



# San Bernardino County

## Legislation Text

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**File #: 2853, Agenda Item #: 12**

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

**September 15, 2020**

**FROM**

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

**SUBJECT**

Physician Service Amendment and Agreements with Cal Med Physicians and Surgeons, Inc.

**RECOMMENDATION(S)**

1. Approve Amendment No. 5 to Agreement No. 17-882 with Cal Med Physicians and Surgeons, Inc., effective September 15, 2020, to provide endovascular and oncology surgery services at Arrowhead Regional Medical Center, and increase the base contract amount by \$301,500, from \$6,941,100 to \$7,242,600, plus variable costs, with no changes to the total contract period of January 1, 2018 through December 31, 2020.
2. Approve Physician Service Agreement with Cal Med Physicians and Surgeons, Inc., to provide medical education and surgical services at Arrowhead Regional Medical Center, in the amount of \$26,157,000 (\$8,719,000 annually), plus variable costs, for the period of January 1, 2021 through December 31, 2023. (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 the recommendations will not result in the use of Discretionary General Funding (Net County Cost). Actual costs for services 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 are included in Arrowhead Regional Medical Center's (ARMC) 2020-21 budget and will be included in future recommended budgets.

**BACKGROUND INFORMATION**

Approval of the recommended amendment and agreement will provide for the safety, health and social services needs of County residents by allowing ARMC to continue to provide patient care at ARMC and associated Family Health and Specialty clinics through the provision of medical education, and surgical services.

Since the initial Board approval of this agreement on December 5, 2017 (Item No. 13), the Board has approved four amendments as follows:

- March 20, 2018 (Item No. 10) Amendment No. 1 reinstated service fees for the Sheriff's Department's Ophthalmology services.
- September 11, 2018 (Item No. 13) Amendment No. 2 allowed variable costs for E-Consult effective September 11, 2018.
- October 16, 2018 (Item No. 8) Amendment No. 3 added additional language addressing the Cal Med Ambulatory Surgery Center.
- April 16, 2019 (Item No. 5) Amendment No. 4 added neurointerventional radiology services, and increased the annual base contract amount by \$1,095,000, from \$5,846,100 to \$6,941,100, plus variable costs.

ARMC provides medical care and education programs for the hospital and the Family Health Clinics (FHCs) through physician service agreements with various medical corporations. Cal Med Physicians and Surgeons, Inc. provides highly and technically skilled, licensed physicians, nurse practitioners and allied health staff to provide health care services to ARMC patients, including county inmates and juveniles.

Physicians at ARMC provide special services in the medical profession that are not available from other public sources or any public agency.

All physicians provided by the 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 of Supervisors. 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.

An agreement with ECG Management Consultants, Inc. (ECG) was approved by the Board of Supervisors (Board) on June 11, 2019 (Item No. 12), to evaluate and provide recommendations on revising ARMC's current physician corporation agreements. This process included creating compensation terms of each agreement based on independent third party evaluation.

Due to the immediate need for additional coverage and services, the amendment adds Endovascular and Oncology Surgeons. The physician service agreement will allow for the continued provision of patient care at ARMC and associated FHCs, and will update language and provisions to clarify terms, ensure compliance with State Medi-Cal and Federal Medicare, and to address recommendations received from The Joint Commission.

Cal Med Physicians and Surgeons, Inc. provides highly and technically skilled, licensed physicians, nurse practitioners and allied health staff to provide necessary surgical and health care services to ARMC patients, including county inmates and juveniles.

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

The new physician service agreement includes the same non-standard termination, indemnity, and insurance provisions that were included in the agreements that are expiring on December 31, 2020. Specifically, these non-standard terms in the agreement are as set forth below:

#### Indemnification

The agreement provides that the County will defend and indemnify Cal Med Physicians and Surgeons, Inc. and its practitioners for any medical malpractice claims up to \$1 million per occurrence, and \$3 million in the

aggregate during a given year.

- The County's standard contract does not require the County to indemnify the vendor under any circumstance.
- Potential Impact: By agreeing to indemnify Cal Med Physicians and Surgeons, Inc., 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 Cal Med Physicians and Surgeons, Inc. without such limitations and the County would be responsible to defend and reimburse Cal Med Physicians and Surgeons, Inc. for costs, expenses, and damages, which could exceed the total contract amount.

### Insurance

Cal Med Physicians and Surgeons, Inc. is not required to comply with the County's standard insurance requirements or to carry the standard insurance coverages, except with respect to workers' compensation insurance.

- The County standard contract requires vendors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
- Potential Impact: By foregoing the standard insurance requirements, the County has no guarantee that Cal Med Physicians and Surgeons, Inc. will have the financial backing of an insurance company to support certain obligations that may arise, but given that the County will be agreeing to indemnify Cal Med Physicians and Surgeons, Inc. for professional liability claims, the lack of the standard insurance provision is likely to have minimal impact.

### Termination

The agreement may be terminated without cause with 120 days advance written notice.

- The County standard contract allows either party to terminate without cause with 30 days advance written notice.
- Potential Impact: The County must give 120 days written notice before it can terminate the contract without cause.

ARMC is recommending approval of the agreements with these non-standard terms as the special services are critical to ARMC. Prior to the expiration of this contract, ARMC intends to complete a competitive procurement for these services which will include the County's standard indemnity and insurance provisions.

### **PROCUREMENT**

California Government Code section 31000 provides the legislative body of any municipal corporation with the authority to contract with and employ any persons for the furnishing of "special services."

The recommended physician services agreements were the result of a non-competitive procurement. 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, 387-5445) on August 20, 2020; Purchasing Department (Michelle Churchill, Lead Buyer, 777-0722) on August 31, 2020; ARMC Finance (Chen Wu, Budget and Finance Officer, 909-580-3165) on August 21, 2020; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on August 24, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on August 31, 2020.