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Chief Executive Officer

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November 25, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: for Lari Sheehan
William T Fujioka
Chief Executive Officer

OPENING OF THE NEW MARTIN LUTHER KING, JR. HOSPITAL – REPORT #2

On August 18, 2009, on motion by Supervisor Mark Ridley-Thomas, your Board authorized the Chief Executive Office (CEO) to proceed with further discussions with the University of California (UC) representatives regarding the opening of the Martin Luther King, Jr. Hospital (MLK), and directed this Office to report back to the Board of Supervisors for disposition and approval following the Board of Regents meeting scheduled for September 15 – 17, 2009.

This is to provide your Board with an update to our report dated November 12, 2009. On November 19, 2009, the Board of Regents unanimously approved the "Key Elements For Contract Between County and University Regarding Operation of MLK Community Hospital."

The content of the Key Elements were originally presented to your Board on August 12, 2009 with additions reflected in a subsequent November 12, 2009 report to your Board. We have summarized the Key Elements of the proposal in Attachment 1.

ACTION ITEMS

The following actions are presented to your Board for approval.

1. Approval of the terms contained in the attached Summary of Important Terms of a Coordination Agreement with the UC for opening of the new MLK Hospital, under a private, non-profit entity.

2. Delegate authority to the CEO to negotiate and execute a Coordination Agreement with the UC incorporating the Important Terms so approved adding such other terms and conditions as are necessary to implement the Important Terms or as are reasonable, and not financial.

3. Approval for the CEO to establish a project management team to oversee all implementation aspects of the project and return to your Board in 30 days with a cost proposal. Major tasks to be undertaken by the team include the following:

    a. Development of key initial agreement County and UC – Coordination Agreement;

    b. Oversight and coordination of the capital program (OHSPD requirements and deadlines);

    c. Formation of the non-profit and assisting with its start-up;

    d. Assisting non-profit staff with facility-program development (staff start-up, licensing and surveys, etc.,); and

    e. Development of the framework for operational agreements, such as lease and indigent care agreements between the County and the non-profit.

Please contact me if you have questions or your staff may contact Sheila Shima, Deputy Chief Executive Officer, at (213) 974-1160.

WTF:SAS
MLM:gl

Attachment

c: Executive Officer, Board of Supervisors
Acting County Counsel
Auditor-Controller
Interim Director, Department of Health Services

Attachment 1

SUMMARY – IMPORTANT TERMS OF A COORDINATION AGREEMENT WITH THE UNIVERSITY OF CALIFORNIA

The County and the University of California (UC) will enter into a formal agreement incorporating the following important terms, as well as details not specified below regarding the timing and implementation of these main points. Additional agreements between each party and the new non-profit entity ("HospitalCo") are also contemplated before the new Martin Luther King, Jr. Hospital ("Hospital") is opened.

County Commitments

- Provide the building to be leased to HospitalCo to use as a 120-bed general acute care hospital with an emergency room, and equip it. This commitment is contingent on HospitalCo signing a lease which is acceptable to the County.

- Provide start up funds totaling $50,000,000, which are made available to HospitalCo in annual increments of $10,000,000 beginning July 2010.

- Make available to HospitalCo, at the time Hospital opens, a revolving Line of Credit in the amount of $20,000,000 to bear interest at the treasury pool rate. HospitalCo may only access the Line of Credit under exigent circumstances as determined by a supermajority (5/7) of HospitalCo's board.

- Make available to HospitalCo, at the time Hospital opens, a one time reserve fund of $8,000,000. HospitalCo may only access these funds under exigent circumstances as determined by a supermajority (5/7) of HospitalCo's board.

- Make an annual intergovernmental transfer to the State for the benefit of the Hospital in the amount of $50,000,000.

- Acquire and retain for at least six years letter(s) of credit in the initial amount of $100,000,000 available beginning 30 days before opening of the Hospital which can be drawn upon to make the intergovernmental transfer in the event that the County fails to do so timely.

- Pay HospitalCo $13,300,000 for indigent care services at the Hospital.

- Increase either the intergovernmental transfer amount or the indigent payment amount or both in years after the Hospital opens by a growth factor. The growth factor, which will be based on the annual intergovernmental transfer amount, will be tied to growth in the South Los Angeles fund; however, such growth cannot exceed the amount that Medi-Cal payments to the County hospitals have increased.

University Commitments

- Participate in planning and other activities related to the opening of the Hospital which require physician expertise.

- Make available a chief medical officer and UC-employed physicians to render inpatient services. The exact number and types of physicians is to be clarified in the final agreement. This commitment is contingent on HospitalCo entering into a contract, which reasonably compensates UC for the physician services. Such physicians would comply with the obligations imposed by regulators or the Hospital's medical staff bylaws, which will include participation in Hospital's quality assurance activities and credentialing.

- Take primary responsibility for directing and managing efforts to establish graduate medical education activities at the Hospital.

- Work together with the County and HospitalCo to establish a quality subcommittee of the HospitalCo board, and assure that UC-employed physicians play an active role in credentialing, quality assurance and quality improvement.

Mutual Commitments

- Work together to assure that a non-profit corporation with a seven member board of directors/trustees is created to license and operate the Hospital. UC and County shall each appoint two board members and work together jointly to appoint the remaining three members. The UC and County may reconsider and jointly request HospitalCo to revise this board appointment structure after five years.

- Agree not to represent to third parties that the Hospital is owned, licensed, or operated by either UC or County or that UC or County is financially responsible for the Hospital's activities or debts.

Term

- Effective on full execution by both parties.

- Unless terminated early, the agreement will continue until either the UC/HospitalCo agreement for physician services terminates or expires or, if later, the date the lease between the County and HospitalCo terminates or expires.

Termination

- Either party can terminate the agreement if HospitalCo or any entity with which it contracts to operate the Hospital fails to obtain or retain all necessary licenses, accreditation by The Joint Commission or other appropriate body, and certification

by Medicare and Medi-Cal. Failure to obtain OSHPD approval to open the Hospital also would be grounds for either party to terminate the Coordination Agreement.

- Either party may also elect to terminate if HospitalCo fails to fund and maintain in any year in which revenue exceeds operating expenses, a reserve equal to two percent of annual operating expenses (or a lesser amount if insufficient funds exist). HospitalCo must continue funding such reserve each year until the balance is at least ten percent of the average operating expenses for the previous three years. This reserve is available for use only under exigent circumstances as determined by a supermajority (5/7) of HospitalCo's board..

- Either party may terminate if the Hospital is unable to obtain Medi-Cal reimbursement based on State general funds and federal funds, which is equal to at least 60 percent of Hospital's costs, or debt service funding as authorized in SB 1732 (or equivalent reimbursement under a successor program), or cost based reimbursement similar to what the County facilities receive for Hospital's outpatient services.

- The County has the right to terminate if the State materially reduces or eliminates special Medi-Cal funding for the South Los Angeles area.

- Either party may terminate under common conditions for termination, such as bankruptcy or exclusion from participation in federal healthcare programs.

- UC may terminate if the County fails, after a reasonable period, substantially to cure any of the following defaults:
  - Failure to make available the building and equipment necessary for Hospital.
  - Failure to satisfy or maintain its financial commitments.

- County may terminate if the UC fails after, a reasonable period, substantially to cure any of the following defaults:
  - Failure to provide the promised assistance in planning and other activities related to the opening of the Hospital.
  - Failure to actually furnish the obligated physician services.
  - Failure to direct and manage the effort to establish graduate medical education activities.

Renegotiation

- The parties agree to negotiate, in good faith, revisions to the financial obligations if changes to Medi-Cal or federal health care laws or regulations occur, which would materially affect the amount of revenue the Hospital would receive or the amount of supplemental revenue the County receives for the South Los Angeles area.