



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

☐ Award ☐ Contract ☐ Grant

Requested Board Meeting Date: 2/1/2022

\* = Mandatory, information must be provided

or Procurement Director Award: ☐

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

Banner Health

**\*Project Title/Description:**

Inpatient Court Ordered Evaluation Services Pursuant to ARS Title 36, Chapter 5

**\*Purpose:**

This contract between Pima County and Banner Health provides for the provision of hospital-based psychiatric services for involuntary commitment services, required pursuant to Arizona Revised Statutes, Title 36, Chapter 5, Court Ordered Evaluations (COE).

**\*Procurement Method:**

Board of Supervisor's Policy D29.7-I.4.

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

The contract is for an initial term of three years and will provide COE services pursuant to Arizona Statute.

**\*Public Benefit:**

Oversight by Pima County for COE services has allowed the County to realize cost savings by reducing overhead and administrative costs previously paid to a third party to manage the contracts.

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

Performance measures have been identified in the contract and will be monitored based on reporting criteria.

**\*Retroactive:**

Yes. PCBH did not receive a signed contract from Banner until 1/10/2022. Banner is one of the largest COE providers for the County; if the contract is not renewed, sick people may not have anywhere to receive evaluation and the County may be in violation of state statute.

JAN 27 2022 11:43 PM CLK OF BD

TO: COB 1-27-22 (1)  
Vers.: 1  
Pgs.: 36

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: BH Contract Number (i.e., 15-123): 22-86  
Commencement Date: 10-1-2021 Termination Date: 9-30-2024 Prior Contract Number (Synergen/CMS): \_\_\_\_\_  
☒ Expense Amount \$ 3,246,197.89 \* ☐ Revenue Amount: \$ \_\_\_\_\_

**\*Funding Source(s) required: General Fund**

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? \_\_\_\_\_

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: Molly Hilber

Department: Behavioral Health

Telephone: x47515

Department Director Signature: [Signature] Date: 1-24-2022

Deputy County Administrator Signature: [Signature] Date: 25 Jan 2027

County Administrator Signature: [Signature] Date: 1/26/2022

**Pima County Department of Behavioral Health**

**Project: Inpatient Court Ordered Evaluation Services Pursuant to ARS Title 36, Chapter 5**

**Contractor: Banner Health**

**Amount: \$3,246,197.89**

**Contract No.: CT-BH-22\*86**

**PROFESSIONAL SERVICES CONTRACT**

**1. Parties, Background and Purpose.**

- 1.1. Parties. This Contract is between Pima County, a body politic and corporate of the State of Arizona ("County"), and Banner Health ("Contractor").
- 1.2. Purpose. The Pima County Behavioral Health Department requires the provision of involuntary, hospital- based psychiatric evaluation services required pursuant to ARS Title 36, Chapter 5, Court Ordered Evaluations.
- 1.3. Authority. County selected Contractor pursuant to and consistent with County's Procurement Code D29.7.

**2. Term.**

- 2.1. Initial Term. The term of this Contract commences on October 1, 2021 and will terminate on September 30, 2024 ("Initial Term"). "Term," when used in this Contract, 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 Contract, the parties will, for all purposes, deem the Contract to have been in effect as of the commencement date.
- 2.2. Extension Options. County may renew this Contract for up to two (2) additional periods of up to 1 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** (6 pages), at the dates and times described on **Exhibit A** or, if **Exhibit A** contains no dates or time frames, then upon demand. The Services must comply with all requirements and specifications in the Solicitation.

**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 include the following individuals:

Yasmine Jaber Ratz and Lourdes Molina, Title 36 Liaisons  
Stacy Cooper, Director, Behavioral Case Management  
Brian Smith, MD, Inpatient Medical Director

**5. Compensation and Payment.**

- 5.1. Rates; Adjustment. County will pay Contractor at the rates set forth in **Exhibit B**. 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 \$3,246,197.89 (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** do not include sales taxes. 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 Submittal. Claims are to be sent to:
- Pima County Behavioral Health  
Attn: COE Claims  
3950 S. Country Club Rd. #3240  
Tucson, AZ 85714
- Or via Email at: PCBHClaims@pima.gov
- 5.7. Invoice Adjustments. Not applicable to this Agreement.
6. **Insurance.** Contractor will procure and maintain at its own expense insurance policies (the "**Required Insurance**") satisfying the below requirements (the "**Insurance Requirements**") until all its obligations under this Contract have been met. The below Insurance Requirements are minimum requirements for this Contract and in no way limit Contractor's indemnity obligations under 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: Contractor will procure and maintain, until all its obligations have been discharged, coverage with limits of liability not less than those stated below. Coverage may be placed through a program of self-insurance or with

insurers acceptable to the County with A.M. Best rating of not less than A-VII, unless otherwise approved by the County.

- 6.1.1. Commercial General Liability (CGL) – Claims-made Form with limits not less than \$2,000,000 Each Claim and \$2,000,000 General Aggregate. Policy shall include coverage for liability arising from premises, operations, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations.
- 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.
- 6.1.4. Professional Liability (E & O) Insurance – This insurance is required for work from professionals whose coverage is excluded from the above CGL policy. The policy limits shall be not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. The insurance shall cover professional misconduct or negligent acts of anyone performing any services under this contract.

**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. Additional Insured Endorsement: The General Liability, Business Automobile Liability and Technology E&O Policies shall each be endorsed to include Pima County, its departments, districts, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- 6.2.3. Subrogation Endorsement: The General Liability, Business Automobile Liability, Workers' Compensation and Technology E&O 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.
- 6.2.4. 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.
- 6.2.5. The Required Insurance policies may not obligate County to pay any portion

of Contractor's deductible or Self Insurance Retention (SIR).

6.2.6 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 self-insurance letter or certificate of insurance (valid ACORD form or equivalent approved by Pima County) evidencing each Required Insurance policy, which must specify that the policy has all the required endorsements, and must include the Pima County project or contract number and project description. Each certificate must be signed by an authorized representative of the insurer.

6.4.2. County may at any time require Contractor to provide a complete copy of any Required Insurance policy or endorsement. Note: Contractors for larger projects must provide actual copies of the additional insured and subrogation endorsements.

6.4.3. 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. Failure to maintain the Required Insurance policies, or to provide evidence of renewal, is a material breach of this Contract.

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

**6.5. Approval and Modifications:**

The Pima County Risk Manager may modify the Insurance Requirements at any point during the Term of this Contract. This can be done administratively, with written notice from the Risk Manager and does not require a formal Contract amendment. 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.

**6.6 County Insurance Requirements:**

County shall maintain insurance coverage during the term of this Agreement, provided by an insurer with a minimum A-VII rating, and shall provide Contractor with thirty (30) days' advance written notice of termination or substantial coverage change. Coverage shall include at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate professional liability, general liability, and business auto. Where Services include control of Contractor's data or PHI, or the use or development of IT hardware or software, coverage shall also include at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate cyber insurance coverage.

**Indemnification.** 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 claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any 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 Claims. Contractor is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.

**7. Laws and Regulations.**

7.1. Compliance with Laws. Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, including those specified in 42 CFR 440.10 and Part 482.

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

7.3. Choice of Law; Venue. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in the appropriate court of the State of Arizona in Pima County.

**8. Independent Contractor.** Contractor is an independent contractor. Neither Contractor, nor any of Contractor's officers, agents or employees will be considered an employee of County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under County's 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.

**9. 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.

- 10. 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.
- 11. Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any subcontractors. 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.
- 12. 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).
- 13. Authority to Contract.** Contractor warrants its right and power to enter into this Contract. If any court or administrative agency determines that County does not have authority to enter into this Contract, County will not be liable to Contractor or any third party by reason of such determination or by reason of this Contract.
- 14. 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.
- 15. 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.
- 16. Termination by County.**
  - 16.1. 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.
  - 16.2. With Cause.** County may terminate this Contract at any time without advance notice and without further obligation to County when County finds Contractor to be in default of any provision of this Contract.
  - 16.3. 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 have no further obligation to Contractor, other than to pay for services rendered prior to termination.

- 17. 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:

Contractor:

Paula Perrera  
Director  
Pima County Behavioral Health  
3950 S. Country Club Rd. STE 3240  
Tucson, AZ 85714

Brad McKinney  
Behavioral Health Division Administrator  
Banner Health  
2800 E. Ajo Way STE P2011  
Tucson, AZ 85713

- 18. 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.
- 19. 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.
- 20. 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.
- 21. Use of County Data.** Unless it receives County's prior written consent, Contractor: (a) shall not access, process, or otherwise use County Data other than as necessary to provide contracted services or products; and (b) shall not intentionally grant any third party access to County Data, including without limitation Contractor's other customers, except subcontractors that are subject to a reasonable nondisclosure agreement. Notwithstanding the foregoing, Contractor may disclose County Data as required by applicable law or by proper legal or governmental authority. Contractor shall give County prompt notice of any such legal or governmental demand and reasonably cooperate with County in any effort to seek a protective order or otherwise to contest such required disclosure, at County's expense. Upon termination or completion of the Contract, Contractor will, within 60 calendar days, either return all County Data to County or will destroy County Data and confirm destruction to County in writing. As between the parties, County retains ownership of County Data. "County Data" means data in electronic or paper form provided to Contractor by County, including without limitation personal identifying information as defined in A.R.S. § 13-2001(10).
- 22. Health Insurance Portability and Accountability Act.** The Parties acknowledge that each Party is a "covered entity" as described in 45 C.F.R. §160.103 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and each party 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 confidential

personal health information of County's health benefit program participants 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. Each Party agrees to comply with HIPAA during the performance under this Contract, including, but not limited to, maintaining 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 agrees to be bound by the Business Associate Agreement in **EXHIBIT C** which is incorporated into this agreement, and further specifically agrees that:

- 22.1. Contractor shall establish and maintain procedures and controls that are acceptable to County to assure that no confidential personal health information contained in its records or obtained from County or from others in carrying out its functions under this Contract shall be used by or disclosed by Contractor, its agents, officers, employees or subcontractors, except as required in the performance of its obligations under the terms of this Contract; and
- 22.2. Contractor shall not remove any confidential personal health information from County premises, if applicable; and
- 22.3. 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.

**23. Reporting.** Contractor will regularly deliver data summary reports per the Reporting Requirements and Schedule attached as **Attachment A-1**.

**24. 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.

**25. Public Records.**

- 25.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., 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.
- 25.2. Records Marked Confidential; Notice and Protective Order. If Contractor reasonably believes that some of its records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL" before submitting them to County. 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 in Arizona, 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.

## **26. Legal Arizona Workers Act Compliance.**

- 26.1. 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.
- 26.2. Books & Records. County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
- 26.3. 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.
- 26.4. Subcontractors. Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 26 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."

## **27. Grant Compliance.** Not applicable to this Agreement

## **28. Written Orders.** County will order services under this Contract by issuing a Delivery Order (DO) document. Order documents will be furnished to Contractor via e-mail or telephone.

Contractor must not perform services pursuant to the contract that are not documented or authorized by a Delivery Order (DO) at the time of provision. County accepts no responsibility for control of or payment for services not documented by a County Delivery

Order (DO).

Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this Contract. In particular, Contractor will not provide services other than those described in this Contract, in excess of the Maximum Payment Amount, or after the Term of the Contract has ended, without a Contract amendment properly executed and issued by County, as provided below. Any services provided in excess of that stated in this Contract are at Contractor's own risk.

- 29. Counterparts.** The parties may execute the Contract that County awards pursuant to the solicitation in any number of counterparts, each counterpart is considered an original, and together such counterparts constitute one and the same instrument.
- 30. 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. The 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.
- 31. Amendment.** The parties may modify, amend, alter or extend this Contract only by a written amendment signed by the parties.
- 32. 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.
- 33. 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).

**REMAINDER OF PAGE LEFT BLANK**

IN WITNESS WHEREOF, the parties have approved this Professional Services Contract and agree to be bound by the terms and conditions of the Contract on the dates written below.

**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

**CONTRACTOR**

*Sarah Frost*

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

Sarah Frost                      Chief Executive Officer

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

January 10, 2022 | 12:58 PM MST

\_\_\_\_\_  
Date

APPROVED AS TO CONTENT

*Paula Ferrera*

\_\_\_\_\_  
Paula Ferrera, Director  
Pima County Behavioral Health

**EXHIBIT A: REQUIRED SCOPE OF SERVICES (7 PAGES)**

**COURT ORDERED EVALUATION (COE)**

1. **Facility:** Contractor shall meet and maintain the following requirements throughout the term of this Agreement:
  - 1.1 Accreditation through the Joint Commission, or is a hospital with an inpatient psychiatric program that undergoes a State survey resulting in successful participation in Medicare, or is accredited by a national accrediting organization whose hospital accrediting program has been approved by Centers for Medicare & Medicaid Services (CMS) if providing treatment to members under the age of 21; and
  - 1.2 Meets the requirements specified in 42 CFR 440.10 and Part 482 and is licensed pursuant to ARS § 36, Chapter 4, Articles 1 and 2; or
    - 1.2.1 For adults age 21 and older, certified as provider under Title XVIII of the Social Security Act; or
    - 1.2.2 For adults age 21 or over, currently determined by Arizona Department of Health Services (ADHS) Assurance and Licensure to meet such requirements; and
    - 1.2.3 Must not be banned or limited from providing services to federal programs.
2. **Employees or Sub-contractors:** Contractor affirms that it and any of its employees or sub-contractors providing services pursuant to this agreement were and are appropriately licensed by the State of Arizona on the dates of service.
3. **Inpatient Professional Services:** Contractor shall assure that psychiatrists on its medical staff or any separate physicians group who provides contract services to Proposed Patients are in compliance with the terms of this Agreement and the provision of ARS Title 36, Chapter 5.
4. **Utilization Management/Review Plans:** Contractor shall adopt, maintain and observe utilization review plans that conform to nationally accepted accreditation standards:
  - 4.1 Contractor shall provide evidence of compliance with 42 CFR requirements to County at least annually or upon request. Specific Federal and AHCCCS Compliance activities include:
    - 4.1.1 Development of Certifications of Need and re-Certifications of Need and submission of those in compliance with Pima County Providers Manual.
    - 4.1.2 Development of and performance of services based on a plan of care in accordance with 42 CFR 441.154 to 456.
    - 4.1.3 Development and implementation of utilization management plans and committees in accordance with 42 CFR 456.10 to 129 and 456.200 to 213.
  - 4.2 County reserves the right to withhold payment and/or terminate this agreement for any services rendered by any entities or individuals whose license has been suspended or revoked.

**5. Contractor's Continuous Quality Improvement Program:**

The Contractor shall implement or maintain a Continuous Quality Improvement Program (CQI Program) designed for quality monitoring and continuous quality improvement. If the Contractor does not already use a standard form to collect patient feedback, Contractor may use the example Patient Satisfaction form included as **Attachment A-2: Example Patient Satisfaction Form**.

**6. Minimum staffing requirements:**

6.1 Contractor will maintain organizational, managerial and administrative systems and staff capable of fulfilling all contractual requirements.

6.2 Contractor shall employ sufficient staffing with adequate time designated to ensure:

6.2.1 Services provided pursuant to this agreement are conducted as quickly as possible, so as to expedite transition of Proposed Patient to a voluntary status, petition for court-ordered treatment or discontinuation of the involuntary commitment process, as clinically indicated;

6.2.2 All evaluations, petitions, motions, affidavits and other paperwork required in connection with the Court Ordered Evaluation (COE) process are completed and submitted according to the Pima County Attorney's Office (PCAO) and court deadlines;

6.2.3 Proposed Patients and hospital staff are available for court appearances on the date, time and location ordered by the court;

6.2.4 A psychiatrist or physician staff is available 24/7, including weekends and holidays, as back up to a psychiatric and mental health nurse practitioner to:

6.2.4.1 Discharge Proposed Patients from COE when indicated;

6.2.4.2 Write prescriptions; and

6.2.4.3 Ensure hospital discharge planners, social workers coordinate discharges with the receiving Health Home (HH) Team.

**7. Court Ordered Evaluation (COE)/Involuntary Commitment Services:** Contractor shall provide hospital-based involuntary commitment psychiatric services pursuant to Arizona Revised Statutes (ARS) Title 36, Chapter 5, Article 4, for Court-Ordered Evaluations (COE), which include:

7.1 **EMERGENCY DEPARTMENT SERVICES:** Contractor shall provide all necessary emergency psychiatric services to Proposed Patients who present or are presented to Contractor for mental health services through Contractor's Emergency Department or, pursuant to requirements of the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1395dd, regulations which are set forth in the Code of Federal Regulations, 42 C.F.R. 489.24, 42 C.F.R. 413.65 and C.F.R. 489.20, and other sites located on Contractor's premises.

**7.2 PSYCHIATRIC ADMISSIONS:**

7.2.1 **FACILITATION OF ADMISSIONS AND TRANSFERS:** Contractor must cooperate and collaborate with other local hospitals, evaluating agencies,

- and the Regional Behavioral Health Authority (RBHA) and its crisis system to facilitate transfer of or receipt of Proposed Patients to an available psychiatric bed as expeditiously as possible.
- 7.2.2 PATIENT RIGHTS: Contractor must provide Proposed Patients with a copy of their patient rights;
  - 7.2.3 RESIDENCY: Contractor must make appropriate inquiry and determine, to the best of its ability, whether Proposed Patients reside within the geographical boundaries of County, whether Proposed Patients are not residents of the State of Arizona, or if alleged behaviors were witnessed and originated within COUNTY.
  - 7.2.4 EVALUATIONS: Contractor shall provide necessary psychiatric evaluation services to Proposed Patients admitted pursuant to an Application for Emergency Admission for Evaluation or a Court Ordered Evaluation, and notwithstanding statutorily permissible timeframes, must:
    - 7.2.4.1 Ensure that evaluations are performed, and if clinically appropriate, submit to the Pima County Attorney, the Petition for Court Ordered Treatment (COT), if any, on the same or the next business day following the completion of the second evaluation.
    - 7.2.4.2 Ensure that inpatient evaluations are completed in less than seventy-two (72) hours.
    - 7.2.4.3 Ensure court ordered evaluations are performed by licensed psychiatrists, except as noted in ARS 36-501.
- 7.3 DAILY ASSESSMENTS: On a daily basis, including weekends and holidays, Contractor shall:
- 7.3.1 Offer the Proposed Patient every opportunity, as clinically appropriate, to participate in treatment on a voluntary basis at any time during the involuntary commitment-related hospital stay.
  - 7.3.2 Assess Proposed Patients, to determine whether the Proposed Patient is suitable for involuntary commitment. If, at any point during the stay, the Proposed Patients are found not to be suitable for involuntary commitment or is able to agree to voluntary treatment Contractor shall remove Proposed Patient from the involuntary commitment process and either:
    - 7.3.2.1 Discharge the Proposed Patient; or
    - 7.3.2.2 Admit the Proposed Patient into a voluntary status.
  - 7.3.3 Document the daily assessment in the Proposed Patient's medical record, including their ability and willingness to participate in treatment on a voluntary basis.
  - 7.3.4 File the appropriate documentation with the Court on the first available business day after the Proposed Patient was discharged from the involuntary commitment process.
  - 7.3.5 In the event that Contractor admits Proposed Patients to a medical service, Contractor shall ensure that psychiatric providers consult on a clinically appropriate basis with the Proposed Patient's non-psychiatrist attending physician until the Proposed Patient is transferred to Contractor's psychiatric service.



**7.4 PROGRESS NOTES:** Ensure progress notes contain:

- 7.4.1 Day 1: Admitting diagnoses: Axis I, II and III;
- 7.4.2 Upon Admission and Daily: Evidence the Proposed Patient was assessed for and offered voluntary treatment, if suitable;
- 7.4.3 Upon Admission and Daily: A description of behaviors and symptoms that indicate the Proposed Patient requires continued involuntary treatment or cannot agree to voluntary treatment.

**7.5 DISCHARGE PLANNING:** Contractor will

- 7.5.1 Facilitate early identification of Proposed Patients who may be ready for discharge over a weekend and/or holiday;
- 7.5.2 Ensure timely completion of discharge plans and provide a copy of the discharge summary to the Proposed Patient's RBHA assigned provider, if applicable;
- 7.5.3 Provide Proposed Patients with a discharge plan;
- 7.5.4 Work collaboratively with stakeholders in the placement and discharge of members from Level I services;
- 7.5.5 Provide medical records to the assigned HH agency, as part of the discharge plan, to assure coordination of care upon transition into the community, if applicable; and
- 7.5.6 Collaborate with the assigned HH, if applicable to make arrangements to provide for discharges daily, including evenings, weekends and holidays.

**8. Coordination with the Courts and Pima County Attorney's Office (PCAO) Health Law Unit:**

- 8.1 Contractor must complete and submit evaluations, petitions, motions, affidavits and any and all other paperwork required in connection with the involuntary commitment process to PCAO Health Law Unit, according to the timetable established by the PCAO Health Law Unit.
- 8.2 Contractor must coordinate with the PCAO Health Law Unit to dismiss any pending proceedings for Court Ordered Evaluation or Court Ordered Treatment, when the attending physician determines that the Proposed Patient can engage in treatment on a voluntary basis, or does not suffer from a mental disorder as defined in ARS 35-501.
- 8.3 Contractor shall ensure evaluating physicians provide timely appearance and testimony as directed by the Pima County Superior Court.
- 8.4 Contractor must have sufficient space to accommodate a courtroom that meets the judicial security standards of the Pima County Superior Court and that is capable of participating in virtual hearings.

**8. Utilization Review (UR):**

- 8.1. COE services and claims for payment are subject to County's concurrent and/or retrospective utilization review and management to assess compliance with statutory requirements, appropriate payment of claims, documentation of clinical need for inpatient COE or COT and efficiency and effectiveness of processes applicable to service provision. County reserves the right to conduct concurrent and retrospective utilization review and management either in person, through the

electronic health record portal (if applicable) or by request for documentation.

- 8.2. County shall conduct retrospective review of all Involuntary Commitment Services provided by Contractor to determine appropriateness, medical necessity and compliance with ARS Title 36, Chapter 5, Article 4 and this contract, when the complete COE Packet is received.
- 8.3. Contractor will notify County via secure email of any Proposed Patient who moves to and/or from a medical unit to the psychiatric unit, who is under the COE period.
- 8.4. Contractor will notify County Utilization Management (UM) team, via PCBH's secure Qualtrics Portal, of any payer change within the COE period, immediately upon enrollment verification with AHCCCS or other Third Party Payer.
- 8.5. Contractor shall provide County UM via PCBH's secure Qualtrics Portal, confirmation of each Proposed Patient's discharge date and disposition within one (1) business day of discharge, including the following information:
  - 8.5.1. Proposed Patient's first and last name;
  - 8.5.2. Proposed Patient's date of birth;
  - 8.5.3. Admit date;
  - 8.5.4. Discharge date; and
  - 8.5.5. Disposition.
  - 8.5.6. Contractor may use the reporting form attached as **Attachment A-1: Reporting Form** to submit required information.
- 8.6. The Contractor, including its hospital medical staff, will meet with County, as needed for the purpose of collaboration and discussion of application of medical necessity criteria, standards of documentation supporting use of criteria and other performance improvement activities as determined necessary by County to reduce occurrence of denials and appeals. Contractor's failure to provide access to medical staff for these purposes may result in denial of payments of claims.
- 8.7. **REQUIRED DOCUMENTS:** Contractor will submit via PCBH's secure Qualtrics Portal, the COE Packet, which includes the following:
  - 8.7.1. Admitting face sheet, by 8:30am and within 24 hours from admit;
  - 8.7.2. The Evaluating Agency Authorization Request Form (**Attachment A-3: Evaluation Agency Authorization Form**)
  - 8.7.3. The First Set;
  - 8.7.4. The Second Set; and
  - 8.7.5. The Release from Evaluation form when Proposed Patient changes to voluntary status or discharges.

## **9. Utilization Management/Concurrent Review:**

- 9.1 County may conduct concurrent review on admission and at frequent intervals during acute inpatient hospital stays to validate the medical necessity for continued stay and to evaluate quality of care.

## **9.2 DAILY CENSUS OF PETITIONED PATIENTS IN EMERGENCY DEPARTMENT.**

Contractor shall provide to County a daily census report, no later than 8:00 am each day, via PCBH's secure Qualtrics Portal and include a list of the adult Proposed Patients receiving COE services in Level I acute beds, as well as the list of Proposed Patients discharged since the last census report.

- 9.2.1 Contractor will notify County via PCBH's secure Qualtrics Portal of patients who

are under an Application for Emergency Admission in the Emergency Department and not admitted for psychiatric services.

9.2.2 Contractor will make available to County, in person or via telephone access to professional behavioral health (non-clerical) staff who can review the medical record and present the basis for continuing medical necessity of Level I inpatient services.

9.2.3 Contractor will provide via PCBH's secure Qualtrics Portal, within one (1) business day of request any documentation requested by County UM that is needed to verify admission or continued stay criteria are being met.

**10. REPORTING:** Contractor will submit all documents, reports and data in the format prescribed by County, and within the time frames specified below.

10.1 Contractor shall cooperate with County in providing information and data as needed on a monthly basis, or as necessary for County to develop and submit all reports regarding COE services. Reporting data will be submitted to County via PCBH's secure Qualtrics Portal on a monthly basis within thirty (30) days following the end of each month, and will include:

- 10.1.1 Number of Emergency Applications;
- 10.1.2 Number of Involuntary Applications;
- 10.1.3 Total number of patients admitted for COE;
- 10.1.4 Number of Outpatient Title 36 COEs, if applicable;
- 10.1.5 Number of proposed patients transferred from Pima County Adult Detention Center (PCADC);
- 10.1.6 Number of patients returned to PCADC before hearing;
- 10.1.7 Number of patients on applications who were admitted in the previous 90 days;
- 10.1.8 Number of petitions dropped because individual agreed to voluntary treatment;
- 10.1.9 Number of petitions dropped before the hearing other than voluntary;
- 10.1.10 Reason for dropped petitions;
- 10.1.11 Number of patients who went to court;
- 10.1.12 Number of patients court ordered for treatment;
- 10.1.13 Number of inpatient orders;
- 10.1.14 Number of combined orders;
- 10.1.15 Number ordered without a hearing (stipulated);
- 10.1.16 Number of COE patients who had no insurance;
- 10.1.17 Number of Petitions dismissed at court – patient able to be voluntary;
- 10.1.18 Number of Petitions dismissed at court – patient did not meet criteria for court order;
- 10.1.19 Number of petitions dismissed at court – psychiatrist not available for hearing;
- 10.1.20 Number of Petitions dismissed at court – filing error;
- 10.1.21 Number of hearings rescheduled – psychiatrist not available for hearing;
- 10.1.22 Number of hearings rescheduled – other; and
- 10.1.23 Substance abuse issues at time of admission (how many had a substance diagnosis and to which substance(s).

10.2 **Management and Reporting:** County reserves the right to audit any process or data resulting from provision of services pursuant to this Agreement and to request evaluation agency reports or data compilation as County determines necessary.

10.3 County and Contractor may determine and agree to receive and report necessary ad-

- hoc data reporting requests as advised or requested by the parties.
- 10.4 REPORT FORMAT:** Contractor will report data in the format outlined as  
**Attachment A-1: Sample Reporting Form**

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**ATTACHMENT A-1 SAMPLE REPORTING FORM**

<b>Demographics</b>		<b>Petition Status</b>		<b>Dropped Cases</b>		<b>Disposition and Discharge</b>	
Patient Last Name		Not filed		Date Dropped		Court date	
Patient First Name		Date Petition Filed		Drop Reason / Status After Drop		Rescheduled court date 1	
Date of Birth		Location Petition Filed		Doctor who dropped		Rescheduled court date 2	
Application Type		First set standards - DTS		Identified as Out of County patient?		Reschedule reason(s)	
Date of Application		First set standards - DTO		Identified as Already on COT?		Court Outcome	
Application / Referral Source		First set standards - PAD		If Out of County or Already on COT, date COE process was stopped		Allegations upheld in court - DTS	
Admit Date		Second set file date				Allegations upheld in court - DTO	
Behavioral Health Agency		Second set standards - DTS				Allegations upheld in court - PAD	
Primary Diagnosis		Second set standards - DTO				Stipulation - DTS	
		Second set standards - PAD				Stipulation - DTO	
						Stipulation - PAD	
						Date of Discharge from Hospital	
						Stipulation - PAD	

**ATTACHMENT A-2**  
**EXAMPLE PATIENT SATISFACTION SURVEY (2 PAGES)**

How likely are you to recommend this hospital to your family or friends?

0	1	2	3	4
I would never recommend this agency	Not likely to recommend	Neutral/Same as other agencies	Likely to recommend	Would definitely recommend

Comments: \_\_\_\_\_

Thinking about your experience with this hospital, how much do you agree or disagree with each statement below?

	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
1) The therapy program addressed my needs.	0	1	2	3	4

Comments: \_\_\_\_\_

2) The environment helped me heal.	0	1	2	3	4
---------------------------------------	---	---	---	---	---

Comments: \_\_\_\_\_

3) The therapy program helped me understand how to manage my symptoms.	0	1	2	3	4
--	---	---	---	---	---

Comments: \_\_\_\_\_

4) I am comfortable with my support system (e.g. friends, family) when I leave the hospital.	0	1	2	3	4
--	---	---	---	---	---

Comments: \_\_\_\_\_

Thinking about your interactions with the agency, how would you rate your interactions with the following staff:

	Horrible	Poor	Neutral	Good	Excellent
Psychiatrists:	0	1	2	3	4
Comments:					
Case Managers/Therapists	0	1	2	3	4
Comments:					
Behavioral Health Specialists	0	1	2	3	4
Comments:					

	Horrible	Poor	Neutral	Good	Excellent
Nurses:	0	1	2	3	4
Comments:					

Any other information that you would like to share about your experience:

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This survey is anonymous; your identity will be protected and your answers will never affect your ability to receive care.

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**ATTACHMENT A-3:**  
**EVALUATING AGENCY AUTHORIZATION REQUEST**  
**FORM (2 PAGES)**

**EVALUATING AGENCY NAME:** \_\_\_\_\_  
**PATIENT NAME:** \_\_\_\_\_ **DOB:** \_\_\_\_\_  
**DATES OF SERVICE FOR REVIEW:** \_\_\_\_\_

<b><u>INSURANCE: IF DUAL ENROLLED SELECT BOTH CARRIERS</u></b>		<b># of days eligible for review</b>
<input type="checkbox"/>	Title 19	Up to 4 COE days (RBHA pays for day 4 onward)
<input type="checkbox"/>	Private/Commercial/Medicare	Up to 4 COE days for patient responsibility up to contract allowable
<input type="checkbox"/>	County is only payer - Non T-19	Up to 4 COE days & up to 4 PEP days

**MINIMUM REQUIRED ELEMENTS**

Authorization form must be filled out in full and attached with each individual packet submission to be accepted as complete. Packets must contain copies of all applicable records corresponding to each area checked below.

- ☐ Face sheet: Admit Date: \_\_\_\_\_ Date Submitted \_\_\_\_\_ (by 8:30am & within 24 hours from admit)
- ☐ Admitting Diagnosis: \_\_\_\_\_ ☐ Diagnosis on discharge: \_\_\_\_\_
- ☐ Number of days requested for review: ☐ Day 1 ☐ Day 2 ☐ Day 3 ☐ Day 4 ☐ Day 5 ☐ Day 6 ☐ Day 7 ☐ Day 8
- ☐ Evaluation 1 requested for review:  
 Provider Name: \_\_\_\_\_ Date of Service: \_\_\_\_\_
- ☐ Evaluation 2 requested for review:  
 Provider Name: \_\_\_\_\_ Date of Service: \_\_\_\_\_
- ☐ Daily Psych note for each day requested above that indicates A) Patient meets criteria for involuntary evaluation AND B) Patient has been offered voluntary treatment
- ☐ Lab Results (UTOX / BAL)
- ☐ Psychosocial / A&R / Initial Level of Care Assessment
- ☐ Collateral Information (application origin and description of circumstances)
- ☐ **1st Set (Conformed)**
- A. Application for Emergency Admission for Evaluation or Application for Involuntary Evaluation
  - B. Petition for Court Order Evaluation
  - C. Order for Evaluation
- ☐ **2nd Set (Conformed)**
- A. Two (2) Psychiatric Evaluations
  - B. Affidavit(s) if applicable
  - C. C. Petition for Court Order Treatment
  - D. Notice of Hearing on Petition for Court Order Treatment



**E. Date Court Ordered or Dismissed**

☐ Release from Evaluation (signed and notarized), if the patient is dropped or the case is dismissed, indicate drop code(s): \_\_\_\_

☐ Signed consent to treat form (if patient changed to voluntary status)

<b>PRINT STAFF NAME:</b>	
<b>DATE SUBMITTED:</b>	
<b>DATE RECEIVED:</b>	<b>**PIMA COUNTY BEHAVIORAL HEALTH FIELD ONLY**</b>

\*Authorization of services is not a guarantee of payment.

**Drop Code List:**

A1 – Evaluation no longer required – Substance Abuse diagnosis  
 A2 – Evaluation no longer required – Medical diagnosis  
 A3 – Evaluation no longer required – Allegations not sustained  
 B1 – Patient voluntary – Inpatient  
 B2 – Patient voluntary – Discharged for outpatient treatment  
 B3 – Patient voluntary – Allegations not sustained  
 C1 – Guardianship/POA verified  
 E1 – Dismissed - Administrative error  
 E2 – Dismissed – Provider no show at court  
 E3 – Dismissed – Primary diagnosis not psych diagnosis  
 F1 – Other

**END OF EXHIBIT A**

**EXHIBIT B COVERED SERVICES, COMPENSATION  
& BILLING (4 PAGES)**

1. **INPATIENT COE SERVICES:** County shall provide reimbursement for authorized all-inclusive daily rates for:
  - 1.1. Up to four (4) consecutive days of COE service for which County is the only payer; and
  - 1.2. Up to four (4) additional consecutive days for the Post Evaluation Period (PEP) for proposed patients with no third party health insurance coverage.
  - 1.3. **PHYSICIANS GROUPS SERVICES:** In the event a separate physicians group provides services pursuant to this contract, Contractor shall be responsible for reimbursing said physicians group for services provided from the compensation paid to Contractor.
2. **PROFESSIONAL SERVICES:**
  - 2.1. **PSYCHIATRIC EVALUATIONS:** County shall provide reimbursement for up to two (2) psychiatric evaluations performed by two different doctors on Proposed Patients pursuant to a Court Order for Evaluation and completed pursuant to the timelines indicated in Article 4, Chapter 5, Title 36 of the Arizona Revised Statutes following the issuance of a Court Order for Evaluation.
  - 2.2. **PHYSICIAN ROUNDS:** Contractor will be compensated for services related to routine daily assessment/interaction of a Proposed Patient.
3. **COMPENSATION:** County will provide reimbursement for covered services in accordance with the Fee Schedule, **Attachment B-1**.
4. **BILLING:**
  - 4.1. County will process and adjudicate timely filed, clean claims submitted on the appropriate UB92 or CMS1500 form by Contractor within thirty (30) days of the date it is received. Contractor must submit timely filed, clean claims in accordance with the following guidelines:
    - 4.1.1. **COORDINATION OF BENEFITS (COB):** Before billing County for services provided in this Agreement, Contractor must make appropriate inquiry and determine, to the best of its ability, whether proposed patients are eligible with a primary payer.
    - 4.1.2. Verification shall include examination of patient/family information to determine if the proposed patient is any of the following:
      - 4.1.2.1. Employed (and possibly has an employer sponsored health plan);
      - 4.1.2.2. Medicaid eligible;
      - 4.1.2.3. Medicare eligible; and/or
      - 4.1.2.4. Covered by, or eligible for, commercial or private insurance.
    - 4.1.3. Contractor must bill the primary payer for the entire COE stay, and submit to County, together with each claim:
      - 4.1.3.1. Evidence of denial of coverage by other known insurers;
      - 4.1.3.2. Remittance Advice; or
      - 4.1.3.3. Documentation substantiating Contractor's efforts to discover and

verify other potential payer coverage.

- 4.2. Contractor agrees to accept all payments from insurers or non-County payers as payment in full, except that following County's receipt of Remittance Advice, County will pay the co-payment, co-insurance or deductible for which the proposed patient may otherwise be liable, not to exceed the rate at which the County would have otherwise paid.
- 4.3. **CLAIM SUBMISSION WINDOW:** Contractor must submit claims to County within the following time frames, where:
  - 4.3.1. Pima County is the only payer: within ninety (90) days of the last date of service;
  - 4.3.2. Pima County is the secondary payer: within ninety (90) days from the date of the primary payer's Explanation of Benefits (EOB), of a timely filed claim.
  - 4.3.3. All claims must be submitted within the above prescribed timeframes, and no later than 180 days from the date of service.
- 4.4. **CLAIM RESUBMISSIONS/RECONSIDERATIONS:** If a claim is received within the prescribed timeframes, Contractor has up to sixty (60) from the date of County's remittance advice or primary payer's EOB (of a timely filed claim) to resubmit a clean or corrected claim.
- 4.5. **CLAIM RECOUPMENTS:** County may deny claims for services or recover payment made to Contractor for denied services. Any repayment, recovery or recoupment will be made by deduction from any amount owed to Contractor by County as the result of any contract between County and Contractor. Contractor shall have the right to appeal such denial or recovery pursuant to the terms described in County's Provider Manual.
5. **DENIED/EXCLUDED SERVICES:** County may deny, limit or exclude coverage for payment of services for the following reasons:
  - 5.1. Contractor did not adhere to the terms of this contract;
  - 5.2. Services that are not authorized and/or medical services that are not part of the COE process;
  - 5.3. Services provided to proposed patients after their status changed to voluntary are not covered;
  - 5.4. Invalidation of a petition due to physicians performing evaluations after the statutory timelines;
  - 5.5. Dismissal of a Petition for Court Ordered Treatment due to a physician's unavailability at the date, time and place of hearing;
  - 5.6. Failure to file complete petitions with the PCAO within the timeframes set forth by the PCAO;
  - 5.7. Failure to file signed, legible evaluation paperwork that provides sufficient detail and specificity to meet statutory requirements and contract; or
  - 5.8. Failure to follow the statutory requirements indicated in Arizona Revised statutes, Title 36, Chapter 5;
  - 5.9. Failure to provide and/or document daily assessments that a physician or mid-level practitioner sees and assesses the proposed patient to determine whether proposed patients requires involuntary commitment;

- 5.10. The day of, or days subsequent to a proposed patient's transition from involuntary to voluntary status for the date of discharge from the facility is not covered;
  - 5.11. Services provided on or after the date on which an Order for Treatment is issued;
  - 5.12. Services provided after the two (2) evaluations have been completed; and
  - 5.13. Claims not billed with a valid, complete or legible Explanation of Benefits (EOB) from a proposed patient's third party payer, where applicable.
  - 5.14. County will not compensate Contractor for services provided to patients who are on Court Ordered Treatment (COT).
  - 5.15. County will not pay for services provided to proposed patients who are not a resident of Pima County, unless behavior occurred within Pima County. Contractor must submit claims for services rendered to proposed patients who are residents of other Arizona counties to the county of residence. Petitions based on behavior occurring outside Pima County must be filed in the county of the proposed patient's residence.
  - 5.16. County will not pay for additional inpatient days resulting from Contractor's failure to complete and file the two psychiatric evaluations according to the deadlines as required under Article 4, Chapter 5, title 36 of Arizona Revised Statutes, or for evaluations that are determined to be deficient by the Court.
6. **STATUTORY DEADLINES:** County will not compensate Contractor for psychiatric evaluations that are not completed in compliance with the statutory timeline or for evaluations that are not conducted or prepared in a manner acceptable to the Court.
- 6.1. In the event that an error or non-compliance with statutory timelines by Contractor or Contractor's staff causes an involuntary commitment action to be dismissed by the Court or rejected by PCAO, County will not compensate Contractor for either the inpatient day or the evaluations performed that pertain to the dismissed involuntary commitment action.
7. **UNTIMELY FILED CLAIMS:** County may refuse to pay any amount billed in an untimely manner, and may refuse to pay any amount billed more than one hundred and eighty (180) days after the last date of service on any specific claim, or the date patient is known to be a County resident, pursuant to ARS 11-622(C).
8. **APPEALS:** Contractor may file an appeals of denied claims or partial payments.
- 8.1. Appeals must be submitted in writing, and must be clearly marked "APPEALS." The appeal must explain why County determination of authorization nor denial is incorrect and the result Contractor is seeking. Describe the relevant information Contractor believes is known by County and include copies of the documents that provide additional information that County should consider. Appeal documentation must include:
- 8.1.1. A statement of the factual and legal basis for the dispute;
  - 8.1.2. A statement of relief requested;
  - 8.1.3. Documentation and explanation to support the claim/dispute;
  - 8.1.4. For questions regarding the appeal, please include primary contact information to include the contact's name, phone number and email address.

- 8.2. APPEAL SUBMISSION WINDOW: Appeals must be filed within ninety (60) days after the denial of a timely filed claim. COUNTY agrees to provide a written determination of the appeal within thirty (30) days of receipt.

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**ATTACHMENT B-1 – SAMPLE FEE SCHEDULES:**

Table 1. Facility charges

<b>Bed days Revenue code 0114, 0124, 0134, 0144</b>	<b>Billable Services</b>	<b>Payable</b>	<b>Claim Submission Window</b>
Patient has no payer	Up to 4 COE days and 4 PEP days	COE days = \$940.00 per day PEP days = \$244.00 per day	90 days from the date of discharge
Patient has private/commercial/Medicare (EOB required)	Up to 4 COE days	Copay/Coinsurance/Deductible/or non-covered behavioral health benefits, not to exceed contracted rate, \$940.00 per day	90 days from the date of the primary payer's EOB, but never more than 180 days after discharge.
Patient has AHCCCS/Title 19/Behavioral Health Only, non-Title 19 (EOB required)	Up to 4 COE days	\$940.00 per day, if not covered by plan.	90 days from the date of the primary payer's EOB, but never more than 180 days after discharge

Table 2. Professional fees – Rounding

<b>Physician Billing for Daily assessment of a patient.</b>	<b>Billable Services: Service codes 99221, 99222, 99223, 99231, 99232, 99233, 99234, 99235</b>	<b>Payable</b>	<b>Claim Submission Window</b>
Patient has no payer	1 daily assessment of patient, up to 8 days in total	\$48.00	90 days from the date of service billed
Patient has private/commercial/Medicare (EOB required)	1 daily assessment of patient, up to 4 days total.	Copay, Coinsurance, deductible or non- covered behavioral health benefits, not to exceed contract rate, \$48.00.	90 days from the date of the primary payer's EOB, but never more than 180 days after discharge

Patient has AHCCCS/Title 19/Behavioral Health Only, non-Title 19 (EOB required)	1 daily assessment of patient up to 4 days	\$48.00, if not covered by plan.	90 days from the date of the primary payer's EOB, but never more than 180 days after discharge
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Table 3. Professional fees - Psychiatric Evaluations

<b>Physician Billing for psychiatric evaluations</b>	<b>Billable Services: Service codes 90791 or 90792</b>	<b>Payable</b>	<b>Claim Submission Window</b>
Patient has no payer	Up to 2 psychiatric evaluations billed by two (2) separate psychiatrists and/or medical doctors	\$142.47 per evaluation	90 days from the date of service billed
Patient has private/commercial/Medicare (EOB required)	Up to 2 psychiatric evaluations billed by two (2) separate psychiatrists and/or medical doctors	Copay, Coinsurance, deductible or non-covered behavioral health benefits, not to exceed contract rates.	90 days from the date of the primary payer's EOB, but never more than 180 days after discharge
Patient has AHCCCS/Title 19/Behavioral Health Only, non-Title 19 (EOB required)	Up to 2 psychiatric evaluations billed by two (2) separate psychiatrists and/or medical doctors	Copay, Coinsurance, deductible or non-covered behavioral health benefits, not to exceed \$142.47.	90 days from the date of the primary payer's EOB, but never more than 180 days after discharge

END OF EXHIBIT B

### **Exhibit C – Business Associate Agreement (7 pages)**

WHEREAS, Pima County, on behalf of the Pima County Behavioral Health Department (“Covered Entity”), and Banner Health (“Business Associate”) (each, a “Party,” and collectively, the “Parties”) wish to enter into a Business Associate Agreement to ensure compliance with the Privacy and Security 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, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, 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 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.

#### **1. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

1.1. 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.

1.2. 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.

1.3. 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:

1.3.1. The disclosures are required by law; or

1.3.2. 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.

1.4. 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.

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

2.1. 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 law.

2.2. 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:

2.2.1. 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

2.2.2. 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.

2.3. 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.

2.4. 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.

2.5. 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.

2.6. 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.

2.7. 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.

2.8. 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).

2.9. 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.

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

2.10.1. Use PHI for marketing or fundraising;

2.10.2. Use PHI to create a limited data set or to de-identify the information;

2.10.3. Use PHI to provide data aggregation services relating to the health care operations of Covered Entity; or

2.10.4. 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.

2.10.5. 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.

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

3.1. 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.

3.2. 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.

3.3. 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:

3.3.1. 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

3.3.2. 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.

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

4.1. 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.

## **5. OBLIGATIONS OF COVERED ENTITY**

5.1. 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.

5.2. 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.

5.3. 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.

## **6. TERM AND TERMINATION**

6.1. 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.

6.2. 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.

6.3. 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.

### **6.4. Effect of Termination.**

6.4.1. 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.

6.4.2. 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.

## **7. MISCELLANEOUS**

7.1. 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.

7.2. 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.

7.3. 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.

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

7.5. 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.

7.6. 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.

7.7. 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.

7.8. 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.

7.9. 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.

7.10. 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.

7.11. 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.

7.12. 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.

**END OF EXHIBIT C**