



San Bernardino County

Legislation Text

File #: 7930, Agenda Item #: 14

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

May 9, 2023

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Physician Services Agreement with Mojave Radiation Oncology Medical Group, Inc. for Radiation Oncology Services

RECOMMENDATION(S)

Approve Physician Services Agreement, including non-standard terms, with Mojave Radiation Oncology Medical Group, Inc. to provide radiation oncology services at Arrowhead Regional Medical Center in the total amount of \$2,925,000 for the three-year 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 cost of \$2,925,000, \$975,000 annually over three years, 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 Arrowhead Regional Medical Center's (ARMC) 2023-2024 recommended budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

This Physician Services Agreement (Agreement) will allow Mojave Radiation Oncology Medical Group, Inc. (Mojave) to continue to supervise all radiation oncology services at ARMC, treat radiation oncology patients, prescribe the settings on the medical linear accelerator used for radiation treatment and oversee its maintenance.

ARMC provides medical care and education programs for the hospital and the Family Health Clinics through physician service agreements with various medical corporations (corporations). Mojave provides highly and technically skilled, licensed physicians, nurse practitioners and allied health staff to ensure the continued availability of oncology services. Mojave helped establish the radiation oncology services at ARMC beginning in 2015.

On June 23, 2020 (Item No. 13), the Board of Supervisors (Board) approved Agreement No. 20-478 with

Mojave to provide radiation oncology services at ARMC in the amount of \$2,460,000, for the period of July 1, 2020 through June 30, 2023. The recommended Agreement will allow for continuation of these radiation oncology services with Mojave.

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 complete an annual Statement of Economic Interests form, as required by the County. The individuals are required to disclose any ownership, investment or financial interest that may present any conflict with performance of duties under the Agreement.

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

1. The County is required to defend and indemnify Mojave 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 Mojave, 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 Mojave without such limitations and the County would be responsible to defend and reimburse Mojave 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 Mojave to carry any of the standard County required insurances. This means that the County has no assurance of an insurance company that Mojave 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 Mojave's insurers, if any, to bring suit against the County. Not being added as an insured to Mojave's insurance policies means that the County cannot directly turn to Mojave'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 radiation and oncology services.

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 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 10, 2023; Purchasing (Ariel Gill, Buyer, 777-0722) on April 14, 2023; Risk Management (Victor Tordesillas, Director, 386-3165) April 20, 2023; ARMC Finance (Chen Wu, Budget and Finance Officer, 580-3165) on April 17, 2023; Finance (Jenny Yang, Administrative Analyst, 387-4884) on April 20, 2023; and County Finance and Administration, (Valerie Clay, Deputy Executive Officer, 387-5423) on April 20, 2023