

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

132



FROM: Riverside University Health System

SUBMITTAL DATE:

May 26, 2015

SUBJECT: Approval of Memorandum of Understanding with Loma Linda University Hospital to initiate the implementation of a shared electronic health records platform. Fifth District [\$53.1 million]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Memorandum of Understanding with Loma Linda University Hospital (LLUH) to initiate the implementation of a shared electronic health records platform;
2. Approve in principal a three-year, \$53.1 million project budget with direction to return to the Board for final approval and budget adjustments;
3. Approve and authorize planning and implementation expenditures not to exceed \$500,000;
4. Authorize the Assistant CEO/Health Systems to take necessary steps to implement the terms of the MOU and negotiate the final agreements
5. Direct that the Assistant CEO/Health Systems return to the Board with final agreements.

BACKGROUND:

(background begins on next page)

Zareh H. Sarrafian, Hospital CEO

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	<input type="checkbox"/> Ongoing or <input checked="" type="checkbox"/> Total Cost	POLICY/CONSENT (per Exec. Office)
COST	\$ 500,000	\$ TBD	\$ 53.1 million	Policy
NET COUNTY COST	\$ 0	\$ TBD	\$ TBD	
SOURCE OF FUNDS: Hospital Operating Budget and County General Fund				Budget Adjustment: No
				For Fiscal Year: 14/15 thru 19/20

C.E.O. RECOMMENDATION:

APPROVE

BY:
Christopher M. Hans

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- Positions Added
- Change Order
- 4/5 Vote

Prev. Agn. Ref.:

District: 5

Agenda Number:

3-30

FORM APPROVED COUNTY COUNSEL
 BY:
 ANITA C. WILLIS
 DATE: 5-27-15
 Departmental Concurrent

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Approval of Memorandum of Understanding with Loma Linda University Hospital to initiate the implementation of a shared electronic health records platform. Fifth District [\$53.1 million]

DATE: 5/26/15

PAGE 2 of 3

BACKGROUND:

Summary

On September 16, 2014 the County Boards of Riverside and San Bernardino held a joint meeting to discuss, among other things, regional impacts of our current and evolving health care delivery systems. At that time the Boards showed conceptual support for development of a shared delivery system wherein health care providers within the Inland Empire could share electronic health records to better serve the population who seek services from these providers (clinical integration), and asked that staff work together and return with concrete implementation plans for the Boards to consider. The recommended actions in this document represent Riverside's first steps toward turning that vision into a reality.

The proposed \$53.1 million project budget includes software licenses, hardware, maintenance and support, clinical transformation and labor. Hospital management's preliminary estimate is that it can secure \$24 million in revenue to support this effort, and is seeking additional revenue. A refined estimate will be brought to the Board along with a project budget within the next 30 to 60 days - at that time general fund support will be requested for any remaining balance.

The MOU establishes the framework for the negotiation and development of a Master Agreement and ancillary agreements with LLUH that will allow Riverside University Health System (RUHS) to implement and operate a platform for sharing electronic health records utilizing the Epic Platform already in operation at LLUH. Within the next 30 to 60 days, hospital staff will return to the Board with the additional agreements and the FY 15/16 budget adjustment needed to install the Epic electronic health record (EHR) as a foundation for developing a shared delivery system for provision of health care services in the Inland Empire.

There is a strategy that aligns the goals of clinical integration with Riverside University Health System's vision of improving healthcare access, quality, efficiency, and cost-effectiveness for the Inland Empire population. The best way for RUHS to succeed is to partner in a clinically integrated network (CIN) and implement population health management capabilities. **The essential requirement for both a CIN and population health management is a robust information technology platform.**

Implementation of the Epic electronic health record (EHR) with LLUH as a foundation for the clinical integration provides "One patient – One Medical Record" for comprehensive, coordinated and integrated care delivery which is accessible to all physicians and care providers across the CIN. A single, common patient health record that can be accessed by all physicians can improve patient access to care, enable better patient and family engagement and provide a single source of data to measure the effectiveness and cost of care. RUHS will implement and utilize Loma Linda's Epic EHR to meet CIN technology requirements with the consideration that Loma Linda University Health has successfully implemented Epic EHR through all of its local clinics and hospitals.

The Affordable Care Act (healthcare reform) requires healthcare systems and physicians to be accountable for higher quality care, lower cost and improved patient satisfaction. As California has implemented the Affordable Care Act, there have been challenges associated with being the nation's largest Medicaid program. The California Department of Health Care Services' "Medi-Cal 2020" waiver renewal concept paper outlines many key concepts to achieve these goals that align with the goals of Riverside County including:

- Care delivery that is holistic (whole person), addresses psychosocial and behavioral, as well as clinical needs, and focuses on prevention of avoidable illness and complications of chronic diseases
- Focus on integration across settings of care and primary and specialist care, service delivery in the optimal setting, and ambulatory care redesign
- Evolution towards a value-based payment methodology and shared accountability
- Goal alignment including expanded access, controlled cost of care, and improved health outcomes and the best quality of life for the residents of Riverside County

Riverside University Health System is proactively aligning to the healthcare marketplace transformation, and is considering providers' needs as they take on more risk for both clinical and financial outcomes.

One key strategy in aligning to these new requirements is to develop more comprehensive clinical integration. **Clinical integration is the foundation on which population health strategy is built and serves as a platform to improve patient care and is connected through enabling information technology.**

Impact on Citizens and Businesses

As stated in the Medi-Cal 2020 concept paper, an "integrated whole patient management system using value driven patient clinical data to demonstrate that California is reimbursing for clinical outcomes in a value driven system " is integral in this clinical transformation. To improve goals of interoperability, data management and technology that will support and scale to population health management for the Inland Empire, a single robust electronic health record (EHR) to support the goals and objectives of the CIN is recommended.

Additional Financial Information

The proposed \$53.1 million project budget includes software licenses, hardware, maintenance and support, clinical transformation and labor. Hospital management's preliminary estimate is that it can secure \$24 million in revenue to support this effort, and is seeking additional revenue. A refined estimate will be brought to the Board along with a project budget within the next 30 to 60 days - at that time general fund support will be requested for any remaining balance.

MEMORANDUM OF UNDERSTANDING
for
SHARED ELECTRONIC HEALTH RECORD (“EHR”) PLATFORM

This Memorandum of Understanding (“*MOU*”) is entered into as of June 2, 2015 by and between Loma Linda University Health (on behalf of itself and its affiliates, “*LLUH*”) and Riverside University Health System (also known as Riverside County Regional Medical Center, an agency of the County of Riverside (on behalf of itself and its affiliates, “*RUHS*”) and sets forth, for discussion purposes only, the larger framework for a shared EHR platform between them. LLUH and RUHS are prepared to proceed with discussions for purpose of implementing a shared electronic medical record system platform and access to the Epic Software Platform (as defined below) on the terms and subject to the conditions set forth in this MOU (the “*EHR Implementation*”). The parties are entering into this MOU to evidence their intentions to proceed with negotiations designed to carry out the EHR Implementation.

The principal terms and conditions of the EHR Implementation and access are described below and will be as set forth in more detail in the EHR Definitive Documents (as defined below):

1. Shared Electronic Medical Records; Access to Epic Software Platform.

- (a) RUHS desires to access certain of LLUH’s software and databases on a shared basis and to obtain implementation support and maintenance services from LLUH in connection with that access.
- (b) LLUH has implemented certain software and infrastructure licensed from Epic Systems Corporation (“*Epic*”) and other third party providers (the “*Epic Software Platform*”) that includes an EHR system platform. LLUH will provide access to the Epic Software Platform to RUHS.
- (c) The transaction will be accomplished by LLUH providing RUHS access to the Epic Software Platform, as installed and implemented at LLUH as of the effective date of the EHR Definitive Agreements, together with such changes as may hereafter be agreed upon between the parties (the “*LLUH EHR Platform*”).
- (d) The EHR Implementation will be memorialized in the following agreements (collectively and together with any additional documents set forth in paragraph 7 below, the “*EHR Definitive Agreements*”):
 - (i) A “*Master Services Agreement*” including:
 - (1) a “*Statement of Work*” that will describe the parties’ relative obligations with respect to the necessary implementation services to configure, install and make operational the LLUH EHR Platform at RUHS.
 - (2) a “*Service Level Agreement (or ‘SLA’)*” that will describe the parties’ relative obligations with respect to the necessary on-going maintenance and support services of the LLUH EHR Platform at RUHS.
- (e) The Statement of Work and the Service Level Agreement are generally described below in this MOU and will be more particularly described in the Master Services Agreement and other EHR Definitive Agreements.

2. Change Control Process. The change control process governing changes to the LLUH EHR Platform will be set forth in the Master Services Agreement, which change control process will govern unless and until the parties agree in writing upon a different process. As part of negotiating the EHR Definitive Agreements, the parties will agree upon a process by which a party may submit a change request, a decision-making process by which requests are prioritized and approved for implementation, and the like, which will be based on the following tentative process:
- (a) Project Management Office: LLUH will constitute and staff a Project Management Office under the supervision of the LLUH CIO, and with LLUH subject matter experts including the Program Director, Technology Architect, Clinical Applications Director, Financial Applications Director, Data Specialist, and Hardware Specialist. The Project Management Office will make all change decisions with respect to the LLUH EHR Platform, after receiving input from and consulting with the Steering Committee.
 - (b) IT Steering Committee: The parties will appoint an IT advisory steering committee (the “*Steering Committee*”), consisting of an even number of members appointed equally by the Chief Executive Officer of each party. The Steering Committee shall include the Chief Medical Information Officer (“CMIO”) of each party and an individual responsible for patient scheduling and registration (the “Access Director”) of each party and such other personnel with such qualifications as are described in the Definitive Agreements. Any request for change to the LLUH EHR Platform by either party will be submitted to the Steering Committee which will review the change for its impact on the following:
 - (i) maintenance of a standards based EHR model;
 - (ii) show a result that improves quality and efficiency;
 - (iii) deploy consistent clinical protocols across the network with the goal of achieving measurable targets;
 - (iv) result in each party carrying its share of the IT investment; and
 - (v) prioritize requests, identify and prioritize functional and operational needs.
3. Master Services Agreement. The Master Services Agreement will outline two phases, the implementation phase and the on-going support and maintenance phase. The parties’ respective tasks and rights during the implementation phase will be described in the Statement of Work; the parties’ respective tasks and rights during the on-going support and maintenance phase will be described in the SLA, as generally described below. In addition, the Master Services Agreement will address terms and conditions, including, but not limited to the following:
- (a) Term and Termination:
 - (i) Term:
 - (1) Minimum term
 - (2) Renewals
 - (3) Notice periods

- (ii) Termination:
 - (1) Right to terminate for convenience
 - (2) Right to terminate for default
- (iii) Exit strategy and end-of-contract transition, including:
 - (1) General disentanglement process
 - (2) Data portability: return data in Epic supported format that can be used by stand-alone instance (i.e. new Production Directory) of Epic Software
 - (3) Data retention (e.g. legally required purposes, such as litigation e-discovery or preservation as evidence); data retention after contract termination
 - (4) Data deletion
- (b) Description of Services
 - (i) Implementation services - reference SOW
 - (ii) On-going support and maintenance services - reference SLA
 - (iii) Technology and business process evolution - reference change control process (see paragraph 2 above)
 - (iv) Right to request additional Services
 - (v) Disaster recovery and business continuity Services
- (c) Locations for provision of Services
 - (i) RUHS Site
 - (ii) LLUH Site
- (d) Consideration. RUHS will pay as consideration for the grant of access, implementation, training and other services price to be negotiated as part of the Master Services Agreement.
 - (i) Fees: The price will include the following components:
 - (1) Software:
 - a. Epic license fees and maintenance fees;
 - b. Certain foreign interfaces;
 - c. Third party cache licenses;

- d. Data center hosting/hardware:
- e. EHR and certain third party database and application servers;
- f. Implementation fees;
- g. Maintenance fees;
- (2) Implementation:
 - a. RUHS resources
 - b. LLUH resources (or resources of LLUH affiliates)
 - c. Epic resources
- (3) Support:
 - a. RUHS resources
 - b. LLUH resources (or resources of LLUH affiliates)
 - c. Epic resources
- (4) Administrative
 - (ii) Additional pass-through expenses
 - (iii) Out-of-Pocket expenses
 - (iv) Adjustments to fees
 - (v) Invoices
 - (vi) Taxes
 - (vii) Extraordinary events
 - (viii) Disputed amounts
- (e) Payment. The consideration will be paid at such times as may be agreed in the Master Services Agreement
- (f) Recordkeeping and Audit Rights
 - (i) Licensed Volume restrictions
 - (ii) Recordkeeping
 - (iii) LLUH audit rights re Licensed Volume and usage
 - (iv) Third Party audit rights of RUHS

- (v) Audit costs
- (g) Representations, Warranties and Covenants
 - (i) LLUH Representations, Warranties and Covenants
 - (ii) RUHS Representations, Warranties and Covenants
 - (iii) Warranty disclaimer
- (h) Limitations on Liability
- (i) Intellectual Property Rights; Proprietary Rights
 - (i) Third party licenses necessary to the Services
 - (ii) No indemnity for third party software
- (j) Data Protection, Security and Confidentiality
 - (i) Ownership of data
 - (ii) Security
 - (iii) Confidentiality
- (k) Legal Compliance
 - (i) Compliance with laws
 - (ii) HIPAA
- (n) Indemnification
 - (i) Indemnifications by LLUH
 - (ii) Indemnifications by RUHS
 - (iii) Indemnification procedures
- (o) Dispute Resolution
- (p) Miscellaneous. The Master Services Agreement will have additional customary provisions including, but not limited to, Assignment, Notices, Amendments; Waivers, Relationship Between the Parties, Severability, Counterparts; Expenses and Integration Clause.

4. Statement of Work. The Statement of Work will consist of the following:

- (a) Implementation Project Plan -- Milestones, Acceptance Criteria, Milestones.
 - (i) Shared Vision on End State

- (ii) Scope of Implementation Project Plan
 - (iii) Milestones
 - (iv) Remedies for Delay or Late Performance
 - (v) Remedies for Non-Performance
 - (vi) Excused Performance
 - (vii) Delay by LLUH; Delay by RUHS
 - (viii) Suspension Rights
 - (ix) Reversal Rights
 - (x) Waiver
- (b) Change Control – see discussion in paragraph 2 above
5. Service Level Agreement. The SLA will consist of the following:
- (a) Service Level Commitments
 - (i) Defining service levels
 - (ii) Remedies for service level interruption
 - (b) RUHS acknowledge that LLUH has a substantial monetary investment in the implementation of the shared LLUH EHR System. Fees shall be deemed fully earned and non-refundable. In the event that RUHS terminates the agreement for any reason, the remaining fees shall be all due and payable immediately.
6. EHR Implementation Date; Termination of MOU. The EHR Implementation shall take place on the earliest practicable date. The targeted effective date of the EHR Definitive Documents is July 7, 2015. If LLUH and RUHS fail to enter into the EHR Definitive Documents by July 7, 2015, for any reason, then this MOU shall terminate unless extended by the mutual written agreement of the parties, and thereafter neither party shall have any further obligations hereunder except for the Binding Provisions (as defined below). Despite the foregoing, either party may terminate further discussions or negotiations contemplated hereby for any reason without any further obligations hereunder except for the Binding Provisions.
7. EHR Definitive Agreements.
- (a) The EHR Implementation will take place pursuant to the terms of EHR Definitive Documents to be negotiated between the parties, consisting of at a minimum the following: (a) a Sublicense Agreement, (b) a Master Services Agreement, described above, including (i) a Statement of Work, (ii) a Service Level Agreement, (iii) a Business Associate Agreement (in which LLUH is the Business Associate), (iv) a Business Associate Agreement (in which RUHS is the Business Associate), and (v) related documents (collectively, the "***EHR Definitive Agreements***"). The EHR Definitive Agreements will be in form satisfactory to the parties and their respective counsel.

- (b) Following the execution of this letter, LLUH shall direct its counsel to prepare a draft of the EHR Definitive Agreements for delivery to RUHS and its counsel. The parties agree to proceed in good faith toward negotiation and execution of the EHR Definitive Agreements prior to July 7, 2015 following the execution of this MOU.
8. Due Diligence Review. The parties' willingness to proceed with the transaction is subject to the satisfaction of certain conditions precedent:
- (a) completion of legal review by each party and its legal advisors to assure regulatory compliance;
- (b) satisfactory negotiation of the EHR Definitive Agreements.
9. Reimbursement of Costs. LLUH has agreed to initiate work required for the successful implementation and on-going maintenance and support of the EHR Implementation before the EHR Definitive Agreements have been negotiated and executed, and in exchange RUHS has agreed to reimburse LLUH for costs incurred in connection with that work, whether or not the transaction is consummated and whether or not the EHR Definitive Agreements are executed. RUHS shall pay to LLUH as reimbursement for such work fees calculated on a time and materials basis, in an amount equal to (a) (i) for personnel of LLUH directly working on the EHR Implementation, for time incurred billed at the rates set forth in the "Schedule of Fees" attached to this MOU as Exhibit A and for materials billed at cost, and (ii) for subcontractors of LLUH directly working on the EHR Implementation, at LLUH's cost, but (b) in no event greater than \$500,000. Such reimbursement shall be payable on or before the expiration of thirty (30) days from the date of invoice issued by LLUH. LLUH will issue an invoice on or before the tenth (10th) of each month during the course of performance of such work on account of work performed during the immediately preceding month. RUHS shall have the right, at its own expense, to audit such costs, and to the extent there is a determination that such costs are not directly related to the EHR Implementation, LLUH shall reimburse RUHS for such disputed payments.
10. Fees and Expenses. Except as provided in paragraph 9, the parties will pay their own costs and expenses incurred in connection with the proposed transaction, including all legal, accounting and advisory fees and expenses, whether or not the transaction is consummated.
11. Representations of LLUH. LLUH hereby represents to RUHS:
- (a) Loma Linda University Medical Center ("**LLUMC**"), an affiliate of LLUH, has entered into that certain License and Support Agreement between LLUMC and Epic Systems Corporation ("**Epic**") dated as of June 16, 2011, as amended (the "**Epic License Agreement**"). Under the Epic License Agreement, LLUMC has licensed certain software from Epic or from third parties, as previously described in writing to RUHS by LLUH (the "**Software**").
- (b) Pursuant to the terms of the Epic License Agreement, (i) LLUMC is permitted to extend certain Software to RUHS, and (ii) subject to RUHS meeting Epic's then-current minimum criteria for direct customers, if RUHS and LLUH terminate the Master Services Agreement, Epic has agreed to negotiate in good faith with entities like RUHS toward the grant of a direct license to the Software under Epic's then-standard license and support terms and conditions.

(c) The Epic License Agreement contains detailed provisions to protect Epic's confidential information, including without limitation non-disclosure provisions and requirements that persons granted access to the Software execute confidentiality provisions limiting the use of information. In addition, the Epic License Agreement requires, prior to granting any third party contractor access to the Software, that third party must have in place at the time of such access an agreement with Epic for the confidentiality and use of information as a result of such access.

12. Effect of this MOU. This MOU is a statement of the intentions of the parties and, except for the provisions of paragraphs 6 through this paragraph 12 (the "**Binding Provisions**"), which are intended to be binding, this MOU is not intended to be a legally binding agreement or to create rights in favor of either party with respect to the proposed acquisition or the other transactions contemplated hereby. The obligations of the parties to consummate the transactions hereby shall be subject in all respects to the negotiation, execution and delivery of the EHR Definitive Agreements referred to above and to the satisfaction of the conditions contained therein, and neither of the parties hereto shall have any liability to the other if we fail for any reason to execute an EHR Definitive Agreements. Upon final execution of the EHR Definitive Agreements, this Agreement shall terminate and all terms and conditions in this MOU shall be replaced by such EHR Definitive Agreements.

In witness whereof, the parties have executed this Memorandum of Understanding as of the date set forth in the preamble above.

LLUH:

Loma Linda University Health

By: _____
Name: Kerry L. Heinrich
Its: Chief Executive Officer

KECIA HARPER-IHEM
Clerk of the Board

By: _____
Name: _____
Its: Deputy

RUHS:

Riverside University Health System

By: _____
Name: Marion Ashley
Its: Chairman, Board of Supervisors

GREGORY P. PRIAMOS
County Counsel

By: 
Name: ANITA C. WILLIS
Its: Assistant County Counsel

Exhibit A
Schedule of Fees

Position	Status	Rate
<i>Project Leadership</i>		
Program Director	Hourly	\$110.00
Operational Integration Director	Hourly	\$110.00
Project Manager	Hourly	\$75.00
Training Manager	Hourly	\$75.00
CMIO	Hourly	\$110.00
<i>Technical Resources</i>		
Security Coordination / Administration	Hourly	\$75.00
BOE Administrator	Hourly	\$75.00
Data Courier Administrator / Environment & Release Management	Hourly	\$75.00
Cache System Manager	Hourly	\$75.00
OS Support	Hourly	\$75.00
SAN / Backup Support	Hourly	\$75.00
Client System Manager	Hourly	\$75.00
Citrix and Windows System Administrator	Hourly	\$75.00
Web Server Administrator	Hourly	\$75.00
Clarity ETL Administrator and Clarity DBA	Hourly	\$75.00
<i>E.H.R. Analysis</i>		
Analysts	Hourly	\$165.00