

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

January 28, 2025

FROM

ANDREW GOLDFRACH, ARMC Chief Executive Officer, Arrowhead Regional Medical Center

SUBJECT

Rental Agreement with MXR Imaging Inc. for the Rental of a Computed Tomography Scanner and Trailer

RECOMMENDATION(S)

1. Approve Rental **Agreement No. 25-50**, including non-standard terms, with MXR Imaging Inc., effective January 28, 2025, for the rental of a Philips Brilliance 64 Computed Tomography Scanner and Trailer, in the amount of \$238,000 plus applicable taxes, to be in effect for nine months from the Installation Date, with the option to extend the term on a month-to-month basis for up to three additional months, at a cost of \$23,500 per month plus applicable taxes, for a total not-to-exceed amount of \$308,500 plus applicable taxes.
 2. Authorize the ARMC Chief Executive Officer to send written notice to MXR Imaging Inc. to extend the term of the Rental Agreement on a month-to-month basis for up to three additional months.
 3. Direct the ARMC Chief Executive Officer to transmit the written notice in Recommendation No. 2 to the Clerk of the Board of Supervisors within 30 days of execution.
- (Presenter: Andrew Goldfrach, ARMC Chief Executive Officer, 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), as the cost 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) 2024-25 budget and will be included in the 2025-26 recommended budget.

BACKGROUND INFORMATION

ARMC is in the process of replacing one of its three Computed Tomography (CT) scanner that is beyond its current life expectancy. ARMC is a Level I Trauma center and based on the patient volumes, three CT scanners are needed for patient care. The Capital Improvement Project has been fully approved and funded (WBSE 10.10.0453). During the replacement of the CT scanner, ARMC will need to rent a Philips Brilliance 64 CT scanner and trailer to ensure the availability of a CT scanner for patient care.

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MXR requires transportation fees upfront, which are \$19,000 of the nine-month total of \$238,000 plus applicable taxes, upfront before ARMC will receive the trailer. The nine-month rental fees will begin once the installation and permits are completed and ARMC can begin using the CT Scanner.

If the project takes longer than nine-months, ARMC will need to extend the Rental Agreement (Agreement) with MXR Imaging Inc. (MXR). Per the Agreement, to extend past the nine-month period, a letter must be sent to MXR 30 days before the Agreement expires. ARMC is requesting authorization for the ARMC Chief Executive Officer to send written notice to the MXR, as ARMC will not know if it needs to extend the Agreement until closer to the eighth-month period. The extension period is on a month-to-month basis, up to three months. Authorizing the ARMC Chief Executive Officer to send the written notice will expedite the extending the Agreement, if necessary. If the notification is not sent to MXR timely, they will be able to remove the CT scanner mobile trailer, which would impact patient care, including trauma patients.

The Agreement with MXR is based on its standard commercial rental agreement, negotiated by the parties that include the following non-standard contract terms:

1. Payment terms are Net 45 days after receipt of invoice.
 - 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 Net 45 days may result in a material breach of the Agreement, which could allow MXR to terminate the Agreement and seek other legal remedies.
2. The Agreement requires the County to provide liability insurance in the amount of \$1 million and insurance or a program of self-insurance for all risk of loss, theft, or damage to the CT scanner in an amount equal to the full replacement cost of the scanner. It also requires the County to add MXR as an additional insured.
 - The standard County contract does not impose any insurance obligations on the County.
 - Potential Impact: The County will need to ensure that it complies with the insurance obligations or risk being in breach of the Agreement terms.
3. MXR limits its general indemnity obligations to personal injury or property damage claims that are caused by the negligent or intentional acts or omissions of MXR, its employees, or agents.
 - 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: MXR's indemnity obligation is more limited compared to the standard County general indemnity obligation. In the event a claim arises that falls outside the scope of MXR's limited indemnity obligation, the County could be financially responsible for the defense of the claim and any resulting judgment/settlement.
4. The County will indemnify MXR for claims that arise out of its use of the CT scanner to the extent caused by the negligence of the County, its employees and agents.

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- The County standard contract does not include any indemnification or defense by the County of a contractor.
- Potential Impact: By agreeing to indemnify MXR, 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 MXR without such limitations and the County could be responsible to defend and reimburse MXR for costs, expenses, and damages, which could exceed the total Agreement amount.

ARMC recommends approval of the Rental Agreement, including the non-standard terms, as it will provide for the safety and health for the residents of San Bernardino County by replacing 20 year old equipment that is beyond its current life expectancy without compromising patient care during the replacement process.

PROCUREMENT

The Board of Supervisors approved Vizient as the primary Group Purchasing Organization (GPO) on December 7, 2021 (Item No. 46), for five years, based on the Request for Proposals (RFP) No. AGENCY21-PURC-4090. Vizient offers competitive agreements based on RFPs evaluated using the American Bar Model Procurement Code which, is in compliance with County Procurement Policy. Vizient allows ARMC access to an extensive catalog of competitive, pre-negotiated agreements for various medical supplies and services.

After reviewing the options with Vizient, MXR was selected for the provision of the CT scanner and trailer. The Purchasing Department supports this competitive procurement based on Vizient Agreement No. XR0662.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Supervising Deputy County Counsel, 387-5465) on December 27, 2024; Risk Management (Gregory Ustaszewski, Staff Analyst II, 386-9008) on December 23, 2024; Purchasing Department (Ariel Gill, Supervising Buyer, 387-2070) on December 27, 2024; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on January 3, 2025; Finance (Jenny Yang, Administrative Analyst, 387-4884) on January 6, 2025; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on January 7, 2025.

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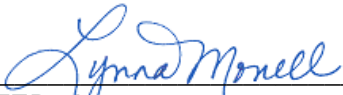
Record of Action of the Board of Supervisors
San Bernardino County

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: January 28, 2025



cc: ARMC - Goldfrach w/agree
Contractor - c/o ARMC w/agree
File - w/agree

MBA 01/28/2025