

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

August 25, 2020

**FROM**

**WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center**

**SUBJECT**

Service Agreement with Devicor Medical Products, Inc. dba Mammotome for Maintenance Services of Medical Imaging X-Ray Equipment

**RECOMMENDATION(S)**

Approve Service **Agreement No. 20-680** with Devicor Medical Products, Inc. dba Mammotome for maintenance of their biopsy medical equipment, in the amount of \$10,560, for the three-year term of September 11, 2020 through September 10, 2023.  
(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 \$10,560 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.

**BACKGROUND INFORMATION**

Approval of this recommendation will provide ARMC with service maintenance for biopsy equipment used in the ARMC Medical Imaging Department. The original Mammotome equipment was acquired in 2019 for the purpose of performing breast biopsies. It included a one year manufacturer warranty, which is set to expire on September 10, 2020. This agreement will ensure equipment maintenance is continued on Mammotome biopsy medical equipment.

The contract with Mammotome is its standard commercial agreement with terms negotiated by the parties which deviate from the County standard contract terms. Those non-standard terms are as follows:

**Payment**

The payment term is net 30 days.

- The standard County contract payment term is net 60 days.
- Potential Impact: Payment is due within 30 days of invoice rather than 60 days, but there is no provision for a penalty if payment is made beyond 30 days.

**Service Agreement with Devicor Medical Products, Inc. dba  
Mammotome for Maintenance Services of Medical Imaging X-Ray  
Equipment  
August 25, 2020**

**Limitations of Liability**

Both parties waive any right to punitive, exemplary, special, indirect, incidental, or consequential damages.

- The County's standard contract contains no limitations on the vendor's liability.
- Potential Impact: The County will not be able to recover any punitive, exemplary, special, indirect, incidental, or consequential damages in any claim against Mammotome. Mammotome's right to recover such damages against the County is similarly limited.

**Assignment**

Mammotome may assign the contract without the County's consent to the extent such assignment is due to operation of law, corporate reorganization, consolidation, merger or sale of all of its assets, provided that it gives the County with at least 60 days' notice of the assignment.

- The County's standard contract prohibits vendors from assigning the contract without the approval of the County.
- Potential Impact: Mammotome may assign the contract to a third-party without the County's approval under certain circumstances. This could allow the contract to be assigned 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.

**Termination**

The County may terminate the contract at any time by providing written notice, but if the contract is terminated within the first 90 days, the County will receive a prorated refund and be assessed a \$50 handling fee. If the County terminates the contract after 90 days, no refunds will be provided.

- The County's standard contract permits the County to terminate a contract with 30 days notice.
- Potential Impact: Although the County has the ability to terminate the contract at any time, the County may only be able recoup some of its costs if terminated within the first 90 days, and nothing if terminated after 90 days.

ARMC recommends approval of this contract, including the non-standard terms, as this will allow for the service of medical imaging equipment to ensure safe and efficient service to patients, providing for the health and social services needs of County residents.

**PROCUREMENT**

The procurement of the Mammotome Service Plan Agreement of medical imaging equipment stems from a non-competitive bid. The Mammotome equipment acquired in 2019 for performing biopsies is propriety and the maintenance and services may only be performed by Mammotome technicians with specialized training to service their equipment. Purchasing supports this non-competitive procurement.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Charles Phan, County Counsel, 387-5454) on July 24, 2020; Purchasing Department (Ariel Gill, Buyer II, 777-0722) on August 3, 2020; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on August 3, 2020; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on August 4, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on August 9, 2020.

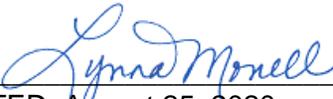
**Service Agreement with Devicor Medical Products, Inc. dba  
Mammotome for Maintenance Services of Medical Imaging X-Ray  
Equipment  
August 25, 2020**

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

**APPROVED (CONSENT CALENDAR)**

Moved: Josie Gonzales Seconded: Robert A. Lovingood  
Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY  \_\_\_\_\_  
DATED: August 25, 2020



cc: ARMC- Gilbert w/agree  
Contractor- C/O ARMC w/agree  
File- w/agree  
la 09/1/2020