



County of Santa Clara

Office of the County Executive
Procurement Department

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San Jose, CA 95131-1040
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FOURTH AMENDMENT TO AGREEMENT 5500002059 BY AND BETWEEN THE COUNTY OF SANTA CLARA AND ABBOTT LABORATORIES INC.

This is the Fourth Amendment to the Agreement between the County of Santa Clara (County) and Abbott Laboratories Inc. (Contractor) entered into on April 6, 2011 to provide reagents and services for the County.

This Agreement is amended as follows effective April 6, 2019:

1. Key Provision, **Agreement Term**, on page 1 of the Agreement is revised to read: "This Agreement commenced on April 6, 2011, and expires on April 5, 2020, unless terminated earlier or otherwise amended."
2. Key Provision, **Total Agreement Value**, on page 2 of the Agreement, is revised to read: "The total not to exceed value of this Agreement is \$4,000,000.00, which represents an increase of \$514,000.00 from the prior not to exceed value of \$3,486,000.00."

Contractor understands that this not to exceed value does not represent a commitment by County to Contractor.

3. Add **Attachment B3/Price Summary**, attached hereto and incorporated herein by this reference.
4. Add the following Provisions:

LIVING WAGE

Unless otherwise exempted or prohibited by law or County policy, Contractors that contract with the County to provide Direct Services, as defined in County of Santa Clara Ordinance Code Division B36 ("Division B36") and Board Policy section 5.5.5.5 ("Living Wage Policy"), and their subcontractors, where the contract value is \$100,000

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, Joseph Simitian
County Executive: Jeffrey V. Smith

Fourth Amendment to Agreement No. 5500002059 Between County of Santa Clara and Abbott Laboratories Inc.

or more, must comply with Division B36 and the Living Wage Policy and compensate their employees in accordance with Division B36 and the Living Wage Policy. Compliance and compensation for purposes of this provision includes, but is not limited to, components relating to fair compensation, earned sick leave, paid jury duty, fair workweek, worker retention, fair chance hiring, targeted hiring, local hiring, protection from retaliation, and labor peace. If Contractor and/or a subcontractor violate this provision, the Board of Supervisors or its designee may, at its sole discretion, take responsive actions including, but not limited to, the following:

- (1) Suspend, modify, or terminate the Direct Services Contract.
- (2) Require the Contractor and/or Subcontractor to comply with an appropriate remediation plan developed by the County.
- (3) Waive all or part of Division B36 or the Living Wage Policy.

This provision shall not be construed to limit an employee's rights to bring any legal action for violation of the employee's rights under Division B36 or any other applicable law. Further, this provision does not confer any rights upon any person or entity other than the Board of Supervisors or its designee to bring any action seeking the cancellation or suspension of a County contract. By entering into this contract, Contractor certifies that it is currently complying with County Code Division B36 and County's Living Wage Policy with respect to applicable contracts and warrants that it will continue to comply with County Code Division B36 and the County's Living Wage Policy with respect to applicable contracts.

CONTRACTING PRINCIPLES

All entities that contract with the County to provide services where the contract value is \$100,000 or more per budget unit per fiscal year and/or as otherwise directed by the Board, shall be fiscally responsible entities and shall treat their employees fairly. To ensure compliance with these contracting principles, all contractors shall: (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) provide to the County copies of any financial audits that have been completed during the term of the Agreement; (4) upon the County's request, provide the County reasonable access, through representatives of the Contractor, to facilities, financial and employee records that are related to the purpose of the Agreement, except where prohibited by federal or state laws, regulations or rules.

CONTRACTOR TRAVEL EXPENSES

Any Contractor's travel fees and out of pocket expenses for which County is agreeing to pay for shall be stated as a not to exceed amount in Exhibit. Contractor shall comply with the County's Travel Policy attached as Exhibit to this Agreement. Contractor shall be solely responsible for any travel fees or out of pocket expenses that do not comply with the County's Travel Policy.

SECURITY CISO COMPLIANCE

If applicable, Contractor shall follow the security standards, recommendations, conditions, and restrictions as provided by the County Information Security Office (CISO) for the entire term of the Agreement, and subject to the County's annual assessment and/or Independent penetration testing.

COUNTY DATA

- (1) Contractor shall not acquire any ownership interest in County Data. Contractor shall not, without County's written permission, use or disclose County Data other than in the performance of its obligations under this Agreement.
- (2) Contractor shall be responsible for establishing and maintaining an information security program that is designed to ensure the security and confidentiality of County Data, protect against any anticipated threats or hazards to the security or integrity of County Data, protect against unauthorized access to or use of County Data that could result in substantial harm or inconvenience to County or any end users; and ensure the proper disposal of County Data upon termination of this Agreement.
- (3) Contractor shall take appropriate action to address any incident of unauthorized access to County Data, including addressing and/or remedying the issue that resulted in such unauthorized access, notifying County as soon as possible of any incident of unauthorized access to County Data, or any other breach in Contractor's security that materially affects County or end users; and be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality provisions hereof. Should confidential and/or legally protected County Data be divulged to unauthorized third parties, Contractor shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code sections 1798.29 and 1798.82 at Contractor's sole expense. Contractor shall not charge County for any expenses associated with Contractor's compliance with these obligations.
- (4) Contractor shall not, without County's written permission, use or disclose County Confidential Information other than in the performance of its obligations under this Agreement. As between Contractor and County, all County Confidential Information shall remain the property of the County. Contractor shall not acquire ownership interest in the County Confidential Information.
- (5) Contractor shall defend, indemnify and hold County harmless against any claim, liability, loss, injury or damage arising out of, or in connection with, the unauthorized use, access, and/or disclosure of information by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County.

ACCESS TO COMPETITIVELY BID AGREEMENTS

Where the contract award is a result of a formal competitive solicitation, Contractor may opt to permit the use of this Agreement by other political subdivisions, municipalities, tax supported agencies and non-profit entities in the United States. Such participating agencies shall make purchases in their own name, make payments directly to the Contractor and shall be liable directly to Contractor holding the County of Santa Clara harmless.

If applicable, contractor shall be required to maintain a list of cooperative entities using this Agreement. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.

COMPLIANCE WITH ALL LAWS AND REGULATIONS INCLUDING NONDISCRIMINATION, EQUAL OPPORTUNITY, AND WAGE THEFT PREVENTION

Contractor's violation of this provision shall be deemed a material default by Contractor, giving County a right to terminate the Agreement. Examples of such Regulations include but are not limited to California Occupational Safety and Health Act of 1973, Labor Code §6300 et. seq. the Fair Packaging and Labeling Act. and the standards and regulations issued there under. Contractor agrees to indemnify and hold harmless the County for any loss, damage, fine, penalty, or any expense whatsoever as a result of Contractor's failure to comply with the act and any standards or regulations issued there under.

(1) Compliance with All Laws. Contractor shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, "Laws"), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.

(2) Compliance with Non-Discrimination and Equal Opportunity Laws: Contractor shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Contractor shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

(3) Compliance with Wage and Hour Laws: Contractor shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local Minimum Wage, Prevailing Wage, or Living Wage laws.

(4) Definitions: For purposes of this Section, the following definitions shall apply. A “Final Judgment, Decision, Determination, or Order” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose’s Office of Equality Assurance.

(5) Prior Judgments, Decisions or Orders against Contractor: By signing this Agreement, Contractor affirms that it has disclosed any final judgments, decisions, determinations, or orders that (a) were issued in the five years prior to executing this Agreement by a court or investigatory government agency and (b) found that Contractor violated an applicable wage and hour or pay equity law. Contractor further affirms that it has satisfied and complied with – or has reached agreement with the County regarding the manner in which it will satisfy – any such final judgments, decisions, determinations, or orders.

(6) Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract: If at any time during the term of this Agreement, Contractor receives a Final Judgment, Decision, Determination, or Order rendered against it for violation of an applicable wage and hour Law or pay equity Law, then Contractor shall promptly satisfy and comply with any such Final Judgment, Decision, Determination or Order. Contractor shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment, Decision, Determination, or Order against it within 30 days of the Final Judgment, Decision, Determination, or Order becoming final or of learning of the Final Judgment, Decision, Determination, or Order, whichever is later. Contractor shall also provide any documentary evidence of compliance with the Final Judgment, Decision, Determination, or Order within 5 days of satisfying the Final Judgment, Decision, Determination, or Order. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.

(7) Access to Records Concerning Compliance with Pay Equity Laws: In addition to and notwithstanding any other provision of this Agreement concerning access to Contractor's records, Contractor shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County's request, Contractor shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records, that are related to the purpose of this Section, except where prohibited by federal or state laws, regulations or rules. County's access to such records and facilities shall be permitted at any time during Contractor's normal business hours upon no less than 10 business days' advance notice.

(8) Pay Equity Notification: Contractor shall (1) directly provide each employee working in California and each person applying for a job in California with a written copy of any applicable pay equity Laws, or (2) electronically disseminate the text of applicable pay equity Laws to each California employee and job applicant, either directly or by posting a copy in conspicuous places available to employees and applicants. Such notification shall occur at least once during the term of this Agreement and, if this Agreement is a multi-year Agreement, at least annually thereafter.

(9) Material Breach: Failure to comply with any part of this Section shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and/or at law. County may, among other things, take any or all of the following actions:

- (i) Suspend or terminate any or all parts of this Agreement.
- (ii) Withhold payment to Contractor until full satisfaction of a Final Judgment, Decision, Determination, or Order.
- (iii) Offer Contractor an opportunity to cure the breach.

(10) Subcontractors: Contractor shall impose all of the requirements set forth in this Section on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment, Decision, Determination, or Order for violation of an applicable wage and hour Law promptly satisfies and complies with such Final Judgment, Decision, Determination, or Order.

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All other terms and conditions of the Agreement remain in full force and effect. In the event of a conflict between the original Agreement and this Amendment, this Amendment controls.

Prepared and administered by: Rachel Su, Buyer II at 408-491-7444 or Rachel.su@prc.sccgov.org

The Agreement as amended constitutes the entire agreement of the parties concerning the subject matter herein and supersedes all prior oral and written agreements, representations and understandings concerning such subject matter.

By signing below, signatory warrants and represents that he/she executed this Amendment in his/her authorized capacity, that he/she has the authority to bind the entity listed below to contractual obligations and that by his/her signature on this Amendment, the entity on behalf of which he/she acted, executed this Amendment.

COUNTY OF SANTA CLARA

DocuSigned by: Long Zhang 3/19/2019

Long Zhang Date

Strategic Sourcing Manager

DocuSigned by: Miriam Singer 3/25/2019

Miriam Singer Date
Miriam Singer
Chief Procurement Officer

CONTRACTOR

DocuSigned by: Mike Hahn
By: Mike Hahn

Print: Mike Hahn

Title: Sr Business Manager

Date: 3/19/2019

APPROVED AS TO FORM AND LEGALITY

DocuSigned by: Sara J. Ponzio 3/19/2019

Sara J Ponzio Date

Deputy County Counsel

Attachment: Exhibit B3 Price Summary

Exhibit B3 Price Summary

Price below shall be firm from April 5, 2019 to April 4, 2020, and is inclusive of all costs such as any travel, labor, parts, handling & freight for parts, etc. No additional costs, other than those identified below, will be incurred to the County by contractor to meet the specification and requirements of this contract.

A. EQUIPMENT SERVICE/MAINTENANCE:

PRODUCT NUMBER	Maintenance Service	Service Coverage (April 5, 2019 to April 4, 2020)
04N41-060	One Care Performance Service. Instrument M2000 SP/RT (Serial # 10386/275021114)	\$14,000

Payment term: Annually

All invoices shall be sent to the following:

SCVMC Accounts Payable
2325 Enborg Lane, Suite 380
San Jose, CA 95128
SCVHHS-AP@hhs.sccgov.org

Copies of invoices shall be emailed to Stefanie.wong@hssccgov.org and anthony.cheung@hhs.sccgov.org

Upon earlier termination or cancellation, the County will receive a pro-rated refund from the time the contract was terminated or cancelled.

Contractor's phone support:

- 800-553-7042, option 2
- Monday- Friday, 9am-9pm, Pacific time

Onsite support maintenance and repair:

- On-site services shall be available within three (3) covered service days from request by County staff.
- On-site service business hour: 8:30am-5:00pm, excluding holidays (New Year's Day, Memorial Day, Independence Day, Day after Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, Christmas Eve Day, and New Year's Eve Day).
- **Replacement parts:** Contractor will replace non-consumable parts that have failed due to damage or normal wear, including those discovered during Preventative Maintenance, at no additional charge to County.
- **Manufacturer Recommended Preventative Maintenance ("PM")** is routine and regularly scheduled maintenance activities to perform alignments and verifications to assure Equipment meets the operation specifications of manufacturer. This service should be performed by Contractor Monday through

Friday, 8:30 AM – 5:00 PM, excluding holidays (New Year’s Day, Memorial Day, Independence Day, Day after Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, Christmas Eve Day, and New Year’s Eve Day).

- **Manufacturer Recommended Operational and Safety Improvements:** Required software and/or equipment upgrades including Technical Service Bulletins are included in Contractor’s service coverage. Integration of new assays is not included
- **Peripherals:** “Peripherals” shall mean any printer, keyboard and/or monitor provided by Contractor with the equipment, Peripherals are covered under the manufacturer’s warranty.

LABORATORY SERVICES STANDARD INSTRUMENT INTEGRATION:

Comprehensive Equipment integration support to configure new Equipment and all Products by performing verification studies and data analysis are included in Contractor’s service coverage.

REMOTE DIAGNOSTIC CONNECTIVITY (Abbottlink): Event-driven remote diagnostics to optimize system performance are included in Contractor’s service coverage.

B. REAGENT PRICE LIST:**Delivery Term: FOB Destination, Freight Prepaid and Allowed**

Product Number	Product Description	Product Price (EA/Kit)	Unit of Measure
06L18-090	HIV-1 Reagent Kit	\$3,126.72	EA/KIT
06L18-080	HIV-1 Control Kit	\$475.00	EA/KI
06L18-070	HIV-1 Calibrator Kit	\$950.00	EA/KI
01N30-090	REALTIME HCV QUANT IVD	\$3,129.41	EA/KIT
01N30-080	HCV CONTROL KIT	\$475.00	EA/KIT
01N30-070	HCV CALIBRATOR KIT	\$950.00	EA/KI
02N40-091	RealTime HBV Amplification Kit, US	\$2,901.41	EA/KIT
02N40-080	REALTIME HBV CONTROL KIT US	\$475.00	EA/KIT
02N40-070	REALTIME HBV CALIBRATOR KIT, US	\$950.00	EA/KI
06K12-024	Sample Prep GPR Pack DNA	\$362.12	EA/KIT
04J70-024	Sample Prep GPR Pack RNA	\$362.12	EA/KIT
04J71-093	Abbott m2000rt Optical Calibration	\$525.09	EA/KI
09K33-001	LAMP; M2000RT HALOGEN	\$225.00	EA/KIT
01N71-001	m2000 m-Syst Wrench	\$60.00	EA/KI
03L78-060	Proteinase K	\$115.00	EA/KIT
04J71-010	1000ul Pipette Tip	\$471.00	EA/KI
04J71-017	200ul Pipette Tip	\$244.00	EA/KI
04J71-020	Reaction Vessels	\$233.00	EA/KI
04J71-060	200mL Reagent Vessel	\$29.00	EA/KIT
04J71-030	96 Deep Well Plate	\$196.00	EA/KIT
04J71-070	96-Well Reaction Plate	\$49.00	EA/KIT
04J71-075	Optical Seal	\$225.00	EA/KI
04J71-080	Master Mix Tubes	\$45.00	EA/KI
04J71-045	Biohazard bag	\$35.00	EA/KI

County Customer Contact
Santa Clara County Valley Medical Center

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