



# San Bernardino County

## Legislation Text

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**File #: 6130, Agenda Item #: 10**

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

**June 14, 2022**

#### **FROM**

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

#### **SUBJECT**

Physician Service Agreements with Arrowhead Pathology Medical Group, Inc. and Arrowhead Radiology Medical Group, Inc. for Laboratory, Pathology and Radiology Services

#### **RECOMMENDATION(S)**

1. Approve Physician Service Agreement, including non-standard terms, with Arrowhead Pathology Medical Group, Inc. to provide education, laboratory and pathology services at Arrowhead Regional Medical Center, in the annual base amount of \$1,680,000, plus variable costs, for the period of July 1, 2022, through June 30, 2025.
2. Approve Physician Service Agreement, including non-standard terms, with Arrowhead Radiology Medical Group, Inc. to provide education and radiology services at Arrowhead Regional Medical Center, in the annual base amount of \$3,580,300 plus variable costs, for the period of July 1, 2022, through June 30, 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.**

#### **FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The agreements include fixed as well as variable costs. The variable costs for the agreement with Arrowhead Pathology Medical Group, Inc. are dependent on volume in medical student participation in training and the number of autopsies performed. The variable costs for the agreement with Arrowhead Radiology Medical Group, Inc. are dependent on patient volume. Actual costs for services are funded by State Medi-Cal, Federal Medicare, private insurances, and other department 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 is included in the Arrowhead Regional Medical Center (ARMC) 2022-23 recommended budget, and will be included in future recommended budgets.

#### **BACKGROUND INFORMATION**

Approval of these physician service agreements will allow ARMC to continue to provide for the safety, health and social service needs of County residents by allowing ARMC to continue to provide patient care through the provision of education, pathology and radiology services.

ARMC provides medical care and education programs for the hospital and the Family Health Centers (FHCs) through physician service agreements with various medical corporations. These medical corporations provide 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.

A key component of ARMC's mission is to provide training and education to students in a variety of disciplines. The clinical training is necessary for students to obtain their degrees, licenses, and/or certifications, and to encourage them to remain in the greater San Bernardino County area after completion of their training.

All physicians provided by the corporations are granted clinical privileges, which allows 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 (Board), which is the governing body. This is 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 the 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 agreements.

The physician service agreements with Arrowhead Pathology Medical Group, Inc. and Arrowhead Radiology Medical Group, Inc. (collectively, "Medical Group") have been negotiated by the parties with the following non-standard contract terms:

1. The County is required to defend and indemnify the Medical Group 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 the Medical Group, 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 the Medical Group without such limitations and the County would be responsible to defend and reimburse the Medical Group for costs, expenses, and damages, which could exceed the total contract 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 the Medical Group to carry any of the standard County required insurances. This means that the County has no insurance company assurance that the Medical Group 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 contract amount. Having no waiver of subrogation may allow the Medical Group's insurers, if any, to bring suit against the County. Not being added as an insured to the Medical Group's insurance policies means that the County cannot directly turn to the Medical Group'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 these agreements, including the non-standard terms, to provide for the safety, health and social service needs of County residents for patient care.

#### **PROCUREMENT**

Although the Government Code (GC) does not make an explicit exception to competitive bidding for professional physician services, GC section 31000 provides the Board of Supervisors 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.

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, Deputy County Counsel, 387-5445) on May 17, 2022; Purchasing (Ariel Gill, Buyer, 777-0722) on May 18, 2022; Risk Management (Victor Tordesillas, Director, 386-3165) on May 14, 2022; ARMC Finance (Chen Wu, Budget, and Finance Officer, 580-3165) on May 24, 2022; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-5423) on May 25, 2022.