

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

July 14, 2020

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Service Agreement with Ziehm Imaging, Inc. for Maintenance of Medical Imaging X-Ray Equipment

RECOMMENDATION(S)

Approve Service Plan Terms and Conditions **(County Contract No. 20-573)** 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.
(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 cost of \$120,700 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) 2020-21 budget and will be included in future recommended budgets.

Payment for maintenance service, parts and labor under the Service Agreement will be paid over a five-year period according to the following schedule:

Year	Cost
Year 1	\$24,140
Year 2	\$24,140
Year 3	\$24,140
Year 4	\$24,140
Year 5	\$24,140
Total	\$120,700

BACKGROUND INFORMATION

Approval of this recommendation will provide ARMC with the maintenance service and parts for equipment used in the ARMC Medical Imaging Department. Specifically, this agreement allows for the maintenance of the C-arm that is used in vascular surgery. The C-arm is a medical

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imaging device that is based on X-ray technology, and due to its mobility, can be used flexibly in various Operating Rooms (ORs) within the hospital. The name is derived from the C-shaped arm used to connect the X-ray source and X-ray detector to one another. Medical Imaging acquired this equipment in May of 2019, to be used in procedures performed by vascular surgeons. The warranty period has concluded, and now a new service agreement is needed to maintain the equipment.

The Ziehm Imaging Service Terms and Conditions are part of the Vizient GPO XR0533, and contains terms that differ from the standard County contract. The non-standard terms include the following:

1. Governing law is the State of Arizona.
 - The County standard contract requires California governing law.
 - Potential Impact: The contract will be interpreted under Arizona law. Any questions, issues, or claims arising under the contract will require the County to hire outside counsel competent to advise on Arizona law, which may result in fees that exceed the total contract amount.
2. Ziehm may assign the contract entirely at its discretion without notice to the County.
 - The County standard contract requires that the County approve any assignment of the contract.
 - Potential Impact: This could allow the contract to be assign to a business with which the County is legally prohibited from doing business with due to issues of Federal debarment or suspension and conflict of interest without the County's knowledge.
3. The contract does not address attorneys' fees and costs.
 - The County standard contract requires each party to bear its own costs and attorneys' fees, regardless of who is the prevailing party.
 - Potential Impact: County Counsel cannot advise on whether, and to what extent, Arizona law may affect a party's requirement to pay the prevailing party's attorneys' fees and costs in a legal action where no specific provision is provided in the contract.
4. The contract does not require Ziehm to meet the County's insurance standards.
 - 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: The County has not assurance that Ziehm will be financially responsible for claims that may arise from the contract, which could result in expense to the County that exceed the total contract amount.
5. County's right to bring legal claims is limited to one year after the cause of action occurred.
 - The County standard contract does not include a limitation of liability
 - Potential Impact: Limiting the County's ability to bring suit to one year amounts to a waiver of the Statutes of Limitations for claims and shortens the period of time in which the County may file a lawsuit under the contract.

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6. Limitation of liability of Ziehm to the County in an amount not to exceed the total maintenance charge Ziehm received from the County for the most recent annual period.
 - The County standard contract does not include a limitation of liability
 - Potential Impact: Claims could exceed the liability cap and the contract amount leaving the County financially liable for the excess. County Counsel cannot advise on whether, and to what extent, Arizona law may limit or expand the exclusion of limits to the extent prohibited by applicable law.
7. Venue is the State of Arizona.
 - The County standard contract requires venue for disputes in the Superior Court of California, County of San Bernardino, San Bernardino District.
 - Potential Impact: Having a venue in Arizona may result in additional expenses that exceed the amount of the contract.

ARMC recommends approval of the Service Agreement with Ziehm Imaging, Inc. as approval will enable ARMC to cost-effectively maintain and repair medical imaging equipment that is used to treat patients in San Bernardino County.

PROCUREMENT

This is a competitive procurement approved by Purchasing based on a competitively bid contract through the County's Group Purchasing Organization (GPO), Vizient. The Vizient Contract number is XR0533.

ARMC recommends this procurement as regular maintenance of medical imaging equipment ensures safe and efficient service to patients, providing for the health and social services needs of County residents.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bonnie Uphold, County Counsel, 387-5487) on June 25, 2020; Purchasing Department (Jacqueline Ambrose, Lead Buyer, 777-0722) on June 29, 2020; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on June 25, 2020; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on June 25, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on June 28, 2020.

**Service Agreement with Ziehm Imaging, Inc. for Maintenance of Medical
Imaging X-Ray Equipment
July 14, 2020**

Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Robert A. Lovingood Seconded: Josie Gonzales

Ayes: Robert A. Lovingood, Janice Rutherford, Curt Hagman, Josie Gonzales

Absent: Dawn Rowe

Lynna Monell, CLERK OF THE BOARD

BY



DATED: July 14, 2020



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

la 07/16/2020