
**AGREEMENT TO TRANSFER A PORTION OF APPROPRIATIONS
LIMIT**

by and between

SAN BERNARDINO MOUNTAINS COMMUNITY HOSPITAL DISTRICT

and

COUNTY OF SAN BERNARDINO

Dated as of February 9, 2021

AGREEMENT TO TRANSFER A PORTION OF APPROPRIATIONS LIMIT

This Agreement to Transfer a Portion of Appropriations Limit (“Agreement”) is made and entered into as of February 9, 2021 (the “Effective Date”), by and between the SAN BERNARDINO MOUNTAINS COMMUNITY HOSPITAL DISTRICT, (hereinafter referred to as the “District”), a hospital district organized under the laws of the State of California, and COUNTY OF SAN BERNARDINO (the “County”), a political subdivision of the State of California. The District and County are sometimes referred to individually as “Party” and collectively as “Parties.”

RECITALS

A. The District is a health care district, organized under the laws of the state of California, with the authority to provide comprehensive health care and acute care services to patients within and outside of its service area.

B. The District’s boundaries include communities within the San Bernardino Mountains. Importantly, the District’s boundaries do not include the Crestline community and Cedarpines Park (“Crestline”), which is currently within unincorporated County territory.

C. In 2012, the San Bernardino Local Agency Formation Commission (“SBLAFCO”) conducted a municipal services review for the District, and concluded (among other things) that the District’s sphere of influence be expanded to include Crestline. SBLAFCO made this recommendation based on many factors, including that the District informed SBLAFCO that approximately 27 percent of the District’s business is attributable to Crestline.

D. The District must maintain an operating and administrative budget sufficient to provide service to patients, including those coming from Crestline outside of the District’s boundaries. The District is able to meet this financial obligation through a combination of revenue sources, a large portion of which is attributable to the proceeds of taxes as such term is defined in article XIII B, section 8, of the California constitution.

E. Currently, the District receives proceeds in excess of its appropriations limit. As such, pursuant to the authority under article XIII B, section 4 of the California constitution, the District obtains voter approval every four years to temporarily increase its appropriations limit in order to spend the proceeds of taxes necessary to provide service to its own service area, as well as to Crestline. Without such election, the District would be unable to spend the proceeds of taxes necessary to continue providing service to Crestline.

F. The District has assumed the financial responsibility from the County for providing service to Crestline, but the District’s appropriations limit has not been adjusted accordingly. Article XIII B, section 3(a) of the California constitution authorizes the District and the County to enter into an agreement whereby the District increases its appropriations limit in recognition of the assumed financial responsibility, and the County decreases its appropriations limit in a corresponding amount in recognition of the fact that it has transferred its financial responsibility for providing such service to the District.

G. The purpose of this Agreement is to memorialize the transfer of a portion of the County's appropriations limit to the District in consideration for and to ensure the ability of the District to continue providing service to Crestline.

AGREEMENT

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. Recitals. The recitals set forth above are true and correct, and by this reference incorporated herein and made a part of this Agreement.

2. Transfer of Appropriations Limit. In recognition of the transfer of financial responsibility for providing service to Crestline, the County hereby agrees to decrease its appropriations limit by \$2,000,000, and the District hereby agrees to increase its appropriations limit by \$2,000,000, effective immediately. Such transfer shall be permanent, and subject to increases as authorized under law, subject to the following conditions:

- a. If less than 20% of the District's business is attributable to Crestline, as defined by the total number of patient encounters from patients residing in Crestline receiving services at the hospital as a percentage of total hospital patient encounters in a calendar year, then the District and County shall negotiate a potential revision to the appropriation limit transfer. "Encounters" for purposes of this Agreement shall mean any time a person has visited District facilities for any type of medical service, including hospitalization (acute, rehab, or long term care, outpatient services), office or clinic visit, emergency room visit, home health visit, or any treatment or therapy (physical, occupational, respiratory, or other).
- b. Reporting of the percentage of patients from Crestline receiving services by the District shall be reported to the County by February 28th of each calendar year.

3. Indemnification. District agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless County and its officers, employees, agents and volunteers (collectively, the "Indemnitees") from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. District's indemnification obligation applies to County's "active" as well as "passive" negligence but does not apply to County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

4. Entire Agreement. This Agreement memorializes and constitutes a final expression and a complete and exclusive statement of the Agreement and understanding between the Parties and supersedes and replaces all prior negotiations, proposed agreement and agreements, whether written or unwritten. Each of the Parties to this Agreement acknowledges that no other party, nor any agent or attorney of any party, has made any promise, representation or warning whatsoever, express or implied, which is not expressly contained in this Agreement.

5. Time is of the Essence. Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with diligence to complete all covenants and conditions.

6. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

7. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

8. Invalidity; Severability. If any part of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

9. Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority make this Agreement and bind each respective Party.

10. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

11. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

(Signatures on Following Page)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement for Payment of Fees as of the Effective Date first above written.

DISTRICT:

Date: _____

SAN BERNARDINO MOUNTAINS
COMMUNITY HOSPITAL, a hospital
district

By: _____

Name: _____

Its: _____

COUNTY:

Date: _____

COUNTY OF SAN BERNARDINO, a
political subdivision of the State of California

By: _____

Name: _____

Its: _____