

ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VIRGINIA 22201

CONTRACT AWARD COVERPAGE

| | | |
|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| TO: Fellowship Health Resources, Inc. 24 Albion Rd., Suite 420 Lincoln, RI 02865 | DATE ISSUED: CONTRACT NO: CONTRACT TITLE: | <u>April 1, 2020</u> <u>20-851-SS</u> <u>Residential Crisis Stabilization Services</u> |
|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|

THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

The contract documents consist of the terms and conditions of AGREEMENT No. 20-851-SS including any attachments or amendments thereto.

EFFECTIVE DATE: April 1, 2020

EXPIRES: June 30, 2020

RENEWALS: No Renewals

COMMODITY CODE(S): 95200

LIVING WAGE: N

ATTACHMENTS:

AGREEMENT No. 20-851-SS

EMPLOYEES NOT TO BENEFIT:

NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: Brent S. Bailey

VENDOR TEL. NO.:

(703) 979-5077

EMAIL ADDRESS: bbailey@fhr.net

COUNTY CONTACT: Chinomso Ememe, DHS-BHC

COUNTY TEL. NO.:

(703) 228-5332

COUNTY CONTACT EMAIL: cememe@arlingtonva.us

PURCHASING DIVISION AUTHORIZATION

Tomeka D. Price Title Procurement Officer Date May 22, 2020

ARLINGTON COUNTY, VIRGINIA

STANDARD FORM AGREEMENT No. 20-851-SS

THIS AGREEMENT ("Agreement") is made on April 1, 2020 between the COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ("County") and Fellowship Health Resources, Inc., a Rhode Island corporation authorized to do business in the Commonwealth of Virginia, with a principal place of business located at 24 Albion Rd., Suite 420, Lincoln, RI 02865 ("Contractor").

1. The Contractor agrees to provide the following goods or services describe in Exhibit A, Scope of Work.
2. The County will have no obligation to the Contractor if no goods or services are required.
3. The Contractor's provision of these goods or services is subject to review and approval by the County's Project Officer.
4. The Contractor shall provide the goods or services covered by the Contract beginning on April 1, 2020. Unless terminated as provided below, the Agreement shall continue until June 30, 2020.
5. The County will pay the Contractor, for services or goods that the Project Officer accepts, \$43,416.67 per month plus any medication reimbursements up to \$1,000, up to the maximum amount of \$131,250.01. Each invoice must certify that the invoice submitted is a true and accurate accounting of the work performed and goods and/or services provided and must be signed and attested to by the Contractor or authorized designee. The County will pay the Contractor net 45 days from receipt of an invoice that the Project Officer approves for payment.
6. The Contractor is an independent contractor, and the County will not withhold from the Contractor's compensation any federal or Virginia unemployment taxes, federal or Virginia income taxes, Social Security tax or any other amounts for benefits to the Contractor or its agents or employees.
7. The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Agreement:
 - a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Agreement; or
 - b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to any subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Agreement, except for amounts withheld as allowed in section b., above. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as those contained in this Agreement with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the above provisions may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

8. The County may terminate this Agreement by 30 days' written notice whenever the Purchasing Agent determines that termination is in the County's best interest. The Contractor will be entitled to receive compensation for all goods or services that the County accepted before the termination notice.
9. The County may terminate this Agreement by 48 hours' written notice if the Contractor fails to provide satisfactory goods or services, in the determination of the Project Officer. The notice will be effective upon receipt by the Contractor or three days after the County mails the notice, whichever is sooner. The Contractor will be entitled to receive compensation only for goods or services that the County accepted before the County mailed the notice. The Contractor will be liable to the County for all costs that the County incurs after the termination takes effect to complete the Work covered by the Contract, including delay costs and costs to repair or replace any unsatisfactory work. The County may deduct these costs from any amount that it owes the Contractor or require that the Contractor pay the costs on demand.
10. Time is of the essence and the Contractor agrees that failure to provide timely service will render this Agreement null and void.
11. The Contractor must provide a certificate of proof of the insurance coverages before the start of work:
 - Workers Compensation-Standard Virginia Workers Compensation Policy.
 - Commercial General Liability (CGL)- \$500,000 combined single limit with \$1,000,000 aggregate coverage to include Personal Injury, Completed Operations, Contractual Liability and, where applicable to the services, Products and Independent Contractors. "The County Board of Arlington County, Virginia, and its officers, employees and agents" must be additional named insureds on the CGL policy.
 - Automobile Bodily Injury and Property Damage Liability - \$500,000 Combined Single Limit (Owned, non-owned, or hired, as applicable).
12. The Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, age, disability or on any other basis prohibited by Virginia or federal law and must post in this nondiscrimination clause in conspicuous places, available to employees and applicants for employment.
 - b. The Contractor must state that it is an Equal Opportunity Employer in all solicitations or advertisements for employees that it places or causes to be placed.

- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall meet the requirements of this section.
 - d. The Contractor must include the provisions of the foregoing paragraphs a), b), and c) in every subcontract or Purchase Order in excess of \$10,000.00, so that the provisions will be binding upon each subcontractor and/or supplier.
13. The Contractor must comply with the provisions of the Americans with Disabilities Act of 1990, which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in publicly- and privately-provided services and activities.
14. The Contractor must (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of marijuana or any other controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order in excess of \$10,000.00, so that the provisions will be binding upon each subcontractor or supplier. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with this Agreement.
15. The Contractor acknowledges that it does not, and will not during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
16. This Agreement is governed by the Arlington County Purchasing Resolution, which is incorporated by reference. The time limit for decision by the County Manager in Contractual Disputes, as that term is used in the Purchasing Resolution, is thirty (30) days.
17. This Agreement is not effective until the County issues a valid County Purchase Order covering the amount of the Agreement.
18. All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.
19. This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment,

loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

20. No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.
21. The County does not discriminate against faith-based organizations.
22. The Contractor and its employees, agents and subcontractors will hold as confidential all County Information that they obtain under this Agreement. Confidential Information includes, but is not limited to, nonpublic personal information; personally, identifiable health information; security numbers; addresses; dates of birth; information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans and expertise. The Contractor must take reasonable measures to ensure that all of its employees, agents, and subcontractors are informed of and abide by this requirement.
23. The Contractor must comply with the provisions of Chapter 11 of the Arlington County Code covering business licenses as applicable.
24. The Contractor must remain authorized to transact business in the Commonwealth of Virginia during the term of this Agreement.
25. This Agreement is governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction and venue for any litigation is in the Circuit Court for Arlington County, Virginia, and in no other court.
26. The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.
27. Notices will be effective when made in writing and either (a) delivered in person, (b) delivered to an overnight delivery service or (c) deposited in the United States mail, certified or registered. Notices should be addressed as follows:

TO THE CONTRACTOR:

Brent S. Bailey CRC
Regional Director State of Virginia

Fellowship Health Resources Inc.
24 Albion Rd., Suite 420
Lincoln, RI 02865

TO THE COUNTY:

The County Project Officer
Chinomso Ememe, Mental Health Therapist III
2120 Washington Blvd, 3rd Floor
Arlington, Virginia 22204

AND

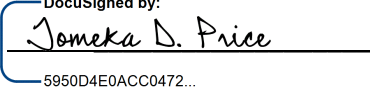
Tomeka D. Price, Procurement Officer
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

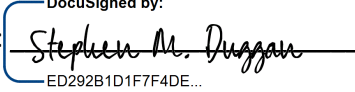
28. The Contractor must retain all books, records and other documents related to this Contract for at least five years after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.
29. The Contractor must comply with all applicable legislative and regulatory requirements of the privacy, security and electronic transaction components of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). If applicable, the Contractor shall be designated a business associate pursuant and will be required to execute an Arlington County Business Associate Agreement, included in this Agreement as Exhibit B, pursuant to 45 C.F.R. §164.502(e) and §164.504(e).
30. The Contractor shall not assign or transfer this Agreement, or any of its rights or interests, without the County's prior written consent.
31. This Agreement may be modified only by written amendment.
32. All remedies available to the County under this Agreement are cumulative, and no remedy is exclusive of any other that is available to the County at law or in equity.
33. The sections, paragraphs, sentences, clauses and phrases of this Agreement are severable; and if any part is held to be invalid, the rest of the Agreement will remain in effect.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE AFFIXED THEIR SIGNATURES.

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

FELLOWSHIP HEALTH RESOURCES, INC.

SIGNED: 5950D4E0ACC0472...

SIGNED: ED292B1D1F7F4DE...

PRINTED NAME: TOMEKA D. PRICE

PRINTED NAME: Stephen M. Duggan

PRINTED TITLE: PROCUREMENT OFFICER

PRINTED TITLE: Director of Finance

DATE: 5/22/2020

DATE: 5/22/2020

EXHIBIT A

SCOPE OF WORK

The Contractor will provide the following services:

1. Provide a six (6) bed facility providing up to 546 bed days of service. Expected length of stay per admission typically ranges from 5 days to a maximum of 15 days. The targeted utilization rate is approximately 95%.
2. Receive and accept referrals from by the Emergency Services Unit of the Arlington CSB, and Emergency Services programs from the City of Alexandria CSB, Fairfax/Falls Church CSB, Prince William CSB, or Loudoun CSB.
3. Provide residential crisis stabilization services that meets Virginia DBHDS Licensure Standards for Highly Intensive Residential Crisis Stabilization Services, and that is based upon evidence-based, recovery-oriented models, and which incorporates the following elements:
 - a) The ability to effectively stabilize individuals referred to the program.
 - b) The availability of supports and services to individuals 24 hours per day, 365 days per year, including awake overnight supervision,
 - c) The ability to serve those individuals receiving services with high level of care needs, including those seriously mentally ill individuals with a co-occurring substance abuse (SA) or intellectual or developmental disability (ID/DD) diagnosis. The Contractor and the Arlington County Project Officer will collaborate in the development of appropriate admissions criteria.
 - d) The program design reflects the County's efforts to effectively maximize diversion from hospitalization when appropriate, and to ensure treatment in the least restrictive setting possible for those individuals receiving services who are capable of community crisis stabilization,
 - e) A plan to partner with the Project Officer and Emergency Services staff throughout HPRII to identify those opportunities for maximizing diversion from inpatient hospitalization
 - f) A plan to ensure ongoing connection with both professional and natural supports,
 - g) The ability to provide everyone admitted to the program with adequate individual treatment and group treatment time,
 - h) Programming that is based on a recovery model that is grounded in person-centered, strengths-based, trauma-informed services, and that recognizes the value of individual choice, resilience and natural supports.
4. Assure monthly third-party billing for eligible Crisis Stabilization Services reimbursable through Medicaid.
5. Ensure that the Highly Intensive Crisis Stabilization Residential Services provide the following services:
 - a) A physical environment that is accessible, safe, and appropriate for individuals served, and accommodates the services offered. Building maintenance and upkeep should occur on a regular basis and meet all applicable regulatory standards.
 - b) Development of a Person-Centered, Recovery / Wellness-Oriented Individual Service Plan (ISP) with the individual, the individual's Case Manager, and, as appropriate, the individual's family and/or advocate.

- c) At a minimum, collaborative Service Planning will include the individual's assigned CSB Case Manager in order to maximize the individual's ability to remain connected with his/her existing treatment network. If an individual referred by Arlington County Emergency Services does not have an assigned CSB Case Manager, Arlington's Client Services Entry Transitional Case Manager and/or Emergency Services will provide case management support. Individuals referred by other CSBs in HPRII, who don't have assigned case managers within their home CSB, will receive case management services per that CSB's entry protocols.
 - d) Provide ongoing supervision and administration of medications, as well as monitoring of benefits and side effects of medication. In order to ensure continuity of care, the Arlington CSB Emergency Services psychiatrist and/or nurse practitioner will be available for psychiatric evaluation, consultation, and medication management as needed for those individuals receiving services admitted by Arlington County. Contractor will present a plan to provide nursing support to the CSB psychiatrist and to ensure that prescribed medication will be available to the individual upon the psychiatrist's order regardless of time of day. Contractor will present a protocol to ensure that individuals receiving services admitted from CSBs within the region have access to appropriate medication without support from Arlington psychiatric staff and contractors.
 - e) A normalizing environment that provides individuals receiving services with opportunities to participate in a therapeutic, recovery-oriented community.
 - f) Support activities that include, but are not limited to, ongoing assessment of risk and functioning, crisis counseling, medication education, psycho-education, family support and education, opportunities to learn or enhance social / interpersonal skills, and that support wellness and recovery principles.
 - g) Policy and procedures that ensure that all individuals admitted to the program have been medically cleared for the program;
 - h) Regular staff training that includes: the philosophy and methods of residential crisis services; serious mental illnesses and the principles of recovery and wellness; skills in working with individuals receiving services who are dually diagnosed with SMI and either ID/DD or SA; the challenges of an aging population; respecting cultural diversity; interactions with individuals receiving services, their families, and/or advocates; and training in behavior management techniques.
- 6. Submit monthly third-party billing for eligible Crisis Stabilization Services reimbursable through Virginia's Medicaid SPO Program.
 - 7. Securing appropriate facility, furniture, equipment, and supplies, including food for the facility within the agreed-upon program budget.
 - 8. Provide the following staffing level:
 - a. A minimum of two (2) staff on duty for up to 24-hours per day, seven days a week, including awake overnight coverage;
 - b. A nurse practitioner or nurse who will ensure that the medical needs of the individuals receiving services are addressed and who will provide ongoing support to the Arlington CSB psychiatric team. This nurse will also be available for on-call as needed; and
 - c. Peer Specialist up to 20 hours per week.
 - d. Access to behavioral consultation for those individuals receiving services admitted with behavioral challenges.

The County reserves the right to review the staffing plan on an ongoing basis throughout the life of the contract to ensure adequate and appropriate staffing.

9. Filing incident reports with the County Project Officer within 24 hours of any event that occurs on the program property, or involving any individual receiving services through the contract. Incident reporting must follow the guidelines established by DBHDS and Arlington County BHD. Make available to the County, upon request, any data, databases, procedures, or policies related to the program.
10. Participate in meetings with other CSB service providers including community day programs, and in meetings called by the County or CSB for the purposes of coordination, sharing, and training.
11. Ensure that admission and discharge are consistent with service criteria. If the Contractor is unable to continue to provide appropriate services to an individual admitted to the program, the Contractor must make appropriate notification and justification to the Arlington County Project Officer and the case manager at the time of the change in service.
12. Comply with all licensing and Medicaid documentation requirements.
13. The Contractor shall allow County or CSB representatives physical access to the Contractor's offices as needed during the Contractor's identified business hours, and to facilities at any time without giving prior notice.
14. Upon termination of this contract by either party, the Contractor shall provide, upon receipt of a written request from the County and with written authorization of the client, all client-specific records pertaining to services provided to current and former clients as a result of this contract to any successor-service provider. To protect the interest of clients, the County will serve as custodian of the records in the event of any interruption of services.
15. Obtain written approval from the County prior to the implementation of any significant changes in treatment models or program philosophy.
16. Review, in collaboration with the BHD staff, referrals of new clients following the discharge or the attrition of a client.
17. All residential and support programs shall at a minimum meet all Licensure, Department of Social Services, and Medicaid standards applicable to their respective programs.
18. The Contractor's program staff shall maintain on-going communication with the client's Case Manager; at least on a weekly basis.
19. Maintain discharge criteria for all programs. The Contractor shall notify the County Project Officer and the client's Case Manager prior to any discharge plans for clients. The Contractor shall establish a coordinated discharge plan with client involvement, unless clinically contraindicated.
20. Initiate application for all necessary inspections, use permits, etc. in order to have residential facilities available on a determine start date by the Project officer. The contractor must retain records and reports of health and fire safety inspections in compliance with State and local regulations. Maintenance of facilities must be adequate for service delivery. All contractors are responsible for snow and ice removal to ensure safe access to their building, parking and loading/unloading areas of their building.
21. The Contractor and the CSB Project Officer will meet at a minimum quarterly to discuss program changes, client issues and overall contract compliance.
22. Operate in compliance with the State Performance Contract that has been established between the ACSB and the Virginia Department of Behavioral Health and Disability Services.

23. Provide services for individuals of diverse languages and cultural backgrounds, reflective of the population found in Arlington, and should describe strategies for providing support.
24. Any information, reports, or other material given to, prepared or assembled by the Contractor under this contract shall not be sold or otherwise made available to any individual or organization without prior written approval of the County Purchasing Agent.

STAFFING

The Contractor shall operate a personnel system that includes:

1. Standards of conduct, professional conduct, employee ethics, conflicts of interest, employee performance evaluations, equal employment opportunity, appropriate initial employee orientation, employee-County contract protocol, and on-the-job expenses.
2. Written, up-to-date job descriptions that exist for all positions and include identified essential functions, explicit responsibilities, and qualification statements expressed in terms of knowledge, skills, and abilities as well as business necessity and bona fide occupational qualifications or requirements. Incumbents of positions that require specific levels of education or training shall have documentation of this education or training contained in the appropriate employee files.

The Contractor shall ensure that all staff, who work directly with clients under this contract, receive training prior to their work with clients, consistent with licensing regulations, including but not limited to:

1. Objectives and philosophy of the organization;
2. Practices of confidentiality;
3. Practices that ensure client rights including orientation to human rights regulations;
4. Applicable personnel policies;
5. Emergency preparedness procedures; criteria included in this policy should be consistent with DBHDS licensure standards;
6. Infection control practices and measures, and safety-related monitoring; and
7. Other policies and procedures that apply to specific positions and specific duties and responsibilities.
8. DBHDS licensure standards regarding smoking.

The Contractor shall ensure that all staff who work directly with clients receive training within the first three (3) months of employment regarding:

1. crisis prevention and intervention;
2. first aid and CPR training as appropriate;
3. orientation to psychotropic medications and side effects;
4. knowledge of the community mental health system programs and access procedures;
5. orientation to psychiatric disorders and treatment protocols;
6. all applicable aspects of program operation necessary to the fulfillment of service objectives under terms of this Agreement,

Provide annual reports of staff training, by program, to the County Project Officer and cooperate in evaluations of the effectiveness of staff training.

The Contractor shall, within the limits of the approved personnel budget, obtain consent from the County prior to significant changes to individual program staffing, or in program personnel job requirements or qualifications.

SERVICE EVALUATION

1. The County shall, at its option, evaluate the effectiveness of the services provided by the Contractor. The Contractor shall cooperate with and assist the County's staff in such evaluations.
2. Supply data in response to CSB outcome measures that will support a review of the quality of services that it provides under the Agreement. The outcome measure(s) shall be submitted to the County's Project Officer annually for approval within thirty (30) days of the beginning of each fiscal year during the term of this Agreement. The Contractor shall cooperate with the County in assessing the results of these outcome measures and revising them at the County's option.
3. Participate in the evaluation of jointly developed outcome measures and performance measurement activities; in reviews of financial, reimbursement, procurement, and management operations conducted by the VA DBHDS. The Contractor will provide the information and full access to records, including information about clients, to the extent permitted by law, regulation, and policy, that are necessary for the conduct of such evaluations, activities, and reviews. The Contractor will act on DBHDS recommendations made in these reviews and implement agreed upon recommendations in a timely manner. The Contractor will participate with VA DBHDS as requested to develop client and family satisfaction survey instruments, implement these surveys, and report the results to the Department.

REPORTING REQUIREMENTS

The following reports and work products must be submitted to the Project Officer and/or the designated County staff (see Table I):

1. Statistical Reports by Program(s): The Contractor shall provide, on a monthly basis and due to the Project Officer by the sixteenth (16th) day following the month that services were provided. The report shall provide statistics for the Month and the Year to Date:
 - a. Number of admissions and discharges;
 - b. Number of bed days/hours available;
 - c. Number of bed days/hours occupied;
 - d. Number of bed days/hours vacant;
 - e. Reason(s) for vacancies;
 - f. Number of client's served, and units of service provided per client.
2. Narrative Reports by Program(s):

The Contractor shall complete and submit quarterly narrative reports to the Project Officer by the sixteenth (16th) calendar day of the month after the end of each quarter. The narrative report should be an explanation of the statistical report and provide commentary on the data presented in the statistical report(s). The narrative report(s) shall provide the following information in the following order:

 - a) Explanation and analysis of the data presented in the monthly statistical reports;
 - b) Analysis of the general types of client problems that staff are addressing;
 - c) Name of clients hospitalized during the quarter;
 - d) Relationship between the Contractor services and services provided by the Mental Health Center;

- e) Number and description of groups/activities sponsored by the Contractor and the number of clients attending;
 - f) Staff training completed each quarter;
 - g) Number of staff vacancies, steps taken to fill vacancies, and new hires;
3. The Contractor shall submit copies of the following by July 15th following the end of the County fiscal year.
- a) Unduplicated number of admissions and discharges;
 - b) Results of program specific satisfaction surveys;
 - c) Results of individual program outcome measures as determined by the County and the Contractor.
4. Contractor Reports
- a) Annual Audit within 90 days of the end of the Contractor’s fiscal year.
 - b) Virginia DBHDS licensure reports (due within five working days of licensure visit) including annual evaluations or any other reports associated with on-site inspections.
 - c) Client incident reports due to the Project Officer and the client’s Case Manager within 24 hours of any event that occurs on the program property or involving any client. Incidents include any illegal act by staff or clients, acts or threats of violence, theft, death, or any accident where injury or potential injury occurred.
 - d) Reports of actual or suspected violation of client rights, e.g. all referrals made to Adult Protective Services
 - e) Quarterly Staff Training Report

TABLE I

REPORTING REQUIREMENTS

| <u>Report or Designated Product:</u> | <u>Copies Required:</u> | <u>Date Due or Frequency:</u> | <u>Project Officer or Designated County Staff</u> |
|--------------------------------------------------------------------------------|-------------------------|--------------------------------|---------------------------------------------------|
| A. Statistical Report | 1 | Monthly by the 5 th | Project Officer |
| B. Individual Consumer Specific Report | as requested | Quarterly | Project Officer |
| C. Qualitative Outcome Data Report (see #3 under Under reporting requirements) | 3 | Annually | X |
| D. Contractor's Annual | 1 | Annually | X Report |
| E. Annual Audit | 2 | Annually | X |
| F. Licensure Reports | | within 5 days of receipt | X |
| G. Consumer Incident Reports | 2 | Within 24 hrs. of the incident | Project Officer & Case Manager |

| | | | |
|------------------------------------------------------|---|-------------------|-----------------|
| H. Human Rights Reports | 2 | Next business day | Project Officer |
| I. Other reports deemed necessary by Project Officer | 1 | Upon request | X |
| J. Citizen Complaints | 1 | Next business day | Project Officer |
| K. Narrative Program Reports | 1 | Quarterly | Project Officer |

BUDGET & FINANCES

A. The Contractor agrees to the following funding conditions:

1. The Contractor shall be paid a lump sum for crisis stabilization services rendered under this Agreement, to be paid in three (3) equal monthly installments for each three (3) month period upon receipt of invoice. The Contractor shall provide the County with a monthly report of units of services delivered the previous month in an invoice format acceptable to the County, and with supporting documentation required by the County.
2. The contractor shall be reimbursed for client medication expenses, separately from the monthly fee.
3. The Contractor shall use all funds received under this Agreement solely for services described in the Contract Documents.
4. The County shall reduce the funding level by the amount denied by Federal, State, or local sources in the event of the Contractor's violation of reporting or other requirements. If possible, the Contractor shall be notified thirty (30) days in advance of implementation of such funding reductions.
5. If State and/or local funds used to fund the services specified by an Agreement are not available for reasons beyond the control of the County, then the County will provide the Contractor with written notification of the immediate termination of the Agreement. In the event of such termination, all the obligations of the County and the Contractor under the Agreement, except those pertaining to termination, shall immediately cease as of the date of receipt of notice of the termination or other date specified in the notice of termination. The Agreement is also subject to appropriation of funds by the Arlington County Board.
6. In the event of termination of an Agreement, the Contractor shall make an accounting, in writing, of funds expended and funds not expended, and shall return to the County any unexpended balance of State and County funds, excluding termination costs allowed under the Agreement.
7. If the Contractor no longer provides appropriate services as outlined in this Agreement as determined by the County, or if the Contractor's failure to adhere to the admission process as contained in the Contract Documents results in extended Program vacancies, then the County may reduce payment to the Contractor by the cost of the appropriate units of service.

B. The Contractor agrees to the following fiscal and budget reporting requirements:

1. An annual audit will be conducted by an independent certified public accountant(s). Copies of the audit and accompanying management letter will be provided in whole to the County no later than November 1 following the end of the fiscal year. The audit must meet standards

set by the Virginia Auditor of Public Accounts, applicable federal requirements established for block grant accounting, and other criteria from the DMHMRSAS Financial Management Manual. Deficiencies and exceptions noted in the audit or management letter must be resolved or corrected within a reasonable period of time, mutually agreed-upon by the Contractor and the County.

2. The Contractor shall permit authorized representatives of the County or the State to review all records of the Contractor as may be deemed necessary by them to satisfy audit and other financial purposes as deemed necessary by the County. All accounts of the Contractor are subject to such audit and financial review, regardless of whether the funds are used exclusively for specific program activities or mingled with funds for other Contractor activities.
3. The Contractor shall submit financial reports at the request of the County at any time during the period of service covered by this or any preceding Agreements.
4. The Contractor shall submit, upon request, budget documentation applicable to the Agreement in a manner which the County deems appropriate.

C. The Contractor shall provide written notification to the County of existing or proposed subcontracts for services which total, individually or in aggregate for the same service, greater than Ten Thousand Dollars (\$10,000) for any fiscal year. Such subcontracts will be subject to the approval of the County.

D. Unless this Agreement is succeeded by another Agreement between the County and the Contractor for essentially the same services, all property acquired with funds provided under this Agreement shall revert to the ownership of the County at the termination, scheduled or otherwise, of this Agreement, regardless of whether such property is titled by the Contractor, or in the possession or control of the Contractor. In any event, all property procured with funds from this Agreement shall be made available to the County within 30 days of termination of this Agreement or any successor Agreement.

THE CONTRACTOR SHALL OPERATE THEIR BUSINESS IN A MANNER THAT MEETS THE FOLLOWING REQUIREMENTS:

1. Contractor shall comply with Sections 37.2-504, 37.2-511, 37.2-612, and 20-61 of the Code of Virginia. Contractor's operation shall be described in organizational charts that identify all staff members, flow charts, and specific job descriptions for all personnel involved in the reimbursement system;
2. Contractor shall maintain fee collection policies and procedures that are adequate to maximize revenues from clients and responsible third-party payors;
3. Contractor shall maintain a schedule of charges for all services, and such charges shall be related reasonably to the cost of the services, and shall be applicable to all recipients of the services;
4. Contractor shall operate, subject to approval by the County, in a manner that complies with applicable state and federal regulations that are used to evaluate the ability of each client to pay fees for the services he or she receives;
5. Contractor shall operate in a manner such that that appropriate services will not be denied to eligible individuals solely because of their inability to pay for such services;

6. Contractor shall maintain records of clients' program fee assessments and payments for five (5) years after the expiration of this Agreement, and shall make all reasonable efforts to notify responsible persons of their liability in writing prior to destroying such records;
7. Contractor shall comply with all applicable laws and regulations.

EXHIBIT B

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is hereby entered into between Fellowship Health Resources, Inc. (hereafter referred to as "Business Associate") and the County Board of Arlington County, Virginia (hereafter referred to as "Covered Entity" or "County") (collectively "the parties") and is hereby made a part of any Underlying Agreement for goods or services entered into between the parties.

Recitals

The County provides services to its residents and employees which may cause it or others under its direction or control to serve as covered entities for purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The County, in its capacity as a covered entity, may provide Business Associate with certain information that may include Protected Health Information (PHI), so that Business Associate may perform its responsibilities pursuant to its Underlying Agreement(s) with and on behalf of County.

Covered Entity and Business Associate intend to protect the privacy of PHI and provide for the security of any electronic PHI received by Business Associate from Covered Entity, or created or received by Business Associate on behalf of Covered Entity in compliance with HIPAA; in compliance with regulations promulgated pursuant to HIPAA, at 45 CFR Parts 160 and Part 164; and in compliance with applicable provisions of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act") and any applicable regulations and/or guidance issued by the U.S. Department of Health and Human Services ("DHHS") with respect to the HITECH Act (collectively "federal law").

WHEREAS, federal law and the specific regulations promulgated pursuant to HIPAA at 45 CFR § 164.314, 45 CFR § 164-502(e) and 45 CFR § 164.504(e) require a Covered Entity to enter into written agreements with all Business Associates (hereinafter "Business Associate Agreement");

WHEREAS, the parties desire to comply with HIPAA and desire to secure and protect such PHI from unauthorized disclosure;

THEREFORE, **Business Associate** and **Covered Entity**, intending to be legally bound, agree as follows. The obligations, responsibilities and definitions may be changed from time to time as determined by federal law and such changes are incorporated herein as if set forth in full text:

1) Definitions

The capitalized terms used in this Business Associate Agreement shall have the meaning set out below:

- a) **Accounting**. "Accounting" means a record of disclosures of protected health information made by the Business Associate.

- b) **Breach.** "Breach" means the acquisition, access, use, or disclosure of protected health information in a manner not permitted by this Business Associate Agreement and/or by HIPAA, which compromises the security or privacy of the protected health information. For purposes of this Business Associate Agreement, any unauthorized acquisition, access, use, or disclosure of protected health information shall be presumed to be a breach.
- c) **Business Associate.** "Business Associate" means a person who creates, receives, maintains, or transmits protected health information on behalf of a Covered Entity to accomplish a task regulated by HIPAA and not as a member of the Covered Entity's workforce. A Business Associate shall include, but is not limited to, a non-workforce person/entity who performs data processing/analysis/transmission, billing, benefit management, quality assurance, legal, actuarial, accounting, administrative and/or financial services on behalf of the Covered Entity involving protected health information. A Business Associate also includes a subcontractor.
- d) **Covered Entity.** "Covered Entity" means a health plan, a health care clearinghouse, and/or a health care provider who transmits any health information in electronic form in connection with an activity regulated by HIPAA.
- e) **Data Aggregation.** "Data Aggregation" means, with respect to PHI created or received by Business Associate in its capacity as the Business Associate of Covered Entity, the combining of such PHI by the Business Associate with the PHI received by the Business Associate in its capacity as a Business Associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- f) **Designated Record Set.** "Designated Record Set" means all records, including medical, enrollment, billing, payment, claims, and/or case management maintained by and/or for a Covered Entity.
- g) **Discovery.** "Discovery" shall mean the first day an unauthorized use or disclosure is known or reasonably should have been known by Business Associate, including when it is or should have been known by any person other than the person who engaged in the unauthorized use/disclosure who is an employee, officer, or agent of Business Associate.
- h) **Electronic Protected Health Information.** "Electronic Protected Health Information" means individually identifiable health information that is transmitted by or maintained in electronic media.
- i) **HIPAA.** "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 as in effect and/or as amended.
- j) **HITECH Act.** "HITECH Act" means the portions of the Health Information Technology for Economic and Clinical Health Act which serve as amendments to HIPAA. HITECH is included within the definition of HIPAA unless stated separately.
- k) **Individual.** "Individual" means the person who is the subject of protected health information and/or a person who would qualify as a personal representative of the person who is the subject of protected health information.

- l) **Protected Health Information.** "Protected Health Information" or "PHI" means individually identifiable health information transmitted and/or maintained in any form.
- m) **Remuneration.** "Remuneration" means direct or indirect payment from or on behalf of a third party.
- n) **Required By Law.** "Required By Law" means an activity which Business Associate is required to do or perform based on the provisions of state and/or federal law.
- o) **Secretary.** "Secretary" means the Secretary of the Department of Health and Human Services or the Secretary's designee.
- p) **Security Incident.** "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with the system operations in an information system.
- q) **Underlying Agreement.** "Underlying Agreement" means the County contract for goods or services made through the County's procurement office which the parties have entered into and which the County has determined requires the execution of this Business Associate Agreement.
- r) **Unsecured Protected Health Information.** "Unsecured Protected Health Information" means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology approved by the Secretary.

2) Obligations and Activities of Business Associate

- a) Business Associate acknowledges and agrees that it is obligated by law (or upon the effective date of any portion thereof shall be obligated) to meet the applicable provisions of HIPAA and such provisions are incorporated herein and made a part of this Business Associate Agreement. Covered Entity and Business Associate agree that any regulations and/or guidance issued by DHHS with respect to HIPAA that relate to the obligations of business associates shall be deemed incorporated into and made a part of this Business Associate Agreement.
- b) In accordance with 45 CFR §164.502(a)(3), Business Associate agrees not to use or disclose PHI other than as permitted or required by this Business Associate Agreement or as Required by Law.
- c) Business Associate agrees to develop, implement, maintain and use appropriate administrative, technical, and physical safeguards that reasonably prevent the use or disclosure of PHI other than as provided for by this Business Associate Agreement, in accordance with 45 CFR §§164.306, 310 and 312. Business Associate agrees to develop, implement, maintain and use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI, in accordance with 45 CFR §§164.306, 308, 310, and 312. In accordance with 45 CFR §164.316, Business Associate shall also develop and implement policies and procedures and meet the documentation requirements as and at such time as may be required by HIPAA.

- d) 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 Business Associate Agreement.
- e) In accordance with 45 CFR §§164.308, 314 and 502, Business Associate will ensure that any workforce member or agent, including a vendor or subcontractor, whom Business Associate engages to create, receive, maintain, or transmit PHI on Business Associate's behalf, agrees to the same restrictions and conditions that apply through this Business Associate Agreement to Business Associate with respect to such information, including minimum necessary limitations. Business Associate will ensure that any workforce member or agent, including a vendor or subcontractor, whom Business Associate engages to create, receive, maintain, or transmit PHI on Business Associate's behalf, agrees to implement reasonable and appropriate safeguards to ensure the confidentiality, integrity, and availability of the PHI.
- f) At the request of Covered Entity, Business Associate will provide Covered Entity, or as directed by Covered Entity, an Individual, access to PHI maintained in a Designated Record Set in a time and manner that is sufficient to meet the requirements of 45 CFR § 164.524, and, where required by HIPAA, shall make such information available in an electronic format where directed by the Covered Entity.
- g) At the written request of Covered Entity, (or if so directed by Covered Entity, at the written request of an Individual), Business Associate agrees to make any amendment to PHI in a Designated Record Set, in a time and manner that is sufficient to meet the requirements of 45 CFR § 164.526.
- h) In accordance with 45 CFR §164.504(e)(2), Business Associate agrees to make its internal practices, books, and records, including policies and procedures, and any PHI, relating to the use and disclosure of PHI, available to Covered Entity or to the Secretary for purposes of determining compliance with applicable law. To the extent permitted by law, said disclosures shall be held in strictest confidence by the Covered Entity. Business Associate will provide such access in a time and manner that is sufficient to meet any applicable requirements of applicable law.
- i) Business Associate agrees to document and maintain a record of disclosures of PHI and information related to such disclosures, including the date, recipient and purpose of such disclosures, in a manner that is sufficient for Covered Entity or Business Associate to respond to a request by Covered Entity or an Individual for an Accounting of disclosures of PHI and in accordance with 45 CFR § 164.528. Business Associate further shall provide any additional information where required by HIPAA and any implementing regulations. Unless otherwise provided under HIPAA, Business Associate will maintain the Accounting with respect to each disclosure for at least six years following the date of the disclosure.
- j) Business Associate agrees to provide to Covered Entity upon written request, or, as directed by Covered Entity, to an Individual, an Accounting of disclosures in a time and manner that is sufficient to meet the requirements of HIPAA, in accordance with 45 CFR §164.528. In addition, where Business Associate is contacted directly by an Individual based upon information provided to the Individual by Covered Entity and where so required by HIPAA and/or any implementing regulations, Business Associate shall make such Accounting available directly to the Individual.

- k) In accordance with 45 CFR §164.502(b), Business Associate agrees to make reasonable efforts to limit use, disclosure, and/or requests for PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. Where required by HIPAA, Business Associate shall determine (in its reasonable judgment) what constitutes the minimum necessary to accomplish the intended purpose of a disclosure.
- l) In accordance with 45 CFR §502(a)(5), Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual, except with the express written pre-approval of Covered Entity.
- m) To the extent Business Associate is to carry out one or more obligation(s) of the Covered Entity's under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).
- n) In accordance with 45 CFR §164.314(a)(1)(i)(C), Business Associate agrees to promptly report to Covered Entity any Security Incident of which Business Associate becomes aware.
- o) In accordance with 45 CFR §164.410 and the provisions of this Business Associate Agreement, Business Associate will report to Covered Entity, following Discovery and without unreasonable delay, but in no event later than five business days following Discovery, any Breach of Unsecured Protected Health Information. Business Associate shall cooperate with Covered Entity in investigating the Breach and in meeting Covered Entity's obligations under HIPAA and any other applicable security breach notification laws, including, but not limited to, providing Covered Entity with such information in addition to Business Associate's report as Covered Entity may reasonably request, e.g., for purposes of Covered Entity making an assessment as to whether/what Breach Notification is required.

Business Associate's report under this subsection shall, to the extent available at the time the initial report is required, or as promptly thereafter as such information becomes available but no later than 30 days from discovery, include:

1. The identification (if known) of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach;
2. A description of the nature of the unauthorized acquisition, access, use, or disclosure, including the date of the Breach and the date of discovery of the Breach;
3. A description of the type of Unsecured PHI acquired, accessed, used or disclosed in the Breach (e.g., full name, Social Security number, date of birth, etc.);
4. The identity of the individual(s) who made and who received the unauthorized acquisition, access, use or disclosure;
5. A description of what Business Associate is doing to investigate the Breach, to mitigate losses, and to protect against any further breaches; and

6. Contact information for Business Associate's representatives knowledgeable about the Breach.

- p) Business Associate shall maintain for a period of six years all information required to be reported under paragraph "o". This records retention requirement does not in any manner change the obligation to timely disclose all required information relating to a non-permitted acquisition, access, use or disclosure of Protected Health Information to the County Privacy Officer and the County Project Officer or designee five business days following Discovery.

3) Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this Business Associate Agreement, Business Associate may use or disclose PHI, consistent with HIPAA, as follows:

- a) Business Associate may use or disclose PHI as necessary to perform functions, activities, or services to or on behalf of Covered Entity under any service agreement(s) with Covered Entity, including Data Aggregation services related to the health care operations of Covered Entity, if called for in the Underlying Agreement, if Business Associate's use or disclosure of PHI would not violate HIPAA if done by Covered Entity.
- b) Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- c) Business Associate may disclose PHI for the proper management and administration of Business Associate if:
1. Disclosure is Required by Law;
 2. Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that the PHI will remain confidential, and will be used or further disclosed only as Required By Law or for the purpose for which it was disclosed, and the person agrees to promptly notify Business Associate of any known breaches of the PHI's confidentiality; or
 3. Disclosure is pursuant to an order of a Court or Agency having jurisdiction over said information.
- d) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

4) Obligations of Covered Entity

- a) Covered Entity will notify Business Associate of any limitations on uses or disclosures described in its Notice of Privacy Practices (NOPP).
- b) Covered Entity will notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes or revocation may affect Business Associate's use or disclosure of PHI.

- c) Covered Entity will notify Business Associate of any restriction of the use or disclosure of PHI, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- d) Covered Entity will notify Business Associate of any alternative means or locations for receipt of communications by an Individual which must be accommodated or permitted by Covered Entity, to the extent that such alternative means or locations may affect Business Associate's use or disclosure of PHI.
- e) Except as otherwise provided in this Business Associate Agreement, Covered Entity will not ask Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if such use and/or disclosure was made by Covered Entity.

5) Term, Termination and Breach

- a) This Business Associate Agreement is effective when fully executed and will terminate 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 destroyed or returned to Covered Entity, including any material provided to subcontractors. If it is infeasible to return or destroy all PHI, protections are extended to such information, in accordance with the Section 5(d) and 5(e) below.
- b) Upon Covered Entity's determination that Business Associate has committed a violation or material breach of this Business Associate Agreement, and in Covered Entity's sole discretion, Covered Entity may take any one or more of the following steps:
 - 1. Provide an opportunity for Business Associate to cure the breach or end the violation, and if Business Associate does not cure the Breach or end the violation within a reasonable time specified by Covered Entity, terminate this Business Associate Agreement;
 - 2. Immediately terminate this Business Associate Agreement if Business Associate has committed a material breach of this Business Associate Agreement and cure of the material breach is not feasible; or,
 - 3. If neither termination nor cure is feasible, elect to continue this Business Associate Agreement and report the violation or material breach to the Secretary.
- c) If Business Associate believes Covered Entity has failed to fulfill any of its duties under this Business Associate Agreement, Business Associate will promptly notify Covered Entity as to same and Covered Entity shall promptly address the matter with Business Associate.
- d) Except as provided in Section 5(e) upon termination of this Business Associate Agreement for any reason, Business Associate will return or destroy, at the discretion of Covered Entity, all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision will also apply to PHI that is in the possession of workforce members, subcontractors, or agents of Business Associate. Neither Business Associate, nor any workforce member, subcontractor, or agent of Business Associate, will retain copies of the PHI.
- e) If Business Associate determines that returning or destroying all or part of the PHI received or created by and/or on behalf of Covered Entity is not feasible, Business Associate will notify Covered Entity of the circumstances making return or destruction infeasible. If Covered Entity

agrees that return or destruction is infeasible, then Business Associate will extend the protections of this Business Associate 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 maintains such PHI. Business Associate further agrees to retain the minimum necessary PHI to accomplish those tasks/responsibilities which make return and/or destruction infeasible.

6) Miscellaneous

- a) Covered Entity and Business Associate agree to take any action necessary to amend this Business Associate Agreement from time to time as may be necessary for Covered Entity or Business Associate to comply with the requirements of HIPAA, and/or any other implementing regulations or guidance.
- b) Notwithstanding the expiration or termination of this Business Associate Agreement or any Underlying Agreement, it is acknowledged and agreed that those rights and obligations of Business Associate which by their nature are intended to survive such expiration or termination shall survive, including, but not limited to, Sections 5(d) and 5(e) herein.
- c) In the event the terms of this Business Associate Agreement conflict with the terms of any other agreement between Covered Entity and Business Associate or the Underlying Agreement, then the terms of this Business Associate Agreement shall control.
- d) Notices and requests provided for under this Business Associate Agreement will be made in writing to Covered Entity, delivered by hand-delivery, overnight mail or first-class mail, postage prepaid at:

(1) Marcy Foster,
Arlington County Privacy Officer
2100 Clarendon Blvd., Suite 511
Arlington, Virginia 22201

(2) Stephen MacIsaac
County Attorney
2100 Clarendon Blvd., Suite 511
Arlington, Virginia 22201

(3) County Project Officer
Chinomso Ememe
2120 Washington Blvd, 3rd Fl
Arlington, Virginia 22204

Notice and requests provided for under this Business Associate Agreement will be made in writing in the manner described above to Business Associate at:

Fellowship Health Resources Inc.
Attn: Brent S. Bailey, CRC
46 S. Glebe Rd.
Arlington, VA 22204

- e) Covered Entity will have the right to inspect any records of Business Associate or to audit Business Associate to determine whether Business Associate is in compliance with the terms of this Business Associate Agreement. However, this provision does not create any obligation on the part of Covered Entity to conduct any inspection or audit.
- f) Nothing in this Business Associate Agreement shall be construed to create a partnership, joint venture, or other joint business relationship between the parties or any of their affiliates, or a relationship of employer and employee between the parties. Rather, it is the intention of the parties that Business Associate shall be an independent contractor.
- g) Nothing in this Business Associate Agreement provides or is intended to provide any benefit to any third party.
- h) The Business Associate will indemnify and hold harmless Arlington County, its elected officials, officers, directors, employees and/or agents from and against any employee, federal administrative action or third party claim or liability, including attorneys' fees and costs, arising out of or in connection with the Business Associate's violation (or alleged violation) and/or any violation and/or alleged violation by Business Associate's workforce, agent/s, or subcontractor/s of the terms of this Business Associate Agreement, federal law, HIPAA, the HITECH Act, and/or other implementing regulations or guidance or any associated audit or investigation.

The obligation to provide indemnification under this Business Associate Agreement shall be contingent upon the party seeking indemnification providing the indemnifying party with written notice of any claim for which indemnification is sought. Any limitation of liability provisions contained in the Underlying Agreement do not supersede, pre-empt, or nullify this provision or the Business Associate Agreement generally.

This indemnification shall survive the expiration or termination of this Business Associate Agreement or the Underlying Agreement.

- i) Any ambiguity in this Business Associate Agreement shall be resolved to permit the parties to comply with HIPAA, its implementing regulations, and associated guidance. The sections, paragraphs, sentences, clauses and phrases of this Business Associate agreement are severable. If any phrase, clause, sentence, paragraph or section of this Business Associate Agreement is declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences and sections of this Business Associate Agreement.
- j) If any dispute or claim arises between the parties with respect to this Business Associate Agreement, the parties will make a good faith effort to resolve such matters informally, it being the intention of the parties to reasonably cooperate with each other in the performance of the obligations set forth in this Business Associate Agreement. The Dispute Resolution clause of the Underlying Agreement ultimately governs if good faith efforts are unsuccessful.
- k) A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy as to any subsequent events.
- l) Neither party may assign any of its rights or obligations under this Business Associate Agreement without the prior written consent of the other party.

- m) This Business Associate Agreement and the rights and obligations of the parties hereunder shall be construed, interpreted, and enforced with, and shall be governed by, the laws of the Commonwealth of Virginia and the United States of America.
- n) This Business Associate Agreement shall remain in effect for the duration of the Underlying Agreement between the parties, any renewals, extension or continuations thereof, and until such time as all PHI in the possession or control of the Business Associate has been returned to the Covered Entity and/or destroyed. If such return or destruction is not feasible, the Business Associate shall use such PHI only for such limited purposes that make such return or destruction not feasible and the provision of this Business Associate Agreement shall survive with respect to such PHI.
- o) The Business Associate shall be deemed to be in violation of this Business Associate Agreement if it knew of, or with the exercise of reasonable diligence or oversight should have known of, a pattern of activity or practice of any subcontractor, subsidiary, affiliate, agent or workforce member that constitutes a material violation of that entity's obligations in regard to PHI unless the Business Associate took prompt and reasonable steps to cure the breach or end the violation, as applicable, and if such steps were unsuccessful, terminated the contract or arrangement with such entity, if feasible.
- p) Upon the enactment of any law or regulation affecting the use or disclosure of PHI, or any change in applicable federal law including revisions to HIPAA; upon publication of any decision of a court of the United States or of the Commonwealth of Virginia, relating to PHI or applicable federal law; upon the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of PHI disclosures or applicable federal law, the County reserves the right, upon written notice to the Business Associate, to amend this Business Associate Agreement as the County determines is necessary to comply with such change, law or regulation. If the Business Associate disagrees with any such amendment, it shall so notify the County in writing within thirty (30) days of the County's notice. In case of disagreement, the parties agree to negotiate in good faith the appropriate amendment(s) to give effect to such revised obligation. In the County's discretion, the failure to enter into an amendment shall be deemed to be a default and good cause for termination of the Underlying Agreement.
- q) The County makes no warranty or representation that compliance by the Business Associate with this Business Associate Agreement, HIPAA, the HITECH Act, federal law or the regulations promulgated thereunder will be adequate or satisfactory for the Business Associate's own purposes or to ensure its compliance with the above. The Business Associate is solely responsible for all decisions made by it, its workforce members, agents, employees, subsidiaries and subcontractors regarding the safeguarding of PHI and compliance with federal law.
- r) The Business Associate agrees that its workforce members, agents, employees, subsidiaries and subcontractors shall be bound by the confidentiality requirements herein and the provisions of this Business Associate Agreement shall be incorporated into any training or contracts with the same.
- s) This Business Associate 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 document.

t) This Business Associate Agreement shall replace and supersede any prior Business Associate Agreement entered between the parties.

IN WITNESS WHEREOF, each party hereto has executed this Business Associate Agreement in duplicate originals on the date below written:

Arlington County, Virginia

DocuSigned by:
By: Marcy Foster
(Signature)
Name: Marcy Foster
Title: County Privacy Officer
Date: 5/27/2020

Business Associate

DocuSigned by:
By: Brent S. Bailey
(Signature)
Name: Brent S. Bailey
Title: Regional Director
Date: 5/22/2020