



**BEFORE THE BOARD OF DIRECTORS OF THE**

**PETALUMA HEALTH CARE DISTRICT**

**RESOLUTION 20-04**

**RESOLUTION TO APPROVE TERM SHEET FOR PURCHASE AND SALE OF PETALUMA VALLEY HOSPITAL, ITS REAL AND PERSONAL PROPERTY AND RELATED BUSINESS AND ASSETS, BY NORCAL HEALTHCONNECT, LLC, A SECULAR AFFILIATE OF PROVIDENCE ST. JOSEPH HEALTH, AND ITS CONTINUED OPERATION AS AN ACUTE CARE HOSPITAL WITH AN EMERGENCY ROOM FOR 20 YEARS**

The Board of Directors of the Petaluma Health Care District (“District”) does hereby resolve as follows:

**WHEREAS**, in 2015 in anticipation of the surrender by SRM Alliance Hospital Services (“SRM”), an affiliate of Providence St. Joseph Health (“PSJH”), to the District of the operations, facilities, real and personal property, business and goodwill of Petaluma Valley Hospital (“Hospital”) following the scheduled expiration of SRM’s lease of the Hospital in 2017, the District solicited bids from potential operator/lessees and operator/purchasers of the Hospital; and

**WHEREAS**, during the following five years the District engaged in discussions and negotiations with several different potential operator/lessees, including but not limited to SRM, a third party and a joint venture between PSJH and Adventist, none of which discussions/proposals were completed and consummated; and

**WHEREAS**, over the last several months discussions and negotiations were held with several parties interested in leasing the Hospital, including PSJH; and

**WHEREAS**, in its ongoing discussions and negotiations with PSJH the Board of Directors determined that a sale rather than a lease of the Hospital would ensure (a) the continued existence of the Hospital as a general acute care hospital with an emergency room for a longer term, (b) capital improvements to the Hospital including deferred maintenance items and seismic upgrades, and (c) payment to the District of fair market value for the Hospital that the District could reinvest in support of the needs of the Southern Sonoma County community; and

**WHEREAS**, the Board of Directors and PSJH have negotiated the provisions of a Term Sheet pursuant to which NorCal HealthConnect, LLC (“NorCal”), a secular affiliate of PSJH, would purchase the Hospital, its real and personal property and related business and assets for the sum of \$52,600,000 and operate a general acute care hospital and provide emergency and acute care services

at the Hospital for a minimum of 20 years, and continue The Birthing Center for a minimum of 5 years, a copy of which Term Sheet is attached hereto as **Exhibit A** (“Term Sheet”); and

**WHEREAS**, pursuant to the Term Sheet, Western HealthConnect, a Washington nonprofit corporation parent of NorCal (“Guarantor”) and affiliate of PSJH, will enter into a guaranty agreement (“Guaranty Agreement”) to guarantee NorCal’s obligations under the Term Sheet and the definitive agreements to be negotiated and executed in connection with the Term Sheet; and

**WHEREAS**, the District finds that the transactions contemplated by the Term Sheet are necessary to provide for the continued maintenance of the Hospital and the District’s health care services and programs, thereby assuring availability to the residents of the District of local emergency and hospital services, and has determined it to be in the public interest, in the best interests of the District, in the best interests of the communities served by the District, and in furtherance of the purposes of the District, that the District consummate the transactions contemplated by the Term Sheet; and

**WHEREAS**, pursuant to the authority granted to the District under Section 32121(p) of the California Health & Safety Code, the Board of Directors of the District has determined, in accordance with Sections 32121(c) and (p), that it is in the best interests of the District to sell the Hospital, its real and personal property and related business and assets to NorCal on the terms and conditions set forth in the Term Sheet; and

**WHEREAS**, the District will obtain an opinion from an independent consultant with expertise in methods of appraisal and valuation and in accordance with applicable governmental and industry standards for appraisal and valuation, that the transfer on terms set forth in the definitive agreements will constitute fair and reasonable consideration to be received by the District for the transferred assets, and such determination will constitute fair market value in accordance with the requirements of Section 32121(p)(1) of the California Health & Safety Code; and

**WHEREAS**, prior to the transfer and sale of the Hospital, its real and personal property and related business and assets from the District to NorCal a majority of the voters voting on a ballot measure must approve the transfer and sale;

**NOW, THEREFORE**, the Board of Directors of the District hereby resolve as follows:

**RESOLVED**, the Board of Directors approves the Term Sheet in all respects, subject to the approval of a ballot measure, by a majority of the voters of the District voting on the measure, proposing the transfer and sale and operation of the Hospital pursuant to the Term Sheet;

**BE IT FURTHER RESOLVED**, that the President of the Board and the District Chief Executive Officer, in consultation with legal counsel and other District consultants, are hereby authorized and directed to negotiate and prepare definitive agreements substantially setting forth the terms and provisions contained in the Term Sheet (the “Transaction Documents”); and

**BE IT FURTHER RESOLVED**, that contingent on and following completion of the Transaction Documents, the Transaction Documents shall be presented to the Board of Directors at a public meeting for approval and execution.

**THE FOREGOING RESOLUTION** was introduced by Director \_\_\_\_\_ who moved its adoption, seconded by Director \_\_\_\_\_, and then adopted on roll call by the following vote:

DIRECTOR _____	Aye _____	No _____	Abstain _____
DIRECTOR _____	Aye _____	No _____	Abstain _____
DIRECTOR _____	Aye _____	No _____	Abstain _____
DIRECTOR _____	Aye _____	No _____	Abstain _____
DIRECTOR _____	Aye _____	No _____	Abstain _____

**WHEREUPON**, the Chair declared the foregoing resolution adopted and **SO ORDERED**

---

District Administrator/Secretary

## EXHIBIT A

### Term Sheet Purchase and Sale between Petaluma Health Care District and NorCal HealthConnect, LLC

<b>1. Parties and Related Parties</b>	a) Petaluma Health Care District (“ <b>District</b> ”). b) NorCal HealthConnect, LLC a California limited liability company (“ <b>Company</b> ”). c) Western HealthConnect, a Washington nonprofit corporation (“ <b>Western HealthConnect</b> ”), solely related to the Guaranty Agreement (as defined below).
<b>2. Form of Transaction and Definitive Agreements</b>	District and Company intend to enter into a Master Agreement to provide for the purchase and sale of the Medical Center and Assets (as defined below) and the obligations of the parties, including but not limited to post-closing covenants (“ <b>Master Agreement</b> ”).  Further, as an exhibit to the Master Agreement, District and Company intend to enter into a purchase and sale agreement (“ <b>Purchase Agreement</b> ”) for District’s sale to Company of the Petaluma Valley Hospital facility, land and personal property used in operation of the hospital (“ <b>Medical Center</b> ”) and the business and assets related thereto (“ <b>Assets</b> ”).  Western HealthConnect shall enter into a guaranty agreement (“ <b>Guaranty Agreement</b> ”) to guarantee Company’s obligations under the Definitive Agreements.  The parties shall enter into the Master Agreement, the Purchase Agreement, the Guaranty Agreement, and such other related agreements setting forth the mutual commitments between the parties concerning the Medical Center and the other provisions covered herein (collectively, the “ <b>Definitive Agreements</b> ”).  The transactions contemplated by the Definitive Agreements are referred to as the “ <b>Transaction.</b> ”
<b>3. Closing</b>	The closing of the transactions contemplated by the Definitive Agreements is referred to herein as the “ <b>Closing.</b> ” The parties intend that Closing take place on or before December 31, 2020 (“ <b>Closing Date</b> ”).

**4. Key Terms of Definitive Agreements**

- a) Premises. Purchase of Medical Center located at 400 North McDowell Blvd, Petaluma, CA, including vacant portion of parcel. District will transfer the Premises in a grant deed in favor of Company (“**Grant Deed**”) on the Closing Date.
- b) District Retained Property. The District will retain all of its remaining properties, and such properties shall be excluded from the Agreement.
- c) Purchase Price. Company shall pay District in immediately available funds the purchase price of fifty-two million six hundred thousand dollars (\$52,600,000) on Closing, subject to FMV determination by a third party appraiser. The parties may decide that the District will finance a portion of the purchase price on mutually agreeable terms, which financing would be secured by a deed of trust against the Premises.
- d) AS IS. Company shall purchase the Medical Center and Assets AS IS.
- e) Taxes. Company shall pay all applicable taxes, if any, with regard to the purchase of the Medical Center and Assets, the Transaction and operation of the Medical Center.
- f) Insurance. Company shall obtain and maintain appropriate insurance, including at a minimum insurance of the types and in the amounts currently carried on the Medical Center, which may be provided through Providence St. Joseph Health (“PSJH”) insurance programs, at PSJH’s discretion and subject to the District’s reasonable approval. From time to time, the insurance specified may be revised as the District may reasonably require. Company’s obligation to maintain insurance shall continue up to and including the Closing Date, and thereafter, shall maintain appropriate tail coverage for the benefit of District.
- g) No District Liability. District shall not be responsible for any liabilities or obligations of Company pertaining to the Medical Center or its operations at any time.
- h) Indemnity. Company shall indemnify the District for any and all claims relating to Company’s purchase and the operation of the Medical Center by Company.
- i) No Encumbrances. Company shall not place any liens or encumbrances on the Medical Center before the Closing Date.
- j) No Assignment of Definitive Agreements. For twenty (20) years after the Closing Date, the Definitive Agreements shall not be assigned by Company or Western HealthConnect (solely related to the Guaranty Agreement) or any of its Affiliates to a third party without District’s prior written consent.
- k) Corrective Action Plan. The Agreement shall contain default provisions that provide for the rights of the District to require Company’s compliance with corrective action plans or permit the District to cure any potential or actual default by Company such that the Medical Center shall continue to remain operational for the benefit of the communities served by the District. Company shall use its best efforts to comply with the terms of any such corrective action plan.

	<p>l) <u>Default</u>. If any of the Definitive Agreements are terminated by a party or the Transaction does not close due to a default of any of the Definitive Agreements by such party, the other part(ies) shall have all remedies at law and in equity.</p> <p>m) <u>Maintenance of Services</u>. Commencing on the Closing, all services provided at the Medical Center shall continue to be provided by Company, including but not limited to the women’s health services that have been historically provided or offered, subject to the Family Birthing Center provision noted below. Consistent with past practice, these services will not include elective abortions, physician assisted suicide, or the destruction of human embryos (“<b>Restricted Services</b>”). Requests for Restricted Services will be accommodated externally.</p>
<p><b>5. Appraisal</b></p>	<p>a) An appraisal is being conducted to determine the Fair Market Value to be received by District in connection with the sale and Transaction. (H&amp;S Code section 32121(p))</p> <p>b) District shall pay for the cost of the appraisal.</p> <p>c) The District has engaged VMG as the appraiser and has initiated discussions concerning the objectives/scope of the appraisal.</p>
<p><b>6. Western HealthConnect Guaranty</b></p>	<p>Western HealthConnect shall guaranty Company’s performance of their respective obligations under the Definitive Agreements pursuant to the Guaranty Agreement. The Guaranty Agreement shall not be assignable.</p>
<p><b>7. Governance</b></p>	<p>Upon execution of the Definitive Agreements, the District shall have the right to nominate one (1) voting board member to the board of the Medical Center (“<b>Medical Center Board</b>”) for ten (10) years following the Closing so long as the Medical Center Board exists, the Medical Center’s Board shall act upon such nomination in accordance with its Bylaws and governance policies. The designated board member shall be subject to the same removal rights as any member of the Medical Center’s Board. If District appointee is removed, District shall have the right to nominate his or her replacement.</p> <p>District Board Chair will appoint one of the following: (i) District Board member; (ii) the District CEO; or (iii) a designee to attend Quality Committee meetings, and one of the same to attend the Community Benefit Committee meetings, as voting members in accordance with the Committees’ Charters for ten (10) years following the Closing so long as the Medical Center Board’s Committees exist. The designated Committee members shall be subject to the same removal rights as any member of the Committees. If District appointees are removed, District shall have the right to nominate their replacements.</p> <p>No provision of any bylaw or other document of Company shall be revised or modified in any way to restrict District’s rights as stated herein.</p> <p>In the event the District provides Company financing in connection with the purchase and sale of the Medical Center and Assets, the parties anticipate that, for the term that any debt is outstanding, they will agree to further District rights to participate in Company governance and financial reporting obligations to the District similar to what creditors would customarily require in similar circumstances. Company may coordinate with District fundraising within the Medical Center Service area. Company shall use funds raised in conjunction with the Medical Center in the Medical Center</p>

	Service Area to support services in the Medical Center Service Area. “ <b>Medical Center Service Area</b> ” shall mean the area described in Zip Codes: 94928, 94931, 94951, 94952, 94953, 94954 and 94955.
<b>8. Licensing and Permits</b>	All licenses, permits and approvals necessary to operate the Medical Center shall be obtained and maintained.
<b>9. Permissible Uses and Reverter</b>	<p>a) The Medical Center and related assets and facilities shall be used exclusively by Company, any authorized transferees, and Company employees, agents and contractors for the purpose of operation of a general acute care hospital with basic emergency medical services (consistent with Title 22 Division 5 Section 70413, as may be amended, replaced, deleted, or supplemented from time-to-time) and related healthcare activities for a minimum of twenty (20) years after the Closing Date.</p> <p>b) The permissible uses described in Section (a) above shall be contained in a covenant that runs with the land in the Grant Deed. The Grant Deed shall also contain a reverter in favor of District that provides that the Medical Center and related assets and facilities shall revert to District as soon as possible upon any violation of this covenant.</p>
<b>10. Post-Closing Covenants for Hospital Operations</b>	<p>a) For a minimum of twenty (20) years after the Closing Date, Company will operate the Medical Center (inclusive of any off-site services) as an acute hospital, with no less than 50% of the current number of licensed beds, and provide the following services as currently provided and provided for in the Definitive Agreements (except for such changes as previously approved by District) unless, subject to item 11(b) below as to the Family Birthing Center: basic emergency medical services (at the level as currently provided at the hospital and as consistent with Title 22 Division 5 Section 70413, as may be amended, replaced or supplemented from time-to-time), acute inpatient medical and surgical services, intensive care services, including ICU, outpatient surgery, obstetrics, gynecology (as provided for in Section 70547 of Title 22 of the California Administrative Regulations, as may be amended, replaced or supplemented from time-to-time), and a range of diagnostic cardiology services, diagnostic radiology services, clinical laboratory-pathology services and special diagnostic and therapeutic services at a level of accessibility to patients and physicians, quality, technology and staffing that complies with law, regulations, accreditation, Medicare conditions of participation and customary practices of comparable hospitals on a regional, statewide or nationwide basis. Notwithstanding the foregoing, Company or its assignee will maintain a full-time general acute care licensed hospital with 24/7 walk in basic emergency care in the Medical Center for a minimum of twenty (20) years after the Closing Date. Notwithstanding the foregoing, if a natural disaster, i.e. earthquake, fire, flood, or other geologic processes, destroys or substantially destroys the communities within the District, thus rendering it impossible to maintain Medical Center as an acute-care hospital with a dedicated emergency department, the commitments described above shall be immediately waived. If there are other disruptions that substantially impair the commitments or make them impracticable to maintain, Company may seek consent from the District to waive or suspend any such commitments.</p> <p>b) Notwithstanding the foregoing, Company shall operate the Family Birthing Center until a minimum of five (5) years after the Closing Date. Thereafter, Company shall have the sole discretion as to the determination of the Family Birthing Center.</p>

	<p>c) Company shall provide all medical services at Medical Center without refusal, delay, or other discrimination, in whole or in part, directly or indirectly, because of a person’s race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, or marital status or ancestry, except to the extent that such circumstance is medically significant to the provision of appropriate care to the patient.</p> <p>d) Company shall operate the Medical Center with a commitment to quality, safety, patient satisfaction, and employee and physician engagement, including maintaining Joint Commission accreditation and participation in the Medicare, Medicaid, TRICARE and other government programs and consistent with existing hospital PI Quality Plan and policies, as they may be developed over time.</p> <p>e) Pursuant to California Health and Safety Code Section 32121(p)(1)(A)(iv) or any successor statute, Company shall operate and maintain the Medical Center and related facilities and Assets for the benefit of the communities served by District.</p>
<p><b>11. Charity Care and Community Obligations</b></p>	<p>a) Company shall adopt, maintain, and adhere to PSJH’s policies on charity and indigent care, as required under current state and federal laws.</p> <p>b) Company shall invest in community benefits allocations at a level consistent with at least the current amounts, over the next ten (10) years, and in accordance with Western HealthConnect’s IRS Form 990 Schedule H by the business and the facilities as determined pursuant to Company or PSJH metrics for community benefit investments and community benefit program within Medical Center’s geographic service area, as defined by the zip codes set forth in <b>Attachment 1</b> (the “<b>Service Area</b>”).</p> <p>c) Company shall provide District with an annual report detailing the activities and expenditures of any community benefit commitment for ten (10) years after the Closing Date.</p>
<p><b>12. Employee Matters</b></p>	<p>a) Company shall offer to employ all Medical Center employees at Closing at no less than such employees’ then-current salaries and benefits. Company shall maintain wages and benefits, with no downward pay or net benefits adjustments, for at least twelve (12) months after the Closing, for all Medical Center employees.</p> <p>b) Company shall retain all newly hired Medical Center employees for no less than six (6) months after the Closing, subject to any earlier terminations for cause.</p> <p>c) Company agrees to assume all Medical Center collective bargaining agreements (“<b>CBA</b>”) and, where appropriate, use its commercially reasonable efforts to successfully complete negotiations relating to any open CBA as soon as reasonably practicable.</p>

<b>13. Covenant Not to Compete</b>	<p>To the fullest extent permitted by law, for a period of five (5) years from and after the Closing Date, the District will not, within the Medical Center Service Area, directly or indirectly, own or operate an acute care hospital, medical/surgical hospital or provide services customarily incident to an acute care hospital or medical/surgical hospital, or other healthcare services competitive with such services, including, but not limited to, ambulatory surgery centers, urgent care centers, and imaging centers. If the District opens, owns or operates a physician practice and desires to sell it during such five (5) year period, Company shall have a right of first refusal to purchase such practice.</p>
<b>14. District's Right to Consent to Transfer</b>	<p>If appropriate, Company may transfer, assign, sell or lease the entirety of the Medical Center and Assets without District consent to a PSJH Affiliate. As used herein, Affiliate is defined as defined as any entity that is wholly owned or controlled by PSJH, Providence Health &amp; Services, St. Joseph Health System, or Western HealthConnect. Company shall not transfer, assign, sell or lease the Medical Center or Assets to a non-Affiliate, within the twenty (20) years of the Closing Date, without District's prior written consent, which will not be unreasonably withheld, conditioned or delayed, and any such transfer, assignment, sale or lease without District's prior written consent shall be void. A transferee, including an Affiliate, shall be bound by all applicable provisions of the Definitive Agreements. In no event shall any such transfer modify or expand the scope of any Restricted Services.</p>
<b>15. Regulatory Requirements</b>	<p>The Transaction and the Definitive Agreements shall comply with all laws, including but not limited to California Health and Safety Code Section 32121(p).</p>
<b>16. Representations and Warranties; Survival</b>	<p>The Definitive Agreements will contain fairly standard representations and warranties from the parties, including for Company those relating to financial statements, litigation, insurance, compliance and other matters; provided that Company will agree to accept all Assets "as is," "where is," "with all faults" and without any express or implied warranties. The representations and warranties generally will survive the Closing for a period of at least twenty-four (24) months, with certain fundamental representations and warranties surviving indefinitely, and others surviving for the applicable statute of limitations).</p>
<b>17. Specified Conditions Precedent to Closing</b>	<ul style="list-style-type: none"> <li>a) <u>Public Meetings</u>. District shall have held at least three (3) public meetings in advance of District's decision to enter into the Transaction.</li> <li>b) <u>Boards' Approval</u>. Company, Western HealthConnect, PSJH, Sponsors Council, and District's boards will have approved the Definitive Agreements.</li> <li>c) <u>Voter Approval</u>. When mutually agreed, District will place a measure on the ballot for submission to the voters of the District to seek approval of the Transaction, the Definitive Agreements and other relevant matters. The approval of 50% (plus one) of the residents of the District who vote in the relevant election will be required. The parties will use their best efforts to place this measure on the ballot for the next possible general election or mailed ballot date after all Definitive Agreements are executed by the parties, and will diligently work to place the measure on the ballot for November 3, 2020, General Election.</li> </ul>

<b>18. Closing</b>	The Closing shall take place as soon as practicable after all required regulatory and other approvals for the Transaction have been obtained, unless otherwise mutually agreed by the parties, which is anticipated to be after Voter Approval is certified by Sonoma County.
<b>19. Expenses</b>	<ul style="list-style-type: none"><li>a) Each party shall bear its respective legal, accounting and other expenses and costs in connection with the Transaction.</li><li>b) Company shall bear the cost of any title insurance or title commitment upon the real property owned or leased by District and the cost of a survey of such property, as well as all recording taxes and fees payable in respect of the Transaction.</li><li>c) Company shall pay the filing or other fees, if any, required for any regulatory approval or process and all expenses of inspecting the Medical Center, including the cost of any environmental surveys.</li><li>d) The parties shall each pay 50% of the election costs billed to the District by the County of Sonoma. Such payments shall be due within thirty (30) days of the invoice from the County of Sonoma.</li></ul>
<b>20. Press Release</b>	Except as otherwise required by law, all press releases or other public communications of any sort relating to the Transaction, and the method of the release for publication thereof, will be subject to the prior review of District and Company.