



## BOARD OF SUPERVISORS AGENDA ITEM REPORT AWARDS / CONTRACTS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: January 18, 2022

\* = Mandatory, information must be provided

or Procurement Director Award: ☐

**\*Contractor/Vendor Name/Grantor (DBA):**

Partners in Health

**\*Project Title/Description:**

Consultation for COVID-19 School Reopening Program

**\*Purpose:**

The ELC Schools Grant allows PCHD to work with community partners to address the need for behavioral and mental health services of students that tested positive for COVID-19. The grant allows for behavioral health agencies to provide specialized services they may otherwise not be able to provide, and meet the needs of families adjusting to isolation or transitioning back into school following a positive case. Due to the short performance period of this grant, it is crucial that work be guided through strict monitoring and evaluation to ensure efficient program implementation and accurate collection of data.

Partners in Health (PIH) has been working with PCHD since the beginning of the pandemic. Under this contract, they will provide expertise in developing a Monitoring and Evaluation process to oversee the collection and analysis of data for this grant. They will provide technical assistance in program implementation and assist in development of a final assessment of the grant. In addition to monitoring the referral process between Maximus and behavioral health providers, PIH will provide oversight in the data collection from the Text, Talk, Act program and provide tools to help track metrics, measureable outcomes, and inform on process improvement throughout the time-sensitive grant performance period.

**\*Procurement Method:**

Direct Select per Board of Supervisors Policy D29.6, III-C

**\*Program Goals/Predicted Outcomes:**

1. Monitor progress of the grant through process mapping and data collection.
2. Identify appropriate programmatic and effectiveness indicators.
3. Establish and maintain systems for data collection.
4. Provide technical assistance to the PCHD Epidemiological Intelligence Unit.

**\*Public Benefit:**

This project will provide necessary resources and supports to K-12 students and school staff by supplementing the capacity for behavioral health agencies to provide appropriate services to positive cases identified. PIH will monitor and evaluate several strategies in connecting students with mental health services, including outreach through the mail, referrals made by contact tracers, and engagement through the Text, Talk, Act mobile texting program. Data collected from the performance period will help inform future PCHD projects seeking to connect youth to mental health services, especially in how they are impacted by COVID-19.

**\*Metrics Available to Measure Performance:**

1. Weekly reports summarizing data
2. Final report and assessment

**\*Retroactive:**

Yes. This contract was scheduled for the January 4, 2022 BOS meeting so that is the start date on the document. Due to people taking time off for the holidays, it did not make the COB deadline and was rescheduled for the next BOS meeting, January 18, 2022.

TO: COB 1-7-2022<sup>(1)</sup>  
Vers.: 1  
pgs.: 22

06-01 '22 AM 10:02

COB 01-07-2022 10:02 AM  
M

**THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED**

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (\*) fields

**Contract / Award Information**

Document Type: CT Department Code: HD Contract Number (i.e., 15-123): 22-204  
 Commencement Date: 01/04/2022 Termination Date: 05/31/2022 Prior Contract Number (Synergen/CMS): N/A  
☒ Expense Amount \$ 250,000.00 \* ☐ Revenue Amount: \$ \_\_\_\_\_

**\*Funding Source(s) required:** Centers for Disease Control and Prevention (CDC) received via ADHS

Funding from General Fund? ☐ Yes ☒ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

Contract is fully or partially funded with Federal Funds? ☒ Yes ☐ No

**If Yes, is the Contract to a vendor or subrecipient?** Vendor

Were insurance or indemnity clauses modified? ☒ Yes ☐ No  
*If Yes, attach Risk's approval.*

Vendor is using a Social Security Number? ☐ Yes ☒ No  
*If Yes, attach the required form per Administrative Procedure 22-10.*

**Amendment / Revised Award Information**

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Contract Number (i.e., 15-123): \_\_\_\_\_  
 Amendment No.: \_\_\_\_\_ AMS Version No.: \_\_\_\_\_  
 Commencement Date: \_\_\_\_\_ New Termination Date: \_\_\_\_\_  
 Prior Contract No. (Synergen/CMS): \_\_\_\_\_  
☐ Expense ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ \_\_\_\_\_

Is there revenue included? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_

**\*Funding Source(s) required:** \_\_\_\_\_

Funding from General Fund? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**Grant/Amendment Information** (for grants acceptance and awards)

☐ Award ☐ Amendment

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Grant Number (i.e., 15-123): \_\_\_\_\_  
 Commencement Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Amendment Number: \_\_\_\_\_  
☐ Match Amount: \$ \_\_\_\_\_ ☐ Revenue Amount: \$ \_\_\_\_\_

**\*All Funding Source(s) required:** \_\_\_\_\_

**\*Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**\*Match funding from other sources?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**\*Funding Source:** \_\_\_\_\_

**\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?**

Contact: Sharon Grant

Department: Health

Telephone: 724-7842

Department Director Signature: \_\_\_\_\_ Date: 12/23/20

Deputy County Administrator Signature: \_\_\_\_\_ Date: 3 Jan 2022

County Administrator Signature: \_\_\_\_\_ Date: 1/5/2022



## MEMORANDUM

Date: December 15, 2021

To: Jan Leshner  
Acting County Administrator

From: Theresa Cullen, MD, MS *TC*  
Health Department Director

Re: **Authorization to Contract with Partners In Health for the ELC School Reopening Grant**

Pursuant to Pima County Board of Supervisors Policy D29.6 III C-Direct Selection and Procurement Procedure PO-50, the Pima County Health Department (PCHD) is requesting approval to contract with Partners in Health (PIH), a nonprofit social justice organization as a means of ensuring best practices are being incorporated into grant implementation.

**Background:** The Pima County Health Department received a grant from ADHS titled COVID-19 ELC Funding for K-12 School Reopening in the amount of \$6,839,460. The funding is originally from the CDC. During the planning stages, Partners In Health was identified as an essential partner due to their focus on academic research as the foundation of their practices and their track record with PCHD since the beginning of the pandemic. Partners in Health is a social justice organization with a mission to deliver modernized healthcare services to underserved and socioeconomically disadvantaged regions. PIH also has a well-established track record with PCHD throughout the pandemic and have been actively engaged in monitoring and evaluation grantwork in the department. Partners in Health have proven themselves to be highly engaged and capable of completing all the tasks needed to assist with grant activities.

The PCHD is requesting permission to contract with PIH to provide assistance with the COVID-19 K-12 School grant implementation. PCHD will work with PIH to set up Monitoring and Evaluation for this funding, and help collect and analyze data to determine the success of the project and inform future efforts of PCHD to improve access to mental and behavioral health services for school age children.


**Requested Action:** The Health Department requests authorization to execute a contract with Partners in Health in the amount of \$266,318 for the remainder of the grant period (currently through May 31, 2022). In the unlikely event that this grant should be extended, two extensions will be included in the contract contingent on a grant extension. All expenses will be paid for with federal grant funds from ADHS.

Jan Leshner, Acting County Administrator

Re: Authorization to Contract with Partners in Health for the ELC School Reopening Grant


December 15, 2021

Page 2 of 2

Approved as to Form:   
Terri Spencer, Procurement Director

Date: 12/15/2021

Concur:

  
Francisco Garcia, MD, MPH  
Deputy County Administrator

Date: 20 Dec 2021

Direct Select Approved:   
Jan Leshner  
Acting County Administrator

Date: 12/21/2021

**Pima County Department of Health**

**Project:** Consultation for COVID-19 K-12 School Reopening Program

**Contractor:** Partners In Health  
800 Boylston Street, Suite 300  
Boston, MA 02199  
DUNS #602352924

**Amount:** \$250,000.00

**Contract No.:** CT-HD-22-204

**Funding:** Centers for Disease Control and Prevention, 2019 Epidemiology and Laboratory Capacity (ELC) Reopening Schools, passed through Arizona Department of Health Services (ADHS) on IGA No. CTR057423

Federal Award Identification Number (FAIN): NU50CK000511

**PROFESSIONAL SERVICES CONTRACT**

**1. Parties and Background.**

- 1.1. Parties. This Contract is between Pima County, a body politic and corporate of the State of Arizona ("County"), and Partners In Health ("Contractor").
- 1.2. Authority. County selected Contractor pursuant to and consistent with Board of Supervisors Policy D29.6.III.C, Direct Selection.

**2. Term.**

- 2.1. Initial Term. The term of this Agreement commences on January 4, 2022 and will terminate on May 31, 2022 ("Initial Term"). "Term," when used in this Agreement, means the Initial Term plus any exercised extension options under Section 2.2. If the commencement date of the Initial Term is before the signature date of the last party to execute this Agreement, the parties will, for all purposes, deem the Agreement to have been in effect as of the commencement date.
- 2.2. Extension Options. In the event of an extension to the Federal award period of performance, County may renew this Agreement for up to two additional periods of up to one year each (each an "Extension Option"). An Extension Option will be effective only upon execution by the Parties of a formal written amendment.

**3. Scope of Services.** Contractor will provide County with the services described in **Exhibit A** (2 pages).

**4. Key Personnel.** Contractor will employ suitably trained and skilled professional personnel to perform all consultant services under this Contract. Prior to changing any Key Personnel,

especially those Key Personnel County relied upon in making this Contract, Contractor will obtain the approval of County. The Key Personnel is the following individual: Eamon Penney.

5. **Compensation and Payment.**

- 5.1. Rates; Adjustment. County will pay Contractor at the rates in **Exhibit B** (1 page). Those rates will remain in effect during an Extension Option period unless Contractor, at least 90 days before the end of the then-existing Term, or at the time the County informs Contractor that the County intends to extend the Term, if that is earlier, notifies County in writing of any adjustments to those rates, and the reasons for the adjustments.
  - 5.2. Maximum Payment Amount. County's total payments to Contractor under this Contract, including any sales taxes, may not exceed \$250,000.00 (the "NTE Amount"). The NTE Amount can only be changed by a formal written amendment executed by the Parties. Contractor is not required to provide any services, payment for which will cause the County's total payments under this Contract to exceed the NTE Amount; if Contractor does so, it is at the Contractor's own risk.
  - 5.3. Sales Taxes. The payment amounts or rates in **Exhibit B** may include sales taxes where applicable. Contractor may invoice County for sales taxes that Contractor is required to pay under this Contract. Contractor will show sales taxes as a separate line item on invoices.
  - 5.4. Timing of Invoices. Contractor will invoice County on a monthly basis unless a different billing period is included in **Exhibit B**. County must receive invoices no more than 30 days after the end of the billing period in which Contractor delivered the invoiced products or services to County. County may refuse to pay for any product or service for which Contractor does not timely invoice the County and, pursuant to A.R.S. § 11-622(C), will not pay for any product or service invoiced more than 6-months late.
  - 5.5. Content of Invoices. Contractor will include detailed documentation in support of its invoices and assign each amount billed to an appropriate line item.
  - 5.6. Invoice Adjustments. County may, at any time during the Term and during the retention period in Section 23 below, reasonably question any payment under this Contract. If County raises a question about the propriety of a past payment, Contractor will cooperate with County in reviewing the payment. County may set-off any overpayment against amounts due to Contractor under this or any other contract between County and Contractor. Contractor will promptly pay to County any overpayment that County cannot recover by set-off.
6. **Insurance.** Contractor will procure and maintain at its own expense insurance policies (the "**Required Insurance**") satisfying the below requirements (the "**Insurance Requirements**") during the term of this Contract. The below Insurance Requirements are minimum requirements for this Contract. The County in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Contract. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

6.1. Insurance Coverages and Limits: During the term of the Contract, Contractor will procure and maintain coverage with limits of liability not less than those stated below.

6.1.1. Commercial General Liability (CGL) – Occurrence Form with limits not less than \$1,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include coverage for liability arising from premises, operations, personal injury, bodily injury, and products-completed operations. Any standard coverages excluded from the CGL policy, such as products/completed operations, etc. shall be covered by endorsement or separate policy and documented on the Certificates of Insurance.

6.1.2. Business Automobile Liability – Coverage for bodily injury and property damage on any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Contract with minimum limits not less than \$1,000,000 Each Accident.

6.1.3. Workers' Compensation and Employers' Liability – Statutory coverage for Workers' Compensation. Workers' Compensation statutory coverage is compulsory for employers of one or more employees. Employers Liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each employee – disease.

6.2. Additional Coverage Requirements:

6.2.1. Claims Made Coverage: If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

6.2.2. Subrogation Endorsement: The General Liability and Business Automobile Liability Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

6.2.3. Primary Insurance Endorsement: The Required Insurance policies must stipulate that they are primary and that any insurance carried by County, or its agents, officials, or employees, is excess and not contributory insurance.

6.2.4. The Required Insurance policies may not obligate County to pay any portion of Contractor's deductible or Self Insurance Retention (SIR).

6.2.5. Subcontractors: Contractor must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet all Insurance Requirements and verify that each subcontractor has done so, Contractor must furnish, if requested by County, appropriate insurance certificates for each subcontractor. Contractor

must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.

6.3. Notice of Cancellation:

Contractor must notify County, within two business days of Contractor's receipt of notice from an insurer, if any Required Insurance policy is suspended, voided, or cancelled for any reason. Notice must include the Pima County project or contract number and project description.

6.4. Verification of Coverage:

6.4.1. Contractor must furnish County with a certificate of insurance (valid ACORD form or equivalent approved by Pima County) for each Required Insurance policy. Each certificate must be signed by an authorized representative of the insurer.

6.4.2. Contractor must provide the certificates to County before work commences. Each Required Insurance policy must be in effect at least 10 days before work under this Contract commences. Contractor must provide County a renewal certificate not less than 15 days prior to a Required Insurance policy's expiration date.

6.4.3. All insurance certificates must be sent directly to the appropriate County Department.

6.5. Approval and Modifications:

Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, nor the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

7. **Indemnification, Limitation of Liability.** To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all third party claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of injury of any person (including death) or loss or damage to tangible or intangible property caused by any gross negligence or willful misconduct by Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any third party claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all third party Claims. This indemnity will survive for a period of one year following the expiration or termination of this Contract.

7.1. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER, WHETHER LIABILITY ARISES IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL,



EXEMPLARY, MULTIPLE OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.2. CONTRACTOR'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS CONTRACT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL NOT EXCEED THE NTE AMOUNT PAID BY PIMA COUNTY TO CONTRACTOR UNDER THIS CONTRACT.

8. **Laws and Regulations.**

8.1. Compliance with Laws. Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders.

8.2. Licensing. Contractor warrants that it is appropriately licensed to provide the services under this Contract and that its subcontractors will be appropriately licensed.

8.3. Choice of Law. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract.

9. **Health Insurance Portability and Accountability Act.** The parties acknowledge that the County is a hybrid covered entity as described in 45 C.F.R. §160.103 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and is required to comply with the provisions of HIPAA with respect to safeguarding the privacy, confidentiality and security of protected health information. Contractor acknowledges that it may obtain protected health information ("PHI") as defined by HIPAA and/or confidential personal health information in the course of Contractor's performance under the terms of this Contract. "Confidential personal health information" includes information that could be used to identify a participant, information pertaining to the participant's care, treatment or experience in County's program, and information pertaining to the cost of, payment for, or collections activities related to participant's care, treatment and experience in County's program. Contractor agrees to maintain the privacy, confidentiality and security of information it may obtain in the course of its performance under this Contract. In particular, Contractor agrees that it is County's Business Associate and the Parties agree to enter into the Business Associate Agreement in **Exhibit D** (7 pages) which is incorporated into this agreement, and further specifically agree that:

9.1. Any confidential personal health information that Contractor may obtain shall remain the sole property of the County; and

9.2. Contractor shall not remove any confidential personal health information from County premises, if applicable; and

9.3. Any other information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of its duties under this Contract, or to County.

10. **Independent Contractor.** Contractor is an independent contractor. Neither Contractor, nor any of Contractor's officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System. Contractor is responsible for paying all federal, state and local taxes on the compensation received by Contractor under this

Contract and will indemnify and hold County harmless from any and all liability that County may incur because of Contractor's failure to pay such taxes.

11. **Subcontractors.** Contractor is fully responsible for all acts and omissions of any subcontractor, and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts any of them may be liable, to the same extent that the Contractor is responsible for the acts and omissions of its own employees. Nothing in this Contract creates any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.
12. **Assignment.** Contractor may not assign its rights or obligations under this Contract, in whole or in part, without the County's prior written approval. County may withhold approval at its sole discretion.
13. **Non-Discrimination.** During the performance of this Contract, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
14. **Americans with Disabilities Act.** Contractor will comply with Title II of the Americans with Disabilities Act (Public Law 110-325, 42 U.S.C. §§ 12101-12213) and the federal regulations for Title II (28 CFR Part 35).
15. **Authority to Contract.** Contractor warrants its right and power to enter into this Contract.
16. **Full and Complete Performance.** The failure of either party to insist, in one or more instances, upon the other party's complete and satisfactory performance under this Contract, or to take any action based on the other party's failure to completely and satisfactorily perform, is not a waiver of that party's right to insist upon complete and satisfactory performance, or compliance with any other covenant or condition in this Contract, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.
17. **Cancellation for Conflict of Interest.** This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
18. **Termination by County.**
  - 18.1. Without Cause. County may terminate this Contract at any time without cause by notifying Contractor, in writing, at least 30 days before the effective date of the termination. In the event of such termination, County's only obligation to Contractor will be payment for services rendered prior to the date of termination.
  - 18.2. With Cause. In the event any service furnished by Contractor during performance of this Contract, Contractor fails to conform to any material requirement of this Contract, and the failure is not cured within thirty (30) days written notice thereof to Contractor, the County may terminate the Contract.
  - 18.3. Non-Appropriation. Notwithstanding any other provision in this Contract, County may terminate this Contract if for any reason there are not sufficient appropriated and

available monies for the purpose of maintaining County or other public entity obligations under this Contract. In the event of such termination, County will promptly provide written notification to Contractor and have no further obligation to Contractor, other than to pay for services rendered prior to termination.

19. **Notice.** Any notice required or permitted to be given under this Contract must be in writing and be served by personal delivery or by certified mail upon the other party as follows:

**County:**

Theresa Cullen, MD, Director  
Pima County Health Department  
3950 S. Country Club Rd., Suite 100  
Tucson, AZ 85714

**Contractor:**

Katie Bollbach, Director PIH-US  
800 Boylston Street, Suite 300  
Boston, MA 02199

With a copy to:

Lori Silver, General Counsel  
800 Boylston Street  
Suite 300  
Boston, MA 02199

20. **Non-Exclusive Contract.** Contractor understands that this Contract is nonexclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.
21. **Remedies.** Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.
22. **Severability.** Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.
23. **Books and Records.** Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County. In addition, Contractor will retain all records relating to this Contract for at least five (5) years after its expiration or termination or, if later, until any related pending proceeding or litigation has concluded.
24. **Public Records.**
- 24.1. **Disclosure.** Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Contract, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.
- 24.2. **Records Marked Confidential; Notice and Protective Order.** If Contractor reasonably believes that some of those records contain proprietary, trade-secret or

otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

**25. Legal Arizona Workers Act Compliance.**

25.1. Compliance with Immigration Laws. Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract likewise complies with the State and Federal Immigration Laws.

25.2. Books & Records. County has the right at any time to, upon reasonable advanced notice, inspect copies the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

25.3. Remedies for Breach of Warranty. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.

25.4. Subcontractors. Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 25 by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

26. **Grant Compliance.** Contractor will comply with all requirements attached in **Exhibit C** (2 pages).

27. **Israel Boycott Certification.** Pursuant to A.R.S. § 35-393.01, if Contractor engages in for-profit activity and has 10 or more employees, and if this Contract has a value of \$100,000.00 or more, Contractor certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
28. **Amendment.** The parties may modify, amend, alter or extend this Contract only by a written amendment signed by the parties.
29. **Entire Agreement.** This document constitutes the entire agreement between the parties pertaining to the subject matter it addresses, and this Contract supersedes all prior or contemporaneous agreements and understandings, oral or written.
30. **Effective Date.** This Contract will become effective when all parties have signed it. The effective date of the Contract will be the date this Contract is signed by the last party (as indicated by the date associated with that party's signature).

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

**PIMA COUNTY**

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

**ATTEST**

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Date

**APPROVED AS TO FORM**

  
\_\_\_\_\_  
Deputy County Attorney  
**Jonathan Pinkney**

\_\_\_\_\_  
Print DCA Name

12/23/21  
\_\_\_\_\_  
Date

**APPROVED AS TO CONTENT**

  
\_\_\_\_\_  
Department Representative

12/23/21  
\_\_\_\_\_  
Date

**CONTRACTOR**

  
\_\_\_\_\_  
Authorized Officer Signature

Caroline Broderick, Sr. Director Grants Mgmt and Compliance

\_\_\_\_\_  
Printed Name and Title

12/22/2021  
\_\_\_\_\_  
Date

## **Exhibit A (2 pages)**

### **Scope of Services**

#### **Background**

The volume of COVID-19 cases and changes to learning modalities have ongoing repercussions for students and school communities. To meet these needs, the Pima County Health Department (PCHD) will lead a coordinated effort to ensure that students, families, and staff of K-12 schools have the tools and resources necessary to minimize the negative effects of COVID-19 infection by providing wrap-around services to families.

The PCHD received a grant of funding from the Centers for Disease Control and Prevention (CDC) through the Arizona Department of Health Services (ADHS) to address many of the issues faced by school communities as a result of the COVID-19 pandemic. Funding from this grant will help schools fulfill their responsibility to keep students and staff safe as they transition back to in-person learning by implementing practices that are consistent with minimizing disease exposure risk, thereby slowing community spread. In order to keep students in school safely, grant funding will be used to increase the use of testing, case investigation, contact tracing and wrap around services by bolstering Pima County COVID-created infrastructure and supports.

Data collection from this project is a crucial element in helping understand the ongoing processes and barriers to mental and behavioral health services. Contractor will lead the setup of a Monitoring and Evaluation Program, provide technical assistance, and assist in development of a final assessment of the grant.

#### **Tasks**

1. Define and articulate a logic model of the grant.
2. Monitor progress of the grant through weekly process mapping and programmatic data collection.
3. Work with stakeholders to identify appropriate programmatic and output indicators and appropriate targets.
4. Subject to PCHD's authority to share Protected Health Information with Contractor as described in Section 9, Contractor will assist PCHD in identifying and maintaining systems for programmatic data collection.
5. Facilitate the collection of community/stakeholder feedback on key indicators and appropriate targets, and support the integration of feedback into the Monitoring and Evaluation framework.
6. Support the evaluation of the PCHD's "Text, Talk, Act" activities that fall under the Schools K-12 grant. Identify appropriate tools and metrics for data collection and analysis to evaluate the success of the program and inform future efforts of PCHD to improve access to mental and behavioral health services for school age children. PCHD is solely responsible for Text, Talk, Act program implementation activities.

7. Serve as a thought-partner to help coordinate relationships and partnerships between stakeholders to contribute to project success.
8. Incorporate best practices and learning from other school districts or local educational authorities/behavioral health agencies around the country.
9. Support programmatic changes in response to shifting COVID-19 pandemic dynamics.
10. Provide a technical advisor to help set up and support the PCHD's Epidemiological Intelligence Unit.

### **Reporting**

1. Summarize data on a weekly basis and communicate to stakeholders on a regular basis (meetings and/or email updates)
2. Submit a monthly narrative of PIH activities related to this project within 30 days of the end of the month being reported on. This report should be submitted along with the monthly invoice.
3. Submit an invoice for the previous month's expenses within 30 days of the end of the month being billed for (e.g. February expenses should be invoiced no later than March 30).
4. Support a final report and assessment of the grant including analysis of:
  - Quantitative data
  - Policy recommendations
  - Communication about above
  - Future funding
  - Long-term sustainability planning



**Exhibit B** (1 page)  
**Rates**

County will reimburse Contractor's expenses for the services described in **Exhibit A**.

The total agreed upon and budgeted amount for Contractor's work is \$250,000. The following budget has been agreed upon by the Parties:

Personnel (3.56 FTE equivalent)	\$150,677
Fringe Benefits / ERE (22% - 35%)	36,607
Travel (airfare, lodging, car rental and per diem)	17,072
Equipment (2 laptops)	3,000
Supplies	<u>1,500</u>
<b>Sub-total Direct Expenses</b>	<b>\$208,856</b>
 Indirect Expenses (19.7% of Direct Expenses)	 <u>\$ 41,144</u>
<b>Total Budgeted Expenses</b>	<b>\$250,000</b>

Invoices shall be submitted to the County no later than the 30<sup>th</sup> of the month following the end of the month being invoiced for. County will pay invoices no later than 30 days from receipt of invoice.

See also Section #5, Compensation and Payment, for additional requirements.

## **Exhibit C (2 pages)**

### **Grant Conditions**

#### **Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

**1. Debarment and Suspension (Executive Orders 12549 and 12689)**—Contractor warrants that they are not listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

a. This contract is a covered transaction for purposes of 2 CFR 180 and 2 CFR 3000. As such the Contractor is required to verify that none of the Contractors, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

b. The Contractor is required to provide their DUNS number to Pima County.

c. The Contractor must comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

d. This certification is a material representation of fact relied upon by Contractor. If it is later determined that the Contractor did not comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C, in addition to remedies available to Pima County, the Federal Government may pursue available remedies, including but not limited to suspension and/ or debarment.

**2. Compliance with Federal law, Regulations, and Executive Orders.** The Contractor acknowledges that CDC financial assistance will be used to fund this contract. The Contractor will comply with all applicable federal law, regulations, executive orders, as well as CDC policies, procedures, and directives provided to Contractor in writing.

**3. No Obligation by Federal Government.** The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, Contractor, or any other party pertaining to any other matter resulting from the contract.

**4. Program Fraud and False or Fraudulent Statements or Related Acts.** The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

**5. Access to Records.** Upon reasonable advance notice, the Contractor agrees to provide access by the County, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to copies of any books, documents, papers, and records of the Contractor which are directly pertinent to this specific Contract for the purpose of audit, examination, excerpts, and transcriptions.

a. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. **Rights to Inventions Made Under a Contract or Agreement.** Acceptance of grant funds obligates contractor to comply with the requirements of 37 CFR Part 401 and HHS implementing regulations at 45 CFR 75.322.

7. **Energy Policy and Conservation Act.** To the extent applicable to this Agreement, Contractor is obligated to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

8. **Byrd Anti-Lobbying Amendment.** Contractor certifies that it has not and will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

**Exhibit D (7 pages)**  
**Business Associates Agreement**

WHEREAS, Pima County, on behalf of the Pima County Health Department ("Covered Entity"), and Partners In Health ("Business Associate") (each, a "Party," and collectively, the "Parties") wish to enter into a Business Associate Agreement to ensure compliance with the Privacy, Security, Breach Notification, and Enforcement Rules of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA Privacy and Security Rules") (45 C.F.R. Parts 160 and 164); and

WHEREAS, the Health Information Technology for Economic and Clinical Health ("HITECH") Act of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, modified the HIPAA Privacy and Security Rules (hereinafter, all references to the "HIPAA Privacy and Security Rules" include all amendments thereto set forth in the HITECH Act and any accompanying regulations); and

WHEREAS, the Parties have entered into a written or oral arrangement or arrangements (the "Underlying Agreement") whereby Business Associate will provide certain services to Covered Entity that require Business Associate to create, receive, maintain, or transmit Protected Health Information ("PHI") on Covered Entity's behalf, and accordingly Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Privacy and Security Rules; and

WHEREAS, Business Associate and Covered Entity wish to comply with the HIPAA Privacy and Security Rules, and Business Associate wishes to honor its obligations as a business associate to Covered Entity.

THEREFORE, in consideration of the Parties' continuing obligations under the Underlying Agreement, the Parties agree to the provisions of this Business Associate Agreement ("Agreement").

Except as otherwise defined herein, any and all capitalized terms in this Agreement shall have the definitions set forth in the HIPAA Privacy and Security Rules. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Privacy and Security Rules, as amended, the HIPAA Privacy and Security Rules in effect at the time the inconsistency is discovered shall control. Where provisions of this Agreement are different than those mandated by the HIPAA Privacy and Security Rules, but are nonetheless permitted by the HIPAA Privacy and Security Rules, the provisions of this Agreement shall control.

**I. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

**A.** Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the HIPAA Privacy and Security Rules if done by Covered Entity.

**B.** Business Associate may use PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Business Associate, provided that such uses are permitted under state and federal confidentiality laws.

C. Business Associate may disclose PHI in its possession to third parties for the purposes of its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that:

1. the disclosures are required by law; or
2. Business Associate obtains reasonable assurances from the third parties to whom the PHI is disclosed that the information will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and that such third parties will notify Business Associate of any instances of which they are aware in which the confidentiality of the information has been breached.

D. Until such time as the Secretary issues regulations pursuant to the HITECH Act specifying what constitutes "minimum necessary" for purposes of the HIPAA Privacy and Security Rules, Business Associate shall, to the extent practicable, access, use, and request only PHI that is contained in a limited data set (as defined in 45 C.F.R. § 164.514(e)(2)), unless Business Associate requires certain direct identifiers in order to accomplish the intended purpose of the access, use, or request, in which event Business Associate may access, use, or request only the minimum necessary amount of PHI to accomplish the intended purpose of the access, use, or request.

## **II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

A. Business Associate agrees not to use or further disclose PHI other than as permitted or required by this Agreement or the Underlying Agreement or as required by state and federal law.

B. Business Associate agrees to use appropriate safeguards and to comply, where applicable, with 45 C.F.R. Part 164, Subpart C with respect to Electronic Protected Health Information, to prevent use or disclosure of PHI other than as provided for by this Agreement. Specifically, Business Associate will:

1. implement the administrative, physical, and technical safeguards set forth in 45 C.F.R. §§ 164.308, 164.310, and 164.312 that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, and, in accordance with 45 C.F.R. § 164.316, implement and maintain reasonable and appropriate policies and procedures to enable it to comply with the requirements outlined in 45 C.F.R. §§ 164.308, 164.310, and 164.312; and

2. report to Covered Entity any Security Incident, and any use or disclosure of PHI that is not provided for by this Agreement, of which Business Associate becomes aware without unreasonable delay and in no case later than thirty (30) calendar days after discovery.

C. Business Associate shall require each subcontractor that creates, receives, maintains, or transmits PHI on its behalf to enter into a business associate agreement or equivalent agreement containing the same restrictions on access, use, and disclosure of PHI as those applicable to Business Associate under this Agreement. Furthermore, to the extent that Business Associate provides Electronic PHI to a subcontractor, Business Associate shall require such subcontractor to comply with all applicable provisions of 45 C.F.R. Part 164, Subpart C.

**D.** Business Associate agrees to comply with any requests for restrictions on certain disclosures of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522 of which Business Associate has been notified by Covered Entity.

**E.** If Business Associate maintains a designated record set on behalf of Covered Entity, at the request of Covered Entity and in a reasonable time and manner, Business Associate agrees to make available PHI required for Covered Entity to respond to an individual's request for access to his or her PHI in accordance with 45 C.F.R. § 164.524. If Business Associate maintains PHI in an electronic designated record set, it agrees to make such PHI available electronically to Covered Entity or, upon Covered Entity's specific request, to the applicable individual or to a person or entity specifically designated by such individual, upon such individual's request.

**F.** If Business Associate maintains a designated record set on behalf of Covered Entity, at the request of Covered Entity and in a reasonable time and manner, Business Associate agrees to make available PHI required for amendment by Covered Entity in accordance with the requirements of 45 C.F.R. § 164.526.

**G.** Business Associate agrees to document any disclosures of Protected Health Information, and to make PHI available for purposes of accounting of disclosures, as required by 45 C.F.R. § 164.528.

**H.** If Business Associate is to carry out one or more of Covered Entity's obligations under 45 C.F.R. Part 164, Subpart E, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).

**I.** Business Associate agrees that it will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Secretary, in a time and manner designated by the Secretary, to enable the Secretary to determine Business Associate's or Covered Entity's compliance with the HIPAA Privacy and Security Rules. Business Associate also shall cooperate with the Secretary and, upon the Secretary's request, pursuant to 45 C.F.R. § 160.310, shall disclose PHI to the Secretary to enable the Secretary to investigate and review Business Associate's or Covered Entity's compliance with the HIPAA Privacy and Security Rules.

**J.** Unless expressly authorized in the Underlying Agreement, Business Associate shall not:

1. use PHI for marketing or fundraising;
2. use PHI to create a limited data set or to de-identify the information;
3. use PHI to provide data aggregation services relating to the health care operations of Covered Entity; or
4. use or disclose PHI in exchange for remuneration of any kind, whether directly or indirectly, financial or non-financial, other than such remuneration as Business Associate receives from Covered Entity in exchange for Business Associate's provision of the services specified in the Underlying Agreement.

5. Prior express written authorization from Covered Entity is required for Business Associate to access, store, share, maintain, transmit, use, or disclose PHI in any form via any medium with any entity or person, including the Business Associate's employees and subcontractors, beyond the boundaries and jurisdiction of the United States. Authorization may be granted in the sole discretion of Covered Entity and, if granted, will be subject to additional conditions with which Business Associate must agree.

### **III. BUSINESS ASSOCIATE'S MITIGATION AND BREACH NOTIFICATION OBLIGATIONS**

A. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

B. Following the discovery of a Breach of Unsecured PHI ("Breach"), Business Associate shall notify Covered Entity of such Breach without unreasonable delay and in no case later than thirty (30) calendar days after discovery of the Breach, and shall assist in Covered Entity's breach analysis process, including risk assessment, if requested. A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate or, through the exercise of reasonable diligence, would have been known to Business Associate. The Breach notification shall be provided to Covered Entity in the manner specified in 45 C.F.R. § 164.410(c) and shall include the information set forth therein to the extent known. If, following the Breach notification, Business Associate learns additional details about the Breach, Business Associate shall notify Covered Entity promptly as such information becomes available. Covered Entity shall determine whether Business Associate or Covered Entity will be responsible for providing notification of any Breach to affected individuals, the media, the Secretary, and/or any other parties required to be notified under the HIPAA Privacy and Security Rules or other applicable law. If Covered Entity determines that Business Associate will be responsible for providing such notification, Business Associate may not carry out notification until Covered Entity approves the proposed notices in writing.

C. Notwithstanding the provisions of Section III.B., above, if a law enforcement official states to Business Associate that notification of a Breach would impede a criminal investigation or cause damage to national security, then:

1. if the statement is in writing and specifies the time for which a delay is required, Business Associate shall delay such notification for the time period specified by the official; or

2. if the statement is made orally, Business Associate shall document the statement, including the identity of the official making it, and delay such notification for no longer than thirty (30) days from the date of the oral statement unless the official submits a written statement during that time.

Following the period of time specified by the official, Business Associate shall promptly deliver a copy of the official's statement to Covered Entity.

D. Business Associate shall bear Covered Entity's costs of any Breach and resultant notifications, if applicable, to the extent the Breach arises from Business Associate's negligence,

willful misconduct, violation of law, violation of the Underlying Agreement, or violation of this Agreement.

#### **IV. OBLIGATIONS OF COVERED ENTITY**

**A.** Upon request of Business Associate, Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. § 164.520.

**B.** Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose Protected Health Information, if such changes could reasonably be expected to affect Business Associate's permitted or required uses and disclosures.

**C.** Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522, and Covered Entity shall inform Business Associate of the termination of any such restriction, and the effect that such termination shall have, if any, upon Business Associate's use and disclosure of such Protected Health Information.

#### **V. TERM AND TERMINATION**

**A. Term.** The Term of this Agreement shall be effective as of the first effective date of any Underlying Agreement, and shall terminate upon later of the following events: (i) in accordance with Section V.C., when all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is returned to Covered Entity or destroyed (and a certificate of destruction is provided) or, if such return or destruction is infeasible, when protections are extended to such information; or (ii) upon the expiration or termination of the last of the Underlying Agreement.

**B. Termination.** Upon either Party's knowledge of a material breach by the other Party of its obligations under this Agreement, the non-breaching Party shall, within twenty (20) days of that determination, notify the breaching Party, and the breaching Party shall have thirty (30) days from receipt of that notice to cure the breach or end the violation. If the breaching Party fails to take reasonable steps to effect such a cure within such time period, the non-breaching Party may terminate this Agreement and the Underlying Agreement without penalty.

Where either Party has knowledge of a material breach by the other Party and determines that cure is infeasible, prior notice of the breach is not required, and the non-breaching Party shall terminate the portion of the Underlying Agreement affected by the breach without penalty.

**C. Effect of Termination.**

1. Except as provided in paragraph 2 of this subsection C., upon termination of this Agreement, the Underlying Agreement or upon request of Covered Entity, whichever occurs first, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors of Business Associate. Neither Business Associate nor its subcontractors shall retain copies of the PHI except as required by law.



2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide within ten (10) days to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is infeasible, Business Associate, and its applicable subcontractors, shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate and its applicable subcontractors maintain such Protected Health Information.

## **VI. MISCELLANEOUS**

**A. No Rights in Third Parties.** Except as expressly stated herein or in the HIPAA Privacy and Security Rules, the Parties to this Agreement do not intend to create any rights in any third parties.

**B. Survival.** The obligations of Business Associate under Section V.C. of this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Underlying Agreement, and/or the business relationship of the Parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

**C. Amendment.** The Parties agree that this Agreement will be amended automatically to conform to any changes in the HIPAA Privacy and Security Rules as are necessary for each of them to comply with the current requirements of the HIPAA Privacy and Security Rules and the Health Insurance Portability and Accountability Act, unless a particular statutory or regulatory provision requires that the terms of this Agreement be amended to reflect any such change. In those instances where an amendment to this Agreement is required by law, the Parties shall negotiate in good faith to amend the terms of this Agreement within sixty (60) days of the effective date of the law or final rule requiring the amendment. If, following such period of good faith negotiations, the Parties cannot agree upon an amendment to implement the requirements of said law or final rule, then either Party may terminate this Agreement and the Underlying Agreement upon ten (10) days written notice to the other Party. Except as provided above, this Agreement may be amended or modified only in a writing signed by the Parties.

**D. Assignment.** Neither Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.

**E. Independent Contractor.** None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. Nothing in this Agreement creates or is intended to create an agency relationship.

**F. Governing Law.** To the extent this Agreement is not governed exclusively by the HIPAA Privacy and Security Rules or other provisions of federal statutory or regulatory law, it will be governed by and construed in accordance with the laws of the state in which Covered Entity has its principal place of business.

**G. No Waiver.** No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

H. Interpretation. Any ambiguity of this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with the HIPAA Privacy and Security Rules.

I. Severability. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

J. Notice. Any notification required in this Agreement shall be made in writing to the representative of the other Party who signed this Agreement or the person currently serving in that representative's position with the other Party.

K. Entire Agreement. This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written. In the event of any inconsistency between this Agreement and any other agreement between the Parties concerning the use and disclosure of PHI and the Parties' obligations with respect thereto, the terms of this Agreement shall control.

L. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.