



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: May 16, 2017

or Procurement Director Award

Contractor/Vendor Name (DBA): Southern AZ Affiliate of Susan G. Komen for the Cure

Project Title/Description:

Bridging the Gap (Breast Cancer Treatment Assistance) Program

Purpose:

The focus of the "Bridging the Gap-Treatment" project is to offer breast cancer diagnostics and treatment assistance to women who do not qualify for other services such as the Breast and Cervical Cancer Treatment Program through AHCCCS and other charitable accounts, primarily focusing on Hispanic/Latina women and women who are not US citizens or qualified aliens.

Procurement Method:

N/A - grant award.

Program Goals/Predicted Outcomes:

Increase the number of un/underinsured women who receive high quality breast cancer treatment service in Pima County.

Public Benefit:

Increase the number of uninsurable women who are able to obtain and/or maintain needed medical care by providing breast cancer treatment assistance and resources.

Metrics Available to Measure Performance:

- 100% of women diagnosed will be treated by providers who agree to accept reduced rates
- 90% of women diagnosed with breast cancer will attend first medical appointment within 60 days of diagnosis

Retroactive:

Yes - Notification letter from Susan G. Komen Arizona was received on May 1, 2017.

Original Information

Document Type: GTAW Department Code: HD Contract Number (i.e., 15-123): 17*77
Effective Date: 4/1/2017 Termination Date: 3/31/2018 Prior Contract Number (Synergen/CMS): N/A
 Expense Amount: \$ _____ Revenue Amount: \$ \$32,030
Funding Source(s): Susan G. Komen Arizona

Cost to Pima County General Fund: \$0.00

Contract is fully or partially funded with Federal Funds? Yes No Not Applicable to Grant Awards
Were insurance or indemnity clauses modified? Yes No Not Applicable to Grant Awards
Vendor is using a Social Security Number? Yes No Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____
Amendment No.: _____ AMS Version No.: _____
Effective Date: _____ New Termination Date: _____
 Expense Revenue Increase Decrease Amount This Amendment: \$ _____
Funding Source(s): _____

Cost to Pima County General Fund: _____

Contact: Sharon Grant

Department: Health Telephone: 724-7842

Department Director Signature/Date: [Signature] 10 May 2017

Deputy County Administrator Signature/Date: [Signature] 5/11/2017

County Administrator Signature/Date: [Signature] 5/11/17
(Required for Board Agenda/Addendum Items)

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Authorized Signatory Contact Information

Name	Richard Wascher
Phone #	520-724-4022
Email	richard.may@pima.gov
Please Upload Insurance Certification and W9 Insurance Certification	http://affiliategrants.komen.org/_Upload/504229-ReqCertIns.pdf
W9	http://affiliategrants.komen.org/_Upload/504229-W-9formforPimaCounty(2).pdf

SUSAN G. KOMEN ARIZONA GRANT AGREEMENT COMMUNITY GRANTS PROGRAM 2017-2018

GRANTEE ORGANIZATION:	Pima County Health Department
GRANTEE ADDRESS:	ATTN: Garrett Hancock 3950 S Country Club Road, 2nd floor Tucson, Arizona 85714-2056
PROJECT DIRECTOR:	Richard C. Wascher
EFFECTIVE DATE:	4/1/2017 TERMINATION DATE: 3/31/2018

PROJECT TITLE AND PURPOSE: "Bridging the Gap" Treatment Program

Unless otherwise stated in this Agreement, the Grant Funds will be used specifically as described in Grantee's grant application and proposed budget (together, the "Application"), which can be located in the Komen Grants e-Management System ("GeMS") and are made a part hereof for all purposes. To the extent that the terms of this Agreement conflict with the terms of the Application, the terms of this Agreement will prevail.

GRANT AMOUNT ("Grant Funds"): \$ \$32,030

PAYMENT TERMS:

Grant Funds will be payable in three equal installments of \$10,676.66 each. The first payment will be made to Grantee within 30 days after Grantee executes this Agreement in GeMS, and each of the second and third (final) payments will be made to Grantee within 30 days after Komen's receipt and approval of timely reports due on July 31, 2017, October 31, 2017 and January 31, 2018 as required below.

Komen may require Grantee to deplete the current installment of Grant Funds prior to receiving payment of the next installment of Grant Funds. In addition, Komen may withhold the next installment of Grant Funds if the report does not contain all the required information or Grantee has not demonstrated sufficient progress on Project objectives, as determined by Komen in its sole discretion. Within 45 days after the expiration or early termination of this Agreement, Grantee will remit to Komen all unspent funds.

Notwithstanding any provisions in the Application, Grant Funds may not be used for indirect costs in excess of 10% of the direct costs for the Project. See additional restrictions on use of Grant Funds in Section 1 of the attached Terms and Conditions.

REPORTING REQUIREMENTS (Written reports to be uploaded in the forms located in GeMS):

Progress Report(s), to include progress and financial reporting, due
Quarterly reports due July 31, 2017, October 31, 2017, January 31, 2018

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Final Report due May 15, 2018

Additional reports required by the Affiliate, but not required to be uploaded in GeMS.

Surveys or other items regarding the Agreement to be completed by Grantee as requested by Komen. Any and all surveys or other items submitted by Komen to Grantee must be completed and returned to Komen no more than 45 days following the expiration or early termination of this Agreement.

Komen reserves the right to modify the information required in the above reports from time to time and in such event will provide updated reporting forms to Grantee. The above reports will not be treated as confidential and may be reviewed and evaluated by third parties. Komen will not be responsible for any damages resulting from the disclosure of the reports to third parties. Further, Komen may share Grant information, including the reports, with donors or with members of the general public

ACKNOWLEDGMENTS: Grantee will acknowledge and will cause any subgrantees and contractors involved in the Project ("Collaborating Organizations") to acknowledge Komen's funding in the following ways, using the Komen name and signature logo when possible:

in a conspicuous location on all printed and electronic materials created in connection with the Project ("Materials")

in all training sessions, workshops and presentations conducted in connection with the Project on Grantee's website

in Grantee's annual report and other donor listings

See additional requirements for acknowledgments in Section 3(A) of the attached terms and conditions.

BENEFITS: Grantee will provide the following to Komen:

copies of all Materials, at no charge, including without limitation all surveys and tools, methodologies, studies, evaluations, presentations, training and educational materials, photographs, reports, press releases, articles and other publications created in connection with the Project

unlimited access to any raw digital data, excluding individually identifiable health information protected by applicable privacy laws, collected during the Project ("Data")

a summary report of any evaluations received in connection with the Project

any and all surveys or other items submitted by Komen to Grantee for completion regarding this Project the opportunity for a Komen representative to make site visits

Grantee grants (and shall cause any Collaborating Organizations to grant) to Komen, the Susan G. Komen Breast Cancer Foundation, Inc. ("Komen National") and its affiliates a limited, royalty-free, non-exclusive, non-transferable, worldwide, irrevocable license to use the Materials, or any part thereof and Data (if any provided) for their own non-commercial purposes.

NOTIFICATIONS: Grantee will notify Komen through GeMS at least 30 days in advance of and must receive prior written approval for any proposed changes to the personnel, design, budget, Collaborating Organizations, if any, content or specific aims of the Project. Komen will be provided a minimum of 14 days to review and accept or reject any proposed changes. Notwithstanding the above, Grantee may modify the budget without prior approval of Komen, so long as the modification does not (i) change any budget expense subcategory by more than 5%; (ii) increase the amount of any cost above the maximum allowable for a subcategory item (such as indirect or equipment costs); or (iii) result in an expenditure outside of the Grant purpose. In addition to the above notifications, Grantee will promptly notify Komen of (w) any potential or threatened litigation, claim, assessment or audit related to the Project; (x) any challenge that may prevent Grantee from fulfilling the

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objectives described in the Application, including any issues with Collaborating Organizations; (y) any actual inability to fulfill the objectives in the Application; or (z) the occurrence of any event listed in Section 7(B) of the attached Terms and Conditions.

SPECIAL TERMS/OTHER:

1. Phoenix Race for the Cure. In connection with the Project, Grantee shall prepare, occupy and operate an informational booth in the Corporate Village at one of the two 2017 Phoenix Race for the Cure events (to be held on Phoenix October 8, 2017 and Tucson (2017 RACE DATE NOT YET DETERMINED) or such other dates as Komen may determine in its discretion) (each a "Race"), which shall include the display of Grantee's corporate banner (to be provided by Grantee) and any Materials as are reasonably necessary to communicate the nature, objectives, activities, progress, successes and any other relevant aspects of the Project to Race participants and attendees. The Grantee shall staff its Corporate Village booth with Grantee personnel who are sufficiently knowledgeable about the Project to provide relevant information and answer questions related to the Project. Grantee shall comply with all requirements applicable to corporate sponsors operating booths in the Corporate Village, including any requirements to provide certificates of insurance as may reasonably be required by Komen. Notwithstanding the foregoing, the Grantee shall not be required to become a financial sponsor of, or pay a fee to participate in, the Race, nor shall it be entitled to receive any benefits provided to Race sponsors other than those described in this paragraph.

2. Education Session. Within 30 days of the execution of this Agreement, Grantee will cause one or more of its duly authorized officers, employees, or persons serving Grantee in a similar capacity and having authority over Grantee's operations and activities, to attend an education session presented by Komen and entitled "Introduction to Komen Breast Health and Volunteer Opportunities", in order to enhance Grantee's understanding and support of the Foundation's breast health mission and its guidelines for messaging and outreach activities.

3. Non-Disparagement. Grantee shall not at any time make false, misleading, defamatory, or other disparaging statements about Komen or its members, directors, officers, employees or other affiliates or related entities. "Disparaging" statements include those that, whether oral or written, impugn or attack the character, honesty, reputation, integrity, morality, business acumen, practices, conduct or abilities of the individual or entity being disparaged. Notwithstanding the foregoing, nothing herein is intended to prevent Grantee from making any truthful statements in any legal proceeding or as otherwise required by law. It is agreed that in the event of a breach or threatened breach of this provision, damages may not be an adequate remedy, and in addition to any other remedies available under this Agreement, Komen shall be entitled to any remedies available under applicable law, including a temporary or permanent injunction or other equitable relief against such breach or threatened breach.

This Agreement will be null and void if not executed by both parties within 45 days after the Agreement becomes available for execution through GeMS. By executing this Agreement, Grantee

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agrees to be bound by the Terms and Conditions attached to this Agreement and incorporated herein. The signers below warrant that they have full power and authority to sign for and bind their respective organizations.

TERMS AND CONDITIONS

1. Restrictions on Use of Grant Funds. (A) Except as specifically provided in the Agreement, Grantee will use the Grant Funds exclusively as provided in the budget in GeMS. (B) The Grant Funds awarded hereunder may not be obligated or expended prior to the Effective Date or subsequent to the Termination Date of this Agreement. (C) Any travel costs covered by Grant Funds must be reasonable and customary, covering only the following as applicable: coach air and train travel, ground travel to the Project, moderate hotel (room and taxes only), and meals (alcoholic beverages excluded).

2. Collaborating Organizations. Grantee is responsible for ensuring that all Collaborating Organizations comply with the terms of this Agreement, including but not limited to the restrictions on the use of Grant Funds.

3. Acknowledgments; Komen Intellectual Property; Permission to Use Grantee Name and Logo.

(A) Grantee is authorized to and will acknowledge Komen's funding of the Project in the Materials as set forth in "Acknowledgments" section of this Agreement. In addition, Grantee agrees that it will acknowledge Komen separately from any pharmaceutical support and will not in any way indicate, suggest or imply that Komen is the recipient of such support. The specific language to be used in such acknowledgments, including how Komen's name and signature logo will be used, will be agreed to in advance between the parties.

(B) Komen is and will remain the sole and exclusive owner of all rights, title and interest in and to any and all materials that Komen or its employees, agents or contractors permit Grantee to use in connection with the Project, including but not limited to all works of authorship, copyrights, trade names, trademarks, service marks, domain names and other indicia of source (whether registered or not), data and data bases, lists, educational materials and other information and all translations, adaptations, editions, excerpts or derivative works thereof (collectively, "Komen Intellectual Property"). Komen Intellectual Property must not be amended or modified in any manner without Komen's prior written consent. Grantee will include the appropriate attributions for any Komen Intellectual Property used in connection with the Project, which must be approved by Komen in advance of publication.

(C) For the sole purpose of releasing information regarding this Grant and the Project to the general public and news media, Komen is authorized to use the Grantee's name and logo in a fair and accurate manner (and Grantee will cause any and all Collaborating Organizations to grant Komen authorization to use their respective names and logos for the same purposes). Nothing in this Agreement grants any further rights to the Grantee name and logo.

4. Representations, Warranties and Covenants. Grantee represents, warrants, and covenants that:

(A) it is a governmental organization described in Section 170(c)(1) or a nonprofit organization under Section

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501(c)(3) of the Internal Revenue Code and will continue to qualify as such throughout the term of this Agreement;

(B) it is a duly incorporated and is validly existing as a corporation in good standing under the laws of the state of its incorporation and in all other jurisdictions in which it conducts its business and has all requisite power and authority to carry on its business as now conducted;

(C) it has the authority to grant the license to the Materials set forth in the "Acknowledgments" section and that no Materials delivered to Komen (nor any element thereof) violate or will violate the right of privacy or publicity, or defame or violate any copyright, trademark, or service mark or any common law or other right of any third party;

(D) none of the Grant Funds will be used (i) for lobbying as defined under the Internal Revenue Code, (ii) to directly or indirectly participate in or intervene in any political campaign on behalf of any candidate for public office; or (iii) for any other purpose that is inconsistent with Section 501(c)(3) of the Code; and

(E) none of the execution and delivery of this Agreement by Grantee, the consummation of the transactions contemplated hereby or compliance by Grantee with any of the provisions hereof conflict with, or result in any violation of or default under (with or without notice, the lapse of time or both) or give rise to a right of termination or cancellation under any provision of (i) the formation and governing documents of Grantee; (ii) any contract or permit to which Grantee is a party; or (iii) any applicable law or any order of any governmental body.

5. Compliance with Laws. Grantee will comply with all applicable laws and regulations applicable to any of its activities associated with this Grant, including but not limited to the Health Insurance Portability & Accountability Act of 1996, and all applicable anti-terrorist financing and asset control laws, statutes and executive orders. Grantee will cooperate with Komen in supplying additional information to Komen, or in complying with any procedures which might be required by any governmental agency, in order for Komen to establish that it has observed all requirements of law with respect to this Grant.

6. Right to Audit. Grantee agrees to (and will cause any and all Collaborating Organizations to) maintain accurate and complete records of the expenditure of Grant Funds for a period of five (5) years from the earlier of the termination or expiration of this Agreement and agrees that Komen may conduct an audit of such records at any time during usual business hours as reasonably requested in advance by Komen. Grantee will ensure that Komen will have the same audit rights for records of any Collaborating Organization that receives Grant Funds.

7. Default and Early Termination.

(A) If either party should fail to perform or be in breach of any of the terms, conditions, agreements, covenants, representations or warranties contained in this Agreement, or anticipatorily breach this Agreement, and such default is not curable, or if such default is curable but remains uncured for a period of 30 days after written notice thereof has been given to the defaulting party, the other party, at its sole election, may immediately terminate this Agreement by written notice thereof to the defaulting party.

(B) Notwithstanding the provisions of Section 7(A), Komen may terminate this Agreement immediately due to the occurrence of any one or more of the following events: (i) Grantee implements Project changes without

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Komen's prior approval, as required under the "Notifications" Section of the Agreement; (ii) Grantee does not maintain its status as a governmental organization described in Section 170(c)(1) or a nonprofit organization described in Section 501(c)(3) non-profit, tax-exempt status with the Internal Revenue Service; (iii) the Project is not conducted in conformance with applicable laws or, if applicable, any approvals, licenses or certifications required to conduct the Project are not obtained or are suspended or revoked; (iv) Grantee commits a willful breach of this Agreement or Grantee or any Collaborating Organization commits an act of gross negligence or willful misconduct in connection with the Project; (v) Komen has a reasonable good faith basis to believe that Grantee or any of its or its Collaborating Organization's key employees, directors, officers or agents has committed fraud or any other financial or administrative impropriety; or (vi) Grantee or any Collaborating Organization is debarred from the receipt of federal or state funding.

(C) In the event of an early termination due to breach by Grantee under Section 7(A) or an occurrence under Section 7(B), Komen will have no further obligation to provide funding hereunder, and Grantee immediately will (i) provide Komen with the Final Report due hereunder, which will include all required information available as of the termination date; (ii) reimburse Komen for the full amount of Grant Funds (including any accrued interest) that have been expended in connection with and subsequent to the breach or any of the above occurrences, and (iii) immediately refund all unspent Grant Funds (including any accrued interest) as of the termination date.

(D) Notwithstanding the provisions of Sections 7(A), 7(B) and 7(C), Komen may terminate the Agreement immediately and receive full reimbursement of the latest disbursement of Grant Funds plus any additional unspent Grant Funds (including any accrued interest) in the event Komen does not receive a Reporting Requirement when due and/or such Reporting Requirement does not contain all the required information and/or sufficient progress has not been made with respect to the Project as determined by Komen in its sole discretion.

(E) The provisions of this Section 7 will not preclude Komen from seeking any other remedies that may be available under this Agreement and applicable law.

8. INDEMNITY. AS BETWEEN THE PARTIES, GRANTEE ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR ANY LIABILITIES THAT MAY ARISE IN CONNECTION WITH THE PROJECT. TO THE EXTENT NOT PROHIBITED UNDER THE APPLICABLE LAWS THAT GOVERN GRANTEE, GRANTEE AGREES TO INDEMNIFY, DEFEND AND HOLD KOMEN AND KOMEN NATIONAL HARMLESS FROM AND AGAINST ANY AND ALL COSTS, LOSSES OR EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, THAT KOMEN MAY INCUR BY REASON OF GRANTEE'S OR ANY COLLABORATING ORGANIZATION'S NEGLIGENCE OR MISCONDUCT, OMISSION OR BREACH OF ANY OF THE PROVISIONS OF THIS AGREEMENT, OR BY REASON OF ANY THIRD-PARTY CLAIM OR SUIT ARISING OUT OF OR IN CONNECTION WITH GRANTEE'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS AGREEMENT.

9. Insurance. Grantee agrees to maintain and will cause any Collaborating Organizations to maintain the following insurance during the term of this Agreement:

(A) commercial general liability insurance with combined limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, which covers liability for bodily injury, property damage, death and

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advertising injury (including reasonable attorneys' fees);

(B) workers' compensation insurance in the amount required by law of the state(s) in which workers are located and employers liability insurance with limits of not less than \$1,000,000.00;

(C) to the extent medical services are provided, medical malpractice coverage with combined limits of not less than \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate;

(D) to the extent any transportation services are provided, \$1,000,000.00 combined single limit of automobile liability; and

(E) excess/umbrella insurance, in excess of the coverage in (A) above, with a limit of not less than \$5,000,000.00. Grantee will name Komen and Komen National as Additional Insureds on its commercial general liability policy solely with respect to the Project and any additional policies and riders entered into by Grantee in connection with the Project. Upon execution of this Agreement, Grantee will provide Komen with a certificate of insurance evidencing this coverage by uploading such certificate in GeMS All insurance required of Grantee will be primary and non-contributory to any insurance Komen may carry.

10. Dispute Resolution. In the event of any dispute arising out of this Agreement, the parties shall use good faith efforts to resolve their differences amicably. In the event they are unsuccessful, the parties agree not to commence litigation until attempting to resolve their dispute through mediation. Either party may initiate the mediation process with 30 days' prior written notice to the other party. The dispute will be submitted to mediation in Phoenix, Arizona. Costs of mediation will be borne equally by the parties. Mediation of the dispute must be completed within 15 days of commencement, unless the parties extend the time by mutual agreement or unless the mediator declares the parties to be at an impasse. Notwithstanding the above, in the event that either party believes that immediate injunctive relief is required to protect its intellectual property or there is a violation of law, such party may invoke the immediate powers of the appropriate court of law without the requirement to first mediate the dispute.

11. Non-endorsement. It is expressly agreed and understood by the parties that the Grant does not constitute an endorsement by Komen of any entity, organization, company or individual, nor the products, actions, behavior, or conduct of any entity, organization, company or individual, and any negligent or intentional misrepresentation by Grantee or any Collaborating Organization to the contrary, in any context and in any forum, will constitute a material breach of this Agreement, and the same will be grounds for immediate termination of this Agreement by Komen. In the event of any such misrepresentation, Komen may require Grantee or any pertinent Collaborating Organization to publicly acknowledge the misrepresentation in a like forum in which the misrepresentation was made. It is agreed that in the event of a breach of this provision, damages may not be an adequate remedy, and Komen will be entitled to whatever other remedies are available under applicable law.

12. Relationship of Parties; No Guarantee of Additional Support. The nature of this Agreement is a funding agreement, and no employment, partnership, joint venture or agency relationship is created, implied or

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deemed to be created pursuant to this Agreement. Grantee accepts the Grant Funds with the understanding that Komen is not obligated to provide Grantee or any Collaborating Organization any additional financial support, or other support, in connection with the Grant, the Agreement or the Project or for any other reason.

13. Entire Agreement; Amendment; Severability; No Waiver. This Agreement supersedes any prior oral or written understandings or communications between the parties and constitutes the entire agreement between the parties with respect to the Grant. This Agreement may not be modified, altered, amended or revoked except in writing, duly executed by each of the parties. The provisions of this Agreement are severable so that if any provision is found to be invalid or illegal, that finding will not affect the validity or enforceability of the remaining provisions. Failure of either party to enforce its rights under this Agreement will not constitute a waiver of such rights.

14. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of Arizona, without regard to any conflicts of law principles. Any dispute arising out of or in connection with this Agreement that is not resolved under Section 10 will be filed and heard in state or federal courts of Phoenix, Arizona, and the parties consent to the exclusive jurisdiction of such courts.

15. Assignment. This Agreement is entered into by Komen in reliance upon the qualifications of Grantee. Grantee may not assign or transfer this Agreement, directly or indirectly, by operation of law, change of control or otherwise, without Komen's prior written consent. This Agreement may be assigned by Komen to Komen National or to any other affiliate of Komen National without approval of Grantee, provided that all obligations hereunder are assumed by the assignee.

16. Notices. Any notice will be in writing and personally delivered, delivered by facsimile or sent via reputable overnight courier (such as Federal Express) or certified mail, postage prepaid and return receipt requested, addressed to the other party at the address specified below (unless otherwise notified in writing by a party):
If to Komen:

Susan G. Komen Arizona

2040 W. Bethany Home Rd. Ste. 120

Phoenix, AZ 85015

Attn: Frank Nagy

If to Grantee: At the address on Page 1 of this Agreement.

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17. **Survival.** The provisions of the "Acknowledgments and Benefits" Section of the Agreement and Sections 3, 4, 6, 7, 8, 10, 13, 14, 16 and 17 will forever survive termination of this Agreement.

18. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement.

Letter of Clarification

Check the I Agree box to confirm acceptance of the terms and conditions of the Grant Contract and any letters of clarification listed above. By checking the I Agree box, you hereby affirm that you are authorized to agree to the terms and conditions of the Grant Contract and all letters of clarification listed above on behalf of the Grantee. Your agreement will act as an electronic signature to the documents listed above and will be considered valid and binding.

I Agree

Check the I Decline box if you do not accept the terms and conditions of the Grant Contract and/or letter of clarification (as applicable). By checking the I Decline box, you hereby affirm that you are authorized to decline this Grant Contract and/or letter of clarification on behalf of the Grantee. If you decline, you will be given the opportunity to request revisions to the Grant Contract or letter of clarification (as applicable). Requested revisions are subject to Komen's sole discretion and will not be automatically accepted.

I Decline

For Affiliate Use Only

Affiliate confirms acceptance of grant agreement

**PIMA COUNTY ADDENDUM
TO
THE GRANT AGREEMENT, COMMUNITY GRANTS PROGRAM 2017-2018,
BETWEEN
SUSAN G. KOMEN SOUTHERN ARIZONA
AND
THE PIMA COUNTY HEALTH DEPARTMENT**

The grant Agreement effective April 1, 2017 is amended as follows:

- 1) The SPECIAL TERMS/OTHER section of the Agreement is amended as follows:

This Agreement will be null and void if not executed by both parties within 45 days after the Agreement becomes available for execution through GeMS. By executing this Agreement, Grantee agrees to be bound by the Terms and Conditions attached to this Agreement and incorporated herein. The signers below certify warrant that they have full power and authority to sign for and bind their respective organizations.

- 2) Section 4 of the TERMS AND CONDITIONS of the Agreement is amended as follows:

Representations, ~~Certifications Warranties~~ and Covenants. Grantee represents, certifies, warrants, and covenants that:

(A) it is a governmental organization described in Section 170(c)(1) or a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code and will continue to qualify as such throughout the term of this Agreement;

~~(B) it is a duly incorporated and is validly existing as a corporation in good standing under the laws of the state of its incorporation and in all other jurisdictions in which it conducts its business and has all requisite power and authority to carry on its business as now conducted;~~

(C) it has the authority to grant the license to the Materials set forth in the “Acknowledgments” section and that no Materials delivered to Komen (nor any element thereof) violate or will violate the right of privacy or publicity, or defame or violate any copyright, trademark, or service mark or any common law or other right of any third party;

(D) none of the Grant Funds will be used (i) for lobbying as defined under the Internal Revenue Code, (ii) to directly or indirectly participate in or intervene in any political campaign on behalf of any candidate for public office; or (iii) for any other purpose that is inconsistent with Section 501(c)(3) of the Code; and

(E) none of the execution and delivery of this Agreement by Grantee, the consummation of the transactions contemplated hereby or compliance by Grantee with any of the provisions hereof conflict with, or result in any violation of or default under (with or without notice, the lapse of time or both) or give rise to a right of termination or cancellation under any provision of (i) the formation and governing documents of Grantee; (ii) any contract or permit to which Grantee is a party; or (iii) any applicable law or any order of any governmental body.

- 3) Section 7 of the TERMS AND CONDITIONS of the Agreement is amended as follows:

Default and Early Termination

(A) If either party should fail to perform or be in breach of any of the terms, conditions, agreements, covenants, representations or ~~certifications~~ ~~warranties~~ contained in this Agreement, or anticipatorily breach this Agreement, and such default is not curable, or if such default is curable but remains uncured for a period of 30 days after written notice thereof has been given to the defaulting party, the other party, at its sole election, may immediately terminate this Agreement by written notice thereof to the defaulting party.

- 4) Section 8 of the TERMS AND CONDITIONS of the Agreement is amended as follows:

INDEMNITY. AS BETWEEN THE PARTIES, TO THE EXTENT PERMITTED BY LAW, GRANTEE ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR ANY LIABILITIES THAT MAY ARISE IN CONNECTION WITH THE PROJECT. TO THE EXTENT NOT PROHIBITED UNDER THE APPLICABLE LAWS THAT GOVERN GRANTEE, GRANTEE AGREES TO INDEMNIFY, DEFEND AND HOLD KOMEN AND KOMEN NATIONAL HARMLESS FROM AND AGAINST ANY AND ALL COSTS, LOSSES OR EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, THAT KOMEN MAY INCUR BY REASON OF GRANTEE'S OR ANY COLLABORATING ORGANIZATION'S NEGLIGENCE OR MISCONDUCT, OMISSION OR BREACH OF ANY OF THE PROVISIONS OF THIS AGREEMENT, OR BY REASON OF ANY THIRD-PARTY CLAIM OR SUIT ARISING OUT OF OR IN CONNECTION WITH GRANTEE'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS AGREEMENT.

- 5) Section 9 of the TERMS AND CONDITIONS of the Agreement is amended to add the following language:

Insurance. Pima County, in accordance with A.R.S. §11-981 and Pima County Code §3.04 is self-insured. Such self-insurance shall satisfy the insurance requirements of this Agreement.

Grantee agrees to maintain and will cause any Collaborating Organizations to maintain the following insurance during the term of this Agreement:

- (A) commercial general liability insurance with combined limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, which covers liability for bodily injury, property damage, death and advertising injury (including reasonable attorneys' fees);
- (B) workers' compensation insurance in the amount required by law of the state(s) in which workers are located and employers liability insurance with limits of not less than \$1,000,000.00;
- (C) to the extent medical services are provided, medical malpractice coverage with combined limits of not less than \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate;
- (D) to the extent any transportation services are provided, \$1,000,000.00 combined single limit of automobile liability; and

(E) excess/umbrella insurance, in excess of the coverage in (A) above, with a limit of not less than \$5,000,000.00. Grantee will name Komen as an Additional Insured on its commercial general liability policy solely with respect to the Project and any additional policies and riders entered into by Grantee in connection with the Project. Upon execution of this Agreement, Grantee will provide Komen with a certificate of insurance evidencing this coverage by uploading such certificate in GeMS. All insurance required of Grantee will be primary and non-contributory to any insurance Komen may carry.

6) The following paragraphs are added to the TERMS AND CONDITIONS of the Agreement:

19. Cancellation for Conflict of Interest: This Contract is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

20. Compliance with Employment Regulations: Grantee will comply with all applicable state and federal immigration and employment laws and will require subcontractors, if any, to do the same, including, but limited to, A.R.S. § 23-214 (A), Arizona Executive Order 2009-09, Public Law 101-336, 42 §§ U.S.C. 12101-12213 and all applicable federal regulations under the Americans with Disabilities Act, including 28 CFR Parts 35 and 36.