

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

February 8, 2022

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Agreement with Medtronic Sofamor Danek USA, Inc. for the Purchase of Spinal Fixation Implants

RECOMMENDATION(S)

Approve **Agreement No. 22-74** with Medtronic Sofamor Danek USA, Inc. for the purchase of spinal fixation implants in the amount not to exceed \$3,400,000 for a period of February 9, 2022 through February 8, 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 agreement with Medtronic Sofamor Danek USA, Inc. (Medtronic) will not result in the use of Discretionary General Funding (Net County Costs). The not to exceed amount of \$3,400,000 is funded by State Medi-Cal, Federal Medicare, private insurances, and other departmental revenues. 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 the Arrowhead Regional Medical Center (ARMC) 2021-22 budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

Approval of the agreement will allow ARMC to purchase spinal fixation implants which provide stability and restore anatomic alignment in the treatment of fractures, degenerative disease, infection, tumors, and correct congenital deformities such as those seen in scoliosis. These implants, which have unique functional specifications proven to promote spinal fusion with less hardware failure when compared to other spinal systems currently available, further the goal of ARMC to provide for the safety, health, and social service needs of the County residents by offering immediate stability or corrections to the spine, while striving to maintain the patient's range of motion.

The agreement with Medtronic is based on a standard commercial pricing agreement, negotiated by the parties, with the following non-standard contract terms:

1. Payment terms are Net 30 days.
 - The County's standard contract payment term is Net 60 days.

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- Potential Impact: ARMC administration must be mindful of this provision and ensure payment is made in a timely manner. Notably, there are no provisions providing for any interest or penalty payments if payment is not made within 30 days of invoice.
2. Either party may terminate the agreement for any reason with 90 days written notice.
 - The County's standard contract permits either party to terminate the contract for convenience with 30 days written notice.
 - Potential Impact: ARMC administration must be mindful of the extended 90-day notice period when seeking to terminate the agreement for convenience.
 3. Medtronic disclaims liability for any special, incidental, consequential, or reliance damages with respect to the products.
 - The County's standard contract does not include a limitation of liability provision.
 - Potential Impact: If the County sustains any special, incidental, consequential, or reliance damages from use of Medtronic's products, they may not be recoverable against Medtronic, leaving the County financially liable for such damages.

PROCUREMENT

This is a non-competitive procurement based on functional specifications, as Medtronic's spinal implants promote spinal fusion with decreased instances of hardware failure when compared with other spinal fixation implants. County Purchasing approves this non-competitive procurement. The Statement of Economic Interest, Form 700, filed by physicians involved in this procurement has been reviewed by the ARMC Compliance Department and no conflicts of interest were noted.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Deputy County Counsel, 387-5455) on January 12, 2022; Purchasing Department (Ariel Gill, Buyer, 777-0722) on January 14, 2022; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on January 18, 2022; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-5423) on January 18, 2022.

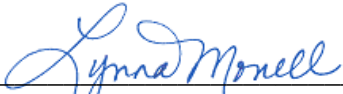
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: February 8, 2022



cc: ARMC- Gilbert w/agree
Contractor- C/O ARMC w/agree
File- w/agree w/attach

LA 02/9/2022