

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

September 12, 2023

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Agreement with Abbott Rapid Diagnostics Informatics, Inc., for Software System License and Support

RECOMMENDATION(S)

Approve non-financial Software System License and Support **Master Agreement No. 23-1002** with Abbott Rapid Diagnostics Informatics, Inc., including non-standard terms, for software licensing and support for patient glucose testing meters, effective from September 12, 2023 through September 11, 2028.

(Presenter: William L. Gilbert, Director, 580-6150)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally Responsible and Business-Like Manner.

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) as this Software System License and Support Master Agreement (Agreement) with Abbott Rapid Diagnostics Informatics, Inc. (Abbott), is non-financial in nature. Although the Master Agreement includes standard payment terms that would be applicable to any related purchases, the Agreement is non-financial and does not obligate the County to make any purchases.

BACKGROUND INFORMATION

The Agreement with Abbott Rapid Diagnostics Informatics, Inc. (Abbott) will provide ARMC with software license and support for the Abbott RALS™ Virtual Test System. This software provides an environment to test any software update prior to implementation. Any software update to RALS™ needs to be loaded and verified in the test system before it can be migrated to the primary live RALS™ system. RALS™ is used to interface the Accucheck blood glucose testing results with the Electronic Health Records (EHR) system for approximately 110 Accucheck meters in use at ARMC inpatient and outpatient locations.

ARMC purchased the RALS™ data management system for use with patient testing data from the Accucheck blood glucose monitors. RALS™ accepts information from the Accucheck devices and delivers it to the EHR. The enhanced diagnostic capacity, low cost, and convenience are major advantages of the devices associated with the RALS™ software system.

The Agreement is Abbott's standard commercial contract, which includes terms that differ from the standard County contract and omits certain County standard contract terms. While the

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parties negotiated certain contract terms to County standards, Abbott would not agree to all County standard terms. The non-standard and missing terms include the following:

1. The Agreement does not contain the standard contract provisions regarding Government Code section 84308 (Senate Bill 1439) and the disclosure of campaign contributions to a member of the Board of Supervisors or other County elected officer.
 - Under the County standard contract, the contractor states it has disclosed campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer and completed a form providing additional information.
 - Potential Impact: The County may have difficulty gathering information about campaign contributions made by Abbott.
2. Abbott limits its total aggregate liability to the County to the total amounts paid of payable by the County under the Agreement, excluding Abbott's indemnity obligations, breach of confidentiality, violation of law, gross negligence, and willful misconduct.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: Claims could exceed the liability cap and the Agreement amount leaving the County financially liable for the excess.
3. Payment terms are Net 60 with a 1.5% monthly late payment interest cost, plus costs of collection.
 - 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 60 days will result in a material breach of the Agreement, which would allow Abbott to terminate the Agreement and seek other legal remedies, including charging the County interest at a rate of 1.5% monthly (18% per annum, which would exceed the Agreement amount.

ARMC recommends approval of the Agreement with Abbott, including non-standard terms, to provide patients with timely results from Accucheck blood glucose testing, update the patient EHR without interruption and meet the safety and health needs of County residents.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bonnie Uphold, Supervising Deputy County Counsel, 387-5455) on August 9, 2023; Risk Management (Victor Tordesillas, Director, 386-3165) on May 23, 2023; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on August 18, 2023; Finance (Jenny Yang, Administrative Analyst, 387-4884) on August 22, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on August 24, 2023.

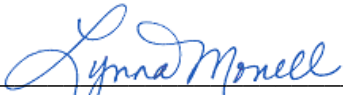
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: September 12, 2023



cc: ARMC - Gilbert w/agree
Contractor - c/o ARMC w/agree
File - w/agree
CCM 09/14/2023