

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

**December 7, 2021**

**FROM**

**JOSHUA DUGAS, Director, Department of Public Health**

**SUBJECT**

Amendment to Contract with Fulgent Genetics for Purchase, Distribution and Processing of SARS-CoV-2 Test Kits

**RECOMMENDATION(S)**

Approve **Amendment No. 7** to **Contract No. 20-607** with Fulgent Genetics, effective December 7, 2021, updating Contractor General Responsibilities language and adding attachments for a Business Associate Agreement and Business Associate Addendum for Cloud Services, and extending the contract period for an additional year, for a total contract period of July 21, 2020 through December 31, 2022, with no change to the total contract maximum of \$72,677,500. (Presenter: Joshua Dugas, Director, 387-9146)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Provide for the Safety, Health and Social Service Needs of County Residents.**

**Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.**

**FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost) as there is no requested increase to the contract amount. The cost of test kits is eligible for reimbursement through the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 – Epidemiology and Laboratory Capacity-Enhanced Detection Expansion, which will be used to reimburse these costs through December 31, 2022. Additionally, Fulgent Genetics (Fulgent) credits the County for costs recovered from health insurers. Credits totaling \$60,499,875 have been issued to date. These credits will continue to be utilized before any newly allocated funds. Adequate appropriation and revenue have been included in the Department of Public Health's 2021-22 budget and will be included in future recommended budgets.

**BACKGROUND INFORMATION**

The recommended amendment with Fulgent will extend the existing contract for an additional year, allowing for continued purchase and processing of Fulgent SARS-CoV-2 test kits, with no change to the current contract total. Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act, and applicable state law, language was updated in the Contractor General Responsibilities to ensure compliance with privacy provisions mandated by state and federal law. The attachments further clarify the HIPAA, HITECH, and Privacy/Confidentiality Regulations.

**Amendment to Contract with Fulgent Genetics for Purchase,  
Distribution and Processing of SARS-CoV-2 Test Kits  
December 7, 2021**

The COVID-19 pandemic has spread rapidly across California. Since the outbreak began, 350,825 San Bernardino County (County) residents have tested positive for the coronavirus as of October 20, 2021.

Approval of the extension is necessary to continue to provide emergency protective measures against COVID-19 and its variants to the County. With the increase of vaccinations, the number of weekly tests decreased in the County starting January 2021, until the introduction of the Delta variant, which caused a spike in testing beginning July 2021, and continued through October 2021. From July 2021 through the end of October 2021, the County has performed 1,286,171 COVID-19 tests.

**PROCUREMENT**

On August 11, 2020 (Item No. 21), the Board of Supervisors (Board) ratified Contract No. 20-607 with Fulgent Genetics for purchase, distribution, and processing of SARS-CoV-2 test kits in a certified laboratory, in an amount not to exceed \$3,900,000, effective July 21, 2020 through January 31, 2021. The contract was initially approved and executed by the Chief Executive Officer, under delegation of authority, on July 21, 2020.

In addition, on August 11, 2020 (Item No. 35), the Board approved Amendment No. 1, effective August 11, 2020, to Contract No. 20-607 with Fulgent Genetics for the purchase and distribution of additional SARS-CoV-2 test kits, collection of used kits, and processing of samples in a certified laboratory, increasing the total by \$6,100,000, from \$3,900,000 to a total not to exceed \$10,000,000, with no change to the contract period of July 21, 2020 through January 31, 2021.

On October 27, 2020 (Item No. 64), the Board approved Amendment No. 2, effective October 27, 2020, to Contract No. 20-607 with Fulgent Genetics for purchase, distribution, and processing of additional SARS-CoV-2 test kits in a certified laboratory, and adding COVID-19 Picture test kits, increasing the total by \$17,277,500, from \$10,000,000 to a total not to exceed \$27,277,500, with no change to the contract period of July 21, 2020 through January 31, 2021.

On December 8, 2020 (Item No. 30), the Board approved Amendment No. 3, effective December 8, 2020, to Contract No. 20-607 with Fulgent Genetics, increasing the total by \$18,950,000, from \$27,277,500 to a total not to exceed \$46,227,500, with no change to the contract period of July 21, 2020 through January 31, 2021.

On December 15, 2020 (Item No. 56), the Board approved Amendment No. 4, effective December 15, 2020, to Contract No. 20-607 with Fulgent Genetics, increasing the total by \$5,975,000, from \$46,227,500 to a total not to exceed \$52,202,500, with no change to the contract period of July 21, 2020 through January 31, 2021.

On January 26, 2021 (Item No. 42), the Board approved Amendment No. 5, effective February 1, 2021, to Contract No. 20-607 with Fulgent Genetics, increasing the total by \$20,475,000, from \$52,202,500 to a total not to exceed \$72,677,500, and extending the contract period for an additional six months, for a total contract period of July 21, 2020 through June 30, 2021.

On June 8, 2021 (Item No. 61), the Board approved Amendment No. 6, effective June 8, 2021, to Contract No. 20-607 with Fulgent Genetics, with no change to the total contract amount not to exceed \$72,677,500, and extending the contract period for an additional six months, for a total contract period of July 21, 2020 through December 31, 2021.

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**REVIEW BY OTHERS**

This item has been reviewed by Human Services Contracts (Becky Giroux, Contracts Manager, 388-0241) on December 3, 2021; County Counsel (Kristina Robb, Principal Assistant County Counsel, 387-5455) on December 3, 2021; County Counsel (Adam Ebright, Deputy County Counsel, 387-5455) on December 2, 2021; Finance (Paul Garcia, Administrative Analyst, 386-8392) on December 3, 2021; and County Finance and Administration (Cheryl Adams, Deputy Executive Officer, 388-0238) on November 8, 2021.

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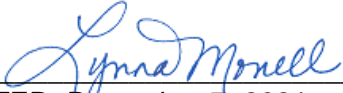
Record of Action of the Board of Supervisors  
San Bernardino County

**APPROVED (CONSENT CALENDAR)**

Moved: Joe Baca, Jr. Seconded: Dawn Rowe

Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: December 7, 2021



cc: PH- Shin w/agree  
Contractor- C/O PH w/agree  
File- w/agree  
LA 12/9/2021