

**SERVICES AGREEMENT BETWEEN ESCAMBIA COUNTY, FLORIDA  
AND BAPTIST HOSPITAL, INC.  
(COVID-19 Vaccinations)**

**THIS AGREEMENT** is made by and between Escambia County, a political subdivision of the State of Florida (hereinafter referred to as the “County”) with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502, and Baptist Hospital, Inc., (hereinafter referred to as “BHI”) located at 1717 North E St., Pensacola, FL 32501 (each being at times referred to as “Party” or “Parties”).

**WITNESSETH:**

**WHEREAS**, the national pandemic outbreak of the novel coronavirus SARS-CoV-2, the virus that causes the novel coronavirus, commonly known as COVID-19 (“COVID-19”), has led to a public health emergency affecting the geographic area of Escambia County, Florida; and

**WHEREAS**, the County shall establish a COVID-19 vaccination fund (“Fund”) whereby \$3,500,000.00 shall be allocated to provide Vaccinations (as defined below) for uninsured persons residing in Escambia County (“Resident”); and

**WHEREAS**, the County desires to engage BHI to manage receipt and storage of COVID-19 vaccines made available to the County (“Vaccines”), administer the Vaccines to Residents, bill for administering the Vaccines, and fulfill governmental reporting requirements, all of which will expedite Residents receiving the Vaccines and allow the County to continue COVID-19 contract tracing and other responsibilities and activities to maintain the health of Residents; and

**WHEREAS**, BHI desires to provide Vaccinations to uninsured Residents on behalf of the County, pursuant to the terms and conditions set forth in this Agreement commencing as of the Effective Date; and

**WHEREAS**, the County desires to provide reimbursement to BHI for overhead costs incurred in staffing and managing the services provided for herein and any administration costs for uninsured Residents; and

**WHEREAS**, by and through this Agreement, BHI shall have a non-exclusive right to request reimbursement from Fund for Vaccinations to uninsured Residents.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, covenants and payment hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, the County and BHI agree as follows:

**Section 1. Recitals.** The recitals contained in the preamble of this Agreement are declared to be true and correct to the best of BHI’s knowledge and are hereby incorporated into this Agreement.

**Section 2. BHI Obligations.** BHI shall perform the activities outlined in **Attachment A** (the “Services”) attached hereto and made a part hereof.

**Section 3. Funding.** BHI agrees to accept as full payment for eligible Services rendered pursuant to this Agreement the amounts set forth below. Said Services shall be performed in a manner reasonably satisfactory to the County. In no event shall the total funding or

reimbursement to be paid hereunder exceed the maximum and total authorized sum of \$3,500,000.00 for the period of the Effective Date below through December 31, 2021. BHI acknowledges and agrees that its right to payment from Fund is non-exclusive, and other healthcare providers, companies, or agencies may also receive reimbursement from Fund.

County hereby agrees to pay BHI in an amount equal to Twenty-Three and 46/100 Dollars (\$23.46) for each Vaccination (as described in **Attachment A**) administered to an uninsured Resident under this Agreement. Secondary doses shall be administered at no additional charge. The foregoing compensation does not cover the cost of the Vaccines. Such compensation from County to BHI is intended to cover the overhead costs of BHI in staffing and managing the services provided for herein and any administration costs for uninsured Residents.

BHI agrees to return to the County any overpayments due to unearned funds or funds disallowed based on non-compliance with the terms of this Agreement and any interest attributable to such funds pursuant to the terms of this Agreement that were paid to BHI by the County. If the County or its independent auditor discovers that an overpayment has been made, BHI will repay the overpayment within forty (40) calendar days without prior notification from the County. If the County discovers an overpayment has been made, the County will notify BHI in writing of such a finding. Should repayment not be made in the time specified by the County, BHI will pay interest of one percent per month compounded on the outstanding balance after 40 calendar days after the date of notification or discovery. The County reserves the right, in its sole and exclusive discretion, to recoup BHI's unearned funds from any invoice submitted under this Agreement or through collection proceedings.

**Section 4. Time for Performance.** The Effective Date of this Agreement shall be upon execution by both Parties ("Effective Date") and shall remain in effect until December 31, 2021 ("Expiration Date"), unless earlier terminated. The Expiration Date of this Agreement may also be extended by written agreement of both Parties.

**Section 5. Method of Payment.** The County agrees to pay BHI for the Services consistent with the terms of this Agreement.

BHI shall not request payment for Vaccinations rendered before the Effective Date of this Agreement, nor shall it request payment for Vaccinations rendered after the expiration date of this Agreement. In no event shall the County provide advance funding to BHI or any subcontractor hereunder. BHI shall request payment from the County by submitting proper supporting documentation as described in **Attachment B**, attached hereto and made a part hereof. Satisfactory proof of Vaccinations by BHI shall consist of originals of invoices, receipts, or other evidence of the payment due for the Services hereunder. In the event an original document cannot be presented, BHI may furnish copies, if deemed satisfactory and acceptable by the County.

Each request for payment with proper supporting documentation should be submitted to the County for approval no later than thirty (30) calendar days after the end of each month the Services are provided hereunder. Payment shall be made by the County, upon proper presentation of invoices and Reports (defined below) submitted by BHI. Invoices will not be honored or approved if received by the County more than thirty (30) calendar days after the expiration date of this Agreement.

County will pay the total fee due to BHI within fifteen (15) days of receipt of each invoice.

**Section 6. Implementation.** BHI shall implement this agreement in accordance with applicable Federal, State, County and Local laws, ordinances, and codes, and amendments and additions thereto as may from time to time be made; provided that any such amendments and additions thereto shall be provided to BHI a reasonable period in advance of expected implementation. The Federal, State, County and Local laws, ordinances, and codes are minimal regulations which may be supplemented by more restrictive guidelines set forth by the County to the extent such guidelines have been provided to BHI a reasonable period prior to the date on which compliance is expected. No reimbursements will be made without evidence of appropriate insurance required by this Agreement on file with the County.

**Section 7. Financial Accountability.** The County may have a financial system analysis and/or an audit of BHI or of any of its subcontractors performed by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to evaluate BHI's performance under this Agreement and to determine the capability of BHI to fiscally manage the project in accordance with the requirements of this Agreement. The County will provide BHI reasonable notice of the intent to exercise its rights under this Section.

**Section 8. Subcontracts.** Services covered by this Agreement, including but not limited to, consultant work or services, shall not be subcontracted or reimbursed without the prior written approval of the County. Any Services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase order. All subcontracts shall be submitted by BHI to County and approved by the County prior to execution of any subcontract hereunder. All subcontracts shall be subject to the requirements of this Agreement.

**Section 9. Reports.** BHI shall provide the County with a daily status report consistent with **Attachment A**, subsection (7). Payment will be contingent on the timely receipt of complete and accurate Reports required by this Agreement.

**Section 10. Accountability.** BHI agrees to maintain personnel, financial, and other records and accounts as are necessary to properly account for all funds expended in the performance of this Agreement. These records and accounts shall be subject at times to inspection, review, or audit for a period of five (5) years following the termination of this Agreement unless said records are the subject of audit or litigation, in which case they shall be retained indefinitely pending resolution of such review. Access to such records shall be provided to the County or its representatives; or BHI shall transfer these records and accounts to the custody of the County.

**Section 11. Default; Termination.**

A. Termination for Cause. Either County or BHI may terminate this Agreement for cause at any time if any covenant, warranty, or representation made by the other Party in connection with this Agreement shall at any time be false or misleading in any respect, or in the event of the failure of the other Party to satisfactorily perform under this Agreement or otherwise comply with the terms and conditions of this Agreement.

B. Termination for Convenience. This Agreement may be terminated for convenience by either Party upon providing the non-terminating Party with ten (10) days written notice.

C. Effect of Termination. Costs incurred by BHI after termination of this Agreement shall not be reimbursable unless expressly authorized by the County prior to the effective date of termination.

**Section 12. Independent Contractor.** BHI shall act as an independent contractor, and not as an employee of the County, in performing the aforementioned Services. Further, this agreement is not intended to create an employer/employee, partnership, or joint venture relationship between the County and Agency.

**Section 13. Indemnification.** BHI shall indemnify, defend, and hold harmless Escambia County, its subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents from any and all claims, suits, actions, damages, liability and expenses in connection with the loss of life, bodily or personal injury, property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the performance of this Agreement. BHI's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy or insurance. The County will provide prompt written notice to BHI of any claim for which it seeks indemnification hereunder, which shall include the County's basis for requesting indemnity. BHI shall have no obligation to indemnify the County if the claim results from or arises out of the actions or negligence of the County. Further, the County shall not be entitled to indemnification for any incidental damages (including damages for loss of profit or diminution in value), consequential damages or punitive damages.

**Section 14. Insurance.** BHI shall at all times during the term of this Agreement maintain in full effect the following policies of insurance:

- (a) General Liability, provided through BHI's Self Insured Retention Fund which provides minimum limits of liability of \$1,000,000 per occurrence; and
- (b) Florida statutory Workers' Compensation and employer's liability insurance policy for all workers' compensation obligations imposed by state law and employer's liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease.

BHI shall provide at least thirty (30) days advance notice of cancellation, nonrenewal or adverse change. Such notices shall be mailed to Escambia County, Office of Risk Management, 221 Palafox Place, Suite 200, Pensacola, FL 32502.

A Memorandum of Liability Insurance evidencing the above coverage will be provided to the Office of Risk Management, 221 Palafox Place, Suite 200, Pensacola, FL 32502 prior to commencement of services hereunder.

BHI shall replace any canceled, adversely changed, restricted or non-renewed coverages with new coverage acceptable to the County and shall file with the County a Memorandum of Liability Insurance under the new coverages prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the County, BHI shall, upon instructions of the County, cease all operations under the Agreement until directed by the County, in writing, to resume operations.

BHI's required coverage(s) shall be considered primary and all other insurance shall be considered as excess, over and above BHI's coverage; provided, however, BHI's insurance coverage shall exclude coverage for the County's negligence.

**Section 15. Public Records.** BHI acknowledges that this Agreement and any related financial records, audits, reports, plans correspondence, and other documents may be subject to

disclosure to members of the public pursuant to Chapter 119, Florida Statutes. BHI shall maintain all such public records and, upon request, provide a copy of the requested records or allow the records to be inspected within a reasonable time. BHI shall also ensure that any public records that are exempt or exempt and confidential from disclosure are not disclosed except as authorized by law. Upon the expiration or termination of the Agreement, BHI agrees to maintain all public records for a minimum period of five (5) fiscal years in accordance with the applicable records retention schedules established by the Florida Department of State. In the event BHI fails to abide by the provisions of Chapter 119, Florida Statutes, the County may, without prejudice to any other right or remedy and after giving BHI seven (7) days written notice, during which period BHI still fails to allow access to such documents, terminate the Agreement.

**IF BHI HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO BHI'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Escambia County  
Office of the County Administrator  
221 Palafox Place, Suite 420  
Pensacola, Florida 32502  
(850) 595-4947**

**Section 16. Assignment.** This Agreement or any interest herein shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties, without the prior written consent of the other Party.

**Section 17. All Prior Agreements Superseded.**

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements whether oral or written.

It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

**Section 18. Headings.** Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

**Section 19. Survival.** All provisions, which by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

**Section 20. Interpretation.** For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all

statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

If either Party discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, it shall immediately notify the other Party and request clarification of the its interpretation of this Agreement.

This Agreement shall not be more strictly construed against either Party hereto by reason of the fact that one Party may have drafted or prepared any or all of the terms and provisions hereof.

**Section 21. Severability.** The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed to be enforced as if this Agreement did not contain such invalid or unenforceable portion of provision.

**Section 22. Further Documents.** The parties shall execute and deliver all documents and perform further actions that may be reasonably necessary to effectuate the provisions of this Agreement.

**Section 23. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue for any matter which is the subject of this Agreement shall be in the County of Escambia.

**Section 24. Notices.** All notices required or made pursuant to this Agreement by either Party to the other shall be in writing and delivered by hand or by United States Postal Service, first class mail, postage prepaid, return receipt requested, addressed to the following:

COUNTY  
County Administrator  
221 Palafox Place, Suite 420  
Pensacola, FL 32502

BHI  
Baptist Hospital, Inc.  
1717 North E. Street, Suite 320  
Pensacola, FL 32501  
Attn: General Counsel

With Copy to: Baptist Hospital, Inc.  
1717 North E. Street, Suite 408  
Pensacola, FL 32501  
Attn: Corporate Director, Contracting

Either Party may change its above noted address by giving written notice to the other Party in accordance with the requirements of this section.

**Section 25. No Waiver.** The failure of a Party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either Party's right to thereafter enforce the same in accordance with this Agreement.

**Section 26. No Inducement to Refer.**

The parties enter into this Agreement with the intent of conducting their relationship in full compliance with applicable federal, state, and local law, including the Medicare/Medicaid Anti-fraud and Abuse Amendments and federal and state physician self-referral laws. Notwithstanding any unanticipated effect of any of the provisions herein, neither Party will intentionally conduct itself under the terms of this Agreement in a manner to constitute a violation of these provisions. The parties hereto acknowledge and agree that this Agreement, the arrangement contemplated herein, and the compensation to be paid hereunder: (i) has been negotiated on an arm's length basis pursuant to bona fide bargaining among the parties; (ii) is commercially reasonable; (iii) is commensurate with fair market value; (iv) is not in return for, does not vary with, or take into account or reflect the volume or value of referrals or other business generated between the parties; and (v) is consistent with, necessary for, and does not exceed the reasonable and legitimate business purposes of the parties.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the respective dates under each signature:

**ESCAMBIA COUNTY, FLORIDA**, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: \_\_\_\_\_  
Robert Bender, Chairman

Date: \_\_\_\_\_

BCC APPROVED: \_\_\_\_\_

ATTEST: Pam Childers  
Clerk of the Circuit Court

By: \_\_\_\_\_  
Deputy Clerk

(SEAL)

**Baptist Hospital, Inc.:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Approved as to form and legal sufficiency.

By: Matthew R. Shaud  
Title: Assistant County Attorney  
Date: January 20, 2021

## **ATTACHMENT A SERVICES**

- (1) BHI employs and contracts with healthcare personnel who will administer initial and any secondary Vaccines to uninsured Residents on behalf of County ("Vaccinations"). Vaccinations will be performed on-site at locations agreed upon by the parties.
- (2) BHI will bear sole responsibility for all persons and agents necessary to carry out the Vaccinations under the terms of this Agreement. No persons employed by or who contract with BHI pursuant to this Agreement shall be considered employees or agents of County.
- (3) BHI will receive and manage the Vaccines and associated supplies (e.g., syringes, needles, and personal protective equipment) and bear responsibility for ensuring cold chain management, as applicable, for such Vaccines.
- (4) BHI will comply with all terms of the CDC COVID-19 Vaccination Program Provider Agreement between BHI and the U.S. Centers for Disease Control (CDC). BHI will conduct all Vaccinations in conformity with all applicable regulations, requirements, recommendations and guidelines established by the (i) the CDC and the CDC's Advisory Committee on Immunization Practices (ACIP); (ii) the Centers for Medicare and Medicaid Services (CMS); (iii) the U.S. Food and Drug Administration (FDA), including any conditions of authorized use of a Vaccination under an Emergency Use Authorization (EUA); (iv) the Florida Department of Health; and (v) the COVID-19 Vaccination Plan for Florida.
- (5) BHI may provide Vaccinations to any person at BHI's sole expense and responsibility; however, only uninsured Residents are eligible to receive Vaccinations under this Agreement.
- (6) BHI will schedule and coordinate appointments for uninsured Residents to receive Vaccinations.
- (7) BHI will report required Vaccination data (who was vaccinated, which vaccine was administered, and at what location the Vaccine was administered) to the state, local, or territorial, and federal public health authorities within twenty-four (24) hours of administering each Vaccination (including a second dose, where necessary).
- (8) Vaccinations will not include, and BHI has not agreed or committed in any manner to provide, without limitation, any antibody testing, surgery, procedure, diagnostic imaging, diagnosis, prognosis, prescription, medical advice, treatment, or cure. Notwithstanding the foregoing, BHI will provide or coordinate the provision of any necessary interventions to respond to a Vaccination adverse event occurring at the vaccination sites. BHI will report any Vaccination adverse events occurring at a vaccination site to the Vaccine Adverse Event Reporting System (VAERS), in accordance with the requirements of the CDC and any safety reporting requirements required by the FDA's conditions of authorized use of any Vaccination authorized under an EUA.
- (9) BHI will cooperate in the completion of necessary and required forms for all persons who receive Vaccinations including, without limitation, informed consent and authorization, HIPAA release and authorization, residency certification, and insurance and governmental benefits, as required by County or BHI, as a condition of uninsured Residents receiving Vaccinations.
- (10) BHI may bill commercial insurers and government healthcare programs providing coverage to Residents for Vaccination administration. BHI shall be solely responsible for billing



and collecting reimbursement from such payors.

(11) BHI agrees not to balance-bill Residents.

**ATTACHMENT B**  
**SUPPORTING DOCUMENTATION REQUIREMENTS**

BHI should prepare a cover page on its letterhead with the date of the payment request and amount with the required certification as noted in this Agreement. The cover page should be signed by a person authorized to obligate BHI.

BHI shall submit monthly invoices to the County Administrator on the first (1st) and fifteenth (15th) days of each month, via e-mail and U.S. mail, as set forth in Section 24 of this Agreement.

Invoices shall, at a minimum, identify the number of uninsured Residents for whom Vaccinations were provided and the total fee to be paid by County.

BHI shall also collect and include in the foregoing invoice such other identifying information as reasonably requested by County, to allow County to verify the residency status of the uninsured Resident.