

1 SENATE BILL 418

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 George K. Munoz

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9  
10 AN ACT

11 RELATING TO HEALTH; ENACTING THE PUBLIC-PRIVATE PARTNERSHIPS  
12 ACT; ALLOWING THE STATE AND LOCAL GOVERNMENTS TO ENTER INTO  
13 LONG-TERM PARTNERSHIPS WITH PRIVATE SECTOR PARTNERS TO  
14 FACILITATE BEHAVIORAL HEALTH PROJECTS; PROVIDING POWERS AND  
15 DUTIES.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
19 cited as the "Public-Private Partnerships Act".

20 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
21 Public-Private Partnerships Act:

22 A. "behavioral health project" means:

23 (1) a building or other facility, together  
24 with equipment, for providing behavioral health services,  
25 including renovations and improvements to an existing building

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1 or facility; and

2 (2) a program and equipment for providing  
3 behavioral health services at an existing building or facility;

4 B. "behavioral health services" means a  
5 comprehensive array of professional and ancillary services for  
6 the treatment, prevention and identification of mental  
7 illnesses, behavioral symptoms associated with developmental  
8 disabilities, substance abuse disorders and trauma spectrum  
9 disorders and includes behavioral health promotion, prevention,  
10 behavioral health screening, diagnostic evaluations, early  
11 intervention, crisis intervention, rehabilitation and community  
12 support;

13 C. "department" means the human services  
14 department;

15 D. "force majeure" means an uncontrollable force or  
16 natural disaster not within the power of the public or private  
17 partner;

18 E. "local government" means a municipality; a  
19 county; or a regional entity created by a joint powers  
20 agreement between one or more public agencies;

21 F. "material default" means a failure of a private  
22 partner to perform any duties under a public-private  
23 partnership, which failure jeopardizes delivery of adequate  
24 service to the public and remains unsatisfied after a  
25 reasonable time and after the private partner has received

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1 written notice from the public partner of the failure;

2 G. "private partner" means one or more persons who  
3 have entered into a public-private partnership with a public  
4 partner and who are not the federal government or any agency or  
5 instrumentality of the federal government; another state or  
6 territory of the United States; a sovereign or foreign  
7 government; or the state or an agency, branch, institution,  
8 instrumentality or political subdivision of the state;

9 H. "public partner" means a local government, state  
10 agency, state institution or instrumentality of the state;

11 I. "public-private partnership" means an agreement  
12 between one or more public partners and one or more private  
13 partners for the design, development, financing, construction,  
14 operation or maintenance of a behavioral health project; and

15 J. "user fee" means a rate, fee or other charge  
16 imposed by a partner for use of all or part of a behavioral  
17 health project.

18 SECTION 3. [NEW MATERIAL] PROJECT DELIVERY METHODS--  
19 PROPOSALS.--A public partner may provide for the development of  
20 a behavioral health project using a variety of project delivery  
21 methods, which methods shall be documented in written  
22 agreements. The methods may include:

23 A. predevelopment agreements leading to other  
24 implementing agreements;

25 B. design-build agreements;

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- 1 C. design-bid-build agreements;
- 2 D. design-build-finance agreements;
- 3 E. construction manager at risk;
- 4 F. agreements that provide for the private partner
- 5 to design, build, manage, maintain, operate or lease a
- 6 behavioral health project; or
- 7 G. other project delivery methods or agreements or
- 8 combination of methods or agreements that the public partner
- 9 determines is most advantageous to the public interest.

10 SECTION 4. [NEW MATERIAL] PROJECT DEVELOPMENT--  
11 PROCUREMENT.--

- 12 A. A public partner may:
  - 13 (1) procure a behavioral health project using
  - 14 any of the following:
    - 15 (a) requests for proposals in which the
    - 16 public partner describes a class of behavioral health project
    - 17 or a geographic area in which a person is invited to submit
    - 18 proposals to develop a behavioral health project;
    - 19 (b) solicitations using requests for
    - 20 qualifications, short-listing of qualified proposers, requests
    - 21 for proposals, negotiations or other procurement procedures;
    - 22 (c) procurements seeking development and
    - 23 finance plans that are most advantageous to the public partner
    - 24 and suitable for the behavioral health project;
    - 25 (d) best-value selection procurements

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1 based on price or financial proposals, or both, or other  
2 factors; and

3 (e) other procedures that the public  
4 partner determines may further the implementation of the  
5 Public-Private Partnerships Act; and

6 (2) consider an unsolicited proposal if the  
7 public partner determines that there is sufficient merit to  
8 pursue the unsolicited proposal and a reasonable opportunity  
9 for other persons to submit competing proposals for  
10 consideration to ensure maximum competition among proposals  
11 submitted and the best value for the public partner.

12 B. For a procurement in which the public partner  
13 issues a request for qualifications or similar solicitation  
14 document or following a public partner's decision to consider  
15 an unsolicited proposal, the public partner shall issue a  
16 request that sets forth the factors that will be evaluated and  
17 the manner in which responses will be evaluated.

18 C. In evaluating proposals, the public partner, and  
19 the department if required, shall:

20 (1) consider a range of factors they deem  
21 appropriate to obtain the best value for the state or local  
22 government; and

23 (2) require specific justification and support  
24 for a proposal that may affect:

25 (a) public employees' employment; or

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1 (b) the cost of public service delivery.

2 D. The public partner may charge and retain a  
3 reasonable administrative fee for the evaluation of an  
4 unsolicited behavioral health project proposal and for the cost  
5 of experts that are consulted pursuant to Subsection E of this  
6 section; provided that the administrative fee shall not exceed  
7 the reasonable cost of evaluating the proposal.

8 E. The public partner shall consult with in-house  
9 or contracted financial, legal, architectural or other experts  
10 and advisors to assist in the design, evaluation, negotiation,  
11 construction administration and development of public-private  
12 partnership agreements for a behavioral health project.

13 F. If contractor insurance is required for services  
14 procured pursuant to this section, the insurance shall be  
15 placed with an insurer authorized to transact insurance in New  
16 Mexico or with a surplus lines insurer approved by the office  
17 of superintendent of insurance or its successor agency.

18 G. In addition to making proposals available to the  
19 public pursuant to Subsection H of this section and providing  
20 the opportunity for written comments from the public, the  
21 public partner shall hold at least one public hearing and may  
22 hold additional public hearings prior to entering into a  
23 public-private partnership, all of which shall be preceded by  
24 at least thirty days' notice. The meetings shall be subject to  
25 the Open Meetings Act.

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1           H. Each request for proposals issued pursuant to  
2 the Public-Private Partnerships Act shall require the proposer  
3 to include with its proposal an executive summary covering the  
4 major elements of its proposal that do not address the  
5 proposer's price, financing plan or other confidential or  
6 proprietary information or trade secrets that the proposer  
7 intends to be exempt from disclosure. Any unsolicited proposal  
8 shall also include a similar executive summary. After the  
9 public-private partnership is awarded and the conclusion of any  
10 protest or other challenge to the award, the Inspection of  
11 Public Records Act applies to any release of any part of the  
12 proposals.

13           I. A solicited or unsolicited proposer shall  
14 identify those portions of a proposal or other submission that  
15 the proposer, with the public partner's concurrence, considers  
16 to be a trade secret or confidential commercial, financial or  
17 proprietary information. For trade secrets and confidential  
18 and proprietary information to be exempt from disclosure, the  
19 proposer must do all of the following:

20                   (1) invoke exclusion on submission of the  
21 information or other materials for which protection is sought;

22                   (2) identify with conspicuous labeling the  
23 data or other materials for which protection is sought;

24                   (3) state the reasons why protection is  
25 necessary; and

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1 (4) fully comply with any applicable state law  
2 with respect to information that the proposer contends should  
3 be exempt from disclosure.

4 J. A public partner shall consider a proposer's  
5 request to withhold certain information in a proposal from  
6 disclosure and shall issue a written determination either  
7 accepting or rejecting the proposer's request. Following the  
8 public partner's determination, any portions of the proposal  
9 not withheld from disclosure shall be made available to the  
10 public by request and the public partner shall maximize public  
11 access to the disclosed portions of the proposal through  
12 reasonable means available to the public partner.

13 SECTION 5. [NEW MATERIAL] PROCUREMENTS--RESTRICTIONS.--

14 A. The resident preferences provided in Sections  
15 13-1-21 and 13-1-22 NMSA 1978 apply to procurements pursuant to  
16 the Public-Private Partnerships Act. The construction of a  
17 facility for a behavioral health project is a public works for  
18 the purposes of the Public Works Minimum Wage Act, the  
19 Subcontractors Fair Practices Act, any other provisions of  
20 Chapter 13, Article 4 NMSA 1978 and the Public Works Apprentice  
21 and Training Act.

22 B. Before it may be awarded, every public-private  
23 partnership shall include an operating agreement that defines  
24 the roles and responsibilities of the partners. The operating  
25 agreement shall require that a behavioral health project be



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1 operated and maintained to the operating and maintenance  
2 standards and specifications as set out in the agreement.

3 C. Should a behavioral health project include  
4 building maintenance, as to the maintenance activities, the  
5 public partner or department shall not approve a project that  
6 displaces an existing government employee unless the employee  
7 is offered alternate equivalent employment.

8 SECTION 6. [NEW MATERIAL] DEPARTMENT--POWERS AND DUTIES--  
9 ASSISTANCE WITH DUTIES.--

10 A. The department shall:

11 (1) in consultation with the state purchasing  
12 agent, the department of finance and administration, the  
13 department of health, the veterans' services department and any  
14 other person that the department deems necessary, develop a  
15 minimum set of guidelines to implement the provisions of the  
16 Public-Private Partnerships Act, including the process that the  
17 department shall follow with respect to the public-private  
18 partnership agreements that the department is required to  
19 review and approve and the information that is required to be  
20 included in a requested or unsolicited proposal;

21 (2) before a public-private partnership may be  
22 established, review and approve all public-private partnership  
23 agreements that include:

24 (a) a total behavioral health project  
25 cost that is greater than one million dollars (\$1,000,000); or

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1 (b) a public-private partnership term  
2 that is longer than five years;

3 (3) establish an evaluation process to  
4 determine whether projects should be developed as public-  
5 private partnerships or using traditional procurement and  
6 funding methods prior to the initiation of contract  
7 negotiations with a private partner;

8 (4) manage public communication and education,  
9 including public hearings, regarding the scope, cost and  
10 impacts of proposed public-private partnerships in order to  
11 maximize the opportunity for public input on proposals;

12 (5) encourage maximum competition among  
13 private entities to pursue the development and operation of  
14 public-private projects in the state;

15 (6) serve as a resource for the legislature  
16 and its staff regarding the policy and financial impacts of  
17 proposals and the implications of proposed or pending  
18 behavioral health project agreements on the credit or other  
19 obligations of the state;

20 (7) provide technical assistance to local  
21 governments and regional entities on the use of public-private  
22 partnerships to meet their needs; and

23 (8) on or before December 1 of each year,  
24 submit a report to the legislature on any pending, proposed or  
25 completed public-private partnership agreements that the

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1 department is required to review and approve. The report shall  
2 specifically name the public-private project, its proposed  
3 scope, the proposed finance plan, the status of permitting and  
4 land acquisition, if necessary, and a summary of any behavioral  
5 health project agreements pending at the time of the report.

6 B. The department or a local government may:

7 (1) in accordance with Subsection D of Section  
8 4 of the Public-Private Partnerships Act, retain, as necessary,  
9 financial, legal and other experts to assist it in carrying out  
10 its duties pursuant to the Public-Private Partnerships Act,  
11 including assistance with the review of public-private  
12 partnership agreements;

13 (2) solicit the expertise of state agencies,  
14 state institutions, state instrumentalities and local  
15 governments to assist the department or local government in  
16 carrying out its duties pursuant to the Public-Private  
17 Partnerships Act, including reviewing public-private  
18 partnership proposals; and

19 (3) receive appropriations and money from any  
20 other source, including other state agencies or local  
21 governments, regional organizations or the federal government,  
22 to carry out its duties pursuant to the Public-Private  
23 Partnerships Act.

24 C. All state agencies, state institutions, state  
25 instrumentalities and local governments, as appropriate, shall

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1 cooperate with the department or a local government and assist  
2 it in carrying out its duties by providing technical  
3 assistance, analysis and other services as requested by the  
4 department or a local government.

5 SECTION 7. [NEW MATERIAL] DEPARTMENT--ADVICE AND  
6 ASSISTANCE--REVIEW AND APPROVAL OF AGREEMENTS.--With respect to  
7 public-private partnership agreements that the department is  
8 required to review and approve, and before approving a public-  
9 private partnership, the department shall:

10 A. assist the public partner in negotiating  
11 agreements;

12 B. assist the public partner in preparing any  
13 documents related to a specific agreement;

14 C. identify, and advise the public partner  
15 regarding, any relevant federal securities or other laws and  
16 related disclosure requirements; and

17 D. identify, and advise the public partner  
18 regarding, accounting, investment and tax requirements  
19 applicable to specific behavioral health projects.

20 SECTION 8. [NEW MATERIAL] EVALUATION CRITERIA.--Before  
21 entering into a public-private partnership, the public partner,  
22 and the department if required, shall consider:

23 A. the ability of the behavioral health project to  
24 meet the needs of the community in which it is to be located,  
25 including improving and streamlining services to the public;

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1 providing or enhancing behavioral health services; or otherwise  
2 serving a public purpose;

3 B. the proposed cost and financial plan for the  
4 behavioral health project;

5 C. the performance benchmarks contained in the  
6 proposal;

7 D. the estimated operating costs of the behavioral  
8 health project;

9 E. the financial commitment of the private partner;

10 F. the risk of the proposed financing;

11 G. the general reputation, qualifications, industry  
12 experience and financial capacity of the proposer;

13 H. the compatibility of the behavioral health  
14 project with local and regional plans or other infrastructure  
15 plans;

16 I. the feasibility and proposed design and  
17 management of the behavioral health project;

18 J. the degree of innovation; efficiency; and  
19 technical, scientific, technological and socioeconomic merit of  
20 the proposal;

21 K. comments from potential users, local citizens,  
22 affected jurisdictions and other interested persons;

23 L. benefits to the public, including improvements  
24 in behavioral health, public safety and quality of life;

25 M. the safety record of the proposer;

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1 N. efforts to be made through the public-private  
2 partnership to retain and train New Mexico residents in  
3 occupations and professions related to planning, design,  
4 construction, project management, general management,  
5 administration, legal, accounting and other areas of the  
6 behavioral health project over the life of the public-private  
7 partnership;

8 O. the commitment to use New Mexico building  
9 materials and manufactured goods and local services to the  
10 extent possible;

11 P. green building design and construction  
12 certification by a nationally recognized organization;

13 Q. innovations in energy efficiency or generation;  
14 and

15 R. other criteria that the public partner and the  
16 department deem appropriate for consideration.

17 SECTION 9. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP  
18 AGREEMENTS--REQUIREMENTS.--

19 A. In a public-private partnership, the public  
20 partner, and the department with respect to public-private  
21 partnership proposals that it reviews, shall require an  
22 agreement to include provisions, as applicable, that:

23 (1) authorize the public partner or the  
24 private partner to establish and collect user fees, rents,  
25 advertising and sponsorship charges, service charges or other

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1 charges allowed in the agreement, including provisions that:

2 (a) specify how revenue will be  
3 collected, accounted for and audited;

4 (b) establish circumstances under which  
5 the public partner may receive all or a share of revenue from  
6 such charges; and

7 (c) govern enforcement of user fees,  
8 including provisions for mechanisms to ensure that users are  
9 identified and notified of fees owed and provisions that allow  
10 the private partner access to information from relevant public  
11 databases for enforcement purposes. Negligent use of the data  
12 contained in the databases, including unauthorized disclosure  
13 of the data, shall result in a civil penalty of ten thousand  
14 dollars (\$10,000) for each violation;

15 (2) provide for a maximum negotiated rate of  
16 return on the private partner's investment, including:

17 (a) fees and charges that may be  
18 collected directly by the private partner or a third party  
19 engaged by the private partner for that purpose;

20 (b) a formula for the adjustment of user  
21 fees and other charges during the term of the public-private  
22 partnership;

23 (c) for an agreement that does not  
24 include a formula described in Subparagraph (b) of this  
25 paragraph, provisions regulating the private partner's return

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1 on investment; or

2 (d) other strategies that the public  
3 partner or the department deems appropriate;

4 (3) allow for payments to be made by the  
5 public partner to the private partner, including availability  
6 payments or performance-based payments;

7 (4) allow the public partner to accept  
8 payments and share revenue with the private partner;

9 (5) address how the public and private  
10 partners will share management of the risks of the behavioral  
11 health project;

12 (6) specify how the public and private  
13 partners will share the costs of development of the behavioral  
14 health project;

15 (7) allocate financial responsibility for cost  
16 overruns to the partner or partners that were responsible for  
17 the cost overruns;

18 (8) establish the damages to be assessed for  
19 nonperformance;

20 (9) establish performance criteria or  
21 incentives, or both;

22 (10) address the acquisition of property  
23 interests that may be required, including provisions that allow  
24 the public or private partner to acquire real property,  
25 including acquisition by exchange of other real property that

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1 is owned by the state, a local government or the federal  
2 government;

3 (11) establish recordkeeping, accounting and  
4 auditing standards to be used for the behavioral health  
5 project;

6 (12) for a behavioral health project with a  
7 term that is longer than twenty-five years, address  
8 responsibility for reconstruction or renovations that are  
9 required so that the behavioral health project meets all  
10 applicable government standards before the behavioral health  
11 project reverts to the public partner;

12 (13) provide for responsibilities for law  
13 enforcement on behavioral health projects;

14 (14) identify public partner specifications  
15 that must be satisfied, including provisions allowing the  
16 private partner to request and receive authorization to deviate  
17 from the specifications on a showing satisfactory to the public  
18 partner that the deviation is necessary;

19 (15) require a private partner to provide,  
20 either directly or through the principal contractor who is in  
21 charge of the project, performance and payment bonds as  
22 required by Section 13-4-18 NMSA 1978 for those components of a  
23 behavioral health project that involve construction. For  
24 components that do not involve construction, require parent  
25 company guarantees, letters of credit or other acceptable forms

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1 of security or a combination of any of these, the penal sum or  
2 amount of which may be less than one hundred percent of the  
3 value of the contract involved based on the public partner's or  
4 the department's determination of what is required to  
5 adequately protect the public partner, made on a  
6 project-by-project basis;

7 (16) provide clawback or recapture provisions  
8 that protect the public investment; and

9 (17) specify remedies available to the parties  
10 and dispute resolution procedures to be followed.

11 B. The public-private partnership agreement shall  
12 include a clear statement of which partner will own any real  
13 property pertaining to the behavioral health project when the  
14 project reverts to the public partner based on the terms of the  
15 agreement.

16 C. The term of initial agreements entered into  
17 pursuant to the Public-Private Partnerships Act may be for a  
18 term not to exceed fifty years, and such agreements may be  
19 extended for additional terms; provided that an extension shall  
20 be subject to the same review and negotiation process as the  
21 original agreement.

22 D. The public-private partnership agreement shall  
23 contain a provision by which the private partner expressly  
24 agrees that it is prohibited from seeking injunctive or other  
25 equitable relief to delay, prevent or otherwise hinder the

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1 public partner or any other jurisdiction from developing,  
2 constructing or maintaining a behavioral health project that  
3 was planned and that would or might affect the revenue that the  
4 private partner would or might derive from the behavioral  
5 health project developed pursuant to the Public-Private  
6 Partnerships Act, except that the agreement may provide for  
7 reasonable compensation to the private partner for the adverse  
8 effect resulting from development, construction and maintenance  
9 of an unplanned facility that affects the behavioral health  
10 project's revenue.

11 E. The state board of finance shall approve the  
12 assignment, transfer or sale of assets or investment in a  
13 behavioral health project that creates debt obligation of the  
14 public partner.

15 SECTION 10. [NEW MATERIAL] FUNDING AND FINANCING.--

16 A. Any lawful source of funding may be used for the  
17 development or management of a behavioral health project  
18 pursuant to the Public-Private Partnerships Act, including:

19 (1) proceeds of grant anticipation revenue  
20 bonds, private activity bonds, revenue bonds or other bonds  
21 allowed by federal or state law;

22 (2) grants, loans, loan guarantees, lines of  
23 credit, revolving lines of credit or other arrangements as  
24 allowed by federal or state law;

25 (3) other federal, state or local revenues;

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1 (4) user fees, lease payments, availability  
2 payments, gross or net receipts from sales, proceeds from the  
3 sale of development rights, franchise charges, permit charges,  
4 advertising and sponsorship charges, service charges or any  
5 other lawful form of consideration; and

6 (5) other forms of public and private capital  
7 that are available.

8 B. As security for the payment of financing  
9 described in this section, the revenues from the behavioral  
10 health project may be pledged, but no pledge of revenues or  
11 property constitutes in any manner or to any extent a general  
12 obligation of the state or local government, unless explicitly  
13 agreed to by the state or local government. Financing may be  
14 structured on a senior, parity or subordinate basis to any  
15 other financing.

16 C. The public partner may accept money from the  
17 United States or any of its agencies to carry out the  
18 provisions of the Public-Private Partnerships Act, whether the  
19 money is made available by grant, loan or other financing  
20 arrangement. The public partner assents to any federal  
21 requirements, conditions or terms of any federal funding  
22 accepted by the public partner pursuant to this subsection.  
23 The public partner may enter into agreements or other  
24 arrangements with the United States or any of its agencies as  
25 may be necessary to carry out the provisions of that act.

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1           D. The public partner may accept from any source  
2 any grant, donation, gift, conveyance of land, other real or  
3 personal property or other thing of value made to the public  
4 partner for the purposes of a behavioral health project.

5           E. A behavioral health project may be funded in  
6 whole or in part by contributions of money or property made by  
7 a private person, a private entity or the state or any agency,  
8 institution, instrumentality or political subdivision of the  
9 state.

10           F. Federal, state and local money may be combined  
11 with private sector money for behavioral health project  
12 purposes as allowed by law or by the grant, gift or donation  
13 provisions.

14           G. Any revenue bonds issued as a result of the  
15 Public-Private Partnerships Act are not general obligations of  
16 this state or any local government and are not secured by or  
17 payable from any money or assets of the state or any local  
18 government other than the money and revenues specifically  
19 pledged to the repayment of the revenue bonds.

20           **SECTION 11. [NEW MATERIAL] USER FEES AT END OF AGREEMENT**  
21 **PERIOD.--**The public partner may continue or cease collection of  
22 user fees after the end of the term of the public-private  
23 partnership agreement, based on a determination of the  
24 behavioral health project's future operations.

25           **SECTION 12. [NEW MATERIAL] REVERSION OF BEHAVIORAL HEALTH**

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1 PROJECT TO PUBLIC PARTNER.--If the public-private partnership  
2 is terminated, the powers and duties of the private partner  
3 cease, except for any duties and obligations that extend beyond  
4 the termination as provided in the public-private partnership  
5 agreement, and the behavioral health project reverts to the  
6 public partner and shall be dedicated for public use.

7 SECTION 13. [NEW MATERIAL] MATERIAL DEFAULT--REMEDIES.--

8 A. Upon the occurrence and during the continuation  
9 of material default by the private partner, not related to an  
10 event of force majeure, the public partner may:

11 (1) elect to take over the behavioral health  
12 project, including the succession of all right, title and  
13 interest in the behavioral health project, subject to any liens  
14 on revenue previously granted by the private partner; and

15 (2) terminate the public-private partnership  
16 and exercise any other rights and remedies that may be  
17 available.

18 B. If the public partner elects to take over a  
19 behavioral health project pursuant to Subsection A of this  
20 section, the public partner:

21 (1) shall collect and pay any revenue that is  
22 subject to lien to satisfy an obligation;

23 (2) may develop and operate the behavioral  
24 health project, impose user fees for the use of the behavioral  
25 health project and comply with any service contracts; and

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1 (3) may solicit proposals for the maintenance  
2 and operation of the behavioral health project as provided in  
3 the Public-Private Partnerships Act for original proposals.

4 SECTION 14. [NEW MATERIAL] POLICE POWERS--VIOLATIONS OF  
5 LAW.--All law enforcement officers of the state or local  
6 government have the same powers and jurisdiction within the  
7 limits of the behavioral health project as they have in their  
8 respective areas of jurisdiction and access to the behavioral  
9 health project at any time to exercise such powers and  
10 jurisdictions.

11 SECTION 15. [NEW MATERIAL] UTILITY CROSSINGS.--Subject to  
12 the requirements of federal and state laws, contractual  
13 agreements and land conveyance documents, a public or private  
14 partner and any utility whose facility is to be crossed or  
15 relocated shall cooperate fully in planning and arranging the  
16 manner of the crossing or relocation of the utility facility.

17 SECTION 16. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2017.