

## HOSPITAL SERVICES GRANT AGREEMENT

THIS HOSPITAL SERVICES GRANT AGREEMENT (this "Agreement") is made by and among the CITY OF SAN LEANDRO, CALIFORNIA, a municipal corporation of the State of California (the "City") and ALAMEDA COUNTY MEDICAL CENTER, a public hospital authority created by the Alameda County Board of Supervisors pursuant to Section 101850 of the California Health and Safety Code, doing business as Alameda Health System ("AHS"). Each of AHS and City are referred to herein as a "Party" and together as the "Parties."

### RECITALS

A. Sutter Health, a California nonprofit public benefit corporation ("Sutter") has agreed to donate to AHS the real property upon which the San Leandro Hospital, an acute care hospital located at 13855 East 14th Street, San Leandro, California, is located (the "Hospital") as well as certain intangible personal property used in connection with the operation of the Hospital and AHS has agreed to assume all liabilities associated with the operation of the Hospital, subject to certain conditions.

B. The City wishes to promote the public health needs of the community and help insure the availability, especially for City residents, of adequate healthcare facilities within the City for emergency medical care and acute inpatient services. To those ends, the City is willing to provide financial support towards the availability of such services and operations at the Hospital, as approved and declared by the City Council for the City of San Leandro at its regular meeting of November 5, 2012, to wit:

The City Council, by motion, indicated approval in principle of providing a financial subsidy of up to \$1 Million a year for three years in support of San Leandro Hospital, and further authorized the City Manager to initiate time-limited negotiations with Alameda County Medical Center (ACMC) for the express purpose of reaching an agreement, subject to approval by the City Council, on the specific terms of a subsidy in the form of a payment directly to ACMC for the purpose of subsidizing the operations of an emergency department and acute inpatient services at the San Leandro Hospital for a period of not less than three years.

C. The City and AHS believe that preserving access to the residents of the City to acute care hospital and emergency room services is in the public's interests of health, welfare and safety, and for those reasons, the Parties enter into this Agreement.

NOW, THEREFORE, in consideration of the premises and the undertakings set forth in this Agreement, the parties hereto agree as follows:

## 1. RECITALS

The Parties agree that the recitals above are true and correct, and made a part of this Agreement, namely that the City of San Leandro shall provide the aforementioned financial subsidy in the form of a payment directly to AHS for the specific purpose of subsidizing an emergency department and acute inpatient services at the San Leandro Hospital for a period of not less than three years.

## 2. GOVERNANCE, OPERATION AND MANAGEMENT OF THE HOSPITAL

Upon its acquisition of the Hospital, AHS shall take over possession, use and control of the Hospital, and shall thereupon and thereafter provide the governance and all necessary management, administration, operation, maintenance, supervision and oversight of the Hospital. Accordingly, AHS shall have the sole and exclusive power and control over all matters relating to the management, direction, control, operation, licensure, and maintenance of the Hospital. The Parties hereto acknowledge and agree that by virtue of this Agreement, the City shall have no liability or responsibility for, and shall have no rights with respect to or control over, the management, administration, operation, maintenance, supervision or oversight of the Hospital, including without limitation (i) determining the Hospital's capital and operating budgets and its financial needs, (ii) determining the Hospital's pricing and reimbursement policies and practices, its charity care policies and practices, the services to be provided at the Hospital, the rates and charges for such services, and all other fiscal policies and procedures underlying the financial and strategic operations of the Hospital, (iii) making all personnel decisions, including, without limitation, decisions involving the negotiation of, and "meet & confer" issues specified in, labor agreements, and other recruitment, hiring, compensation, discipline and termination decisions, and (iv) purchasing all pharmaceuticals, food, beverages, medical, office, cleaning and other supplies, equipment, furniture and furnishings, as well as all services required for the general operation and maintenance of the Hospital. The AHS Board may delegate responsibility for the day-to-day operations of the Hospital in its sole discretion, including without limitation to the Chief Executive Officer and management team of AHS. The Hospital shall be the "provider" within the meaning of all third party contracts for hospital services provided at San Leandro Hospital, including, without limitation, contracts with all state and federal health care programs (e.g., Medicare, Medi-Cal, Tri-Care). The AHS Board shall be the governing body of the Hospital and shall exercise all related rights, powers and privileges related thereto to the fullest extent permitted by law.

## 3. CITY SUPPORT PAYMENTS

(a) Support Payments. On or before June 30, 2014 and on or before the 30th day of June in each year while this Agreement is in effect, commencing on June 30, 2014 (the "Support Payment Dates") the City shall pay to AHS one million dollars and zero cents (\$1,000,000.00) (the "Support Payments") for the specific purpose of subsidizing an emergency department and acute inpatient services at the Hospital. City's payment of the subsidy is subject to all State laws and limitations imposed upon Charter Cities, including but not limited to the Gann limit, and California Constitution Article XVI, Section 18.

(b) Additional Support. Notwithstanding the foregoing, nothing in this Agreement shall prohibit or restrict the City from increasing the amount of payments made by the City to AHS in any year or from otherwise providing additional support to AHS and/or its operations in any form whatsoever.

(c) Support Obligations Absolute. The obligations of the City to make the Support Payments required pursuant to the provisions of this paragraph 3 at the times and in the manner specified shall be absolute and unconditional and such Support Payment shall not be abated or reduced for any reason whatsoever, including, without limitation, (1) any damage to or destruction of, in whole or in part, the Hospital or any other properties owned by the Hospital, (2) any interruption or termination of any of the healthcare services at the Hospital, except for the emergency department and acute inpatient services, or (3) the termination of this Agreement, except to the extent provided in paragraph 4(e) hereof. In no event shall the City have the right to obtain any refund, in whole or in part, of any Support Payments hereunder once such become due and payable as provided above.

#### 4. TERM AND TERMINATION

(a) Term. This Agreement shall continue in effect until June 30, 2016 or such later date as may be agreed upon by the Parties hereto (the "Expiration Date"), unless terminated as provided in this Paragraph 4.

(b) Mutual Termination. The Parties may terminate this Agreement at any time by mutual written consent.

(c) Termination by AHS. AHS may terminate this Agreement by giving written notice of termination to the City upon the occurrence of (i) any "act of God" including, without limitation, weather, earthquakes and other natural disasters, (ii) any hostilities, acts of war, sabotage or terrorism or (iii) any changes in law or reimbursement or shutdown of any governmental body, in each case, that is reasonably expected to have a material and adverse effect on the operation of the Hospital.

(d) Termination by City. The City may terminate this Agreement by giving written notice of termination to AHS if either (i) the Hospital closes its emergency department and AHS no longer provides emergency services at the Hospital or (ii) AHS's license to provide acute care healthcare services is permanently revoked.

(e) Effect of Termination. In the event that this Agreement is terminated the City shall have no obligation to make any Support Payments on the Support Payment Dates following the date of termination; provided, however, such termination shall not relieve the City from its obligation to pay any Support Payments, which may be then due and owed. Except as set forth in this Agreement, no termination of this Agreement shall release either Party from any liability that has already accrued as of the effective date of the termination, or in any way affect the survival of any right, duty or obligation of either Party that is intended to survive the termination hereof.

## 5. MISCELLANEOUS PROVISIONS

(a) Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contemplated herein and fully and completely integrates all prior or contemporaneous discussions, agreements and understandings of the Parties regarding its subject matter. There are no other agreements, written or oral, between the Parties or their representatives with respect to the matters set forth herein.

(b) Successors and Assigns. The provisions of this Agreement shall inure to the benefit of the Parties and their respective successors and permitted assigns.

(c) Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

(d) Construction. This Agreement shall not be construed more strictly against either Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both Parties have been independently represented and have contributed substantially and materially to the preparation of this Agreement.

(e) Headings. The headings of various sections in this Agreement are for convenient reference only, are not intended to be utilized in construing the content or meaning of the substantive provisions hereof, and shall be of no legal force or effect.

(f) Severability. If any one or more of the provisions of this Agreement is for any reason held to be invalid, illegal, void or unenforceable by a court of competent jurisdiction for any reason, the remaining provisions shall not be affected thereby, but shall remain in full force and effect.

(g) Waiver. Either Party may specifically and expressly waive, but only in writing, any term or condition of this Agreement, or breach thereof, by the other Party, but no such waiver shall constitute a further or continuing waiver of any preceding or succeeding breach of the same or any other provision, whether or not similar.

(h) Notices. Any notice required or permitted hereunder shall be in writing and shall be deemed given (i) upon personal delivery; or (ii) twenty-four (24) hours following electronically confirmed transmission by facsimile, email, or by deposit for overnight delivery with a bonded courier holding itself out to the public as providing overnight service; or (iii) forty-eight (48) hours following deposit in the United States Mail, certified or registered mail, postage prepaid, and addressed as follows or to such other addresses as either party may provide to the other from time to time in the manner provided herein.

If to City:                      City of San Leandro  
835 E. 14th Street

San Leandro, California 94577-3767  
Fax: (510) 577-3340  
Attn: City Manager

If to AHS: Alameda Health System  
1411 East 31st Street  
Oakland, CA 94602  
Fax: (510) 535-7722  
Attn: Chief Executive Officer

(i) Further Assurances. Each Party shall each execute and deliver such other documents and instruments and take such other actions as may reasonably be required to consummate the transactions contemplated herein and to otherwise effectuate the agreements of the parties hereto.

(j) No Joint Venture or Partnership; No Third-Party Beneficiaries. Nothing in this Agreement shall be deemed to establish a relationship between the Parties other than that expressly described and set forth herein. No provision of this Agreement is intended to benefit any person or entity not a signatory hereto, nor shall any other person or entity have any right or standing to seek to enforce or recover any right or remedy that may be binding hereunder. There shall be no third party beneficiaries of this Agreement.

(k) Amendments. This Agreement may only be amended by an instrument in writing signed by both Parties.

(l) Counterparts. This Agreement may be executed in multiple counterparts, each of shall be deemed an original and all of which together shall constitute one and the same instrument.

(m) Accountability of Funds. AHS agrees to be strictly accountable for all Support Payments and shall report receipt of all such Support Payments and the disbursement of the same to the City upon its request. To the extent any of the Support Payments have not been expended prior to the Expiration Date, such unexpended funds shall be returned to the City.

(n) Effective Date. This Agreement shall be effective as of June 30, 2014 (the "Effective Date").

**[Signatures on the Following Page]**

IN WITNESS WHEREOF, the Parties hereto, acting by and through their duly authorized officers, have caused this Agreement to be executed and delivered with the intention that it shall become effective as of the Effective Date.

CITY OF SAN LEANDRO

ALAMEDA COUNTY MEDICAL  
CENTER, doing business as  
ALAMEDA HEALTH SYSTEM

By: \_\_\_\_\_  
Chris Zapata, City Manager

By: Wright

Name: Wright Lassiter, III

Title: CEO

(SEAL)

Attest:

Attest:

By: \_\_\_\_\_  
Marian Handa, City Clerk

By: [Signature]  
~~Secretary~~ General Counsel

Approved as to Budget:

By: David Baum  
David Baum, Finance Director  
010-14-010

Approved as to Form:

By: [Signature]  
Richard D. Pio Roda, City Attorney

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