



**SONOMA VALLEY HEALTH CARE DISTRICT  
GOVERNANCE COMMITTEE  
REGULAR MEETING AGENDA  
TUESDAY, MAY 27, 2014  
8:30 AM**

**LOCATION: 320 DAVILA COURT, SONOMA, CA 95476  
(707) 996-7005**

AGENDA ITEM	RECOMMENDATION	
<b>MISSION STATEMENT</b> <i>The mission of the SVHCD is to maintain, improve, and restore the health of everyone in our community.</i>		
<b>1. CALL TO ORDER/ANNOUNCEMENTS</b>	Boerum	
.		
<b>2. PUBLIC COMMENT SECTION</b> <i>At this time, members of the public may comment on any item not appearing on the agenda. It is recommended that you keep your comments to three minutes or less. Under State Law, matters presented under this item cannot be discussed or acted upon by the Committee at this time. For items appearing on the agenda, the public will be invited to make comments at the time the item comes up for Committee consideration.</i>	Boerum	
<b>3. CONSENT CALENDAR</b> A. GC Meeting Minutes, 4.28.14	Boerum	Action
<b>4. STANDING COMMITTEE CHARTER REVIEW</b> QUALITY COMMITTEE CHARTER REVISED AND APPROVED AT COMMITTEE LEVEL; TO BOARD FOR APPROVAL ON 6.5.14	Boerum/Hohorst	Inform/Action
<b>5. CONTRACTING PROCEDURES REVIEW</b>	Boerum/Hohorst	Inform/Action
<b>6. FACILITY CONTRACTING POLICY</b>	Boerum/Hohorst	Inform/Action
<b>7. CONTRACTING APPROVAL MATRIX</b>	Boerum/Hohorst	Inform/Action
<b>8. ADVISE COMMITTEES OF CHARTER REVIEW</b>	Boerum/Hohorst	Inform/Action
<b>9. NEW BOARD MEMBER ORIENTATION BINDER</b>	Hohorst	Inform/Action
<b>10. MARIN AFFILIATION AGREEMENT REVIEW</b>	Boerum/Hohorst	Inform/Action
<b>11. REVIEW OF SCHD GOVERNANCE CERTIFICATE PROGRAM</b>	Boerum	Inform/Action
<b>12. COMMENTS BY BOARD MEMBERS AS REGULAR AGENDA ITEM</b>	Boerum	Inform/Action
<b>13. ADJOURN</b>	Boerum	

3.

## CONSENT CALENDAR



**SONOMA VALLEY HEALTH CARE DISTRICT**  
**GOVERNANCE COMMITTEE**  
**REGULAR MEETING MINUTES**  
**April 28, 2014**  
**1<sup>st</sup> floor Solarium**

Committee Members Present	Committee Members Absent	Administrative Staff Present
Bill Boerum Peter Hohorst		

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ ACTION	FOLLOW- UP
<b>MISSION AND VISION STATEMENTS</b>			
<b>1. CALL TO ORDER</b>	<i>Boerum</i>		
	830 AM		
<b>2. PUBLIC COMMENT:</b>	<i>Boerum</i>		
<b>3. CONSENT CALENDAR:</b> A. GC Meeting Minutes, 2.25.14	<i>Boerum</i>	Action	
		<b>MOTION</b> by Hohorst to <b>APPROVE</b> Consent Calendar. All in favor.	
<b>4. STANDING COMMITTEE CHARTER REVIEW</b>	<i>Boerum/Hohorst</i>	Inform/Action	
	Charters reviewed and will be finalized at the next GC meeting on 5.27.14.		
<b>5. CONTRACTING PROCEDURES REVIEW</b>		Inform/Action	
	Not reviewed.		
<b>6. FACILITIES CONTRACTING POLICY</b>	<i>Boerum/Hohorst</i>	Inform/Action	
	Not reviewed.		
<b>7. CONTRACTING APPROVAL MATRIX</b>	<i>Boerum/Hohorst</i>	Inform/Action	
	Still under development.		
<b>8. ADVISE COMMITTEES OF CHATER REVIEW</b>	<i>Boerum/Hohorst</i>	Inform/Action	
	Put forward to the next meeting on 5.27.14 (see item #4)		

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ ACTION	FOLLOW- UP
<b>9. PROCUREMENT POLICY</b>	<i>Boerum/Hohorst</i>	Inform/Action	
	Still under development.		
<b>10. MARIN AFFILIATION AGREEMENT REVIEW</b>	<i>Boerum/Hohorst</i>	Inform/Action	
	Not reviewed at this meeting.		
<b>11. 2014 FORM 700 COMPLIANCE</b>	<i>Boerum/Hohorst</i>	Inform/Action	
	2014 Form 700 filed for both District Board and Hospital Leadership Staff on 4.11.14.		Board Clerk to put under Committee Reports at Board meeting on 5.1.14
<b>12. REVIEW SCHD GOVERNANCE CERTIFICATE PROGRAM</b>	<i>Boerum/Hohorst</i>		
	Not reviewed at this meeting.		
<b>13. 2014 BOARD ETHICS TRAINING STATUS UPDATE</b>	<i>Boerum/Hohorst</i>		
	All SVHCD Board members are up to date on Ethics training for 2014. No training required until 2015.		Board Clerk to put under Committee Reports at Board meeting on 5.1.14
<b>14. ADJOURN</b>	<i>Boerum</i> 9:15am		

4.

STANDING  
COMMITTEE  
CHARTER REVIEW



SUBJECT: Audit Committee Charter	POLICY #
	PAGE 1 OF 4
DEPARTMENT: Board of Directors	EFFECTIVE:
APPROVED BY: Board of Directors	REVISED:

**Purpose:**

The purpose of the Audit Committee of Sonoma Valley Healthcare District (District) is to assist the District Board in its general oversight of the District's accounting and financial reporting processes, audit process, and system of internal controls, as well as the District's process for monitoring compliance with laws and regulations. Subject to the ultimate authority of the District Board, the Audit Committee shall select, engage and oversee District's outside auditor and approve and oversee all audit and non-audit services provided by the District's outside auditor.

**Membership**

The Audit Committee shall be comprised of not less than two (2) members of the public, the Chair of the District Board, Treasurer of the District Board, Chair of the Finance Committee, the Chief Executive Officer and Chief Financial Officer. The District Board Chair will serve as the Chair of the Audit Committee. No member of the Audit Committee shall be an "interested person" within the meaning of § 5227 of the California Nonprofit Public Benefit Corporation Law. The members of the Audit Committee shall also meet the following additional criteria of independence:

- (i) No member shall receive, directly or indirectly, any compensation from the Corporation, whether for consulting, advisory or other services or as a supplier of merchandise or other goods; and,
- (ii) No member shall have, directly or indirectly, a material financial interest in any entity doing business with the Corporation.

For purposes of the above criteria, "indirect" compensation shall include compensation paid to a member or a member's spouse, minor child or stepchild, or a child or stepchild residing with a member or payments to any entity in which any such person is a partner, member, executive officer or managing director or in which such person holds a similar position. An "indirect" financial interest shall mean an interest held by a member or a member's spouse, minor child or stepchild, or a child or stepchild residing with a member. Notwithstanding anything to the contrary set forth above, payments of fixed amounts of compensation under a retirement, deferred compensation or other similar plan for prior service shall not be prohibited as long as such payments are not contingent on continued service and are not for services rendered within the previous twelve (12) months.

A majority of the members of the Audit Committee shall have financial expertise, including an understanding of generally accepted accounting principles and financial statements, an understanding of internal controls and procedures for financial reporting, and an understanding



SUBJECT: Audit Committee Charter	POLICY #
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DEPARTMENT: Board of Directors	EFFECTIVE:
APPROVED BY: Board of Directors	REVISED:

of Audit Committee functions. Public Members of the Audit Committee shall be appointed by the District Board.

If an Audit Committee Chair is not designated or present, the members of the Audit Committee may designate a Chair by a majority vote of the Audit Committee members. If there is a vacancy on the Audit Committee for any reason, the District Board Chair shall nominate a replacement and such vacancy shall be filled by a majority vote of the members of the District Board, provided a quorum is present.

**Policy:**

**Responsibilities**

Subject to the ultimate authority of the District Board, the Audit Committee shall:

1. Be directly responsible for recommending the appointment, replacement and compensation, and for oversight, of the independent auditor. The independent auditor shall report directly to the Audit Committee.
2. Review and discuss with the independent auditor: (a) its audit plans and audit procedures, including the scope, fees and timing of the audit; (b) the results of the annual audit examination; and (c) the annual financial statements audited by the independent auditor.
3. Review the audit with management and determine whether to recommend the acceptance of the audit to the District Board.
4. Establish policies and procedures for the review and pre-approval by the Audit Committee of all auditing services and non-audit services (including the fees and terms thereof) to be performed by the independent auditor and assure that non-audit services performed by the auditor conform with the standards for auditor consistent with Generally Accepted Accounting Principles.
5. Review the District's internal audit function, including the review of periodic reports on the internal audit function prepared by internal staff or outside consultants at the District's request.



SUBJECT: Audit Committee Charter

POLICY #

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DEPARTMENT: Board of Directors

EFFECTIVE:

APPROVED BY: Board of Directors

REVISED:

6. Review the District's internal controls and review suggestions for improvements in such controls from management and the independent auditor.
7. Review with the independent auditor its judgment as to the quality, and not just the acceptability, of the District's accounting practices and internal controls, and such other matters as are required to be discussed with the Audit Committee under generally accepted auditing standards.
8. Review with the independent auditor and management any changes or improvements in financial or accounting practices that are necessary or desirable, and the extent to which any changes or improvements previously approved by the Audit Committee have been implemented.
9. Review with the independent auditor any audit problems or difficulties and management's response.
10. Oversee the resolution of any disputes between management and the independent auditor if and when such disputes arise.
11. Establish procedures for the receipt of, and response to, complaints or concerns regarding accounting, internal controls or auditing matters, including confidential submissions from employees.
12. Exercise oversight of the District's process for monitoring compliance with legal and regulatory requirements, including receipt and review of regular reports from the Corporation's Compliance Officer as to compliance procedures and changes in applicable legal and regulatory requirements.
13. When appropriate, designate one or more of its members to perform certain of its duties on its behalf, subject to such reporting to or ratification by the Audit Committee as the Audit Committee shall direct.
14. Exercise oversight of the District's process for monitoring compliance with legal and regulatory requirements regarding protection of our patient's privacy and identity to include regular reports from the Corporation's Compliance Officer and Director of Information Technology.





SUBJECT: Audit Committee Charter	POLICY #
	PAGE 4 OF 4
DEPARTMENT: Board of Directors	EFFECTIVE:
APPROVED BY: Board of Directors	REVISED:

15. Perform such other duties and functions as are assigned, from time to time, to the Audit Committee by the District Board.

The Audit Committee shall annually review and reassess the adequacy of its charter and recommend any changes, if needed, to the District Board.

The Audit Committee shall have the authority to engage independent legal, accounting and other advisers as it determines necessary to carry out its duties. The Audit Committee shall have sole authority to approve related fees and retention terms.

**Procedure:**

**Operations**

The Audit Committee shall meet at such times and places as the Audit Committee shall determine, but no less than two (2) times annually. Meetings of the Audit Committee may be called by the Chair of the Committee, the Chair of the Board or the President/Chief Executive Officer (referred to herein as the "President") or Chief Financial Officer of the District. The Audit Committee shall be governed by the same rules regarding meetings (including attendance by telephone conference or similar communications equipment), action without meetings, notice, waiver of notice, and quorum and voting requirements as are applicable to the District Board. The Audit Committee shall be authorized to adopt its own rules or procedures not inconsistent with (i) any provision of this Charter, (ii) any provisions of the Bylaws of the District, and (iii) the laws of the State of California.

The Chair of the Audit Committee shall report regularly to the Board of Trustees on the actions taken by the committee.

**Compensation**

Members of the Audit Committee shall not receive financial compensation for their service on the Audit Committee.

Adopted by the District Board of Trustees on \_\_\_\_\_, 2012.



SUBJECT: Finance Committee Charter	POLICY #
	PAGE 1 OF 4
DEPARTMENT: Board of Directors	EFFECTIVE: 4/5/12
APPROVED BY: Board of Directors	REVISED: <u>3.26.13</u>

**Purpose:**

This charter (the “Charter”) sets forth the duties and responsibilities and governs the operations of the Finance Committee (the “Committee”) of the Board of Directors (the “Board”) of Sonoma Valley Healthcare District (the “District”), a nonprofit corporation organized and existing under the California Law.

The Finance Committee’s purpose is to assist the Board in its oversight of the District’s financial affairs, including District’s financial condition, financial planning, operational, and capital budgeting, debt structure, debt financing and refinancing and other significant financial matters involving the District. The Finance Committee is the body which recommends to the District Board on all financial decisions.

**Policy:**

**Duties and Responsibilities**

The Committee’s primary duties and responsibilities are as follows:

- A. Review Monthly Financial Operating Performance
  1. Review the District’s monthly financial operating performance. The committee will review the monthly financial statements, including but not limited to the Statement of Revenues and Expenses, Balance Sheet and Statement of Cash Flows, prepared by management. The committee will also review other financial indicators as warranted.
  2. Review management’s plan for improved financial and operational performance including but not limited to new patient care programs, cost management plans, and new financial arrangements. The committee will make recommendations to the Board when necessary.
- B. Budgets
  1. Review and recommend to the Board for approval an annual operating budget for the District.
  2. Review management’s budget assumptions including volume, growth, inflation and other budget assumptions.
  3. Review and recommend to the Board for approval an annual capital expenditures budget for



SUBJECT: Finance Committee Charter

POLICY #

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DEPARTMENT: Board of Directors

EFFECTIVE: 4/5/12

APPROVED BY: Board of Directors

REVISED: 3.26.13

the District. If deemed appropriate by the Committee, review and recommend to the Board for approval projected capital expenditures budgets for one or more succeeding years.

#### C. Debt, Financing and Refinancing

1. Evaluate and monitor the District's long and short-term indebtedness, debt structure, collateral or security, therefore, cash flows, and uses and applications of funds.
2. Evaluate and recommend to the Board for approval proposed new debt financing, including lines of credit, financings and refinancing, including (i) interest rate and whether the rate will be fixed or floating rate; (ii) collateral or security, if any; (iii) issuance costs; (iv) banks, investment banks, and underwriters retained or compensated by the District in connection with any financing or refinancing.
3. Review and recommend to the Board all guarantees or other obligations for the indebtedness of any third party.

#### D. Insurance

1. Review on an annual basis all insurance coverage's, including (i) identity and rating of carriers; (ii) premiums; (iii) retentions; (iv) self-insurance; (v) stop-loss policies; and (vi) all other aspects of insurance coverage for healthcare institutions.

#### E. Investment Policies

1. Review and recommend to the Board the District's cash management and cash investment policies, utilizing the advice of financial consultants as the Committee deems necessary or desirable.
2. Review and recommend to the Board the District's investment policies relating to assets of any employee benefit plans maintained and controlled by the District, utilizing the advice of financial consultants as the Committee deems necessary or desirable.

#### F. General

1. Review and recommend the services of all outside financial advisors, financial consultants, banks, investment banks, and underwriters for the District. Review annually the District's significant commercial and investment bank relationships.
2. Perform any other duties and responsibilities as the Board may deem necessary, advisable



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POLICY #

DEPARTMENT: Board of Directors

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APPROVED BY: Board of Directors

REVISED: 3.26.13

or appropriate for the Committee to perform.

3. Perform such other duties and responsibilities as the Committee deems appropriate to carry out its purpose as provided in this Charter.
4. Meet on a monthly basis preceding the Board meeting concerning the District's financial affairs. Urgent and time sensitive matters shall be reported at the next regular or special Board meeting.
5. The Finance Committee will be invited to attend the presentation by the District's independent auditors.
6. The Finance Committee shall review the Charter annually after the close of the fiscal year, or more often if required. If revisions are needed, they will be taken to the Board for action.
7. The Finance Committee shall report to the District Board on the status of its prior fiscal year's work plan accomplishments by after the completion of the Financial Statement Audit.



SUBJECT: Finance Committee Charter

POLICY #

DEPARTMENT: Board of Directors

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EFFECTIVE: 4/5/12

APPROVED BY: Board of Directors

REVISED: 3.26.13

### **Organization**

The Committee's membership, the chairperson, the call and conduct of Committee meetings, the preparation of Committee minutes, and the Committee's other activities shall be appointed, conducted and accomplished in accordance with applicable provisions of the Bylaws and the Corporate Governance Principles adopted by the Board. The committee's membership is subject to the Approval of the District Board. The membership shall include the following:

1. Two (2) Board Members, one being the Treasurer
2. Six (6) District Citizens
3. At least one (1) member of the Medical Staff
4. District's Chief Executive Officer (non-voting)
5. District's Chief Financial Officer (non-voting)

### **Performance Evaluation**

The Committee shall prepare and review with the Board an annual performance evaluation of the Committee, which evaluation shall compare the performance of the Committee with the requirements of this Charter. The performance evaluation shall also recommend to the Board any amendments to this Charter deemed necessary or desirable by the Committee. The performance evaluation shall be conducted in such manner as the Committee deems appropriate. The report to the Board may take the form of an oral report by the chairperson or any other member of the Committee designated by the Committee to make the report.

### **Resources and Authority of the Committee**

The Finance Committee shall have the resources and authority appropriate to discharge its duties and responsibilities, including the responsibility to recommend to select, retain, terminate, and approve the engagement and other retention terms of special counsel or other experts or consultants, as it deems appropriate.

### **Amendment**

This Charter shall not be amended except upon approval by the Board.  
| Adopted by the Board on April 5, 2012.



SUBJECT: Governance Committee Charter

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DEPARTMENT: Board of Directors

EFFECTIVE: 1/5/12

APPROVED BY: Board of Directors (1/5/12)

REVISED: 1/3/13

**Purpose:**

Consistent with the Mission of the District the Governance Committee (GC) assists the Board to improve its functioning, structure, and infrastructure, while the Board serves as the steward of the District. The Board serves as the representative of the residents of the SVHCD by protecting and enhancing their investment in the SVH in ways that improve the health of the community collectively and individually. The Board formulates policies, makes decisions, and engages in oversight regarding matters dealing with ends, CEO performance, quality of care, and finances. The Board must ensure that it possesses the necessary capacities, competencies, structure, systems, and resources to fulfill these responsibilities and executive these roles. In this regard it is the Board's duty to ensure that:

- Its configuration is appropriate;
- Necessary evaluation and development processes are in place;
- Its meetings are conducted in a productive manner;
- Its fiduciary obligations are fulfilled.

The GC shall assist the Board in its responsibility to ensure that the Board functions effectively. To this end the GC shall:

- Formulate policy to convey Board expectations and directives for Board action;
- Make recommendations to the Board among alternative courses of action;
- Provide oversight, monitoring, and assessment of key organizational processes and outcomes.
- Take action on behalf of the Board when prompt action is necessary regarding pending legislation (state or federal) that affects the District/Hospital. The GC Chair shall report such action, and provide copies of correspondence with legislators, to the Board at the next regular Board meeting.

The Board shall use the GC to address these duties and shall refer all matters brought to it by any party regarding Board governance to the GC for review, assessment, and recommended Board action, unless that issue is the specific charge of another Board Standing Committee. The GC makes recommendations and reports to the Board. It has no authority to make decisions or take actions on behalf of the District, except for legislative issues requiring prompt action.



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DEPARTMENT: Board of Directors

EFFECTIVE: 1/5/12

APPROVED BY: Board of Directors (1/5/12)

REVISED: 1/3/13

**Policy:**

**SCOPE AND APPLICABILITY**

This is a SVCHD Board Policy and it specifically applies to the Board, the Governance Committee and all other Standing Committees, the CEO, and the Compliance Officer.

**RESPONSIBILITY**

**Committee Structure and Membership**

- The GC, with input from the Standing Committees, shall review the composition of the Standing Committees annually for vacancies, including an assessment of the desired homogeneous and heterogeneous traits necessary for the Board to work together effectively. Examples of desired homogeneous traits include integrity, interest in, and commitment to the Hospital, interpersonal maturity, and willingness to devote the necessary time and effort, and the ability get along and work effectively with others; and heterogeneous traits include their relationship to the Hospital, experience, gender, ethnicity, and expertise. The GC shall assist the Board in having a well qualified, committed, interpersonally skilled, and diverse mix of Standing Committee members, reflective of the District.
- The GC, with input from the Standing Committees and the Board, shall identify the skill sets of the current members and the skills sets ideal for the Standing Committees as a whole, and present a matrix to the Board for its action and use when recruiting and screening potential Standing Committee members. SVH employees and family members are not permitted to be on the Board Committees. SVH employees and family members are not permitted to be on the Board Committees.

**Board Development**

- **New Member Orientation**
  - Design our Board's new-member orientation process and reassess it bi-annually before elections.
- **Continuing Education of the Board**
  - Plan the two annual board retreats—one in and one away from Sonoma. Identify an annual training program addressing current issues of importance to the Board to be presented off-site in Sonoma for the Board, possibly including Standing Committee members, Medical Staff, selected hospital leaders, and others as deemed appropriate by the Board. Coordinate with other Standing Committees as appropriate to avoid duplication of effort.
  - Direct and oversee our Board's continuing education and development activities



SUBJECT: Governance Committee Charter

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DEPARTMENT: Board of Directors

EFFECTIVE: 1/5/12

APPROVED BY: Board of Directors (1/5/12)

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for both the Board and its Standing Committees.

- **Board Self Assessment**

- Direct and oversee the annual assessment of our Board, Standing Committees, and individual Board members; reviewing these assessments; and making recommendations to the Board regarding ways in which its performance and contributions can be enhanced.

**Monthly Board Development**

- Plan a systematic reading program for the Board, designed to increase Board knowledge in issues of interest and important to the District. The GC shall consult with the other Board members and the CEO in developing the program.

**Develop Policies and Recommend Decisions**

- Draft policies and decisions regarding governance performance and submit them to the Board for deliberation and action.

**Oversight**

- **Compliance**

- Recommend quantitative measures to be employed by the Board to assess governance performance and contributions.
- Conduct the annual review of governance performance measures and submit an analysis to the Board for deliberation and action.
- Conduct an annual assessment of all Board policies and decisions regarding governance performance.

**Legislation**

- Review, draft, and/or recommend legislative proposals to the Board for deliberation and action.
- In those cases where sufficient time is not available for the Governance Committee or Board to deliberate and take action on a legislative or regulatory issue, the CEO and the Governance Committee Chair may commit the District to support or oppose legislative initiatives, provided the CEO and the Governance Committee Chair are in agreement on the position to be taken.
- Perform other tasks related to governance as assigned by the Board.





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DEPARTMENT: Board of Directors

EFFECTIVE: 1/5/12

APPROVED BY: Board of Directors (1/5/12)

REVISED: 1/3/13

### **Annual GC Calendar**

- In April, in advance of the budget process, review the adequacy of financial and human resources currently allocated for the Board and its Standing Committees to meet their obligations and comply with their Charters. This includes but is not limited to the financial and human resources necessary to support the Board, for a Compliance Officer and related support funding, and Continuing Education Board retreat and local offsite, the annual Board self assessment, and new Board member orientation, and Board monthly development.
- Annually review and assess all board policies regarding governance, specifically including the GC and all other Standing Committee Charters, and make recommendations to the Board for action in December.
- The CY GC work plan shall be submitted to the CEO no later than November for input and resource assessment and shall be submitted to the Board for action no later than December.
- The GC shall report on the status of its prior year's work plan accomplishments by December.
- The GC shall establish the next CY meeting schedule no later than December.
- The CEO shall develop and provide a 12 month calendar of all scheduled Regular and Special Board Meetings and post on the SVH website at the beginning of the calendar year. It shall be kept updated.
- The CEO shall develop and submit proposed legislative changes annually at the first meeting after the legislature has adjourned its regular session for the next calendar year—typically September, October at the latest. The GC shall make its recommendations to the Board for action no later than December.
- The GC shall annually review the District's Code of Conduct and Compliance Program and report to the Board for its action no later than December.
- The CEO shall promptly submit to the GC all reports, assessments, audits by external organizations and the Hospital's responses that are not submitted to the Audit Committee or the Quality Committee as required by their Charters. In those cases the GC shall determine the appropriate reviewing body and make that referral or conduct the review and referral to the Board itself.

### **Even Numbered Year GC Calendar Years**

- Present the New Board Member Orientation Process to the Board for its review and action by August in even numbered years, in advance of the pending election.

### **GC Membership**

The GC shall have 2 members, normally the Board Chair and the Board Secretary. The Board



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DEPARTMENT: Board of Directors

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APPROVED BY: Board of Directors (1/5/12)

REVISED: 1/3/13

Chair shall serve as a member and Chair of the Governance Committee, unless the Board specifically acts to make an exception. .

#### **Staff to the GC**

The GC shall be staffed by the Hospital's CEO and/or Administrative Representative. At the request of the GC Chair, the Compliance Officer shall attend GC meetings.

#### **Frequency of QC Meetings**

The GC shall meet six times a year at minimum, unless there is a need for additional meetings. Meetings may be held at irregular intervals.

#### **Public Participation**

All GC meetings shall be announced and conducted pursuant to the Brown Act. The general public, patients, and their families and friends, Medical Staff, and Hospital staff are always welcome to attend and provide input. Other Board members may attend but may not comment as it may be a Brown Act violation.

#### **FREQUENCY OF REVIEW/REVISION**

The GC shall review the Charter annually, or more often if required. If revisions are needed, they will be taken to the Board for action.

5.

CONTRACTING  
PROCEDURES-  
PROCUREMENT  
REVIEW

**Peter, I have only made a few comments on this in yellow highlight and we can talk about those specific points as they will impact the procurement policies we have been working on. I have done nothing else to this except drop the signature section at the end. I am also asking them for most of the referenced policies...it may save the GC a lot of work, and provide a good jumping off point. When I get them I will share them. Kevin**

## **PROCUREMENT MANAGEMENT**

### **I. PURPOSE**

A. The purpose of this Procurement Management Policy ("Policy") is to provide over-arching guidelines for Salinas Valley Memorial Healthcare System ("SVMHS") procurement activities, and in so doing ensure that SVMHS (1) fosters maximum open and free competition for contracts; (2) promotes the greatest economy and efficiency in procurements; (3) maintains procurement policies and procedures that guarantee compliance with applicable laws and regulations; and (4) treats all prospective contractors, consultants, and vendors in an equal and equitable manner.

### **II. POLICY**

A. General. It is the policy of SVMHS that purchases and contracts, whether by informal solicitation, formal bidding or a formal proposal process, shall be made in accordance with the policies and procedures enumerated below.

B. Conflicts of Interest. No director, officer, employee or agent of SVMHS shall participate in any procedure, task, or decision relative to initiation, evaluation, award, or administration of a contract if a conflict of interest, real or apparent, exists. Such a conflict of interest arises when (a) the director, officer, employee or agent, (b) any member of his or her immediate family, (c) his or her business associate, or (d) an organization which employs, or which is about to employ, any of the above described individuals has a financial interest in a firm that participates in a District procurement process or that is selected for a contract award. The standards governing the determination as to whether such an interest exists are set forth in Government Code Sections 1090, 1091, 1091.5, and the Political Reform Act (Government Code Sections 81000 et seq.) and implementing regulations.

C. Group Purchasing. Procurements may be made through group purchasing organizations without SVMHS conducting its own competitive solicitation. In each case when a purchase that would otherwise be covered by this Policy occurs through a group purchasing organization, SVMHS shall require that the group purchasing organization provides evidence that its own processes for vendor identification and selection, item evaluation and price negotiation meet the minimum requirements that would apply were SVMHS to undertake the procurement itself. All other requirements, such as the signature and approval

authority requirements set forth herein and in other SVMHS policies, shall apply to SVMHS procurements through group purchasing organizations. You will recall we talked about this and then did not impose this requirement, but it looks like imposing it is the right thing to do legally. We can specifically ask Colin about this. It will possibly impact our ability to use the MGH contracts.

D. Exception:

1. Employment Contracts. This Policy does not apply to hiring of and contracting with SVMHS employees (as opposed to procurement of professional services).
2. Physician Contracts. The Policy does not apply to contracts with individual physicians (as opposed to groups of physicians) including, as needed, contracts for Department directorships, on-call services, committee participation, or individual physician services. Such contracts with physician will comply with the [PHYSICIAN SERVICES CONTRACT POLICY AND PROCEDURE](#) and the [FAIR MARKET VALUE POLICY](#).

### III. DEFINITIONS

A. "Best value" means a process in which the overall combination of qualifications, experience, price and other elements are considered together to determine which proposal provides the greatest overall benefit to SVMHS and best meets the medical needs of its patients. Personally I like best value over low bid if we can do it. It requires a bit more rigor than just looking at bid values and if not done well is easier to challenge.

B. "Competitive solicitation" means the preparation and circulation of a formal or informal request or invitation for proposals, bids or quotes to qualified sources to permit reasonable competition consistent with the nature and requirements of the proposed acquisition.

C. "Formal competitive bidding procedures" means the letting or award of a contract to the lowest responsive, responsible bidder for provision, purchase or lease of the solicited items following the publication, preparation and circulation of an invitation for bids for said items.

D. "Medical or surgical equipment or supplies" includes only equipment or supplies commonly, necessarily, and directly used by, or under the direction of, a physician and surgeon in caring for or treating a patient in a hospital.

### IV. PROCEDURE

A. Signature and Approval Authority.

1. The Executive Leadership Group ("ELG") will establish signing thresholds for purchases below the authority of the Chief Executive Officer.
2. Any procurement in excess of \$250,000 will require approval of the Board of Directors.
3. All procurements and contracts shall be made in accordance with the SVMHS [EXPENSE APPROVAL MATRIX](#).

B. Competitive Procurement Requirements/Types.

1. Services; Medical and Surgical Equipment and Supplies. Agreements of more than \$250,000 for professional and other services (e.g., accountants,

consultants, physician groups), and for more than **\$250,000** for medical and surgical equipment and supplies (e.g., operating room equipment, implants), shall be procured through a Request for Proposals ("RFP") process and will be based on the "best value" standard. (See [COMPETITIVE SOLICITATION POLICY](#))

2. Data Processing and Telecommunications Goods and Services. Except in cases of emergency, SVMHS contracts of more than \$25,000 for data processing and telecommunications goods and services are to be awarded through an RFP process and awarded to the proposer which provides the most cost-effective solution to the agency's requirements, as determined by evaluation criteria specified by the Board of Directors, which may provide for objective criteria rather than cost alone. This process shall not apply if the Board of Directors determines that the goods or services proposed for acquisition are the only goods and services which can meet the agency's needs ("sole source"). (See [COMPETITIVE SOLICITATION POLICY](#))

3. Non-Medical Equipment and Supplies. Except in emergency or sole source situations, SVMHS shall award all contracts of more than \$25,000 for materials and supplies (e.g., cleaning supplies, toilet paper, office supplies) to be furnished, sold, or leased to the agency, to the lowest responsive, responsible bidder who shall give the security the board requires, or else reject all bids. (See [COMPETITIVE SOLICITATION POLICY](#))

a. This requirement shall not apply to contracts for medical and surgical equipment and supplies.

b. Bids need not be secured for change orders that do not materially change the scope of the work as set forth in a contract previously made if the contract was made after compliance with a formal competitive bidding procedure, and if each individual change order does not total more than five percent of the contract amount.

4. Public Works / Construction. SVMHS shall let all public works contracts to the lowest responsive, responsible bidder who shall give the security the board requires, or else reject all bids. SVMHS shall follow the procedures set forth in Section IV. B of this Policy except where they differ from the applicable requirements set forth in the California Public Contract Code, which legal requirements shall be followed wherever applicable. (See [COMPETITIVE SOLICITATION POLICY](#))

C. Additional SVMHS Policies. In addition to the requirements set forth above, the following SVMHS policies shall be consulted and the requirements of them shall be met:

1. The [INFORMATION TECHNOLOGY ACQUISITION](#) policy shall be used in consideration of all information technology purchases.

2. The SVMHS [PURCHASE ORDER AND PURCHASE ORDER REQUISITION PROCEDURE](#) policy shall be used for the post solicitation ordering of departmental supplies.

3. Capital equipment procurements shall further follow all requirements set forth in the **CAPITAL EQUIPMENT** and **CAPITAL BUDGET PLANNING PURCHASE** policies.

4. The **VALUE ANALYSIS COMMITTEE POLICY** shall be followed prior to the letting of any contract equating to the introduction, evaluation and standardization of existing, new or alternative supplies, equipment, chemicals or products, including procurements of \$25,000 or less in materials and supplies.

5. Any new programs, services, capital purchases or joint ventures with a one year capital and operating cost in excess of \$100,000 or annual gross charges in excess of \$300,000 remain subject to the **BUSINESS PLAN POLICY**.

6. The **FAIR MARKET VALUE POLICY** and the **PHYSICIAN SERVICES CONTRACT POLICY AND PROCEDURE** shall be followed prior to any new or renewal of individual or group physician contracts.

7. The ELG shall set forth policies and procedures for the requirements and thresholds for the following categories of procurement:

a. Medical or surgical equipment and supplies under **\$100,000**.

b. Professional and other services under **\$100,000**.

c. Materials and supplies under **\$25,000**.

d. Data processing and telecommunications goods and services under **\$25,000**.

D. **Procurement Manual**. The ELG will adopt an SVMHS procurement manual which incorporates, clarifies and coordinates all of the foregoing policies and includes additional guidelines such as proposer/bidder protest procedures.

#### **V. EDUCATION/TRAINING**

A. Review of this policy will occur upon approval by all department directors, the ELG and others as determined appropriate.

#### **VI. DOCUMENTATION**

A. All procurement and contracting activities will be documented and maintained according to the SVMHS **HOSPITAL RECORD RETENTION**.

#### **VII. REFERENCES**

A. Political Reform Act (California Government Code Sections 81000 et seq.); Regulations of the Fair Political Practices Commission, Title 2 California Code of Regulations Sections 18700 et seq.

B. California Government Code Sections 1090, et seq.

C. **California Public Contract Code**

D. California Health & Safety Code Sections 32000 -32492



September \_\_, 2013

## **POLICY AND PROCEDURES GOVERNING PURCHASES OF MATERIALS, SUPPLIES AND EQUIPMENT AND PROCUREMENT OF PROFESSIONAL SERVICES.**

### **Purpose:**

This policy covers the procedures governing purchases of materials, supplies and equipment and the procurement of professional services. It does not cover the procedures governing the bidding and awarding of contracts for facility projects (public works). The bidding and awarding of contracts for facility projects is covered by the Policy and Procedures Governing Bidding for Facility Contracts. Contracts for professional services in conjunction with facility projects shall also be governed by the Policy and Procedures Governing Bidding for Facility Contracts and not by this policy. This policy does not apply to physician transactions.

It is the intent of the Board of Directors ("Board") of the Sonoma Valley Health Care District ("District") to provide an equal opportunity to all qualified and responsible parties wishing to participate in the bidding process with respect to the District and the Sonoma Valley Hospital ("Hospital").

It is the intent of the Board, consistent with the District's obligations, to obtain the best value for all expenditures.

It is the intent of the Board to clarify, with this policy, the authority granted to the District President and Chief Operating Officer ("CEO") by the Board with regard to District and Hospital purchases and contracts. It is also the intent to clarify the authority retained by the Board.

In all instances where authority is granted to the CEO, it is understood that the CEO may in turn delegate this authority to a member of the CEO's staff. Responsibility for adherence to this policy, when the authority is delegated by the CEO to a staff member, remains with the CEO.

### **Statement of Board Policy:**

#### **Section 1. Scope and Application of the Policy**

##### **1.1 Delegation of Authority**

The Board hereby makes selective delegation of its authority to the CEO to implement this Policy. By this Policy the Board also limits the CEO's authority as specified in Section 5 [Limit of Authority Delegated to the CEO].

##### **1.2 Bidding Threshold**

The District, with certain exceptions, as covered in Section 2 [Exceptions to Bidding and Lowest Bid Policy], (*Health and Safety Code § 32132*) shall follow the formal bidding procedures outlined in Section 3 [Formal Bidding Procedures] for any contract for



materials, supplies and equipment exceeding twenty-five thousand dollars (\$25,000) for services, materials and supplies to be furnished, sold, or leased to the District or the Hospital and shall award the contract to the lowest responsible bidder. Alternately, the District shall reject all bids.

Bidding is not required for contracts that are excepted under Section 2 and for contracts that do not exceed \$25,000, but bidding or other suitable procedures should be followed to obtain the best value for the District

### **1.3 Authority to Make Purchases.**

The District's CEO or the CEO's designee are hereby given authority to make all purchases and to execute all purchase orders or contracts for the District duly authorized pursuant to this Policy or other applicable policies referenced herein. All purchases and contracts shall be upon written order, whenever reasonably possible, and the District shall keep and maintain written records of the same.

### **1.4 Contract File**

The CEO shall keep and maintain written records of all contracts. The contract file shall include the method used to select the contractor or service provider, a copy of the request for proposal (RFP) or other form of solicitation, the amount of the contract, the expiration date of the contract, and the name of the contractor or service provider. When the formal bidding procedure is required, file shall also include a copy of the Notice of Bids and the names of all bidders and their proposals.

The contract file for all contracts awarded under the exceptions listed in section 2 shall include a description of the exception and an explanation of the method used to select the contractor or service provider.

The contract file shall include the names of any employee of the District, or any Board member who elected to recuse themselves from the award process because of a conflict of interest.

### **1.5 Conflict of Interest**

With respect to all contracts covered by this Policy, any practices or procedures which might result in unlawful activity shall be prohibited, including practices which might result in rebates, kickbacks or other unlawful consideration. No employee of the District may participate in any selection process when such employee has a relationship with a person or business entity seeking a contract which would subject those employees to the prohibitions in *Government Code* § 87100<sup>1</sup>. (See *Government Code* §4526)

### **1.6 No Advantage.**

No illegal, unfair, unethical or otherwise improper advantage shall be accorded to any bidder by the District, a Board member or an employee of the District/Hospital.

## **Section 2 Exceptions to Bidding and Lowest Bid Policy**

The District shall not be required to utilize the formal bidding process or to award the contract to the lowest bidder to (a) emergency contracts, (b) contracts for medical or surgical equipment or supplies, (c) electronic data processing and telecommunications

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<sup>1</sup> Section 8100 provides, "No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

goods and services, (d) professional services, (e) energy services contracts, or (f) purchases made through a Group Purchasing Organization (“GPO”) (*Health and Safety Code § 32132(b) & (e).*)

### **Section 2.1 Emergency Contracts.**

Notwithstanding anything to the contrary, the Board may award contracts for more than \$25,000, without following the formal bidding and lowest bid policy, if it first determines (i) an emergency exists that warrants such expenditure due to fire, flood, storm, epidemic or other disaster and (ii) it is necessary to protect public health, safety, welfare or property. (*Health and Safety Code § 32136.*) In the event that the emergency requires immediate action, the CEO may make the determination that an emergency condition exists and award a contract without first receiving Board approval. The CEO shall inform the Board of the emergency and the contract by email within 24 hours. The Board shall review the emergency and the contract no later than 14 days after the action.

### **Section 2.2 Medical Equipment and Supplies**

Notwithstanding anything to the contrary, the CEO may award contracts for more than \$25,000 without following the formal bidding and lowest bid policy for medical equipment and supplies commonly, necessarily and directly used by or under the direction of a physician or surgeon in caring for or treating a patient. (*Health and Safety Code § 32132(b)&(d).*)

### **Section 2.3 Electronic Data Processing and Telecommunications Goods and Services**

Consistent with Health & Safety Code §32138, the District shall employ competitive means to acquire electronic data processing and telecommunications goods and services, where such goods and services exceed a cost of twenty-five thousand dollars (\$25,000). (*Health and Safety Code §§ 32132(b) and 32138.*)

For purposes of this section, “competitive means” includes any appropriate means specified by the Board. “Competitive means” may include (i) the preparation and circulation of a request for proposal to a sufficient number of qualified sources to permit reasonable competition consistent with the nature and requirements of the proposed acquisition, as determined by the Board in its reasonable discretion; (ii) the lowest bid policy; (c) any other appropriate means determined by the Board in its reasonable discretion. (*Health and Safety Code § 32138(b)*)

The CEO shall provide the Board and the Board shall approve the competitive means that will be used for all electronic data processing and telecommunications goods and services.

### **Section 2.4 Energy Services Contract**

Notwithstanding anything to the contrary, the District shall award contracts for more than twenty-five thousand dollars \$25,000 for energy services including conservation, cogeneration, and alternate energy supply sources without following the formal bidding and lowest bid policy if 1) the Board determines that such contract is in the best interest of the District, and 2) the determination is made at a regularly scheduled public hearing of the Board in compliance with the provisions of *Government Code §4217.12*. (*Government Code §§ 4217.11 & 4217.12*)

### **Section 2.5 Group Purchasing Organizations**

Notwithstanding anything to the contrary, the CEO may award contracts that are placed through an accredited Group Purchasing Organization (“GPO”) in excess of twenty-five thousand dollars (\$25,000) without following the formal bidding and lowest bid policy (Revenue and Taxation Code §23704). (*Health and Safety Code* § 32132(e).)

## **Section 2.6 Professional Services**

Notwithstanding anything to the contrary, the CEO may award contracts for professional services and advice in financial, economic, accounting, engineering, legal, architectural or administrative matters (“Special Services”) in excess of twenty-five thousand dollars (\$25,000) without following the formal bidding and lowest bid policy or the use of competitive means, provided such persons are specially trained, experienced and competent to perform the special services required and have been selected based on these qualifications. (*Health and Safety Code* § 32132(b) & *Government Code* § 53060).

The Policy and Procedures Governing Bidding for Facility Contracts shall be followed for the contracts for professional services of architectural, engineering, environmental, land surveying, or construction project management firms if the work is to be performed in conjunction with an approved facility project.

## **Section 3. Formal Bidding Procedure**

### **Section 3.1 Bid Packet**

Where formal bidding is required, (or otherwise deemed desirable by the Board) the CEO shall prepare a bid packet, including a notice inviting formal bids (“Notice Inviting Bids”). The packet shall include a description of the materials or supplies, scope of services, or work in such detail and written with such specificity as may be required to allow all potential bidders to understand the need and give a level playing field to all bidders.

### **Section 3.2 Notice Inviting Bids**

Where formal bidding is required, the CEO shall publish the Notice Inviting Bids at least fourteen (14) calendar days, but preferably twenty (20) calendar days, before the date of opening the bids. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation, printed and published in the jurisdiction of the District. (Public Contract Code §20150.8).

In addition, the CEO may also publish the Notice Inviting Bids in a trade publication as specified in Public Contract Code 22036 or may give such other notice as it deems proper.

### **Section 3.3 Requirements of Notice Inviting Bids.**

The CEO shall include all of the following in the Notice Inviting Bids:

- a. A description of the item(s) to be bid upon;
- b. The procedure by which potential bidders may obtain electronic copies of the Specifications;
- c. The final time, date, and, place where bids are to be received (Government Code § 53068; Public Contract Code §§ 4104.5, 22037). If the District elects to receive bids electronically, this option must be included in the Notice Inviting Bids.

- d. The appropriate District person to receive the bids and the address for that person, including an e-mail address.
- e. The date, time and place for opening of bids;
- f. Other matters, if any, that would reasonably enhance the number and quality of bids.

#### **Section 3.4 Submission of Bids.**

The CEO shall accept only written sealed bids from the prospective bidders. The CEO shall date and time stamp all bids upon receipt. All bids shall remain sealed until the date and time set forth for opening the bids in the Notice Inviting Bids. Any bid received by the District after the time specified in the Notice Inviting Bids shall be returned unopened. (Government Code § 53068). Any electronic bids received after the time specified shall have their attachments deleted and the bidder notified electronically of their rejection.

#### **Section 3.5 Examination and Evaluation of Bids**

On the date, time and at the location provided in the Notice Inviting Bids, the District shall publicly open the sealed bids. A person designated by the CEO, shall attend and officiate over the opening of bids ("Opening"). The bids shall be made public for bidders and other properly interested parties who may be present at the Opening.

The District reserves the right not to determine the low bidder at the Opening, to obtain the opinion of counsel on the legality and sufficiency of all bids, and to determine at a later date which bid to accept. Such determination shall be made within sixty (60) days of the Opening unless a different period of time is specified in the Notice Inviting Bids.

In the event there are two or more identical lowest bids pursuant to any provision requiring competitive bidding, the District may determine by lot which bid shall be accepted. (Government Code § 53064)

#### **Section 3.6 Award of Contract**

When formal bidding is required the CEO shall award the contract to the lowest bidder, provided the bidder is responsible as defined by section 3.7 and the bid is reasonable and meets the requirements and criteria set forth in the Notice Inviting Bids

Any contract awarded by the District shall be subject to all applicable provisions of federal, California and local laws. In the event of a conflict between any contract documents and any applicable law, the law shall prevail.

Notwithstanding anything to the contrary, the District is under no obligation to accept the lowest responsible bidder and reserves the right to reject all bids. (*Health and Safety Code § 32132*)

#### **Section 3.7 Responsible Bidder**

- a. For purposes of this Policy, "responsible bidder" means a bidder who has demonstrated the attribute of trustworthiness and quality during prior service, a reputation for reliability and satisfactory service with other clients, sufficient financial capacity and the physical capability and the technical and non technical expertise in order to perform the contract satisfactorily (Public Contract Code 1103).
- b. If the CEO determines that the lowest bidder is not responsible, the Board may award the contract to the next lowest responsible bidder

c. If the Board decides to award the contract to a bidder other than the lowest bidder pursuant to subparagraph (b), the Board shall first notify the low bidder of any evidence, either obtained from third parties or concluded as a result of the District's investigation, which reflects on such bidder's responsibility. The District shall afford the low bidder an opportunity to rebut such adverse evidence and shall permit such bidder to present evidence that it is qualified. Such opportunity to rebut adverse evidence and to present evidence of qualification shall be submitted in writing to the District.

#### **Section 4. Bid Conditions.**

All formal bids shall be subject to the following general conditions.

##### **4.1 Minimum Number of Bids.**

When formal bidding is required the CEO shall consider a minimum of three (3) bids whenever possible; however, where the CEO cannot obtain three bids or when the CEO decides that time will not permit obtaining three bids, the Board may authorize consideration of a minimum of two (2) bids.

The District may accept sole source bids for contracts that are exempt from the formal bidding policy under section 2.

##### **4.3 Multiple Bids.**

When bids for multiple items are solicited at the same time, the CEO may accept parts of one or more bids (provided the Notice Inviting Bids so indicates) unless the bidder has specified to the contrary, in which event the District reserves the right to disregard the bid in its entirety.

##### **4.4 Minor Deviations.**

When formal bidding is required, the CEO, after receiving advice from counsel, may waive inconsequential deviations from the specifications in the substance or form of bids received.

##### **4.5 Reference Check**

Contracts shall be awarded to the lowest responsible bidder meeting the applicable criteria established by the District, subject to a check of references and review of legal counsel, as applicable.

##### **4.6 Right to Direct Competitive Bidding.**

The Board reserves the right to direct competitive bidding (including but not limited to lowest bid) for any contract, regardless of whether or not competitive bidding is required by the terms of this policy. (*Public Contract Code §1601*)

##### **4.6 Flexibility and Waiver of Policy Requirements**

In recognition of the fact that the contracting and procurement needs of the District may, from time to time, render certain procedures or requirements set forth in this Policy impractical, the CEO or his/her designee is authorized to permit or waive deviations from this Policy, to the extent permitted by law, in consultation with the District's legal counsel and upon making a written finding that such deviations are in the best interest of the District.

## **Section 5. Limit of Authority Delegated to CEO for Materials and Services**

The CEO may sign a contract for an operating expense, the cost of which has been included in the approved (by the Board) operating budget for the current fiscal year. The contract may cover a period of up to 5 years.

The CEO may sign a contract for an operating expense, the cost of which has been included in the approved (by the Board) operating budget for the current fiscal year, but the contract amount is greater than the amount in the budget, if the total dollar amount of contracts exceeding the budgeted amounts is not in excess of \$100,000 for the year. When a contract is signed that exceeds the budgeted amount the CEO should reduce operating costs in other areas to keep the impact of the contract "budget neutral." The contract may cover a period of up to 5 years.

The CEO may approve a contract for a capital expense, if the item meets the guidelines for capital projects which were included with the capital budget and approved by the Board.

9.

NEW BOARD  
MEMBER  
ORIENTATION



From: Jane Hirsch, 2<sup>nd</sup> Vice Chair

To: SVHCD Governance Committee

Date: May 27, 2014

**RE: SUGGESTIONS FOR INCLUSION IN NEW BOARD MEMBER ORIENTATION AND BINDER**

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1. A thorough discussion of oversight vs. operations, with examples if possible.
2. Explanation of the affiliation agreement with Marin General; would be helpful to include agreement/compensation to Prima as well.
3. Purpose and value of the JPA
4. Board annual retreat
5. Participation in CEO annual performance evaluation
6. How to communicate with CEO and/or Board Chair
7. Under the Regulation discussion, include CIHQ in addition to TJC etc...
8. Discussion re any outstanding "hot items" underway at time of swearing in
9. Discussion of realistic time commitment (of course, should be done prior to even filing for office so candidates have realistic expectations).
10. Basic, but an orientation to the Community Board meeting room; being on TV, using the mike etc...



10.

# MARIN AFFILIATION AGREEMENT REVIEW

## MANAGEMENT SERVICES AND AFFILIATION AGREEMENT

### Marin General Hospital Corporation and Sonoma Valley Health Care District

This Management Services and Affiliation Agreement ("**Agreement**") is entered into on May 12, 2011 (the "**Effective Date**"), by and between the Marin General Hospital Corporation, a California nonprofit corporation ("**MGH**"), and Sonoma Valley Health Care District, dba Sonoma Valley Hospital ("**SVH**"), a political subdivision of the State of California.

#### Recitals

A. SVH is a long established provider of acute care hospital and related community health care services. SVH has experienced competitive challenges common to freestanding community-based health care providers, especially public agency providers. SVH seeks the benefits of providing health services within a larger system or network while preserving local autonomy and authority over its facilities and services. SVH believes that regional affiliations with other local health care agencies and their related nonprofit entities will ultimately benefit residents of its District by enhancing the quality and cost effectiveness of services available to them. To this end, SVH seeks to secure administrative efficiencies and strategic planning advantages through the development of (1) centralized support functions, (2) potentially aligned clinical programs, (3) physician coverage coordination and (4) joint marketing (collectively "**Alignment Goals**").

B. MGH is an affiliate of the Marin Healthcare District, a political subdivision of the State of California. MGH provides acute care hospital services at Marin General Hospital and related community health care services. MGH retains a team of senior management personnel (the "**MGH Executive Management Team**") and consultants (the "**MGH Consultants**") that are experienced in health facility operations and that have become familiar with regional health care needs and markets, including the need for coordination in physician recruitment and in medical group and physician specialty development. MGH believes that regional affiliations with other local health care agencies and their related nonprofit entities ultimately will benefit residents of the entities involved by enhancing the quality and cost effectiveness of services available to the residents whom they serve. To this end, MGH is prepared to assist SVH in creating efficiencies and in pursuing regional objectives for the benefit of both Districts through the development of the Alignment Goals.

C. SVH and MGH have determined that this Agreement (i) will provide SVH with the benefit of MGH's administrative and managerial expertise and (ii) will further joint planning with respect to and efficient delivery of health care services to the benefit of each District.

Accordingly, the parties now hereby agree as follows:

## **Agreements**

### **1. Management and Administrative Services.**

a. It is the intent of the Parties that the senior management teams of both organizations shall function as one to accomplish the administrative and strategic purposes of this Agreement, with the SVH Chief Executive Officer (the "SVH CEO") serving solely at the pleasure of the SVH Board of Directors (the "SVH Board"), but with a dual reporting relationship to the MGH Chief Executive Officer (the "MGH CEO") and joining, as appropriate, as a member and participant in the MGH Executive Management Team to create a joint executive management team to oversee the development and fulfillment of the Alignment Goals in order to maximize the benefits of the affiliation to the parties (the "Joint Executive Management Team"). The MGH CEO shall be responsible for the delivery of the overall objectives of this Agreement.

b. MGH CEO. The MGH CEO shall be responsible for the overall oversight, implementation, and performance of management services provided hereunder as well as efforts under this Agreement in coordination with operations and management of MGH, to achieve the Alignment Goals.

c. SVH CEO. The SVH CEO shall be responsible for the daily on-site management and operational affairs of SVH, as directed by the SVH Board, in accordance with SVH's bylaws as existing or amended and in compliance with all applicable laws, regulations, and permits. During the term of this Agreement, the SVH CEO shall report to the SVH Board with respect to the operations of SVH and the pursuit of the Alignment Goals. The SVH CEO also shall be a member of the Joint Executive Management Team and shall report to the MGH CEO, as well as to the SVH Board, with regard to the matters addressed by the Joint Executive Management Team. The SVH CEO's appointment and termination shall be at the sole discretion of the SVH Board, but the MGH CEO shall provide input during the SVH CEO's annual performance evaluation process with respect to the SVH CEO's contribution to the fulfillment of the purposes and functions in this Agreement.

d. Other members of the Joint Executive Management Team shall be available to SVH as needed and at the discretion of the MGH CEO. These positions include the MGH Chief Medical Officer, Chief Financial Officer, Chief Business Development Officer, and Chief Human Resources Officer.

e. MGH and SVH shall work together to develop proposed work plans and costs so as to address the projects and topics as outlined in Exhibit A, together with such other projects and topics as the SVH Board may agree upon. It is understood that in order to form and implement such work plans, MGH may be required to engage the services of consultants in such areas as strategic and operational planning, facilities planning, financial services, legal services, and managed care contracting. Notwithstanding the foregoing, nothing in this Agreement shall require MGH to obtain any specific consulting services on behalf of SVH, and SVH throughout the term of this Agreement and in its sole discretion may elect to engage consultants directly.

2. Strategic Planning and Implementation.

a. MGH shall complete a comprehensive assessment of SVH and its market with the objective of developing a comprehensive strategic and financial plan that will position SVH as the leader in its market.

b. MGH shall work with SVH to identify specific initiatives to enhance service delivery at SVH and to SVH's market and will work with SVH to complete appropriate financial analyses and financing alternatives.

c. MGH and SVH shall work together, where appropriate and possible, to develop and coordinate system-wide services and programs that benefit the MGH and SVH communities.

d. MGH shall work with SVH to identify and evaluate opportunities for collaboration between SVH and MGH in areas where MGH can provide services to meet SVH's needs.

3. Joint Powers Authority.

SVH and MGH shall use their best efforts to establish a Joint Powers Authority (JPA) comprised of the two or more health care districts, or some similarly constituted organization that is empowered to jointly conduct business on behalf of the organizations within a suitable management structure. The parties shall engage in an active planning process to establish the feasibility and eventual governance of such a JPA. While this is a shared item for feasibility analysis, nothing in this Agreement shall make it a requirement of any party to engage in such a JPA, and it shall be considered the subject of feasibility analysis only at this point. At the same time, the parties may also voluntarily elect to analyze the feasibility of other similar structures that permit combined administrative functions, possibly to include combined resources for managed care contracting.

4. Executive Relationships.

a. The MGH CEO, assisted by the MGH Executive Management Team members and MGH Consultants, shall assume the leadership role in formulating and implementing the Alignment Goals. The SVH CEO shall cooperate fully with such efforts as part of the Joint Executive Management Team, providing full feedback and support, in order to allow MGH and SVH to achieve the Alignment Goals.

b. Consistent with Section 4.a, the MGH CEO shall set regular meetings of the Joint Executive Management Team, which may be part of the regular meetings held by the MGH Executive Management Team, that the SVH CEO shall attend in order to consider the formulation and implementation of the Alignment Goals. The MGH CEO shall be responsible for the agenda for such meetings and may assign the SVH CEO such tasks with regard to the Alignment Goals as the MGH CEO shall deem appropriate. The SVH CEO shall complete such tasks and report on them to the MGH CEO, both in the context of such meetings and outside of

them, in accordance with such protocols as the MGH CEO and the SVH Executive Officer shall establish.

c. The MGH CEO, the MGH Executive Management Team members, and the MGH Consultants shall dedicate such time and attention as is consistent with the intent of this Agreement. The SVH CEO will be full time and on site at SVH.

d. During the Term of this Agreement, the MGH CEO shall have sole discretion to retain, terminate, or reassign any MGH Executive Management Team member or MGH Consultant who is involved on the provision of services to SVH.

5. Term and Termination.

a. The initial term of this Agreement (the "**Initial Term**") shall commence on the Effective Date and continue for a period of one (1) year, expiring on May 11, 2012. Subsequently, this Agreement shall automatically extend for successive one (1) year terms (the "**Term Extensions**"), subject to termination at any time in accordance with Section 5.b below. The Initial Term and any Term Extensions together are referred to herein as the "**Term**".

b. Either party may terminate this Agreement during the Term, without cause or liability, by giving the other party at least ninety (90) days' prior written notice.

6. Fees.

a. SVH shall pay fees to MGH in proportion to the fair value of services that are delivered and received under this Agreement. SVH shall initially pay a deposit amount (the "**Deposit**") of fifteen thousand dollars (\$15,000) for such services, with MGH holding such deposit to offset final payments as set forth in Section 6.c. MGH shall provide specific proposals for pricing and deliverables for the Priority Projects identified in Exhibit A within ninety (90) days of the Effective Date of this Agreement. The accumulated deposit shall be applied to the agreed upon fees for the Priority Projects at such time as the parties agree to implement the Priority Projects.

b. MGH may invoice SVH for the amounts due under Section 6.a above for any calendar month (including for any calendar month after expiration of the Term or termination of this Agreement) at any time after the end of such calendar month. SVH shall pay MGH all invoiced amounts by no later than thirty (30) days after receipt of the invoice. Any undisputed invoiced amount not paid within such thirty (30) day period shall bear interest from the due date until paid at the rate of one and one-half percent (1.5%) per month, or at the highest rate allowed by law, whichever is less (the "**Default Rate**"). SVH may, in good faith, dispute any amount invoiced by giving MGH written notice of objection within the thirty (30) day period set forth above. SVH's dispute of any invoiced amount shall not relieve SVH of the obligation to pay on a timely basis any undisputed amount invoiced. The parties shall meet and confer in good faith to attempt to resolve any dispute over any invoiced amount and shall submit any dispute that they are unable to resolve to the dispute resolution process set forth in Section 14 of this Agreement. If SVH disputes any invoiced amount and it is thereafter determined that SVH must



pay such disputed amount, or any portion thereof, the amount payable to MGH shall bear interest from the original due date thereof through date of payment at the Default Rate.

c. Notwithstanding Section 6.b, MGH shall credit the Deposit to the amounts owed during the final ninety (90) days of the Term of this Agreement.

d. To the extent applicable, the parties each agree to comply with the requirement of Section 1861(v)(1)(I) of the Social Security Act, as amended, and any written regulations pursuant thereto, governing the maintenance of documentation and records to verify the cost of services rendered hereunder as follows. Until the expiration of four (4) years after the last furnishing of services hereunder, each party shall make available upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General of the U.S., or any of their duly authorized representatives, this Agreement, general business terms relating to this Agreement, and any books, documents and records that are necessary to verify the nature and extent of the costs of services rendered hereunder. If either party is requested to disclose any books, documents or records relevant to this Agreement or the services provided hereunder for the purposes of an audit or investigation, the party impacted shall immediately notify the other party of the nature and scope of such request and shall make available to the other party, upon the other party's written request, all such books, documents or records.

#### 7. Independent Contractors.

SVH and MGH are independent contractors with respect to one another under this Agreement and nothing herein shall cause the parties, or the parties' officers and employees providing services hereunder, to be employees, officers, officials, agents, joint venturers, or partners of one another. Subject to MGH's right to reimbursement and except as otherwise set forth in this Agreement, MGH assumes full and sole responsibility for the payment of all compensation, benefits, and expenses of all MGH Executive Management Team members and for all of their state and federal income tax, unemployment insurance, Social Security, and other applicable employee withholdings and for all of the fees, charges, and expenses of MGH Consultants.

#### 8. SVH's Obligations.

SVH shall provide the following to relevant MGH Executive Management Team members and MGH Consultants, as is necessary and appropriate to allow them to perform their duties:

- a. Appropriate office space, furniture, equipment, computer systems/hardware/software, and support staff and complete access to all of SVH's facilities, offices, and locations.
- b. Accurate and complete documentation, reports, data, and other information.

c. Full and complete cooperation of all SVH employees, agents, consultants, counsel, and contractors.

9. MGH Warranties.

MGH warrants and represents that it shall instruct and cause the MGH Executive Management Team members and the MGH Consultants to provide their services as required hereunder, as required in each MGH Executive Management Team member's employment contract with MGH, and in each MGH Consultant's consulting agreement with MGH, and in any event with reasonable care and in a diligent and competent manner. SVH must give MGH written notice of any alleged default or violation of the warranty, which notice will specify in sufficient detail the alleged default or violation, and MGH shall have a reasonable amount of time, based on the nature and complexity of the alleged default or violation, to correct or remedy same. Each party shall be responsible for the acts or omissions of its own employees and agents performing services under this Agreement.

10. No Solicitation of Executive Management Team Members.

a. During the Term of this Agreement, SVH shall not solicit, employ, or otherwise engage any MGH Executive Management Team member, or any employee of MGH or MGH. Except as set forth in the foregoing sentence, nothing in this Agreement shall prohibit SVH from preparing to directly engage, hire, and/or employ a management team and consultants, in anticipation of expiration or termination of this Agreement.

b. During the Term of this Agreement, MGH shall not solicit, employ, or otherwise engage any Joint Executive Management Team member from SVH, or any employee of SVH. Except as set forth in the foregoing sentence, nothing in this Agreement shall prohibit MGH from preparing to directly engage, hire, and/or employ a management team and consultants, in anticipation of expiration or termination of this Agreement.

11. Indemnification.

Each party ("Indemnitor") hereby agrees to indemnify, defend, and hold harmless the other party and its officers, directors, employees, attorneys, agents, invitees, contractors, and subcontractors (for purposes of this Section 11, collectively "Indemnitee") in connection with the defense, prosecution, satisfaction, settlement, or compromise, including the reasonable cost and expense of litigation (including reasonable attorneys' fees and accountants' fees, travel expense, judgments, court costs, and related litigation expenses and such other actual and reasonable costs in connection with the defense, prosecution, satisfaction, settlement or compromise) of any claims, demands, controversies, actions, causes of action, obligations, expenses, fees, charges, damages, fines, and liabilities of any nature whatsoever, whether at law or in equity (collectively, "**Claims**"), brought by any officer, director, employee, attorney, agent, invitee, contractor, or subcontractor of Indemnitor arising out of, based upon, and/or related to, any breach by Indemnitor of any of its agreements with any such officer, director, employee, attorney, agent, invitee, contractor, or subcontractor. The terms of this Section 11 and the parties' rights and obligations hereunder, shall survive the termination of this Agreement.

## 12. Confidentiality of Information.

a. “**Confidential Information**” means (a) any information disclosed by either party to the other party or the other party’s employees (including, without limitation, information SVH discloses to the MGH Executive Management Team and/or the MGH Consultants), either directly or indirectly, in writing, orally or by inspection, of tangible objects, including, without limitation, algorithms, business plans, customer data, customer lists, customer names, designs, documents, drawings, engineering information, financial analysis, forecasts, formulas, hardware configuration information, know-how, ideas, inventions, market information, marketing plans, protected health information as defined by HIPAA (as defined below), pricing policies, processes, products, product plans, research, specifications, software, source code, trade secrets, and organizational, technical and financial information, or any other information arising out of, or related or connected to, the business, operations or governance of either party, or this Agreement, and (b) any information otherwise obtained, directly or indirectly, by a receiving party through inspection, review or analysis of such materials. All information disclosed to the MGH Executive Management Team and/or the MGH Consultants shall be considered Confidential Information unless the SVH confirms in writing that such information is not Confidential Information. Confidential Information may also include information of a third party that is in the possession of one of the parties and is disclosed to the other party under this Agreement.

b. Without the clear and express prior written consent of the party disclosing the Confidential Information (the “**Disclosing Party**”), the party receiving the disclosed information (the “**Disclosee**”) agrees to hold in confidence and not to disclose or reveal Confidential Information received hereunder to any person, entity or third party except for those of Disclosee’s officers, employees, directors, agents, consultants, counsel and advisors that need to know or have access to such Confidential Information in order for such party to satisfy its obligations under this Agreement (collectively, the “**Permitted Representatives**”). Each Permitted Representative to whom Confidential Information is disclosed shall adhere to all aspects of this Section 12. Disclosee further agrees not to use any of the Confidential Information received hereunder except for the purpose of performing its obligations under this Agreement. At a minimum, Disclosee shall use the same diligent care to prevent disclosure of received Confidential Information to any third party as the Disclosee employs with similar confidential information of its own, and in no event, less than ordinary reasonable care. If Disclosee or a Permitted Representative receives a request under a subpoena or order issued by, or in conjunction with a litigation pending with, a court of competent jurisdiction or a governmental body to disclose all or any part of the Confidential Information, Disclosee agrees, to the extent lawful, to (i) immediately notify the Disclosing Party of the existence, terms and circumstances surrounding such a request, (ii) consult with the Disclosing Party on the advisability of taking legally available steps to resist or narrow such request, (iii) if disclosure of such Confidential Information is required, furnish only that portion of the Confidential Information which, in the opinion of Disclosee’s counsel, Disclosee is required to disclose, and (iv) permit the Disclosing Party at the Disclosing Party’s expense to obtain an order or other reliable assurance that confidential treatment will be accorded to such disclosed Confidential Information.



c. The above obligations of secrecy and nondisclosure shall not apply to: (a) information which, at the time of disclosure or discovery, is in the public domain or subject to the California Public Records Act; (b) information, which, after disclosure, becomes part of the public domain by publication or otherwise except by breach of this Agreement; (c) information which reasonable proof can establish was in the Disclosee's possession prior to the time of disclosure by the Disclosing Party and was not acquired, directly or indirectly, from the other Party; (d) information which the Disclosee receives from a third party on a nonconfidential basis, provided, however, that to the knowledge of such party receiving such information, the source of such information is not bound by a confidentiality agreement or other contractual or legal obligation of confidentiality with respect to such information; and (e) developments by the Disclosee subsequent to and independent of the receipt of information from the Disclosing Party.

d. Notwithstanding any of the foregoing provisions of this Section 12, the following provisions shall apply to each MGH Executive Management Team Member's, Legal Counsel's, and each MGH Consultant's access to, and custody and use of, any data, documents, reports, or any other information with respect to SVH or SVH or its business, operations and governance, whether or not Confidential Information (collectively, "**SVH's Business Records**"). Each MGH Executive Management Team Member, Legal Counsel, and each MGH Consultant shall only access, use or possess SVH's Business Records at the offices and on the business premises of SVH or SVH or such other sites or locations other than MGH's offices as are reasonably required for the MGH Executive Management Team Member, Legal Counsel, and the MGH Consultants to perform his/her/their services as required under this Agreement. Under no circumstances shall any MGH Executive Management Team Member, Legal Counsel, or MGH Consultant transmit any of SVH's Business Records to MGH or any employee, director, officer, representative, agent, consultant, or contractor, without such transmission taking place as necessary to the performance of services provided under this Agreement.

#### 13. HIPAA Business Associate.

The parties acknowledge that members of the MGH Executive Management Team and other MGH employees and agents may have access in the course of performing their duties under this Agreement to patient-identifiable health information regarding SVH patients. For this reason MGH will be the "business associate" of SVH as that term is used in the privacy and security rules promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). In accordance with the HIPAA requirements SVH and MGH will comply with the standards for business associates, as set forth in Exhibit B to this Agreement.

#### 14. Dispute Resolution.

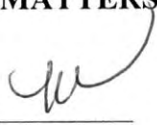
a. If a dispute arises out of or relates to this Agreement or breach or interpretation thereof, the parties shall promptly schedule a meeting at which they shall diligently endeavor to settle the dispute first through direct discussions. Each party shall participate in good faith, through a representative who shall have full authority to resolve the dispute. If the dispute is not resolved through such direct discussions, the parties shall endeavor to settle the dispute by mediation under the mediation rules of the Judicial Arbitration and Mediation Services

("JAMS") as a condition precedent to recourse to arbitration or litigation. Once one party files a request for mediation with the other party, the parties agree to conclude such mediation as soon as practicable after such request, but in no event later than fifteen (15) days after the request, during which time all applicable statutes of limitations shall be tolled. Each party shall pay its own costs and attorneys' fees with respect to any mediation proceeding.

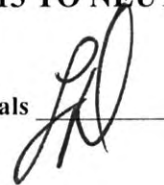
b. Any controversy or dispute between the parties to this Agreement involving the construction, interpretation, application or breach of any term of this Agreement, which cannot be resolved by the parties through mediation, shall be submitted to and decided by arbitration pursuant to this Section 13(b). Subject to the terms and conditions hereof, and except as modified herein, any arbitration pursuant to this Agreement shall be governed by the then current provisions of the California Arbitration Act, *California Code of Civil Procedure* §§ 1280 – 1294.2. Within ten (10) days after written demand by any party, the parties shall meet and confer and select one (1) independent arbitrator to resolve their dispute. If within said ten (10) days the parties are unable to agree upon one (1) independent arbitrator, an arbitrator shall be appointed by petition to the Sonoma County Superior Court, in which case either party may be the petitioner. Any arbitrator appointed by the Court shall be from the list of arbitrators available through JAMS. The arbitrator shall hear and decide the parties' dispute within thirty (30) days following his or her appointment, and the parties shall cooperate with the arbitrator to meet such deadline. Except as limited by this Agreement, the arbitrator shall have full authority to issue any award that a court of competent jurisdiction would have. The decision of the arbitrator shall be a final and binding decision on the parties and may be entered as a judgment in Sonoma Superior Court. The arbitrator shall have the authority to award attorneys' fees and costs to the prevailing party. The foregoing agreement to arbitrate shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

**NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN SECTION 14 DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN SECTION 14. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY. WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN SECTION 13 TO NEUTRAL ARBITRATION.**

SVH's Initials



MGH's Initials



15. Miscellaneous.

a. Neither party may assign this Agreement, unless such party first obtains the written consent of the other party, which consent such other party shall not unreasonably withhold, condition, or delay.

b. All notices or other communication provided for under this Agreement shall be in writing, shall be effective upon receipt or refusal to accept delivery, and shall be (i) delivered personally, (ii) sent by registered or certified mail, return receipt requested, postage prepaid, or by private overnight courier service, addressed to the person to receive such notice or communication at the following address, or (iii) sent by facsimile transmission to the phone number listed below with a copy of such notice concurrently sent by the method set forth in the preceding clause (ii). The address of any party for purposes of notices shall be the address set forth below; provided that any party may change its address by giving notice to the other parties hereto in accordance herewith.

Notice to SVH must be addressed as follows:

Sonoma Valley Health Care District  
Attn.: Board Chair  
347 Andrieux Street  
Sonoma, CA 95476  
Facsimile: (707) 935-5433

Notice to the MGH must be addressed as follows:

Marin General Hospital Corporation  
Attn.: Chief Executive Officer  
100B Drakes Landing Road, Suite 250  
Greenbrae, CA 94904  
Facsimile: (415) 461-0308

c. This instrument and the attached Exhibits constitute the entire agreement between the parties relating to the Agreement. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement will be of no force and effect unless it is in writing and signed by all parties. This Agreement shall bind and inure to the benefit of the parties to this Agreement and their employees, agents, representatives, successors, and assigns, except as otherwise provided in this Agreement. No term or obligation of this Agreement shall be deemed waived, and no breach hereof shall be waived or excused, unless the waiver or consent is in writing and signed by the party granting such waiver or consent and under no circumstances shall any such consent or waiver be deemed to be a consent or waiver of subsequent performance of the same obligation, or of a breach or subsequent breach of any other term or obligation hereof.

d. Any litigation arising under this Agreement will be prosecuted in the Superior Court of California, County of Sonoma. The laws of the State of California govern all matters

arising out of this Agreement. All of the parties to this Agreement have participated fully in negotiating and drafting this Agreement, so if any ambiguity or a question of intent or interpretation arises, this Agreement is to be construed as if the parties had drafted it jointly, as opposed to being construed against a party because it was responsible for drafting one or more provisions of this Agreement. In construing this Agreement, the singular forms of nouns and pronouns include the plural, and vice versa and the use of any gender shall include every other gender and all captions and Section headings are to be discarded.

e. In the event any interpretation of a provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision will be given its nearest legal meaning or reconstrued as deleted as such authority determines and the remainder of this Agreement will continue in full force and effect.

f. The Exhibits to this Agreement are incorporated in and made a part of this Agreement.

g. The parties hereby agree that time is of the essence with respect to performance of each of the parties' obligations under this Agreement. The parties agree that in the event that any date on which performance is to occur falls on a Saturday, Sunday or state or national holiday, then the time for such performance will be extended until the next business day thereafter occurring.

h. This Agreement may be executed in any number of counterparts, each of which, when executed, will be deemed to be an original, and all of which will be deemed to be one and the same instrument. Facsimile transmission signatures will be deemed original signatures if followed by hard copy delivery.

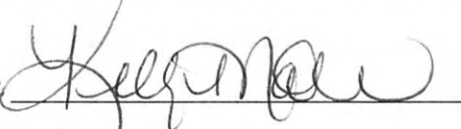
i. If any party to this Agreement commences litigation, arbitration, or other proceeding arising out of or related to this Agreement, or the interpretation, enforcement, termination, cancellation or rescission hereof, or for damages for the breach hereof, the prevailing party in such action, arbitration or proceeding shall be entitled to its reasonable attorneys' fees and court costs and other expenses incurred, to be paid by the losing party as fixed by the court or arbitrator or in a separate action or arbitration brought for that purpose.

j. By this Agreement, MGH and SVH do not delegate or grant any authority or powers of the Districts as public agencies or otherwise to the other to exercise any of their rights or authority, and they each retain all those powers and authorities granted to them by the State by reason of their status as political subdivisions of the State of California.

k. Nothing in this Agreement shall permit the transfer of SVH assets or funds to MGH, including monies received as a result of the SVH parcel tax or general obligation bonds, except to the extent that SVH is providing compensation to MGH for MGH's services under this Agreement pursuant to Section 6 above.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed by their duly authorized representatives, all as of the day and year first above written.

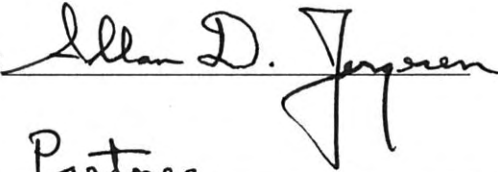
SONOMA VALLEY HEALTH CARE DISTRICT, dba SONOMA VALLEY HOSPITAL,  
a political subdivision of the State of California

By: 

Its: 

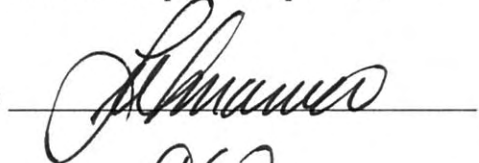
REVIEWED AS TO FORM AND LEGALITY:

HANSON BRIDGETT LLP

By: 

Its: Partner


MARIN GENERAL HOSPITAL CORPORATION,  
a California nonprofit corporation

By: 

Its: 

REVIEWED AS TO FORM AND LEGALITY:

ARCHER NORRIS, PLC

By: 

Its: Partner



## **EXHIBIT A**

### **PROJECTS**

The purpose of this Agreement is to provide a structure for the exploration, development, and implementation of joint projects and programs deemed mutually beneficial to MGH and SVH, as exemplified by the following:

#### Priority Projects

- Information Systems – Evaluate the potential to consolidate IT services and/or provide access to MGH’s suite of IT systems.
- Pharmacy – Evaluate the potential of outsourcing the SVH Pharmacy to MGH.
- Laboratory/Pathology – Evaluate potential synergies between the SVH and MGH Clinical Laboratories.
- Payor Contracting – Identify and evaluate potential for Joint Powers Authority or other such organizational structure that may provide for legally/regulatory permitted arrangements that would facilitate managed care financial process, including analysis and contract negotiations, on a combined basis.

#### Other Projects

- Finance – Evaluate the potential of combining financial functions such as Payroll, Accounts Payable, and General Accounting.
- Financial Analysis – Evaluate the potential of providing analytical support to the SVH CFO in the areas of productivity management, decision support, chargemaster maintenance, purchasing, and other financial areas.
- Patient Accounting – Evaluate the potential of combining patient accounting services between SVH and MGH.
- Medical Records – Evaluate the potential of providing management services to the SVH Medical Records Department.
- General Services – Evaluate the potential of providing services to or managing SVH Dietary, Housekeeping, and Environmental Services.
- Clinical Program Support – Collaborate in the support of clinical programs.
- Other Opportunities – Pursue other opportunities for collaboration as identified by the parties.

## **EXHIBIT B**

### **BUSINESS ASSOCIATE OBLIGATIONS**

1. Compliance with HIPAA Rules. MGH shall comply with the business associate rules (in current or amended form) as they appear in the HIPAA security and privacy regulations, as amended by the HITECH Act, in using and disclosing patient-identifiable health care information (“Protected Health Information” or “PHI”) that it receives from SVH in the course of furnishing services (the “Services”) under the Management Services and Affiliation Agreement (the “Agreement”).

2. Specific Obligations. MGH shall perform the following duties in accordance with the HIPAA business associate rules:

2.1. Use or disclose PHI only in order to: (i) perform the Services; (ii) assist in its own proper management and administration; or (iii) carry out its legal responsibilities. In the event of disclosure under Subsection (ii) or (iii), MGH will obtain assurances from the recipient that the PHI will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the recipient, and that the recipient will notify MGH of any breach of confidentiality of which the recipient becomes aware.

2.2. Implement policies and procedures providing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Health Information (“ePHI”) that it creates, receives, maintains, or transmits on behalf of SVH as required by the HIPAA security regulations.

2.3. Use appropriate safeguards to prevent use or disclosure of PHI for purposes other than the performance of the Services.

2.4. Report to SVH any use or disclosure of PHI not provided for in this Agreement about which MGH becomes aware, including any security breach of unsecured PHI, and to provide such notifications on SVH’s behalf to patients and other recipients at MGH’s expense as SVH may determine.

2.5. Ensure that any agent, including a subcontractor, to whom MGH provides PHI enters into a written contract with it by which the agent agrees to the same restrictions and conditions that apply to MGH.

2.6. Ensure that any agent, including a subcontractor, to whom MGH provides ePHI agrees to implement reasonable and appropriate administrative, physical, and technical safeguards to protect such information.

3. Obligations to SVH. MGH shall perform the following obligations with respect to SVH:

3.1. Give SVH or the patient access to the health records, as required by the

patient access provisions of the HIPAA privacy rules, including making ePHI available in electronic format to the patient or anyone designated by the patient.

3.2. Allow SVH, at the patient's request, to require amendment of the health records in the time and manner that it designates.

3.3. Document any disclosures by it of PHI and provide the resulting documentation to SVH in order to allow SVH to respond to the patient's request for an accounting of disclosures; or, at SVH's direction, provide an accounting of its disclosures of PHI to any patient who requests it.

3.4. Comply with the applicable provisions in the HIPAA privacy rules and the HITECH Act in the event that it assists SVH with marketing or fundraising activities. These include (1) obtaining the patient's permission in most circumstances before using or disclosing the patient's PHI for marketing purposes, and (2) placing a clear statement in any fundraising materials allowing the patient to opt out of receiving such communications in the future.

3.5. Refrain from selling PHI or receiving compensation for providing PHI without the express written permission of SVH and, unless the HIPAA privacy rules expressly permit it, the patient to whom the PHI pertains.

3.6 Provide indemnification to SVH for any expenses to which SVH is put in notifying residents, governmental agencies, or other persons or entities, as required by law, of security breaches involving PHI in the custody of MGH or MGH's agent.

4. Records. MGH shall make its internal practices, books, and records relating to the use and disclosure of PHI available to SVH, or, at the request of SVH, to the Secretary of the Department of Health and Human Services, in a time and manner designated by SVH or the Secretary, to assist the Secretary in determining SVH's compliance with the HIPAA privacy and security regulations.

5. Termination. The following provisions shall apply to termination of the Agreement:

5.1. SVH may immediately terminate the Agreement in the event of a material violation by MGH of this Exhibit.

5.2. Following any termination of the Agreement, MGH shall, if feasible, return or destroy all PHI (including copies) received from SVH, or created or received by MGH on behalf of SVH. If it is not feasible to return or destroy the PHI, MGH shall continue to protect the PHI under this Exhibit and shall limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

6. Amendment. SVH and MGH shall amend this Exhibit from time to time as necessary to comply with the HIPAA privacy and security regulations.