



TOYON ASSOCIATES, INC.

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Amendment #3 Medicare Cost Report Audit Appeal Services

This Amendment #3 is attached and made part of the Medicare Cost Report Preparation and Consulting Services Agreement (“Agreement”), fully executed on April 3, 2018 between Toyon Associates, Inc. (“Toyon”) and County of San Benardino on behalf of Arrowhead Regional Medical Center (“ARMC”), as most recently amended on July 28, 2020.

This Amendment #3 shall be effective as of November 17, 2020 regardless of the date of execution by the parties.

This Amendment #3 amends the Agreement as follows:

1. The Scope of Services to be provided by Toyon, as set forth in Section 2 of the Agreement, is amended to expand the scope to include the following additional services:
 - **Medicare Cost Report Appeals and/or Cost Report Reopenings:** When requested by ARMC, Toyon will pursue Medicare cost report appeals and/or cost report reopenings on behalf of ARMC for the cost reporting periods of **Fiscal Year End (“FYE”) 2013 through FYE 2021**. Toyon’s services relating to these appeals/reopenings will include, but are not limited to, the following:
 - Review the audited cost reports, Medicare Administrative Contractor (MAC, formerly Intermediary) workpapers to determine whether the issues should be appealed and/or reopened. All issues that can be reflected in a cost report or reopening may be pursued.
 - Prepare and file appeal letters to the Provider Reimbursement Review Board (PRRB) to establish Medicare appeals (if not already done), to add the issue to existing appeals, and/or to transfer the issue to group appeals;
 - Develop appeal strategy, perform research, and obtain documentation needed to pursue disputed issues;
 - Prepare and file cost report reopening requests if appropriate;
 - Prepare and file preliminary and final position papers;
 - Review the MAC’s preliminary and final position papers;
 - Attempt to obtain administrative resolutions with the MAC in advance of scheduled hearings;

- If a PRRB Medicare hearing is necessary, Toyon may, at its own cost, engage an attorney to assist in handling the case and will work closely with the attorney in to prepare for the hearing. That preparation will include, but is not limited to, preparation of testimony, evidence, and hearing strategy;
- Perform all follow-up needed with the Medicare Program with respect to appeals and reopening requests;
- Review and revise settlements resulting from appeals or reopenings and any hearing decisions and provide recommendations to ARMC;
- Upon approval by the San Bernardino County Board of Supervisors or its authorized representatives, pursue unfavorable PRRB decisions to court, at Toyon's cost, if, in Toyon's opinion and concurrence by ARMC, there is sufficient likelihood of success and sufficient reimbursement value in relation to the cost of pursuing the case;
- Upon approval by the San Bernardino County Board of Supervisors or its authorized representatives, and at Toyon's cost, pursue issues directly to court or use expedited jurisdictional review if, in Toyon's opinion and concurrence by ARMC, such action is deemed warranted.

2. The following is added to Section 6 (Compensation) of the Agreement:

For the Cost Report Appeals and/or Cost Report Reopening services (collectively, "Appeal Services") performed by Toyon, payment for the services will be calculated as 20% of the additional Medicare reimbursement realized by ARMC as a result of Toyon's work. The additional reimbursement will either be a payment to ARMC by the MAC or a reduction of an outstanding liability. Payment is due to Toyon within 60 days of ARMC's receipt of invoice from Toyon following ARMC's receipt of reimbursement from the MAC or official notification from the MAC that ARMC's liability has been decreased. No payment, fees, or expenses are due to Toyon unless additional reimbursement is realized by ARMC. The 20% payment herein described constitutes the total payment to Toyon for its Appeal Services to ARMC and is inclusive of any work performed by and costs incurred by Toyon, including, but not limited to attorney's fees, filing fees, and court costs, associated with its Appeal Services. Toyon is not entitled to any other expenses or fees, including any hourly fees set forth in any Exhibits to the Agreement, as it relates to its compensation for Appeal Services.

3. The total not-to-exceed contract amount for the Agreement is increased by \$150,000.00 from \$3,265,044.00 to \$3,415,044.00. The \$150,000 increase reflects an estimate of the future recovery under this Agreement. Should fees from future recovery exceed \$150,000.00, the parties will enter into a further amendment to this Agreement to reflect



the additional fees consistent with Section 2 of this Amendment to adjust for increased recovery.

This Amendment #3 may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Amendment. The parties shall be entitled to sign and transmit an electronic signature of this Amendment (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Amendment upon request.

All other terms and conditions of the Agreement shall remain in full force and effect.

Agreed to and Accepted by

**County of San Bernardino on behalf of
Arrowhead Regional Medical Center**

**Agreed to and Accepted by
Toyon Associates, Inc.**

Signature

Print Name

Title

Date

Signature

Ronald G. Knapp
Print Name

Executive Vice President
Title

September 16, 2020
Date

Ronald G. Knapp

