



San Bernardino County

Legislation Text

File #: 5204, Agenda Item #: 10

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

December 7, 2021

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Service Agreement with Karl Storz Endoscopy-America Inc. for Intubation Scopes

RECOMMENDATION(S)

Approve Service Agreement with Karl Storz Endoscopy-America Inc., to allow for the repair, cleaning and sterilization of intubation scopes, in the amount not to exceed \$194,805, for the period of January 1, 2022 through December 31, 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 this item with Karl Storz Endoscopy-America Inc. (Karl Storz) will not result in the use of Discretionary General Funding (Net County Cost). The total not to exceed cost of \$194,805 is funded by State Medi-Cal, Federal Medicare, private insurances, and other departmental revenues. 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) 2021-22 budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

The Service Agreement will allow ARMC to service a type of intubation scope called a bronchoscope. Bronchoscopes consist of a thin, flexible, lighted tube that is threaded through the nose, mouth, or other access point to the lower airways. This scope is used in tracheostomies, which involves making an incision into the windpipe, to enable doctors to examine a patient's throat, and can extend to the lower airways. It is also often used in neck injury and trauma cases, specifically when the neck cannot be moved allowing the practitioner to examine the airways for abnormalities such as foreign bodies, bleeding, tumors, or inflammation. It also allows for specimens to be taken from inside the lungs.

Proper service of these intubation scopes is required to maintain compliance under the Food and Drug Administration guidelines for repair, cleaning, and sterilization. This service ensures that the scopes are operating at efficient levels, which reduces the cost and impact associated with equipment downtime.

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

1. The County may terminate the Agreement without cause upon thirty days written notice to Karl Storz, but the County would be required to pay liquidated damages, the amount of which is based on a formula that takes into account, among other things, the date of termination.
 - The County standard contract permits the County to terminate a contract with thirty-day's notice without any further obligation other than to pay for services incurred up to the date of termination.
 - Potential Impact: If the County decides to terminate the Agreement prior to its expiration, the County would be liable to pay for liquidated damages.
2. Payment terms are Net 30 days and the County will be responsible for any collection expenses, including reasonable attorney's fees, incurred by Karl Storz to secure payment due from the County.
 - 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 may result in a default of the agreement, and to the extent Karl Storz incurs any expenses, including attorney's fees, in recovering any amounts due, the County would be financially liable for those expenses.
3. Except for Karl Storz' indemnification obligations, neither party will be liable to the other for any special, incidental, consequential, exemplary, punitive, or indirect damages.
 - The County's standard contract does not include a limitation of liability provision.
 - Potential Impact: If the County sustains any of the specified damages arising out of Karl Storz' conduct, those damages may not be recoverable against Karl Storz, leaving the County potentially financially liable for such damages.
4. The Agreement does not require Karl Storz or its insurers to waive the right of subrogation.
 - The County's standard contract requires the vendor and its insurers to waive the right of subrogation against the County.
 - Potential Impact: Without this provision, Karl Storz' insurers may have the right to bring a lawsuit against the County on behalf of Karl Storz.

PROCUREMENT

Purchasing approves this non-competitive procurement based on the specialized credentials of the technicians required to perform these services. All repairs have to be performed by the original equipment manufacturer.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Deputy County Counsel, 387-5455) on October 7, 2021; Purchasing Department (Ariel Gill, Buyer III, 777-0722) on October 29, 2021; ARMC Finance (Chen Wu, Budget and Finance Officer, 580-3165) on November 5, 2021; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on November 15, 2021; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-5423) on November 16, 2021.