

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

20.573

SAP Number

Arrowhead Regional Medical Center

Department Contract Representative	William L. Gilbert
Telephone Number	(909) 580-6150
Contractor	Ziehm Imaging, Inc.
Contractor Representative	Eric Gorman
Telephone Number	714-381-4062
Contract Term	July 14, 2020 through July 13, 2025
Original Contract Amount	\$120,700.00
Amendment Amount	
Total Contract Amount	\$120,700.00
Cost Center	7630

Briefly describe the general nature of the contract: Service Agreement with Ziehm Imaging, Inc. for maintenance of medical imaging X-ray equipment in the amount of \$120,700, for the five-year term of July 14, 2020 through July 13, 2025.

FOR COUNTY USE ONLY

Approved as to Legal Form

► *Bonnie Uphold*
Bonnie Uphold, County Counsel

Date 7-1-20

Reviewed for Contract Compliance

►

Date

Reviewed/Approved by Department

► *William L. Gilbert*
William L. Gilbert, Director

Date

7/1/2020

OPTIONAL SERVICE COVERAGE

Quotation For

Eric Gorman
Arrowhead Regional Medical Center
400 N Pepper Ave
Colton, CA, 92324
egorman@physicianschoicesolutions.com

Quotation #: AZ12919-5

Date: 12/9/2019

Model: Ziehm Vision RFD 31 x 31 CMOS

Serial #: 52199

Prepared by: Alexandra Zanin

alexandra.zanin@orthoscan.com

THIS QUOTATION IS VALID FOR THIRTY (30) DAYS FROM DATE OF ISSUANCE

SERVICE CONTRACT QUOTE

SERVICE PLAN	DESCRIPTION	# OF YEARS
Platinum Elite	On-Site Service Coverage and Technical Phone Support Monday – Friday 8 am to 5 pm, local time; One annual Preventative Maintenance (PM) service visit for the duration of the contract term. Includes all labor and travel expenses during normal working hours (8am - 5pm Monday – Friday / excluding holidays) to complete one service visit (excludes parts); Service to be performed by a Ziehm Field Service engineer or an Authorized Service Provider; Covers Glassware – Full coverage of the systems Flat-Panel Detector (FD) or Image Intensifier (II), X-Ray tube and monitors; After hours service and inspections available at standard rates.	5

Payment Terms	List Price	Years					Total Price	Annual Disc. Rate
		1	2	3	4	5		
Annual Payment / Post Sale*	\$28,400	\$24,140	\$24,140	\$24,140	\$24,140	\$24,140	\$142,000	15.0%
Pre-Paid	\$24,140						\$120,700	
Overall Savings of							\$21,300	

PAYMENT TERMS & COVERAGE INFORMATION

This service contract is governed by Vizient Contract # XR0533

DATE COVERAGE BEGINS:

At the end of the initial first year warranty or (specify date): _____

SPECIAL PAYMENT TERMS (SELECT ONE BY INITIALING YOUR CHOICE):

☐ N/A
 ☐ Purchase Order (PO)
 ☐ Annual Payments

☐ Credit Card
 ☐ Payment Installments*
 ☐ Pre-Paid

*Billing arrangements other than annual billing will incur a 2.5% administrative fee with each installment. Credit Card processing fee of 2.5%

Notes, Comments or Special Instructions:

- 24Hr. U.S. Service Call Center
- Service Coverage Monday – Friday 8 am to 5 pm, local time (excluding holidays)
- Technical Phone Support Monday – Friday 8 am to 5 pm, local time (excluding holidays)

Comments:

Ziehm Imaging would require a Preventive Maintenance (PM) to make sure it meets manufacture specification. If the c-arm meets manufacture specifications than we can offer the contract. If it doesn't meet manufacture specification, it would need to be recalibrated to manufacture specification before coverage can begin. Warranty Expires 5/28/20

Please Sign, Date and Return to Ziehm Service Department: FAX to (866) 839-7893

Print Name: Curt Hagman
Date: July 14, 2020

Signature: 
Title: Chairman, Board of Supervisors

Exhibit D

FORMS OF END USER, PURCHASE, LEASE, LICENSE, FINANCING AND/OR SERVICE AGREEMENTS

**SUBJECT TO THE VIZIENT AGREEMENT, XR0533, April 1, 2019, ("BASE
AGREEMENT")**

NOTICE: MEMBERS MAY HAVE ADDITIONAL OBLIGATIONS TO SUPPLIER UNDER THIS SEPARATE, INDIVIDUAL MEMBER AGREEMENT WITH SUPPLIER (THIS "MEMBER AGREEMENT"), THAT ARE NOT SPECIFICALLY COVERED OR CONTEMPLATED BY THE APPLICABLE VIZIENT AGREEMENT. PLEASE NOTE THAT (I) VIZIENT HAS NOT NEGOTIATED OR APPROVED THE TERMS OF THIS MEMBER AGREEMENT AND (II) MEMBERS HAVE THE ABILITY TO NEGOTIATE THE TERMS OF SUCH MEMBER AGREEMENTS LOCALLY TO SUIT THEIR SPECIFIC NEEDS.

SIGNIFICANTLY, MEMBERS SHOULD BE AWARE THERE MAY BE SOME INCONSISTENCIES BETWEEN THE TERMS WITHIN THE VIZIENT AGREEMENT AND THIS MEMBER AGREEMENT. AS SUCH, EACH MEMBER MAY WANT TO CONSIDER RETAINING ITS OWN LEGAL COUNSEL WHEN NEGOTIATING AND/OR ENTERING INTO THIS MEMBER AGREEMENT.



Service Plan Terms and Conditions

- 1) **Prices and Payment:** Customer agrees to pay Ziehm the charges set forth on the associated invoice. Customer agrees to reimburse Ziehm for any costs associated with collecting delinquent payments. All payments are due forty five (45) days from the date of invoice. Invoices shall reference the applicable customer purchase order number and specify the coverage period.
- 2) **Taxes:** Customer agrees to pay taxes and government charges, however designated (excluding taxes on Ziehm's net income and the Medical Device Excise Tax) imposed or based on the provision of or payment for services hereunder.
- 3) **Description of service:** During the term hereof, Ziehm will provide the maintenance services set forth on the associated invoice, subject to the exclusions set forth in Section 4.
 - a) **Eligibility:** Prior to acceptance of the agreement Ziehm reserves the right to perform, at a charge of \$500, a pre-contract inspection of the Equipment listed on the associated invoice (the "Equipment"). The pre-contract inspection fee will be charged if the equipment warranty has expired. Ziehm shall not be obligated to maintain any Equipment, which, in its sole opinion, fails to conform to customary standards of configuration, performance, manner of use, or installation.
 - b) **Coverage:** Subject to terms and conditions set forth herein, Ziehm will provide hardware and software maintenance service, during normal business hours, for the Equipment based on the service level description and Equipment location listed on the reverse side hereof.

- c) Service Requests: All service requests shall be made by telephone to 866-996-0472 or by email to service@ziehm.com. Ziehm shall be staffed to answer telephonic service calls between the hours of 7:00 AM and 5:00 PM Mountain Standard Time (MST) on Monday through Friday. Phones are covered by an answering service who will contact the appropriate person during evenings, weekends and holidays. Ziehm will use reasonable efforts to meet on-site response times listed in the applicable service description, but will not be liable for failure to do so.
 - d) Telephone Support: Ziehm will provide Customer with access to telephone support for Equipment operation, application usage, and applicable technical information.
 - e) Parts: Parts and components used to maintain or repair Equipment may be new or remanufactured and will meet Ziehm's performance specifications. Title to defective parts requiring replacement shall remain with Ziehm.
- 4) Exclusions: The following services are not covered by this agreement and if performed by Ziehm or its representatives, and shall be invoiced separately at the applicable time and material rates.
- a) Services performed at customers request outside the standard hours by 3(C) above time/labor will be billed for such services at 150% of prevailing rates for services performed outside standard hours.
 - b) Services required due to catastrophe, disaster, acts of God, and environmental problems, including without limitation failures to provide (or failures of) adequate electrical power, air conditioning or humidity control which do not result from the acts or omissions of Ziehm or its representatives.
 - c) Services required due to customers use of equipment in any manner or for any purpose that is inconsistent with instructions documented in Ziehm's Operator's manual or published supplements thereto.
 - d) Services required due to unauthorized attempts by persons other than Ziehm or its designated representatives to maintain, modify, move or repair the equipment.
 - e) Service required due to the installation of accessories, attachments, or third party software not specifically covered under this agreement.
 - f) De-installation and re-installation services, and any other services required in connection with relocation or movement of the equipment.
 - g) Services required due to electrical work or cabling external to the equipment and not resulting from the acts or omissions of Ziehm or its representatives.
 - h) Services provided as a result of changes in laws, regulations or guidelines.
- 5) Additional duties of Ziehm
- a) Personnel: Ziehm will use its best efforts to maintain a staff of employees qualified to perform the services required hereunder. In addition or in lieu of this, Ziehm may elect, at its discretion, to use appropriately qualified sub-contractors to provide services.
 - b) Customers' rules: Ziehm employees and representatives will observe and comply with customers reasonable rules and regulations while on customer's premises.
- 6) Duties of customer
- a) Supervision: Customer alone is responsible for the supervision, management and control of Equipment use, including, without limitation; providing all controls and review of techniques and other measures for promptly detecting and minimizing the effects of any errors, failures, or interruptions that may occur during use.
 - b) Access: Customer shall provide reasonable access to the equipment, and reasonable working space and conditions for Ziehm's employees and representatives providing services hereunder.
 - c) Missed visits: If customer is not at the location to provide Ziehm's representatives access for a scheduled visit (remedial or preventative), customer will be charged for labor and travel expenses at then current rates.
 - d) Confidentiality: Customer agrees that all Ziehm furnished information, software, manuals, devices, and all other materials which are identified as "confidential" information or the like, contain valuable proprietary information, and customer shall hold such information in confidence and not use, reproduce or distribute it except to customers employees, Vizient Supply, LLC, Vizient, Inc., (and agents who agree to this provision) who may use it as part of their duties.
- 7) Terms and Termination. This agreement shall be in effect for the term, except as provided below.

- a) At-will termination: Either party may terminate the agreement, at its discretion, by giving 60 days advance written notice to the other party.
 - b) Renewal: Both parties may elect to renew this agreement for additional one year periods, following immediately upon prior coverage period, at Ziehm's then current rates and terms for such extensions, without pre-contract inspection, by notifying Ziehm in writing, thereof at least thirty (30) days prior to expiration of the then-current term.
 - c) Default: Either party may terminate this agreement upon written notice to the other, if the other party has substantially breached a material provision hereof and has failed to correct the breach within (1) 10 days notice, for failure to make any payment due, or (2) 30 days, for other breaches.
 - d) Effects of Termination: If this agreement is terminated prior to expiration of the then-current term, other than by Ziehm on the grounds of any uncorrected breach by Customer, then the prorated and unused portion of the Customer's annual prepayment shall be refunded to the Customer. Contract must be paid in full up to and including final coverage date.
- 8) Warranty. Services are warranted for thirty (30) days to be supplied in a workman like manner. Replacement parts for Equipment and Software will be supplied on an exchange basis, may be new or remanufactured, and are warranted to perform in accord with published product specifications for ninety (90) days from delivery. Ziehm warrants that the Customer will receive good title for all parts furnished in providing covered services hereunder, free from all liens, charges and encumbrances.
- 9) Limitation of warranty and Liability
- a) Limitation of warranty: Subject to and excluding Supplier's/ Ziehm's obligations in the Base Agreement, the foregoing warranties are in lieu of and Ziehm expressly disclaims all other warranties, expressed, implied, or statutory, including without limitation any implied warranties of merchantability or fitness for a particular use or purpose.
 - b) Limitation of liability: Subject to and excluding Supplier's/ Ziehm's obligations in the Base Agreement, in no event shall Ziehm be liable to the customer or any other person for any incidental, special, or consequential damages, including loss of good will, loss of profit, loss of use, or interruption of business, or for any claims made more than one year after the cause of the action occurred. Subject to and excluding Supplier's/ Ziehm's obligations in the Base Agreement, in no event shall the damages assessed against Ziehm for any claims or claim hereunder exceeds the total maintenance charge Ziehm received from the customer for the most recent annual period.
 - c) Contingencies': Subject to and excluding Supplier's/Ziehm's obligations in the Base Agreement, after utilizing reasonable efforts to avoid the event, Ziehm shall be excused for performance, and shall not be liable for any delay or non-performance caused by the occurrence of contingencies beyond its control, including without limitation, war, sabotage, insurrection, riot, civil disobedience, failure or delay in public transportation, acts of any government or subdivision thereof that interfere with performance, judicial action, delay or nonperformance of suppliers, unavailability of spare parts, labor disputes, accident, fire, flood, storm, volcanic eruption, or other acts of God.
- 10) Assignment
- a) By Customer: Customer may not assign or transfer this agreement without consent from Ziehm
 - b) By Ziehm : Ziehm may assign its rights or obligations, or both, or delegate or subcontract its responsibilities, under this agreement entirely at its discretion, to any person, provided that any assignee must assume the applicable obligations in writing.
 - i) Software License. "Software" includes all Ziehm software, firmware, and associated documentation, in printed or machine-readable form, supplied by reason of this Agreement or for use in connection with the Equipment or Services. Customer is granted a non-exclusive, non-transferable, royalty-free license to use Software on Equipment on which it is first installed or as designated in the Agreement in connection with such Equipment, in the normal course of Customers business, and for no other purpose. No right of use is provided for source code or to use Software for multi-site quality control or data review. Software is and shall remain the sole property of Ziehm . Customer shall maintain all copyright, proprietary and other notices on Software, and not decompile, disassemble or reverse engineer Software. (All information needed for interoperability is available in accord with applicable government directives.) Customer has no other right to use, sell, assign, transfer, copy or sublicense Software.

- ii) Disputes. This agreement is deemed to be entered into in Arizona and to be an Arizona contract and shall be governed and construed in accordance with the laws of the State of Arizona, U.S.A. Ziehm and Customer specifically agree that any legal action brought relating to this agreement will be brought and tried in Arizona. All objections to venue are hereby waived by Customer, and Customer consents to service of process by certified mail addressed to the same addressee as that designated for notices. Notwithstanding the above, Ziehm shall have the right to bring any action or proceedings against the Customer in the courts of any jurisdiction where the customer is located.

11) General

- a) Waiver: The failure of either party at any time to require performance by the other party of any of its obligations hereunder shall in no way affect the full right to require such performance at any time thereafter. The waiver by either party of any remedy with respect to a breach of any provision shall not be taken as a waiver of a remedy with respect to any succeeding breach of that or any other provision.
- b) Severability: The parties agree that each provision contained in these Terms and Conditions shall be treated as a separate and independent clause, and the unenforceability of any one clause shall not impair the enforceability of any contained in these Terms and Conditions shall for any reason be held to be overly broad so as to be unenforceable, such provisions shall be construed by the appropriate judicial body by limiting and reducing them, so as to be enforceable to the extent compatible with the applicable law.
- c) Modification: These Terms and Conditions may not be modified except by a written agreement referring specifically to these Terms and Conditions and signed by authorized representatives of the parties. Any provisions of Customers purchase order that are inconsistent with the foregoing shall be of no force or effect, unless Ziehm shall have expressly agreed to a modification of these Term and Conditions.
- d) Notices: All "notices" provided for in this agreement shall be in writing, addresses to the appropriate party at the respective address set forth above or any then-current address of which it has received notice, and delivered in person or by overnight mail or courier, telex or telecopy or other means providing proof of delivery.

Signature: Hagman, VP Service Date: July 14, 2020 Machine Serial
#: 52199 Signature: [Signature] Date: JUL 14 2020
(Facility) (Ziehm)

Curt Hagman
Chairman, Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD
LYNNA MONELL
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____



Exhibit E

WARRANTY

Standard Warranty (12 months included in system price)

- Telephone diagnostic and repair support Monday through Friday 8:00 a.m. to 5:00 p.m. MST exclusive of Ziehm holidays
- 24 hour, 7 day a week emergency response diagnostic and repair support.
- All Labor & Travel coverage Monday through Friday, 8:00 a.m. to 5:00 p.m., local time, exclusive of Ziehm holidays
- 24 hour response time
- 1 Annual Preventative Maintenance service visit during normal business hours
 - Includes all labor and travel expenses during normal working hours needed to complete one Preventative Maintenance service visit (excluding parts). Scheduled at agreed upon time with Member and Ziehm or performed during a customer requested service call during normal business hours, Monday-Friday 8:00 a.m. to 5:00 p.m. Allow 2 weeks for scheduling. Customer to initiate Preventative Maintenance scheduling prior to their Preventative Maintenance due date.
- Covers all components of the Ziehm system, **including** image intensifier, flat detector and x-ray tube/HVPS assembly.

Ziehm Imaging Field Service Agreements

Z-Multi Care "After Warranty Parts & Labor, Excluding Glassware"

On-Site Service Coverage and Technical Phone Support Coverage on weekdays from 7:00 am to 7:00 pm (Eastern Time Zone); One Preventive Maintenance (PM) per year during contract hours; Service may be performed by Ziehm Service Technician or an Authorized Service Provider. Glassware available at 15% Discount. After-hours service available at standard hourly rate

Z-Complete Care "After Warranty Parts & Labor, including Glassware"

On-Site Service Coverage and Technical Phone Support Coverage on weekdays from 7:00 am to 7:00 pm (Eastern Time Zone); One Preventive Maintenance (PM) per year during contract hours; Service may be performed by Ziehm Service Technician or an Authorized Service Provider; Covers Glassware - Full Coverage of the systems Flat Panel Detector or Image Intensifier, X-Ray Tube and Monitors. Afterhours service available at standard hourly rate

Z-Performance Care "Annual PM Only" - \$2450.00

Comprehensive preventive maintenance; One visit per year with 8 hour test/inspection (avg.); No travel charges (excluding Alaska and Hawaii)

Z-Academy Care "Service Training Tuition" \$2500.00

5-day Biomed technical training. For each product class \$500 per day. Travel expenses are not included

Z-First Care "Customer "FirstCall" Program" – \$3000.00

Customer in-house engineer provides on-site Service response. In-house engineer must complete Ziehm Service Training program and pay for standard tuition (\$2,500); Ziehm to provide Technical Phone Support Coverage on weekdays from 7:00 am to 7:00 pm (Eastern Time Zone); Ziehm to provide on-site assistance on one Preventive Maintenance (PM) per year; Repair parts available at 20% discount.; On-site Service support provided by Ziehm at 30% discount from normal hourly rate