



## **BOARD OF SUPERVISORS AGENDA ITEM REPORT**

**Requested Board Meeting Date:** September 5, 2017

**Title:** RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA APPROVING FOR PURPOSES OF SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") THE ISSUANCE BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF MARICOPA OF NOT TO EXCEED \$225,000,000 AGGREGATE PRINCIPAL AMOUNT OF ITS REVENUE BONDS (BANNER HEALTH), SERIES 2017 AND APPROVING SUCH OTHER MATTERS FOR PURPOSES OF SECTION 147(f) OF THE CODE AS SET FORTH HEREIN

### **Introduction/Background:**

Maricopa County's Industrial Development Authority plans to issue \$550 million of revenue bonds in 2017 of which \$225 million will be spent on Banner Health facilities in Pima County. Because a portion of the proceeds will be spent on projects within Pima County, in order for Maricopa County's Industrial Development Authority to issue tax exempt bonds, Pima County must approve the bonds after a public hearing. The public hearing and approval of Pima County is required by the Internal Revenue Code of 1986, Section 147(f). The public hearing, authorized by Pima County Board of Supervisors Resolution 2017-56, was held Monday, August 21, 2017. The Report of Public Hearing to the Pima County Board of Supervisors is included with this resolution. The Report documents that the hearing was noticed and conducted and that no one requested to comment or be heard. This resolution approves using proceeds from the 2017 tax exempt bonds, or reallocated proceeds from prior Maricopa County Industrial Development tax exempt bonds, to the Banner Health facilities in Pima County.

### **Discussion:**

The bonds will not be Pima County's debt. Neither the faith and credit, nor the taxing power of Pima County will be pledged for the bonds. Similarly, none of Pima County's revenues will be pledged to repay the bonds. Pima County's approval of the Banner Health project in Pima County will be solely for purpose of satisfying the requirements of Section 147 (f) of the Internal Revenue Code requiring public approval for tax exempt status of Maricopa County Industrial Development Authority's bonds.

### **Conclusion:**

Because the bonds will not be Pima County debt, because a significant portion of the Maricopa County Industrial Development Authority's bond proceeds will be spent enhancing health care facilities within Pima County, and because no one spoke or commented against using the proceeds for the project within Pima County, staff recommends that Pima County approve the use of tax exempt bond proceeds for the project.

### **Recommendation:**

Approve this resolution to use Maricopa County Industrial Development Authority's 2017 tax exempt bond proceeds, or reallocated prior bond proceeds, for the Banner Health projects within Pima County.

### **Fiscal Impact:**

There will be no direct fiscal impact to Pima County. However, Pima County will receive the benefits of improved health care facilities.

Board of Supervisor District:

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All

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Department: Finance and Risk Management

Telephone: 520.724.8496

Contact: Keith Dommer

Telephone: 520.724.8496

Department Director Signature/Date: *Keith Dommer* 8/21/17

Deputy County Administrator Signature/Date: *Jon Baker* 8-22-17

County Administrator Signature/Date: *C. DeLuca* 8/23/17

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RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA APPROVING FOR PURPOSES OF SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") THE ISSUANCE BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF MARICOPA OF NOT TO EXCEED \$225,000,000 AGGREGATE PRINCIPAL AMOUNT OF ITS REVENUE BONDS (BANNER HEALTH), SERIES 2017 AND APPROVING SUCH OTHER MATTERS FOR PURPOSES OF SECTION 147(f) OF THE CODE AS SET FORTH HEREIN

WHEREAS, the Industrial Development Authority of the County of Maricopa (the "Maricopa Authority") proposes to issue its Revenue Bonds (Banner Health), Series 2017 (the "Series 2017 Bonds") and to loan a portion of the proceeds from the sale of the Series 2017 Bonds in an aggregate principal amount not to exceed \$225,000,000 to Banner Health (the "Borrower") to provide for a 3-year plan of financing and refinancing for: (i) the costs of construction, renovations, furnishing and equipping of a new, approximately 700,000 square-foot patient care and clinical tower, consisting of 9 stories and housing approximately 204 patient beds, operating rooms, diagnostic and laboratory facilities to be located on the Banner-University Medical Center Tucson campus ("Banner UMC Tucson") located at 1501 N. Campbell Avenue, Tucson, Arizona 85724; (ii) related campus improvements and miscellaneous capital expenditures on the Banner UMC Tucson campus and at the hereinafter identified Banner UMC South campus; (iii) payment of costs of issuance of the Series 2017 Bonds (collectively referred to herein as the "2017 Project").

WHEREAS, the Borrower has previously financed and refinanced the costs of construction and improvements of certain non-clinical, corporate facilities of the Borrower located in Mesa, Arizona (referred to herein as the "Prior Project") with the proceeds of the outstanding Arizona Health Facilities Authority Revenue Bonds (Banner Health), Series 2007B, Series 2008D and Series 2015A and a portion of the Maricopa Authority's outstanding Revenue Bonds (Banner Health), Series 2016A previously issued for the benefit of the Borrower (hereinafter collectively referred to as the "Prior Bonds"). Pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), the Borrower may determine to sell the Prior Project previously financed with the Prior Bonds to an unrelated third party and may determine to utilize the provisions of the Code relating to change-in-use of bond-financed assets to apply up to \$60,000,000 of the proceeds of the sale of the Prior Project to finance alternate qualified capital projects (hereinafter referred to as the "Reallocation Transaction"), at Banner UMC Tucson and at Banner-University Medical Center South located at 2800 E. Ajo Way, Tucson, Arizona 85714 ("Banner UMC South"), including the 2017 Project and other miscellaneous capital expenditures, renovations, construction, improvements and equipment acquisitions (such projects, together with the 2017 Project, are collectively referred to herein as the "Tucson Projects").

WHEREAS, prior to the issuance of the Series 2017 Bonds and prior to the Reallocation Transaction, the public hearing and approval requirements of Section 147(f) of the

Code require that Pima County, being the governmental unit having jurisdiction over the area in which the Tucson Projects are or will be located, approve the issuance of the Series 2017 Bonds and approve the reallocation of the proceeds of the Prior Bonds to the Tucson Projects pursuant to the Reallocation Transaction.

WHEREAS, by previous action of the Board of Supervisors of Pima County, Keith Dommer, Director of Finance and Risk Management of Pima County, or his designee, was appointed to hold and conduct a public hearing on behalf of Pima County, with respect to the proposed issuance of the Series 2017 Bonds and the Reallocation Transaction, and to report to the Board of Supervisors with regard to such public hearing.

WHEREAS, on August 21, 2017, at 8:45 A.M. in the First Floor Lobby of the County Administration Building, 130 West Congress Street, Tucson, Arizona 85701, William F. Wilder, as counsel to the Maricopa Authority and as the designee of Keith Dommer, held and conducted a public hearing (the "Public Hearing"), after reasonable public notice given by publication in the *Daily Territorial* and the *Arizona Daily Star* on Monday, August 7, 2017 (a copy of the published Notice of Public Hearing being attached hereto as Exhibit 1), for the purposes of satisfying the requirements of Section 147(f) of the Code.

WHEREAS, the Notice of Public Hearing indicates that the Tucson Projects are or will be owned and/or operated by the Borrower or its wholly owned affiliates, Banner-University Medical Center Tucson Campus, LLC and Banner-University Medical Center South Campus, LLC, and are or will be located at the addresses set forth in the Notice of Public Hearing.

WHEREAS, following the Public Hearing, this Board was provided a Report of Public Hearing (a copy of such Report of Public Hearing being attached hereto as Exhibit 2), and such Report of Public Hearing indicates that no persons requested to comment or be heard at the Public Hearing, either in person or by written submission, with respect to any aspect of the Tucson Projects or the proposed issuance of the Series 2017 Bonds or the proposed Reallocation Transaction.

WHEREAS, the Series 2017 Bonds are to be issued in one or more series from time to time, and the Reallocation Transaction is to be implemented, during the expected 3-year period commencing on the date of adoption and approval of this Resolution, and the Borrower intends to issue one or more series of the Series 2017 Bonds not later than one year from the date of adoption and approval of this Resolution.

WHEREAS, the Series 2017 Bonds will be, and the Prior Bonds are, special limited obligations of the respective issuer thereof, and will not be, and are not, a debt, obligation or liability of Pima County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Pima County, Arizona as follows:

1. Solely for the purpose of satisfying the requirements of Section 147(f) of the Code, the issuance of the Series 2017 Bonds by the Maricopa Authority and the reallocation of the proceeds of the Prior Bonds by the Borrower pursuant to the Reallocation Transaction to

provide funds to finance or refinance the Tucson Projects located or to be located in Pima County are approved.

2. The Series 2017 Bonds shall not, and the Prior Bonds do not and shall not, constitute a debt, obligation or liability of Pima County or any political subdivision of Pima County, and neither Pima County or any political subdivision of Pima County shall be obligated for the payment of the Series 2017 Bonds or the Prior Bonds, for the manner or extent to which the proceeds from the sale of the Series 2017 Bonds or the Prior Bonds are expended or allocated or for any aspect whatsoever of the Tucson Projects.

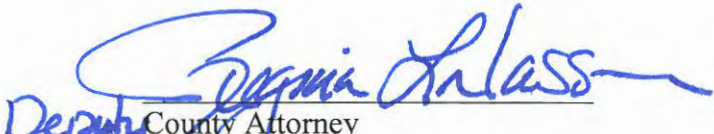
ADOPTED AND APPROVED this 5<sup>th</sup> day of September, 2017.

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Chairman, Board of Supervisors  
Pima County, Arizona

ATTEST:

\_\_\_\_\_  
Clerk, Board of Supervisors  
Pima County, Arizona

APPROVED AS TO FORM:

  
Deputy County Attorney  
**REGINA NASSEN**



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August 22, 2017

Mr. Keith Dommer  
Finance Director  
Pima County  
130 West Congress Street  
Tucson, AZ 85701

BY: Email

Re: Host Community Public Approval Request for Banner Health and Banner University Medical Center-Tucson

Dear Mr. Dommer:

Our firm serves as bond counsel to Banner Health ("Banner"). Banner is a large, multi-state health system headquartered in Phoenix, Arizona that owns and operates hospitals and health facilities throughout Arizona, including Banner University Medical Center-Tucson (hereinafter, "Banner UMC Tucson") and Banner University Medical Center South (hereinafter, "Banner UMC South") both located in Tucson, and in Wyoming, Colorado, California, Alaska, Nevada and Nebraska.

Banner is currently undertaking a large tax-exempt bond issue expected to be issued in October 2017 by The Industrial Development Authority of the County of Maricopa (the "Maricopa Authority") in a maximum aggregate principal amount of up to \$550,000,000 in one or more series from time to time (hereinafter referred to as the "Series 2017 Bonds"). It is expected that up to \$225,000,000 of the proceeds of the Series 2017 Bonds will be used by Banner to finance capital projects at Banner UMC Tucson and at Banner UMC South, as described in more detail below (collectively referred to herein as the "Tucson 2017 Projects"). The remainder of the Series 2017 Bond proceeds in an amount up to \$325,000,000 will be used by Banner to finance capital projects at its facilities in Maricopa County, Arizona.

The Tucson 2017 Projects consist of construction, renovations, furnishing and equipping of a new, approximately 700,000 square-foot patient care and clinical tower, consisting of 9 stories and housing approximately 204 patient beds, operating rooms, diagnostic and laboratory facilities to be located on the Banner UMC Tucson campus and related campus improvements and miscellaneous capital expenditures on the Banner UMC Tucson campus and the Banner UMC South campus.

In addition, Banner has previously financed and refinanced the costs of construction and improvements of certain non-clinical, corporate facilities owned by Banner located in Mesa, Arizona (referred to herein as the "Mesa Facility") with the proceeds of the outstanding Arizona Health Facilities Authority Revenue Bonds (Banner Health), Series 2007B, Series 2008D and Series 2015A and a portion of the Maricopa Authority's outstanding Revenue Bonds (Banner Health), Series 2016A (hereinafter collectively referred to as the "Prior Bonds"). A substantial portion of the Mesa Facility is not currently being used by Banner and may continue to be unused in the future. Banner is therefore evaluating its options with respect to the Mesa Facility, including, but not limited to, a potential sale of the Mesa Facility to an unrelated third party. Pursuant to the provisions of the Code, since Banner has financed the Mesa Facility with a portion of the proceeds of the Prior Bonds, and since the Prior Bonds are currently still outstanding, any sale by Banner of the Mesa Facility will constitute a "change-in-use" of a bond-financed asset under and pursuant to the Code. Under the Code's change-in-use rules, in order to maintain the tax-exempt status of the Prior Bonds upon the sale of the Mesa Facility, the portion of the Prior Bonds allocable to the Mesa Facility must be "remediated" in accordance with the Code. Under the Code, one method by which Banner could remediate the Prior Bonds upon a sale of the Mesa Facility would be to apply the proceeds of the sale of the Mesa Facility to other qualified capital expenditures at Banner's facilities. This type of remedial action is known as an "alternate qualified use of proceeds". The alternate qualified use of proceeds remedial action would allow Banner to keep the Prior Bonds outstanding, which is often the most economically efficient method of remediation when a bond-financed asset is sold, and would also allow the sale proceeds to be recycled and applied to other needed capital improvements, thus continuing the efficiency of utilizing tax-exempt financing for capital improvement costs. Given the underutilization of the Mesa Facility by Banner, Banner may determine to utilize the alternate qualified use provisions of the Code to apply up to \$60,000,000 of the proceeds of a future sale of the Mesa Facility to finance alternate qualified capital projects (hereinafter referred to as the "Reallocation Transaction") at Banner UMC Tucson and at Banner UMC South, including the Tucson 2017 Projects and other miscellaneous capital expenditures, renovations, construction, improvements and equipment acquisitions (such projects, together with the Tucson 2017 Projects, are collectively referred to hereinafter as the "Tucson Projects").

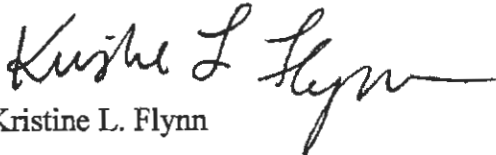
Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that a public hearing be held with respect to the proposed issuance of the Series 2017 Bonds and with respect to any potential Reallocation Transaction relating to the sale of the Mesa Facility and reallocation of the proceeds of any such sale to capital projects located in Pima County. The Code further requires that Pima County, being the governmental unit having jurisdiction over the area in which the Tucson Projects described herein are or will be located, approve the issuance of the Series 2017 Bonds and the Reallocation Transaction described herein for purposes of Section 147(f) of the Code following such public hearing.

At Banner's request, and as approved by Resolution of the Board of Supervisors of Pima County adopted on August 1, 2017, the public hearing relating to the Series 2017 Bonds and the Reallocation Transaction was held on August 21, 2017 after reasonable public notice thereof was published on August 7, 2017 in the *Daily Territorial* and in the *Arizona Daily Star*, all in accordance with the requirements of Section 147(f) of the Code. A Report of Public Hearing was prepared following the public hearing on August 21, 2017 and such Report of Public Hearing indicates that no persons requested to comment or be heard at the public hearing, either in person or by written submission, with respect to any aspect of the Tucson Projects or the proposed issuance of the Series 2017 Bonds or the proposed Reallocation Transaction.

Accordingly, Banner is respectfully requesting, solely for purposes of satisfying the requirements of Section 147(f) of the Code, the approval of the Board of Supervisors of Pima County as to the issuance of the Series 2017 Bonds and the proposed Reallocation Transaction. The Series 2017 Bonds will be, and the Prior Bonds are, special limited obligations of the respective issuer thereof, payable solely from debt service payments to be made by Banner, and will not be, and are not, a debt, obligation or liability of Pima County.

Please let me know if you have any questions or if you need anything further from me. Banner greatly appreciates your help with this process and the assistance from the County in this matter, all of which will help Banner to continue its mission of service to the community.

Very truly yours,



Kristine L. Flynn



**PIMA COUNTY, ARIZONA**

**REPORT OF PUBLIC HEARING WITH RESPECT TO  
THE INDUSTRIAL DEVELOPMENT AUTHORITY  
OF THE COUNTY OF MARICOPA REVENUE BONDS  
(BANNER HEALTH)  
SERIES 2017**

On Monday, August 21, 2017, commencing at approximately 8:45 a.m., MST, in the First Floor Lobby of the Pima County Administration Building, 130 West Congress Street, Tucson, Arizona 85701, the undersigned, as the designee of Keith Dommer, Finance Director for Pima County, and together with Keith Dommer and on behalf of Pima County, Arizona, conducted a Public Hearing pursuant to the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), regarding the proposed issuance by The Industrial Development Authority of the County of Maricopa of its Revenue Bonds (Banner Health), Series 2017 in an aggregate principal amount not to exceed \$550,000,000 (the "Bonds"), a portion of which in the maximum aggregate principal amount of \$225,000,000 will be for the benefit of Banner Health, an Arizona nonprofit corporation, and its affiliates, with respect to an approximately 700,000 square foot approximately nine story 204 bed patient care and clinical tower to be constructed and equipped at the Banner University Medical Center Tucson Campus located at 1501 North Campbell Avenue, Tucson, Arizona 85724.

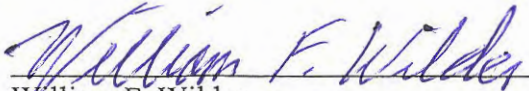
In addition, the Public Hearing was held in connection with the possible sale by Banner Health of certain facilities (referred to herein as the "Prior Project") financed or refinanced with proceeds of bonds previously issued by the Arizona Health Facilities Authority for the benefit of Banner Health, Series 2007B, Series 2008D and Series 2015A and a portion of the bonds previously issued by The Industrial Development Authority of the County of Maricopa, Series 2016A (collectively, the "Prior Bonds"). Pursuant to the Code, Banner Health may determine to sell the Prior Project financed with the Prior Bonds to an unrelated third party and apply up to \$60,000,000 of the proceeds of the sale of the Prior Project to finance alternate qualified capital projects at Banner Health's health care facilities located in Maricopa and Pima Counties at the addresses set forth in the published Notice of Public Hearing and to otherwise finance miscellaneous capital expenditures renovations, construction improvements and equipment acquisitions (the "Reallocation Transaction").

A Notice of Public Hearing was published in the *Daily Territorial* and the *Arizona Daily Star* on August 7, 2017, and copies of the Affidavits of Publication of Notice of Public Hearing are attached to this report.

At the time and place set for the Public Hearing, I announced that the Public Hearing was open and asked if there were interested persons wishing to comment and be heard with respect to the matters for which the Public Hearing was being conducted.

No persons appeared at the Public Hearing requesting to comment or be heard with regard to the matters for which the Public Hearing was conducted and no written comments or submissions were received prior to the Public Hearing, whereupon I declared the Public Hearing closed.

DATED: August 21, 2017.

  
William F. Wilder

RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA APPOINTING KEITH DOMMER, DIRECTOR OF FINANCE AND RISK MANAGEMENT OF PIMA COUNTY, OR HIS DESIGNEE, TO CONDUCT A PUBLIC HEARING AS REQUIRED BY THE PROVISIONS OF SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, IN CONNECTION WITH THE ISSUANCE BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF MARICOPA OF ITS REVENUE BONDS (BANNER HEALTH) SERIES 2017

WHEREAS, The Industrial Development Authority of the County of Maricopa (the "Authority") proposes to issue its Revenue Bonds (Banner Health) Series 2017 (the "Bonds") and to loan a portion of the proceeds from the sale of the Bonds to Banner Health (the "Borrower"), to (i) finance the construction and equipping of a new, approximately 700,000 square-foot, 204-bed patient and clinical care tower to be located at Banner-University Medical Center Tucson, and to finance and refinance miscellaneous capital projects at the Banner-University Medical Center Tucson campus (the "2017 Project"), and (ii) pay costs of issuance of the Bonds; and

WHEREAS, prior to the issuance of the Bonds, the Borrower and the Authority must satisfy the public hearing and approval requirements of Section 147(f) ("Section 147(f)") of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder (the "Regulations"); and

WHEREAS, the Borrower has previously financed the construction of certain non-clinical facilities located in Mesa, Arizona (the "Prior Project") with the proceeds of certain tax-exempt Bonds issued for the Borrower by the Arizona Health Facilities Authority (the "Prior Bonds"), and pursuant to the Code, the Borrower may determine to sell the Prior Project previously financed with the Prior Bonds to an unrelated third party and may determine to utilize the provisions of the Code and the Regulations relating to change-in-use of bond-financed assets to apply the proceeds of the sale of the Prior Project to finance alternate qualified capital projects at the Banner-University Medical Center Tucson campus (hereinafter referred to as the "Reallocation Transaction"), including the 2017 Project and other miscellaneous capital expenditures, including renovations, improvements, construction, furnishing and equipping of the Borrower's facilities located at the Banner-University Medical Center Tucson campus (such projects, together with the 2017 Project, are collectively referred to herein as the "Tucson Projects"); and

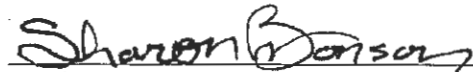
WHEREAS, Section 147(f) and the pertinent Regulations require that Pima County, being the governmental unit having jurisdiction over the area in which the Tucson Projects are or will be located, approve the issuance of the Bonds and approve the reallocation of the proceeds of the Prior Bonds to the Tucson Projects pursuant to the Reallocation Transaction.

Pursuant to the Code and the pertinent Regulations, Pima County, Arizona may appoint an individual to: (a) hold a public hearing concerning the proposed issuance of the Bonds and the Reallocation Transaction at which a reasonable opportunity to be heard shall be provided for persons with differing views on the issuance of the Bonds, the Reallocation Transaction and the location and nature of the Tucson Projects (the "Hearing"), (b) give public notice at least fourteen (14) days in advance thereof, and (c) report on the Hearing.


NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Pima County, Arizona as follows:

Keith Dommer, Director of Finance and Risk Management of Pima County, or a person designated by him, is appointed to conduct the Hearing, after appropriate public notice, as required by the provisions of Section 147(f), with regard to the financing and refinancing of the Tucson Projects described herein, the Reallocation Transaction and the issuance by the Authority of the Bonds, and to report the results of the Hearing to this Board. Following such report, the Board will consider approving the issuance of the Bonds and the Reallocation Transaction, solely for the purpose of satisfying the public approval requirement of Section 147(f), and provided that in no event shall Pima County, Arizona, be liable for the payment of the Bonds or the Prior Bonds nor shall the Bonds or the Prior Bonds constitute a debt of Pima County, Arizona.

ADOPTED AND APPROVED this 1st day of August, 2017.

  
Chairman, Board of Supervisors  
Pima County, Arizona

ATTEST:

  
Clerk, Board of Supervisors  
Pima County, Arizona

APPROVED AS TO FORM:

  
Deputy County Attorney  
**REGINA NASSEN**



August 2, 2017

Ms. Shelby Scharbach  
Executive Director  
The Industrial Development Authority  
of the County of Maricopa  
301 West Jefferson, Room 950  
Phoenix, Arizona 85003

William F. Wilder, Esq.  
Riley, Carlock & Applewhite  
One North Central Avenue  
Suite 1200  
Phoenix, Arizona 85004

Re: The Industrial Development Authority of the County of Maricopa Revenue Bonds  
(Banner Health) Series 2017.

Dear Mr. Wilder:

On August 1, 2017, the Board of Supervisors of Pima County adopted Resolution No. 2017-56, appointing me or my designee as a person authorized to conduct a public hearing, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, with regard to the proposed action by The Industrial Development Authority of the County of Maricopa to authorize and issue its Revenue Bonds (Banner Health) Series 2017.

By this letter, I am acting to designate each of you, acting in the alternative, as persons to conduct the subject public hearing, which I understand, will be held at 8:45 a.m. on August 21, 2017, following at least 14 days of publication of a Notice of Public Hearing in both the *Daily Territorial* and *Arizona Daily Star*.

Upon conclusion of the public hearing, you are to submit to the Clerk of the Board of Supervisors of Pima County a Report of Public Hearing and thereupon request the Pima County Board of Supervisors to adopt a resolution approving the issuance by The Industrial Development Authority of the County of Maricopa of the subject bonds.

Yours very truly,

Keith Dommer

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Keith Dommer, Director

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