



TAHOE FOREST HOSPITAL DISTRICT

Special Meeting of the Board of Directors

May 01, 2015 at 04:00 PM - 05:30 PM

Eskridge Conference Room

Meeting Book - 2015 May 01 Special Meeting of the Board of Directors

AGENDA

2015 May 01 Special BOD Meeting_Agenda (amended) Page 3

ITEMS 1 - 8 See Agenda

9. ITEMS FOR BOARD DISCUSSION AND POSSIBLE ACTION

9.1. Addendum to Employment Agreement of CIO to serve in dual capacity as Interim CEO and CIO

a) Amendment to Dorst Agreement Page 5

9.2. Agreement with HFS Consulting for CEO Search and Discussion of CEO Search and Selection Process

a) Proposal from HFS Consultants Page 7

b) Board Informational Report - Recruitment Selection Advisory Committee Page 13

9.3. Updated TF2020 Contract Template and Routing Form

a) Updated Contract Routing Form Page 14

b) Page 16
TF2020_Agreement_for_Medical_Advisor_Services_EHR_Technology_Council_2015_TEMPLATE_REVISED

c) HLB Response to Issue Raised re: Contract Reference to Social Security Section 1861 Page 24



SPECIAL MEETING OF THE BOARD OF DIRECTORS OF TAHOE FOREST HOSPITAL DISTRICT

Amended AGENDA

Friday, May 1, 2015 at 4:00 p.m.

Eskridge Conference Room,
Tahoe Forest Hospital, 10121 Pine Avenue, Truckee, CA

1. CALL TO ORDER

2. ROLL CALL

3. CLEAR THE AGENDA/ITEMS NOT ON THE POSTED AGENDA ◆

4. INPUT – AUDIENCE

This is an opportunity for members of the public to address the Board on items which are or are not on the agenda. Please state your name for the record. Comments are limited to three minutes. Written comments should be submitted to the Board Clerk 24 hours prior to the meeting to allow for distribution. Under Government Code Section 54954.2 – Brown Act, the Board cannot take action on any item not on the agenda. The Board may choose to acknowledge the comment or, where appropriate, briefly answer a question, refer the matter to staff, or set the item for discussion at a future meeting.

5. INPUT FROM EMPLOYEE ASSOCIATIONS

This is an opportunity for members of the Employee Associations to address the Board on items which are not on the agenda. Please state your name for the record. Comments are limited to three minutes.

6. DESIGNATE LABOR NEGOTIATOR FOR ADDENDUM TO EMPLOYMENT AGREEMENT OF CIO TO SERVE IN DUAL CAPACITY AS INTERIM CEO AND CIO

7. CLOSED SESSION

7.1. Government Code Section 54957.6, Conference With Labor Negotiator, District Negotiator: As Designated in Item 6, above; Unrepresented Employee: Interim CEO

7.2. Government Code Section 54956.9(d)(2): Exposure to Litigation (1 matter)

8. OPEN SESSION

9. ITEMS FOR BOARD DISCUSSION AND POSSIBLE ACTION

9.1. Addendum to Employment Agreement of CIO to serve in dual capacity as Interim CEO and CIO ◆ ATTACHMENT
Chief Human Resources Officer will provide an update related to the status of the transition of Interim CEO and present proposed contract addendum for approval.

9.2. Agreement with HFS Consulting for CEO Search and Discussion of CEO Search and Selection Process ◆ ATTACHMENT
Board will meet with a representative of HFS Consulting to formalize engagement and review preliminary steps and process related to the recruitment of the Chief Executive Officer.

- 9.3. Updated TF2020 Contract Template and Routing Form** ATTACHMENT
Board is requested to review updates made to the TF2020 contract template and Contract Routing Form and provided feedback.

10. AGENDA INPUT FOR UPCOMING COMMITTEE MEETINGS

11. ITEMS FOR NEXT MEETING

12. BOARD MEMBERS REPORTS/CLOSING REMARKS

13. CLOSED SESSION CONTINUED, IF NECESSARY

14. OPEN SESSION

15. REPORT OF ACTIONS TAKEN IN CLOSED SESSION

- 16. MEETING EFFECTIVENESS ASSESSMENT** ATTACHMENT
The Board will identify and discuss any occurrences during the meeting that impacted the effectiveness and value of the meeting.

17. ADJOURN

The next regularly scheduled meeting of the Board of Directors of Tahoe Forest Hospital District is May 26, 2015, 11603 Donner Pass Rd., Truckee, CA. A copy of the Board meeting agenda is posted on the District's web site (www.tfhd.com) at least 72 hours prior to the meeting or 24 hours prior to a Special Board Meeting.

*Denotes material (or a portion thereof) may be distributed later.

Note: It is the policy of Tahoe Forest Hospital District to not discriminate in admissions, provisions of services, hiring, training and employment practices on the basis of color, national origin, sex, religion, age or disability including AIDS and related conditions.

Equal Opportunity Employer. The meeting location is accessible to people with disabilities. Every reasonable effort will be made to accommodate participation of the disabled in all of the District's public meetings. If particular accommodations for the disabled are needed (i.e., disability-related aids or other services), please contact the Executive Assistant at 582-3481 at least 24 hours in advance of the meeting.

TAHOE FOREST HOSPITAL DISTRICT
AMENDMENT TO EMPLOYMENT AGREEMENT

This Amendment ("Amendment") is made and executed at Truckee, California, effective on the 2ND day of May, 2015 by and between Tahoe Forest Hospital District (the "District") and Jason Dorst (the "Employee"), and shall amend and become part of that certain Employment Agreement made between the parties dated October 9, 2014 (hereinafter "BASIC AGREEMENT").

NOW, THEREFORE, the parties agree as follows:

A. Paragraph 1-Duties. Paragraph 1 of the Basic Agreement is amended to provide as follows:

1. DUTIES. Employee shall perform the following duties.

(a) Employee shall work full time for the District as its Chief Information Officer. Subject to such restrictions as the District may impose, the Employee shall be responsible for all of the functions assigned by the District including but not necessarily limited to the duties set forth on the job description attached hereto as Attachment 1 and incorporated here by this reference. The Employee shall perform all duties with due diligence and with the best interest of the District in mind. The Employee shall not engage in any other employment, business or profession in the Healthcare industry whether for pay or otherwise that would conflict with the performance of his duties pursuant to this Agreement.

(b) In addition to the duties set forth in subsection (a), above, Employee shall work full time for the District as its Interim Chief Executive Officer, during which time he shall hold the title of Interim Chief Executive Officer, for a period of time that is the shorter of a period of six (6) months commencing on May 2, 2015 and ending on November 1, 2015 or the date that a new Chief Executive Officer for the District begins to work for the District.

B. Paragraph 5-Compensation. Paragraph 5(a) of the Basic Agreement is amended to provide as follows:

(a) Salary. The Employee's base salary during the term of this Agreement, beginning October 9, 2014 shall be One Hundred Ninety Thousand dollars (\$190,000). The Employee shall receive this salary pro-rated on a bi-weekly basis less required and authorized deductions. Notwithstanding the foregoing, during the period of time that Employee is performing the duties of the District's Chief Executive Officer his base salary shall be Two Hundred Forty Four Thousand Four Hundred Eighty Two Dollars (\$244,482).

Except as specifically amended by this Amendment and any and all subsequent amendments, the BASIC AGREEMENT shall continue in full force and effect pursuant to the terms thereof.

TAHOE FOREST HOSPITAL DISTRICT

By: _____ Date: _____
Karen Sessler
President, Board of Directors

By: _____ Date: _____
Jason Dorst

April 30, 2015

Ms. Jayne O'Flanagan
Chief Human Resources Officer
Tahoe Forest Healthcare District
10121 Pine Avenue
Post Office Box 759
Truckee, CA 96161-4886

RE: Chief Executive Officer Search Proposal for Tahoe Forest Healthcare District

Dear Jayne:

Thank you for the opportunity to present information on how **HFS Consultants (HFS)** can assist you in the search and recruitment of a Chief Executive Officer (CEO) for Tahoe Forest Healthcare District (TFHD). I am honored to be considered. I am certain that with HFS's extensive experience in working with California Rural Hospitals, and our extraordinary success in placing CEO's in similar District positions, we are the best choice for your organization. My work in the past with TFHD, and my recent visits to Truckee, have been excellent opportunities to learn more about the community.

From meetings earlier this week and on previous visits, and from conversations with members of the hospital staff, the Board, and others, and from our work with other similar organizations and communities, I believe we have a good idea of the requirements for your CEO position. Of course, when we are engaged, I will come to Truckee to meet with the key constituents- Board members, the CEO search advisory committee, medical staff leaders, management team, and community members. I look forward to meeting with you and others to gain an even better understanding of your needs and the requirements for this position. This CEO will play an important role in the future success of your organization. It is critical that we find the right person for this position.

As you know, performing a search for a position like this is a complex and important assignment. We will give you a very brief description of the process:

- The information and background we already have is very valuable. Of course, if there is an "official" job description for the position, that would be helpful. After more meetings or phone calls with appropriate individuals and groups, HFS will create a job profile that outlines the duties, responsibilities, experience and characteristics for potential candidates. We will provide you with a draft for approval shortly after we complete our "start up" meetings. This document will be a cornerstone of our recruiting process and will also provide candidates with information on the hospital and community.
- We plan a regional search, but with appropriate outreach on a national level. We will target a variety of sources including, among others, key executives in health care,

professional colleagues, and candidates identified from our database or research. We will also rely on industry contacts, nationally and regionally, to ensure a successful search. While some potential candidates may be actively seeking employment, most are currently employed in high-level positions. Our goal is to identify candidates whose leadership style and accomplishments reflect your organization's needs.

- We will contact, phone screen, and, if appropriate, interview each potential candidate. We will also conduct the reference checks when you have chosen finalists. As appropriate candidates are developed, they will be interviewed at your facility and a finalist(s) chosen. We will help facilitate these meetings if you wish. We can also help with the offer and negotiations with the successful candidate.
- A search like this typically takes between 120 to 180 days. We will make every effort to expedite the process, but our main concern will be finding the best candidate.
- ***Our search approach and philosophy emphasizes professionalism and respect for both our clients and candidates. We know from our experience that candidates are more likely to consider opportunities when they are treated with respect, honesty, confidentiality, and warmth.***
- Don Whiteside will lead and manage this search. Debora Bertasi and other members of our staff will be important team members. The contact and recruiting work will be performed by high level senior executives and not assigned to junior staff. This will benefit your organization by increasing the responsiveness of potential candidates.
- ***It is the policy of HFS Consultants to guarantee our retained senior executive searches for one year. In the event the placed executive leaves the organization through resignation or termination, HFS will re-open the search under the original terms and conditions. There will be no additional professional fees, but the client will be responsible for all out of pocket and overhead fees associated with the new search. This guarantee does not apply to promotions, in the event of change of control or ownership, or for separation for medical reasons or due to death.***

This is a very brief summary of the activities involved in a search of this type. Please let me know if you have questions, suggestions, or requests. I would be happy to elaborate or explain further.

As I mentioned in my presentation at your Board meeting, the usual retained search fee for a recruitment of this type is 33% of the first year compensation for the successful candidate, including base salary and bonus. Tahoe Forest Healthcare District has been a valued client of HFS Consultants in the past, and is a member of the Association of California District Hospitals, and we will discount fees for this engagement. Also, to avoid any appearance of a conflict of interest during salary negotiations, we propose a FLAT fee for doing the search, rather than

Tahoe Forest Healthcare District
Executive search proposal for Chief Executive Officer
April 30, 2015

basing it on ultimate CEO compensation. Our professional fee to perform this executive search will be \$100,000. From public records, it appears that the previous CEO's compensation was well above \$400,000. I expect the base compensation for the next CEO to be below \$400,000, probably between \$325,000 and \$375,000. We will keep you advised as we learn more about compensation levels during our search.

You will be billed in three (3) installments: the first when we begin, the second 30 days later, and the third, 30 days after that. We also charge an expense fee to cover our cost of mailings, copying, and phone charges, prorated on the number of consultant's hours spent on this engagement. We list every search and recruitment on www.monster.com, and/or other similar professional job listing sites. There is a pro-rated fee of \$500 for these listings. If we, with your approval, decide to advertise, purchase special mail or email lists, or incur other unusual expenses, you will be billed for these. Direct expenses, such as travel or lodging for candidates or staff, FedEx, etc. will be submitted directly to you for reimbursement, rather than billed in advance as "estimated expenses". The attached "Standard Terms and Conditions" are an integral part of this agreement.

We look forward to working with you and your team on this important assignment. We promise to give it our best effort and keep you and your staff informed of our progress and activities. If this is acceptable, please indicate below with your signature and return one copy of this letter. If you have any questions or suggestions, please let me know.

Best Regards,

HFS CONSULTANTS



Donald J. Whiteside
Managing Director, Client Services and Executive Search



Rich Gianello
President

Accepted:

Authorized Agent of the Tahoe Forest Hospital District Board

Date

Attached: Terms and Conditions

OTHER TERMS AND CONDITIONS

1. Independent Contractor. HFS shall be deemed at all times to be an independent contractor. Nothing in this agreement shall be construed as creating an employment relationship between the client and HFS. Any terms in this agreement referring to direction from the client shall be construed as providing for direction as to policy and the result of HFS' work only, and not to the means by which such a result is obtained.

2. At Will. The client and HFS shall each have the option to terminate this agreement at any time without cause upon written notice. Either party may exercise this option by giving the other party written notice of termination by U.S. mail, facsimile or overnight delivery service. The notice shall specify the date on which termination shall become effective with a minimum of 30 calendar days after receipt of the notice of termination.

3. Collection Costs. The client shall be responsible for any expenses (including attorneys' fees and court costs) incurred by HFS in collecting its fees or expenses billed pursuant to this contract, whether or not legal action is instituted.

4. Arbitration. The parties agree that any dispute arising in connection with this Agreement shall be resolved by arbitration conducted in Alameda County, California in accordance with the commercial arbitration rules of the American Arbitration Association. The prevailing party in such arbitration shall be entitled to an award of reasonable attorneys' fees and costs of arbitration.

5. General Provisions. This Agreement constitutes the entire understanding of the parties with regard to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings. This Agreement may only be amended by a written agreement signed by both parties. This Agreement shall be binding on, and inure to the benefit of, the parties and their successors and assignees. This Agreement may be executed in counterparts, by signatures transmitted by telecopy, each of which shall be deemed an original, and which together shall constitute one and the same agreement. California law (without regard to conflicts of law) shall govern the interpretation and enforcement of the Agreement. This Agreement has been approved by the client's governing body, and is signed by a duly authorized officer.

6. Indemnification from Costs of Subpoenas. Any services we perform at the client's request or are compelled to perform relating to any subpoena, summons or other legally-binding demand (e.g., serving as a witness or providing documents in an investigation) will be billed at our standard hourly rates plus expenses including, where applicable, any copying and attorney fees and expenses.

7. Interest. Bills for professional fees and expenses are payable within 30 days of receipt by the client. All amounts unpaid after 90 days shall accrue interest at the rate of 1.5% per month (18% per year) from the invoice date.

8. HIPAA. HFS shall abide by all laws, regulations and directives of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as it pertains to services performed by HFS and information received by HFS from client pursuant to this agreement. Since HFS may, in the course of performing services under this agreement, receive protected health information from client, HFS will be deemed a Business Associate of the client. HFS will sign and execute a Business Associate agreement with the client and will conform thereto.

9. Intellectual Property. Any and all forms, reports, designs, training presentations and other materials prepared by HFS Consultants for the client shall be used by the client only for its own internal uses and shall not be divulged to any other party without written consent of HFS. HFS reserves all other rights and interests in these materials.

10. Executive Search Conditions. In the event that more than one executive is hired as a result of the work performed by HFS, a full professional fee based upon estimated first year compensation (30%) will be due for each executive hired. Our fees and expenses are neither refundable nor contingent upon our success in placing a candidate with your organization. This fee structure applies, even if an internal candidate, a “previously presented candidate”, a candidate that is employed by the hospital or its affiliates, or a candidate that is referred by the Board/staff/Medical staff emerges as your choice.

Either party may discontinue this assignment by written notification at any time. In the unlikely event that this occurs, you will be billed for (i) expenses incurred to the date of our receipt of your written notification; (ii) expenses committed with your approval that cannot be canceled; and (iii) payment for the prorated portion of the remaining professional fees, based upon the number of calendar days that have elapsed. Our first billing is a minimum retainer and thus is non-refundable, even if a cancellation occurs within 30 days of your acceptance of this proposal. If a cancellation occurs after 90 days, all professional fees have been earned and are payable in full.

11. Public Notice; Confidentiality. We will not disclose the existence, terms or conditions of this Agreement to any of our other clients or potential clients. We will not disclose any proprietary and confidential information supplied by you pursuant to this Agreement to any third party unless required by legal proceedings. We shall not use such information for any purpose other than performing the services described in this Agreement. HFS and TFHD will keep all resumes, and any other personally identifiable information relating to candidates submitted pursuant to this Agreement, confidential and maintain such information in accordance with applicable law.

12. Non-Solicitation. From the date of this letter until one (1) year after the termination of the engagement, we will not solicit or recruit your employees for employment opportunities offered by us or any other third party, without your written permission. Employees who have notified you, or been notified by you, that their employment will end, are not covered by this section.

13. Authority. We do not have and will not exercise any authority to bind you to any undertaking, promise or representation without your prior written consent. We will indemnify and defend you from and against all claims by a candidate which arise out of undertakings, promises or representations made by us which were not authorized by you.

14. Compliance With Laws. We will comply with all applicable laws and regulations, including without limitation applicable equal employment opportunity laws, including, but not limited to Title VII of the 1964 Civil Rights Act, the Civil Rights Act of 1991, the Americans with Disabilities Act, the affirmative action requirements of Executive Order 11246, the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended.

15. Survival. Any respective obligations of either party described in this Agreement which by their nature would continue beyond the termination, cancellation or expiration of this Agreement shall survive such termination, cancellation or expiration.



Board Informational Report

By: Jayne O'Flanagan
CHRO

DATE: April 30, 2015

Suggested Membership of Recruitment Selection Advisory Committee

At the April 21, 2015 Personnel Committee meeting a discussion was held regarding a recruitment selection advisory committee. The intent of the committee is to give members of the organization and the community an opportunity to comment on the experience and characteristics of the next CEO. This committee is in addition to other methods of capturing the thoughts of others through an email address and open meetings.

The suggested members of the committee follow:

Chuck Zipkin, Personnel Committee Chair
Dale Chamblin, Personnel Committee Member
Dr. Shawni Coll
Dr. Greg Dodd
Jake Dorst, Interim CEO
Barbara Wong, Employees' Association President
Stacey Tedsen, Employees' Association of Professionals President
Judy Newland, CNO/COO
Crystal Betts, CFO
Randy Hill, community member
Ted Owens, Community Relations
Members of the Tahoe Forest Hospital and IVCH Foundations

NOT FOR USE FOR MEDICAL EQUIPMENT, MEDICAL SUPPLY OR GROUP PURCHASING CONTRACTS

CONTRACT ROUTING FORM

Email Completed Form to Contracts Coordinator (ahoffman@tfhd.com) for Processing and Compliance

NEW CONTRACT <input type="checkbox"/>			AMEND SCOPE <input type="checkbox"/>			AMEND TERM <input type="checkbox"/>			AUTO RENEW <input type="checkbox"/>				
ORIGINATING DEPARTMENT: _____						PRIMARY RESPONSIBLE PARTY: _____							
						PHONE: _____							
RESPONSIBLE ADMINISTRATIVE COUNCIL MEMBER: CEO <input type="checkbox"/> CFO <input type="checkbox"/> COO <input type="checkbox"/> CNO <input type="checkbox"/> CIO <input type="checkbox"/> IVCH <input type="checkbox"/>													
SUBJECT TO GOVERNANCE COMMITTEE REVIEW? NO <input type="checkbox"/> YES <input type="checkbox"/>										MEETING DATE: _____		GC COMMITTEE RECOMENDATION: _____	
CONTRACT TYPE/NAME:													
Physician Professional Service Agreement (P-PSA) <input type="checkbox"/>				Contract Name: _____									
Physician Medical Director Agreement (P-MDA) <input type="checkbox"/>				Contract Name: _____									
Vendor Professional Service Agreement (V-PSA) <input type="checkbox"/>				Contract Name: _____									
Other: _____ <input type="checkbox"/>				Contract Name: _____									
❖ Business Associated Agreement Required? YES <input type="checkbox"/> NO <input type="checkbox"/>													
CONTRACT DETAILS: (additional information may be provided on Page 2)													
CONTRACTOR/ VENDOR NAME: _____													
<u>Purpose of the Contract/Alternatives:</u>													
<u>Scope of the Contract:</u>													
DATES OF CONTRACT:				EFFECTIVE DATE:				END DATE:					
Version History:				Original Effective date: Renewal Dates: Amendment Dates:									
PHYSICIAN CONTRACTS: FOR STARK LAW COMPLIANCE, THE TERMS OF THIS CONTRACT CANNOT CHANGE FOR 1 YEAR													
Compensation Structure: Include "other comp" (i.e. education, phone stipend, etc.)													
Contract Term: (anything other than Net 30 requires AC approval)													
Total Cost of Contract:													
Compensation Audit Process:				See Policies AGOV-10 and ABD-21									
Is Cost of Contract Budgeted?				YES <input type="checkbox"/> NO <input type="checkbox"/>									
If NOT budgeted or exceeds budgeted amount, identify the offset:													
TFHD Primary Responsible Party:													
TFHD Secondary Responsible Party:													

ORIGINATING DEPARTMENT:	PRIMARY RESPONSIBLE PARTY: _____ Phone: _____
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CONTRACT NAME: _____

COMPLIANCE INFORMATION

"I certify that I am aware of the particular facts and circumstances of the proposed arrangement with _____, and I have determined (1) that the services to be provided by _____ under the arrangement do not exceed those that are reasonable and necessary for the legitimate business purposes of TFHD, and (2) that this is a sensible, prudent business arrangement for TFHD and _____ to enter into, and makes commercial sense, even if no referrals were made by _____ to TFHD or any of its facilities."
Primary Responsible Party Signature: _____

It has been determined that the above contract is Commercially Reasonable - Yes: <input type="checkbox"/> No: <input type="checkbox"/> It has been determined that the above contract does not exceed Fair Market Value - Yes: <input type="checkbox"/> No: <input type="checkbox"/>	<i>Contract Coordinator Signature:</i> _____ _____
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CONTRACTOR/VENDOR INFORMATION

Contractor Representative Name:	_____		
Mailing Address:	_____		
Telephone and Fax Number:	Phone:	Fax:	
Email Address of Contact:	_____		

REQUIRED FINANCIAL INFORMATION
W-9 and Certificates of Insurance Must Be Submitted with any applicable Contract
(W-9s are required for any contract on which we are making payments. Certificates of Insurance are required for any contract in which any service is being provided.)

ADDITIONAL INFORMATION

SECTION BELOW IS FOR CONTRACTS COORDINATOR USE ONLY:

Contracts Review: _____ Date Initials CFO Review: _____ Date Initials	BOARD ACTION: _____	MEETING DATE: _____
	Out for TFHD Signature: Date: _____	Receive Date: _____
	Out for Vendor Signature: Date: _____	Receive Date: _____
	Uploaded to Contracts System: Date: _____	Trigger dates set: YES <input type="checkbox"/> NO <input type="checkbox"/>

**TAHOE FOREST HOSPITAL DISTRICT
TF2020 AGREEMENT FOR MEDICAL ADVISOR SERVICES
EHR TECHNOLOGY COUNCIL**

This Tahoe Forest Hospital District Agreement for Medical Advisor Services (“Agreement”) is made and entered into and effective as of the 1st day of May, 2015 (“Effective Date”) by and between Tahoe Forest Hospital District, a public entity Hospital District duly organized and existing under the California Local Health Care District Law with its principal place of business in Truckee, California (hereinafter referred to as “DISTRICT”), and PHYSICIAN NAME, M.D. (hereinafter referred to as “PHYSICIAN”).

RECITALS

DISTRICT currently operates a 25 bed Critical Access Hospital with a 37 bed Skilled Nursing Facility in Truckee, California and a four-bed hospital offering 24-hour emergency services and surgicenter services in Incline Village, Nevada. DISTRICT desires to enter into an agreement with PHYSICIAN to assist DISTRICT with planning, organizing and implementing various components of recent health care reform laws and regulations, including, but not limited to health information technology and the exploration of reimbursement and payment mechanisms to reach the stated community health goals of DISTRICT.

WHEREAS, DISTRICT has established a committee known as the EHR Technology Council (hereafter referred to as “the Committee”);

WHEREAS, DISTRICT desires physicians to serve on the Committee and advise various other committees and working groups of DISTRICT, as requested by DISTRICT, and to provide physician input and participation related to a variety of health information technology initiatives to meet certain Meaningful Use goals, including the selection, adoption and implementation of an electronic health record for DISTRICT;

WHEREAS, PHYSICIAN is licensed to practice medicine in the State of California and is knowledgeable about the subject matter discussed by the Committee; and

WHEREAS, PHYSICIAN desires and is qualified to serve on the Committee and to provide such input, advice and consultation:

TERMS

NOW, THEREFORE, the parties agree as follows:

1. PHYSICIAN’S RESPONSIBILITIES

1.1 Medical Advisor Services. PHYSICIAN shall serve as a member of and a medical advisor to the Committee and to one or more of the various other committees and working groups of DISTRICT engaged in activities related to health information technology. PHYSICIAN shall attend the assigned Committee meetings whenever possible. PHYSICIAN’S duties hereunder are solely administrative and advisory in nature and do not include any direct patient care. Aside from attendance at meetings of the Committee, all of PHYSICIAN’s participation in meetings related to health information technology or other related activities must be approved in advance by DISTRICT.

1.2 Personal Services. This Agreement is entered into by DISTRICT in reliance upon the professional and administrative skills of PHYSICIAN. PHYSICIAN shall be solely responsible for fulfilling the terms of this Agreement.

2. **COMPENSATION.** For his or her time spent attending Committee meetings and fulfilling the other duties outlined in Exhibit "A" attached hereto and made a part hereof, PHYSICIAN shall be paid One Hundred Dollars (\$100.00) per hour, not to exceed Twenty (20) hours per month (not to exceed Two Hundred and Forty (240) hours per year), payable on the 15th day of the month immediately following the month during which services are rendered by PHYSICIAN. This does not include attendance at PHYSICIAN's continuing medical education training and there shall be no compensation hereunder for such training.

2.1 As a condition to the compensation described above, PHYSICIAN will submit a monthly invoice; a sample of which is attached as Exhibit B, detailing services rendered under this agreement, e.g., attendance at meetings, etc. Such invoice shall be submitted not later than the fifth (5th) day of each month for time and services rendered during the immediately preceding month. In order for PHYSICIAN to receive his or her monthly compensation, each monthly invoice must be approved and signed by DISTRICT. DISTRICT shall have the discretion to not approve, and not provide compensation for, any entry included on a monthly invoice that does not fall within the duties outlined in Exhibit "A" attached hereto or which have not been previously approved by DISTRICT.

2.2 DISTRICT will reimburse PHYSICIAN for reasonable out-of-pocket expenses, in accordance with DISTRICT'S expense reimbursement policies, incurred by PHYSICIAN when performing duties under this Agreement, and will also pay for training and education related to the performance of those duties, upon approval of the Hospital's Chief Executive Officer or designee.

3. **TERM AND TERMINATION.**

3.1 Term. This Agreement shall be effective on the Effective Date and will automatically renew on each successive anniversary date for up to two (2) additional one-year terms unless either party gives the other written notice of intent not to renew at least thirty (30) days prior to the anniversary date to the address provided in Section 7.6 below. Prior to the twelve (12) month anniversary of the Effective Date, either party shall have the right to terminate this Agreement, with or without cause, upon thirty (30) days' prior written notice to the other party; provided, however, that the parties shall not enter into another agreement for the same services provided hereunder until the end of the then-current one (1) year term. After the twelve (12) month anniversary of the Effective Date, either party shall have the right to terminate this Agreement, with or without cause, upon thirty (30) days' prior written notice to the other party.

3.2 Immediate Termination. Notwithstanding Section 3.1, DISTRICT shall have the right to terminate this Agreement immediately upon notice to PHYSICIAN in the event that any of the representations given by PHYSICIAN pursuant to Section 6.1 below of this Agreement become untrue, inaccurate or incomplete.

4. **RELATIONSHIP BETWEEN THE PARTIES**

4.1 Independent Contractor. No relationship of employer and employee is created by this Agreement. In the performance of PHYSICIAN's work and duties, PHYSICIAN is at all times acting and performing as an independent contractor.

4.2 Benefits. It is understood and agreed that PHYSICIAN shall have no claims under this Agreement or otherwise against DISTRICT for social security benefits, workers' compensation benefits, disability benefits, unemployment benefits, vacation pay, sick leave, or any other employee benefit of any kind.

5. COMPLIANCE WITH LAW, AMENDMENT, TERMINATION. This Agreement has been drafted to comply with all applicable laws and regulations, including but not limited to the "fair market value compensation exception" of the federal "Stark" law. Should either party become aware by reason of action or pronouncement of any governmental authorities, or the interpretation or reinterpretation of any law, rules, regulation or other authority, or the decision of any court or agency of government, that this Agreement may no longer comply with any applicable law; then such party shall immediately notify the other. Upon such notice, DISTRICT shall retain legal counsel to determine whether this Agreement still complies with law. If counsel determines that the Agreement does not comply with law, then counsel shall advise the parties of any amendments required to comply with law, if possible. The parties agree to take any and all reasonable actions to amend the Agreement as indicated by counsel. If counsel advises that no amendment is possible to reasonably ensure compliance or avoid jeopardy, or if PHYSICIAN does not promptly agree to the amendment proposed, then the obligations of the parties hereunder shall be suspended, or this Agreement shall be terminated, as directed by said counsel. This Agreement has been drafted to comply with all applicable laws and regulations, including but not limited to the "personal services arrangement" and/or "fair market value compensation" exceptions under the federal "Stark" law. Should either party become aware by reason of action or pronouncement of any governmental authorities, or the interpretation or reinterpretation of any law, rules, regulation or other authority, or the decision of any court or agency of government, that this Agreement may no longer comply with any applicable law; then such party shall immediately notify the other. Upon such notice, DISTRICT shall retain legal counsel to determine whether this Agreement still complies with law. If counsel determines that the Agreement does not comply with law, then counsel shall advise the parties of any amendments required to comply with law, if possible. The parties agree to take any and all reasonable actions to amend this Agreement as indicated by counsel. If counsel advises that no amendment is possible to reasonably ensure compliance or avoid jeopardy, or if PRECEPTOR does not promptly agree to the amendment proposed, then the obligations of the parties hereunder shall be suspended, or this Agreement shall be terminated, as directed by said counsel.

Commented [HA1]: Change suggested by counsel after further consultation.

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6. REPRESENTATIONS

6.1 **Representations by PHYSICIAN.** PHYSICIAN represents and warrants as of the date listed below his/her name on the signature page of this Agreement and for the duration of the term of this Agreement and any renewal term, as follows:

- (a) PHYSICIAN is a physician duly licensed to practice medicine in the State of California and in good standing with the Medical Board of California;
- (b) PHYSICIAN is a member in good standing of the medical staff of DISTRICT;
- (c) PHYSICIAN has a Federal DEA license without restriction;
- (d) PHYSICIAN has not been excluded from any federal and/or state health care payment program by action of the Office of Inspector General of the Department of Health and Human Services or the Bureau of Medi-Cal Fraud and Elder Abuse, or by any equivalent or coordinating governmental agencies;

(e) PHYSICIAN is not subject of any disciplinary action by the Medical Board of California, or the equivalent medical licensing authority of any other State in the United States of America; and

(f) Any and all information provided to DISTRICT by PHYSICIAN in connection with this Agreement is accurate, true and correct.

6.2 **Notification.** Should any event occur which causes any of the representations and warranties set forth in Section 6.1 above no longer to be true, accurate or complete, PHYSICIAN shall provide immediate written notice of such event to DISTRICT.

7. GENERAL PROVISIONS

7.1 **Access to Records.** To the extent required by Section 1861(V)~~(1)(B)~~ (1) of the Social Security Act, as amended, and by valid regulation which is directly applicable to such Section, PHYSICIAN agrees to make available upon valid written request from the Secretary of Health and Human Services, the Comptroller General, or any other duly authorized representatives, this Agreement and the books, documents, and records of PHYSICIAN to the extent that such books, documents and records are necessary to certify the nature and extent of DISTRICT's costs for services provided by PHYSICIAN.

7.1.1 Such books, documents, and records shall be preserved and available for four (4) years after the furnishing of services by PHYSICIAN pursuant to this Agreement. If PHYSICIAN is requested to disclose books, documents or records pursuant to this subparagraph for purposes of an audit, PHYSICIAN shall notify DISTRICT of the nature and scope of such request and PHYSICIAN shall make available, upon written request of DISTRICT, all such books, documents, or records. PHYSICIAN shall indemnify and hold harmless DISTRICT in the event that any amount of reimbursement is denied or disallowed because of the failure of PHYSICIAN or any subcontractor to comply with the obligations to maintain and make available books, documents, or records pursuant to this subparagraph. Such indemnity shall include, but not be limited to the amount of reimbursement denied, plus any interest, penalties and legal costs.

7.1.2 This paragraph is intended to assure compliance with Section 1861 of the Social Security Act, as amended, and regulations directly pertinent to that Act. The obligations of PHYSICIAN under this paragraph are strictly limited to compliance with those provisions, and shall be given effect only to the extent necessary to ensure compliance with those provisions. In the event that the requirements of those provisions are reduced or eliminated, the obligations of the parties under this paragraph shall likewise be reduced or eliminated.

7.2 **Confidential Information.** During the term of this Agreement, PHYSICIAN may have access to and become acquainted with confidential proprietary information and/or trade secrets of DISTRICT, including without limitation information and data relating to payor contracts, patients, patient medical records, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data (collectively, "**Confidential Information**"). All Confidential Information is the property of DISTRICT and constitutes proprietary information. PHYSICIAN shall not use in any manner or disclose to any person or entity, directly or indirectly, either during the term of this Agreement or at any time thereafter, any Confidential Information or use any Confidential Information other than in the course of providing the services under this Agreement. All documents that PHYSICIAN prepares or Confidential Information that might be given to PHYSICIAN in the course of providing the services under this Agreement, are

Commented [HA2]: After consultation with outside counsel, Section 1861 of the Social Security Act has been left in the Agreement as it is still applicable to TFHD; however, upon further examination a typo was discovered and has been rectified as reflected herein.

Commented [HA3]: After consultation with outside counsel, Section 1861 of the Social Security Act has been left in the Agreement as it is still applicable to TFHD.

the exclusive property of DISTRICT and, without the prior written consent of DISTRICT, shall not be removed from DISTRICT premises.

7.3 Confidentiality. The terms of this Agreement are confidential and shall not be disclosed, except as necessary to the performance of this Agreement or as required by law. Notwithstanding the foregoing, a party may disclose this Agreement to its lawyers, accountants and other professional advisors.

7.4. Amendment. This Agreement may be amended at any time by mutual agreement of the parties, but any such amendment must be in writing, dated and signed by the parties.

7.5 Assignment. PHYSICIAN shall not assign, sell, subcontract, transfer, or delegate any of its rights or duties to perform services pursuant to this Agreement, without prior written consent of DISTRICT.

7.6 Entire Agreement. This Agreement constitutes the entire agreement between the parties. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

7.7 Governing Law. This Agreement shall be governed by California law, with venue for any action in Nevada County.

7.8 Notices. All notices or other communications under this Agreement shall be sent to the parties at the addresses set forth below:

DISTRICT: Tahoe Forest Hospital District
P. O. Box 759
Truckee, CA 96160
Attn: Chief Executive Officer

PHYSICIAN: At the address listed on the signature page to this Agreement.

7.9 Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, and signed by the parties hereto.

7.10 Severability. The provisions of this Agreement shall be deemed severable and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be in effect and binding upon the parties.

7.11 HIPAA Privacy Rule Compliance. HIPAA Privacy Rule Compliance.

7.11.1 PHYSICIAN and DISTRICT each agree to comply with the applicable provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d through d-8 ("HIPAA"), and the requirements of any regulations promulgated thereunder, including, without limitation, the federal privacy regulations as contained in 45 CFR Parts 160 and 164 (the "Federal Privacy Regulations") and the federal security standards as contained in 45 CFR Part 164 (the "Federal Security Regulations"). PHYSICIAN and DISTRICT each agree not to use or further disclose any protected health information, as defined in 42 U.S.C. § 1320d and 45 CFR § 164.501 (collectively, the "Protected Health Information"), concerning a patient other than as permitted or required by this Agreement or otherwise authorized under HIPAA.

7.11.2 As permitted under HIPAA, the parties hereby agree, that by virtue of this Agreement, they are an "organized health care arrangement" for purposes of meeting the Federal Privacy Regulations and the authorized use and disclosure of Protected Health Information thereunder. Further, DISTRICT will include PHYSICIAN in its required notice of privacy practices for the purpose of allowing both parties to meet the notice requirements under the Federal Privacy Regulations and PHYSICIAN agrees to follow the privacy practices adopted by the Hospital as detailed in its notice of privacy practices.

7.12 The parties agree that if there is a determination by any responsible authority that PHYSICIAN is to be considered a "business associate" of DISTRICT, or guidance published or a statement made by the OCR to that effect, PHYSICIAN will execute a business associate agreement in form and content sufficient to satisfy DISTRICT and the requirements of the Federal Privacy and Security Regulations.

DISTRICT:
Tahoe Forest Hospital District

PHYSICIAN:
PHYSICIAN NAME, M.D.

By: _____
Virginia Razo
Interim Chief Executive Officer

PHYSICIAN NAME, M.D.

Date:

Date:

Address:

EXHIBIT A

SCOPE OF SERVICES

- 1) Attend EHR Tech Council planning meetings or other meetings related to TF2020, as requested by DISTRICT.
- 2) Solicit broad-based practitioner input and provide appropriate clinical representation regarding projects or programs which the organization is undertaking.
- 3) Engage physicians and others to help develop and/or use HIT or other technology or programs related to TF2020.
- 4) Review current healthcare reform trends and opportunities and provide feedback to DISTRICT administration during requested comment periods.
- 5) Review possible new technologies for safety and effectiveness and assess the value of such technologies in DISTRICT's clinical environment.
- 6) ~~Work in concert~~ with District Chief Information Officer or other designee as requested.
- 7) ~~Assist~~~~Encourage staff and clinical practitioners adoption of with~~ new electronic methods of care delivery as requested by DISTRICT administration.
- 8) Report any clinical issues resulting from the implementation of new technologies and assist DISTRICT administration in resolving such issues for improved clinical efficacy.
- 9) Participate in development of solutions that evaluate clinical and/or financial outcomes, or development of objectives and performance measurements to evaluate program outcomes to achieve the triple aim of CMS to improve patient care and population health at a lower cost.
- 10) Provide advice and assistance to DISTRICT administration to help DISTRICT meet its Meaningful Use goals as set forth by CMS.
- 11) Perform any other duties related to health information technology reasonably requested by DISTRICT.

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EXHIBIT B

SERVICE TIME LOG - TAHOE FOREST HOSPITAL DISTRICT

Name: _____, MD or DO

Contract Name Role: [e.g. Medical Director, etc.]: TF2020 Agreement for Medical Advisor Services EHR Technology Council

Commented [HA5]: Change suggested by counsel after further consultation.

Physician: Each month please complete & submit this log for services you rendered. Please add 1 page to this log if needed to ensure all dates, times, services are listed. If you use a computer/phone application, please attach and sign this log to the documentation generated by the program. Thank you.

Date of Service	Description of Services	Hours

Total time: _____ hours @ \$ _____/hour = Total balance due \$ _____

I hereby attest that I personally performed all of the services listed for the time periods indicated and that there has been no duplication of hours or services that I have performed under any other agreements I may have with DISTRICT. I declare that the above statement is true and accurate to the best of my knowledge.

Physician's signature: _____ Date _____

Approved by DISTRICT: _____ Date _____

Hoffman, Ashly

Sent: Thursday, April 30, 2015 1:03 PM
To: Hoffman, Ashly
Cc: Jasmin S. Niku
Subject: RE: Section 1861 of the Social Security Act

Ashly- Whether the provision is necessary depends how the District is reimbursed by Medicare. The provision is only applicable if a hospital is reimbursed, in whole or in part, based upon its reasonable costs. Most hospitals are no longer reimbursed by Medicare based in any way on costs, but rather are paid prospective rates under the prospective Payment System ("PPS") regardless of their costs. However, some public hospitals and rural hospitals have different payment arrangements with Medicare that take into account in some manner the hospital's reasonable costs. If the District is reimbursed by Medicare solely under PPS, and is not reimbursed in any manner based upon its costs, then the provision can be removed. However, if the district is reimbursed based in any way on reasonable costs, the provision has to stay.

From: Hoffman, Ashly [mailto:AHoffman@TFHD.COM]
Sent: Thursday, April 30, 2015 12:23 PM
To: David P. Henninger
Cc: Jasmin S. Niku
Subject: Section 1861 of the Social Security Act
Importance: High

Hi David,

One of the Board members took issue with our proposed contracts because each contract references Social Security Section 1861. This Board member has suggested that this is the wrong code and should not be included in our contracts. It is my understanding that due to our unique collection/payment activities that this code is still applicable for TFHD. Can you elaborate as to why this provision is still applicable for TFHD, so that I can provide this Board member with a better understanding of why we have included this language in our contracts?

Ashly M. Hoffman
Contracts Coordinator
ahoffman@tfhd.com



P.O. Box 759
Truckee, CA 96160
(530) 582-6384 tel.
(530) 582-3567 fax
www.tfhd.com

CONFIDENTIALITY NOTICE: This email, including attachments, may contain confidential and privileged material for the sole use of the intended recipient(s). If the reader of this e-mail is not the intended recipient or his/her authorized agent, the reader is hereby notified that any use, disclosure, dissemination, distribution, or copying of this e-mail, including attachments, is strictly prohibited. If you have received this e-mail in error, please IMMEDIATELY (1) Forward the email and all file attachments to compliance@tfhd.com to notify the Tahoe Forest

Hospital District Compliance office AND (2) permanently delete the message and any file attachments. Questions may be directed to the Tahoe Forest Hospital District Compliance Hotline at 1(530)582-6655.

Filtered by 3BClean from <http://www.microsystems.com>

Ashly M. Hoffman

Contracts Coordinator

ahoffman@tfhd.com



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