

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

May 23, 2023

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Physician Service Agreement with California University of Science and Medicine for Hepatology and Gastroenterology Services

RECOMMENDATION(S)

Approve **Physician Service Agreement No. 23-441**, including non-standard terms, with California University of Science and Medicine to provide hepatology and gastroenterology services at Arrowhead Regional Medical Center, in the annual amount of \$1,800,000, for a total agreement amount of \$5,400,000, for the period of July 1, 2023 through June 30, 2026. (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 total agreement cost of \$5,400,000, \$1,800,000 annually, 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 will be included in the Arrowhead Regional Medical Center (ARMC) 2023-24 recommended budget and in future recommended budgets.

BACKGROUND INFORMATION

This Physician Service Agreement (Agreement) will allow California University of Science and Medicine (CUSM) to continue to provide services for the prevention, diagnosis, and treatment of digestive tract and liver disorders. These mainly include conditions involving the pancreas, liver, gall bladder, esophagus, stomach, small intestine, and colon.

ARMC provides medical care and education programs for the hospital and the Family Health Clinics (FHCs) through physician service agreements with various medical corporations. CUSM provides highly and technically skilled, licensed physicians, nurse practitioners and allied health staff to provide hepatology and gastroenterology services to ARMC patients, including County inmates and juveniles. CUSM has been providing services at ARMC since 2019.

On May 21, 2019 (Item No. 17), the Board of Supervisors (Board) approved Agreement No. 19-316 with CUSM to provide hepatology and gastroenterology services in the annual amount of

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\$1,081,500, for a total agreement amount of \$3,244,500, for the period of June 1, 2019 through May 31, 2022.

On September 10, 2019 (Item No. 20), the Board approved Amendment No. 1 to Agreement No. 19-316 to add language to the Compensation Table to allow compensation for teaching medical students, with no change to the contract term.

On April 26, 2022 (Item No. 6), the Board approve Amendment No. 2 to Agreement No. 19-316 to provide hepatology and gastroenterology services at Arrowhead Regional Medical Center, increasing the total contract amount by \$1,171,625, from \$3,244,500 plus variable amounts to \$4,416,125 plus variable amounts. This amendment also extended the original contract term by 13 months for a new contract term of June 1, 2019 through June 30, 2023. The recommended Agreement will allow for the continuation of these hepatology and gastroenterology services with CUSM without the variable costs associated with teaching students. It was determined that no students had requested these electives during the last contract period.

All physicians provided by physician groups or corporations are granted clinical privileges, which allow the physician to practice medicine at ARMC and are approved to serve in administrative roles in the same manner. Clinical department appointments are made in accordance with the bylaws of the medical staff and with the approval of the Board. This is also in accordance with Title 22 of the State of California, ARMC's accrediting bodies and the academic affiliation agreements established between ARMC and various medical schools.

All active and provisional physicians provided by corporations must also complete an annual Statement of Economic Interests, as required by the County. The individuals are required to disclose any ownership, investment or other financial interest that may present any conflict with performance of duties under the Agreement.

The Agreement with CUSM was negotiated by the parties and include the following non-standard contract terms:

1. The County is required to defend and indemnify CUSM and its providers for medical malpractice and professional negligence.
 - The County's standard contract does not contractually require the County to indemnify its contractor under any circumstance.
 - Potential Impact: By agreeing to indemnify CUSM, 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 CUSM without such limitations and the County would be responsible to defend and reimburse CUSM for costs, expenses, and damages, which could exceed the total Agreement amount.
2. The Agreement does not include many of the standard County insurance requirements, including the waiver of subrogation and naming the County as an additional insured.
 - The County's standard contract requires contractors to carry certain insurance coverage as determined by the County's Department of Risk Management, and for contractors to add the County as an insured in their policies and to waive the right to subrogation.
 - Potential Impact: The Agreement does not require CUSM to carry any of the standard County required insurances. This means that the County has no assurance

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of an insurance company that CUSM will be financially responsible for general liability claims that may arise from the Agreement, which could result in expenses to the County that exceed the total Agreement amount. Having no waiver of subrogation may allow CUSM's insurers, if any, to bring suit against the County. Not being added as an insured to CUSM's insurance policies means that the County cannot directly turn to CUSM's insurers in pursuing a claim.

3. Either party may terminate the Agreement with 120 days written notice.
 - The County's standard contract provides that either party may terminate the contract with 30 days' written notice.
 - Potential Impact: ARMC will need to be mindful of the additional notice period required to terminate the Agreement.

ARMC recommends approval of this Agreement, including the non-standard terms, to provide for the safety, health and social service needs of county residents by allowing for continued patient care in the areas of hepatology and gastroenterology.

PROCUREMENT

Although the Government Code does not make an explicit exception to competitive bidding for professional physician services, Section 31000 provides the Board with the authority to contract with and employ any persons for the furnishing of "special services". Section 31000 authorizes a county to contract for medical services without the necessity of advertising for bids. It is in the best interest of ARMC patients to allow them to continue with the existing physicians for continuity of care.

The Purchasing Department recognizes the specialized credentials and supports the non-competitive procurement for these services, allowing for continuity of care for patients in this specialty area.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Deputy County Counsel, 387-5455) on April 26, 2023; Purchasing (Ariel Gill, Buyer, 777-0722) on May 1, 2023; Risk Management (Victor Tordesillas, Director, 386-3165) on May 3, 2023; ARMC Finance (Chen Wu, Budget and Finance Officer, 580-3165) on May 1, 2023; Finance (Jenny Yang, Administrative Analyst, 387-4884) on May 3, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on May 4, 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: Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.
Absent: Col. Paul Cook (Ret.)

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: May 23, 2023



cc: ARMC - Gilbert w/agree
Contractor - C/O ARMC w/agree
File - w/agree
CCM 05/25/2023