agreement amount leaving the County financially liable for the excess.
4. Payment terms are Net 30 date of invoice with late payment interest of 1.5% interest accrued monthly for late payments.
 - County standard payment terms are Net 60 days with no interest or late payment penalties.
 - Potential Impact: County standard processing time is 60 days or more. Failing to pay within 30 days of the invoice date may result in a material breach of the Agreement, which could allow Spectra to terminate the Agreement and seek other legal remedies, including charging the County interest at a rate of 1.5% per month, which could exceed the Agreement amount.

ARMC recommends approval of the agreement, including non-standards terms, to provide for the safety and health needs of county residents. It benefits the County through fulfilling its mission to satisfy customers by providing service that promotes the health, safety, well-being and quality of life of its residents or patients.

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PROCUREMENT

The Purchasing Department approves this non-competitive procurement based on specialized expertise and training, as Spectra, is a wholly-owned subsidiary of Fresenius Medical Care, which is the manufacturer of ARMC's dialysis machines. ARMC currently utilizes Spectra for dialysis machine water sample testing services.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bonnie Uphold, Supervising Deputy County Counsel, 387-5455) on December 3, 2024; Risk Management (Gregory Ustaszewski, 386-9008) on December 6, 2024; Purchasing (Veronica Pedace, Buyer III, 387-2464) on December 12, 2024; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on December 17, 2024; Finance (Jenny Yang, Administrative Analyst, 387-4884) on December 18, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on December 18, 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.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: January 14, 2025



cc: ARMC - Goldfrach w/agree
 Contractor - c/o ARMC w/agree
 File - w/agree
CCM 01/21/2025