

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

December 5, 2023

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Agreement with Baxter Healthcare Corporation for Service of Intravenous Pumps

RECOMMENDATION(S)

Approve an **Agreement No. 23-1278** with Baxter Healthcare Corporation, including non-standard terms, for the provision of repair services for sigma spectrum intravenous pumps, in the amount of \$136,604 for the period of December 7, 2023 through December 6, 2024. (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 item will not result in the use of Discretionary General Funding (Net County Cost). The cost of \$136,604 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 the Arrowhead Regional Medical Center (ARMC) 2023-24 budget and will be included in 2024-25 recommended budget.

BACKGROUND INFORMATION

The agreement will enable ARMC to obtain service for Baxter HealthCare Corporation (Baxter) sigma spectrum intravenous pumps (pumps), which include labor and parts to restore pumps to the published operating specifications. The pumps are used for the controlled administration of intravenous fluids to patients. The agreement will provide service of 962 pumps.

The agreement is Baxter's standard commercial contract, which includes negotiated terms that differ from the standard County contract and omits certain County standard contract terms, as follows:

1. Payment terms are Net 30 days.
 - County standard payment terms are Net 60 days with no interest or late payment penalties.
 - Potential Impact: County standard processing time is 60 days or more. Failing to pay within 30 days of invoice will result in a material breach of the agreement, which would allow Baxter to terminate the agreement and seek other legal remedies.

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2. Venue is in the state or federal courts of Los Angeles, or Riverside, or Orange County Superior Courts.
 - The County standard contract requires venue for disputes in Superior Court of California, County of San Bernardino, San Bernardino District.
 - Potential Impact: Having a venue in another county may result in additional expenses that might not have been incurred if venue was in San Bernardino County.
3. Except in cases of bodily harm (including death) or property damage caused by Baxter's negligence or willful misconduct, the County's remedies will be limited to repair or replacement of the pumps.
 - The County standard contract does not limit the County's remedies in the event of a breach by the contractor.
 - Potential Impact: Except in the event of a breach which causes bodily harm or property damage, the County's sole remedy of a breach of the agreement by Baxter is Baxter's repair or replacement of the pumps.
4. Baxter limits its indemnity obligations to claims arising from any bodily injury or tangible property damage caused solely by its negligent acts or omission or willful misconduct.
 - The County standard contract general indemnity provision requires the Contractor to indemnify, defend, and hold County harmless from third party claims arising out of the acts, errors or omissions of any person.
 - Potential Impact: Baxter's indemnity obligations are more limited compared to the standard County general indemnity provision. In the event a claim arises that falls outside the scope of Baxter's limited indemnity obligation, the County may be responsible for the costs of defense and any resulting settlement/judgment.
5. The agreement does not include certain standard County insurance requirements.
 - The County standard contract requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
 - Potential Impact: Without all of the standard County insurance requirements, the County is not fully assured that Baxter will maintain adequate and sufficient insurance to provide coverage to the County in the event of a claim. Insufficient coverage could result in expenses that exceed the total agreement amount, leaving the County financially liable for the claims.

ARMC recommends approval of the agreement with Baxter, including non-standard terms, to ensure the pumps receive necessary repair services so that ARMC healthcare providers can safely and effectively administer necessary fluids to assure the safety, health and social services needs of County residents.

PROCUREMENT

This is a non-competitive procurement based on specialized credentials. Baxter is the original equipment manufacturer for the pumps currently in use by ARMC and, as such, Baxter is the only authorized vendor able to provide service on the equipment. The Purchasing Department supports this non-competitive procurement.

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Deputy County Counsel, 387-5455) on November 3, 2023; Purchasing (Ariel Gill, Supervising Buyer, 777-0722) on November 8, 2023; Risk Management (Victor Tordesillas, Director, 386-8623) on November 15, 2023; Finance (Chen Wu, Finance and Budget Officer, 580-3165) on November 13, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on November 15, 2023.

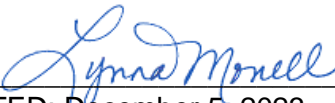
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: December 5, 2023



cc: ARMC - Gilbert w/agree
Contractor - c/o ARMC w/agree
File - w/agree
CCM 12/7/2023