



# Monterey County

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## Board Report

Legistar File Number: A 18-286

June 26, 2018

**Introduced:** 6/8/2018

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

- a. Authorize the Director of Health, or Assistant Director of Health to sign an Apexus 340B Prime Vendor Program Participant Participation Agreement Form ("Letter of Participation") with Cardinal Health 110, LLC. and Cardinal Health 112, LLC. (Cardinal) for the purchase of discounted outpatient pharmaceuticals for the County of Monterey Health Department's Federally-Qualified Health Center Look-alike clinics, for the term of July 1, 2018 to June 30, 2021 with the option to extend, based on ninety (90) days' written notice, for one (1) additional three (3) year period, for a total not to exceed maximum of six (6) years; and
- b. Accept the recommendations of the Director of Health or Assistant Director of Health regarding the following non-standard provision in the Letter of Participation: limitation of liability, insurance, and indemnification; and
- c. Authorize the Director of Health or Assistant Director of Health to sign up to two (2) future amendments to this Letter of Participation where the amendments do not extend the term of the Letter of Participation and do not significantly change the scope of work; and
- d. Authorize the Director of Health or Assistant Director of Health to exercise the option to extend, based on ninety (90) days' written notice, which, if exercised, shall extend the term for one (1) additional three (3) year period, for a revised full term of July 1, 2018 to June 30, 2024.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Director of Health, or Assistant Director of Health to sign an Apexus 340B Prime Vendor Program Participant Participation Agreement Form ("Letter of Participation") with Cardinal Health 110, LLC. and Cardinal Health 112, LLC. (Cardinal) for the purchase of discounted outpatient pharmaceuticals for the County of Monterey Health Department's Federally-Qualified Health Center Look-alike clinics, for the term of July 1, 2018 to June 30, 2021 with the option to extend, based on ninety (90) days' written notice, for one (1) additional three (3) year period, for a total not to exceed maximum of six (6) years; and
- b. Accept the recommendations of the Director of Health or Assistant Director of Health regarding the following non-standard provision in the Letter of Participation: limitation of liability, insurance, and indemnification; and
- c. Authorize the Director of Health or Assistant Director of Health to sign up to two (2) future amendments to this Letter of Participation where the amendments do not extend the term of the Letter of Participation and do not significantly change the scope of work; and
- d. Authorize the Director of Health or Assistant Director of Health to exercise the option to extend, based on ninety (90) days' written notice, which, if exercised, shall extend the term for one (1) additional three (3) year period, for a revised full term of July 1, 2018 to June 30, 2024.

SUMMARY/DISCUSSION:

The Health Department Clinic Services Bureau (Clinic Services) operates nine community clinic sites designated as Federally Qualified Health Center Look-Alikes (FQHC-LA), which provide preventative, primary, and specialty medical care services.

Pursuant to Section 340B of the Public Health Services Act, the United States Congress established the 340B Drug Pricing Program requiring pharmaceutical manufacturers participating in the Medicaid program to enter into agreements with Health Resources and Services Administration (HRSA) to provide discounts on covered outpatient drugs to certain government-supported health care providers. Apexus is the authorized prime vendor for the 340B Prime Vendor Program (PVP) which allows covered entities enrolled in the PVP, such as Clinic Services, to purchase products through supplier and distributor agreements under Apexus' network of suppliers and distributors.

Cardinal is part of Apexus' network of suppliers and distributors and has contracted with Clinic Services since June 2011, when the Board of Supervisors first approved Agreement Nos. A-12009 and A-12010 to provide Clinic Services' access to 340B discounted drugs.

Clinic Services seeks approval to enter into a renewed Letter of Participation with Cardinal which will consolidate all Clinic Services' eligible facilities into one document and provide continued access to Cardinal's discounted drug prices.

Cardinal declined County's request to include County's standard indemnification and insurance requirements in this Letter of Participation, asserting that the Letter of Participation, which incorporates a Base Agreement between Cardinal and Apexus, contains applicable indemnification and insurance provisions. Under the Base Agreement, Cardinal is self-insured for products, completed operations liability, and pharmacist professional liability. Cardinal also maintains commercial general liability coverage in excess of its self-insured retention limits for the above coverages and above the County's limit requirements. Cardinal also is self-insured for automobile liability, automobile physical damage, comprehensive and collision coverage for all owned vehicles. Cardinal also carries automobile liability coverage with Greenwich Insurance Company, above County's limit requirements. The County is not named as an Additional Insured on Cardinal's self-insurance and none of Cardinal's insurance or self-insurance contains primary/noncontributory endorsements. Cardinal carries worker's compensation coverage and excess worker's compensation coverage. The Base Agreement indemnification and insurance provisions are not the County's standard provisions.

This work supports the Monterey County Health Department 2011-2015 Strategic Plan Initiatives: 1) Empower the community to improve health through programs, policies, and activities; and 2) enhance community health and safety by emphasizing prevention. It also supports one or more of the ten essential public health services, specifically: 4) Mobilize community partnerships and action to identify and solve health problems; and 7) Link people to needed personal health services and assure the provision of health care when otherwise unavailable.

OTHER AGENCY INVOLVEMENT:

County Counsel and the Auditor-Controller have reviewed the Letter of Participation. County Counsel approves the Letter of Participation as to form. Auditor-Controller approves as to finance terms. The

Letter of Participation contains non-standard risk provisions (limitation of liability and non-standard insurance and indemnification provisions by way of incorporation), requiring Board approval. Clinic Services recommends moving forward with this Letter of Participation as it will maintain access to discounted drug pricing, which would allow tight Clinic Services resources to be stretched further in providing more care and services to vulnerable patients.

FINANCING:

Sufficient appropriations are available in the FY 2018-19 Health Department Clinic Services Recommended Budget (4000-HEA007). The Agreement is funded by revenues from Medi-Cal and Medicare. There is no financial impact to the General Fund resulting from approval of this Agreement. \_

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

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Approved by: Elsa Jimenez, Director of Health, x4526

Attachment:

340B Prime Vendor Participation Agreement is on file with Clerk of the Board