

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

**February 9, 2021**

**FROM**

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

**SUBJECT**

Consulting Physician Agreements for Development of the Electronic Health Record System

**RECOMMENDATION(S)**

Approve Contracts with the following entities for establishing the new electronic health record system at Arrowhead Regional Medical Center, for the period of March 1, 2021 through February 28, 2023.

1. California University of Science and Medicine for gastroenterology, hepatology, and neurology, in the amount not to exceed \$36,050, **Contract No. 21-97.**
2. CEP America – California for behavioral health, in the amount not to exceed \$88,480, **Contract No. 21-98.**
3. CEP America – California for emergency health, in the amount not to exceed \$121,625, **Contract No. 21-99.**
4. Faculty Physicians & Surgeons of LLUSM for cardiovascular surgery, in the amount not to exceed \$135,030, **Contract No. 21-100.**
5. Faculty Physicians & Surgeons of LLUSM for urology, in the amount not to exceed \$16,480, **Contract No. 21-101.**
6. Mojave Radiation Oncology Medical Group, Inc. for radiation oncology, in the amount not to exceed \$18,025, **Contract No. 21-102.**
7. San Bernardino Medical Orthopaedic Group, Inc. DBA Arrowhead Orthopaedic for orthopedic surgery, in the amount not to exceed \$44,100, **Contract No. 21-103.**
8. Jeffrey N. Roberts, M.D., Inc. for otolaryngology, in the amount not to exceed \$18,025, **Contract No. 21-104.**
9. Kris J. Storkersen, M.D., Inc. for ophthalmology, in the amount not to exceed \$18,025, **Contract No. 21-105.**

(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 cost of the consulting physician agreements are 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. Sufficient appropriation and revenue have been included in the Arrowhead Regional Medical Center (ARMC) 2020-21 budget and will be included in future recommended budgets.

### **BACKGROUND INFORMATION**

On August 6, 2019 (Item No. 9), the Board of Supervisors (Board) approved an agreement with Epic Systems Corporation (EPIC) for the purchase, installation, and maintenance of a fully integrated Electronic Health Records (EHR) system at ARMC. Installation of the system requires the expertise of those physicians and providers familiar with the process and procedures in use at ARMC to assist in developing the interfaces and pathways in the EHR system, in order to not interrupt the services available to those patients who receive their healthcare from ARMC and its associated Family Health Centers (FHC) and specialty clinics.

Approval of the recommended contracts with those vendors identified in the above recommendations will provide for the safety, health and social services needs of County residents by allowing ARMC to establish a new electronic health record system for the services provided to all patients at ARMC. The recommended contracts allow for those providers already familiar with ARMC processes to consult with EPIC in development and understanding of the changes needed in the current processes to allow for the full utilization of the EPIC system. Each of the above corporations have current contracts with the County to provide for educational and medical services provided by ARMC and associated FHCs and specialty clinics.

The new EPIC system will provide ARMC with a single, intuitively integrated EHR system to unify providers across all patient care areas, help improve performance for achieving and reporting quality and efficiency metrics and give ARMC flexibility to achieve a “One Person-One Record” vision with the patient engagement tools of online and mobile services, telemedicine, self-scheduling, payment options, and remote monitoring. The new system will improve patient safety by allowing handoff of instantly queued information between hospital, patient’s provider group and outpatient clinics, which will increase the overall patient and provider satisfaction. ARMC will be using the industry’s top-rated software, as healthcare organizations rate EPIC’s software #1 in accordance to the 2020 Best In KLAS software and services report.

An agreement with ECG Management Consultants, Inc. (ECG) was approved by the Board on June 11, 2019 (Item No. 12), to evaluate and provide recommendations on revising ARMC’s current physician services agreements. This process included creating compensation terms of each agreement based on independent third-party fair market evaluations. ECG reviewed the requirements of EPIC for the installation and process review and determined that these services were outside of the current contracts with each of the physician groups. ECG also reviewed and determined the established hourly rates for each of the specialty services.

The agreements are based on the County’s standard contract with terms negotiated by the parties, including the following non-standard terms:

### **Indemnification**

Each party agrees to defend and indemnify the other to the extent a claim arises out of the other party’s wrongful conduct, breach in any representations or terms of the agreement, or violation of any law.

- The County’s standard contract does not impose any indemnification obligation on the County.
- Potential Impact: By agreeing to indemnify the physician groups, 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

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the physician groups without such limitations and the County would be responsible to defend and reimburse the physician groups for costs, expenses, and damages, which could exceed the total contract amount. It should be noted that the physician groups are similarly obligated to indemnify the County.

**Insurance**

The agreements do not include any 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 consulting agreements do not include the County standard insurance requirements. This means that the County has no assurance of an insurance company that the physician groups will be financially responsible for claims that may arise from the agreements, which could result in expenses to the County that exceed the total contract amounts. No waiver of subrogation may allow the physician groups' insurers, if any, to bring suit against the County. Not being added as an insured to the physician group's insurance policies mean that the County cannot directly turn to the physician group's insurers in pursuing a claim.

**PROCUREMENT**

The recommended consulting agreements were the result of a non-competitive procurement to ensure continuity of care for ARMC patients. Although the Government Code (GC) does not make a specific exception to competitive bidding for professional physician services, GC section 31000 provides public entities the authority to contract for "special services." Courts have interpreted GC 31000 as providing a public entity with the authority to contract with and employ any person who is highly and technically skilled in medicine without competitive bidding. County Purchasing recognizes the specialized credentials and supports the non-competitive procurement for these services.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Charles Phan, County Counsel, 387-5455) on January 4, 2021; Purchasing Department (Michelle Churchill, Supervising Buyer, 387-2070) on January 14, 2021; ARMC Finance (Chen Wu, Budget and Finance Officer, 909-580-3165) on January 15, 2021; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on January 20, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) January 24, 2021.

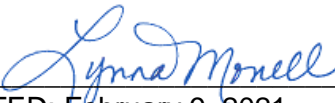
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Record of Action of the Board of Supervisors  
County of San Bernardino

**APPROVED (CONSENT CALENDAR)**

Moved: Joe Baca, Jr. Seconded: Janice Rutherford  
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: February 9, 2021



cc: ARMC - Gilbert w/agree  
Contractor - C/O ARMC w/agree  
File - agree  
CCM 02/11/2021